

As Introduced

127th General Assembly
Regular Session
2007-2008

H. B. No. 620

Representatives Stewart, J., Strahorn

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A BILL

To amend sections 9.239, 9.55, 101.37, 101.39, 1
109.57, 109.572, 109.71, 109.77, 109.86, 121.02, 2
121.03, 121.32, 121.36, 121.37, 123.01, 124.11, 3
124.27, 124.381, 125.602, 125.603, 126.32, 127.16, 4
140.01, 140.03, 140.05, 145.012, 154.17, 154.20, 5
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2935.03, 2945.37, 2945.371, 2945.38, 2945.39, 9
2945.40, 2945.401, 2967.22, 3301.15, 3304.231, 10
3313.65, 3313.715, 3323.01, 3323.021, 3323.03, 11
3323.04, 3323.07, 3323.09, 3323.091, 3323.141, 12
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3721.14, 3722.01, 3727.01, 3735.58, 4115.32, 14
4723.071, 5101.35, 5101.46, 5103.02, 5103.13, 15
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5126.42, 5126.43, 5139.08, 5139.34, 5145.18, 62
5153.16, 5511.03, 5815.28, and 5815.35; to amend 63
section 5123.011 as it results from Am. Sub. S.B. 64
156 of the 119th General Assembly; to enact 65
section 5123.013 of the Revised Code; to amend 66
Sections 213.30, 293.30, 309.31.60, 309.31.70, 67
335.40.10, 337.10, 337.20.10, 337.30.10, 68
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337.30.70, 337.30.80, 337.40.10, and 337.40.30 of 70
Am. Sub. H.B. 119 of the 127th General Assembly, 71
to amend Sections 337.30.43, 337.40, and 337.40.15 72
of Am. Sub. H.B. 119 of the 127th General Assembly 73
as subsequently amended, to amend Sections 74
201.60.30, 209.60.40, 209.60.50, and 501.40 of 75
H.B. 496 of the 127th General Assembly, to amend 76
Sections 231.20.30, 231.30.10, 231.30.20, 253.10, 77
and 751.10 of Am. Sub. H.B. 562 of the 127th 78
General Assembly, and to amend Section 4 of Am. 79
Sub. H.B. 516 of the 125th General Assembly, as 80
subsequently amended, to change the name of the 81
Department of Mental Retardation and Developmental 82
Disabilities to the Department of Developmental 83
Disabilities and to make similar name changes for 84
the Joint Council on Mental Retardation and 85
Developmental Disabilities, the Mental Retardation 86
and Developmental Disabilities Developmental 87
Center Closure Commission, and certain state 88
funds. 89

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

Section 1. That sections 9.239, 9.55, 101.37, 101.39, 109.57, 90
109.572, 109.71, 109.77, 109.86, 121.02, 121.03, 121.32, 121.36, 91
121.37, 123.01, 124.11, 124.27, 124.381, 125.602, 125.603, 126.32, 92
127.16, 140.01, 140.03, 140.05, 145.012, 154.17, 154.20, 173.03, 93
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5126.313, 5126.333, 5126.34, 5126.40, 5126.42, 5126.43, 5139.08, 135
5139.34, 5145.18, 5153.16, 5511.03, 5815.28, and 5815.35 and 136
section 5123.011 as it results from Am. Sub. S.B. 156 of the 119th 137
General Assembly be amended and section 5123.013 of the Revised 138
Code be enacted to read as follows: 139

Sec. 9.239. (A) There is hereby created the government 140
contracting advisory council. The attorney general and auditor of 141
state shall consult with the council on the performance of their 142
rule-making functions under sections 9.237 and 9.238 of the 143
Revised Code and shall consider any recommendations of the 144
council. The director of job and family services shall annually 145
report to the council the cost methodology of the medicaid-funded 146
services described in division (A)(3)(d) of section 9.231 of the 147
Revised Code. The council shall consist of the following members 148
or their designees: 149

(1) The attorney general; 150

(2) The auditor of state;	151
(3) The director of administrative services;	152
(4) The director of aging;	153
(5) The director of alcohol and drug addiction services;	154
(6) The director of budget and management;	155
(7) The director of development;	156
(8) The director of job and family services;	157
(9) The director of mental health;	158
(10) The director of mental retardation and developmental disabilities;	159 160
(11) The director of rehabilitation and correction;	161
(12) The administrator of workers' compensation;	162
(13) The executive director of the county commissioners' association of Ohio;	163 164
(14) The president of the Ohio grantmakers forum;	165
(15) The president of the Ohio chamber of commerce;	166
(16) The president of the Ohio state bar association;	167
(17) The president of the Ohio society of certified public accountants;	168 169
(18) The executive director of the Ohio association of nonprofit organizations;	170 171
(19) The president of the Ohio united way;	172
(20) One additional member appointed by the attorney general;	173
(21) One additional member appointed by the auditor of state.	174
(B) If an agency or organization represented on the council ceases to exist in the form it has on the effective date of this section <u>September 29, 2005</u> , the successor agency or organization	175 176 177

shall be represented in its place. If there is no successor agency 178
or organization, or if it is not clear what agency or organization 179
is the successor, the attorney general shall designate an agency 180
or organization to be represented in place of the agency or 181
organization originally represented on the council. 182

(C) The two members appointed to the council shall serve 183
three-year terms. Original appointments shall be made not later 184
than sixty days after ~~the effective date of this section~~ September 185
29, 2005. Vacancies on the council shall be filled in the same 186
manner as the original appointment. 187

(D) The attorney general or the attorney general's designee 188
shall be the chairperson of the council. The council shall meet at 189
least once every two years to review the rules adopted under 190
sections 9.237 and 9.238 of the Revised Code and to make 191
recommendations to the attorney general and auditor of state 192
regarding the adoption, amendment, or repeal of those rules. The 193
council shall also meet at other times as requested by the 194
attorney general or auditor of state. 195

(E) Members of the council shall serve without compensation 196
or reimbursement. 197

(F) The office of the attorney general shall provide 198
necessary staff, facilities, supplies, and services to the 199
council. 200

(G) Sections 101.82 to 101.87 of the Revised Code do not 201
apply to the council. 202

Sec. 9.55. (A) As used in this section, "state agency" means 203
the house of representatives, the senate, the governor, the 204
secretary of state, the auditor of state, the treasurer of state, 205
the attorney general, the department of job and family services, 206
the department of commerce, the department of ~~mental retardation~~ 207

~~and~~ developmental disabilities, the department of education, the 208
department of health, the department of aging, the governor's 209
office of advocacy for disabled persons, and the civil rights 210
commission. 211

(B) Each state agency shall install in its offices at least 212
one teletypewriter designed to receive printed messages from and 213
transmit printed messages to deaf or hearing-impaired persons. 214

Sec. 101.37. (A) There is hereby created the joint council on 215
~~mental retardation and~~ developmental disabilities. The joint 216
council shall consist of three members of the house of 217
representatives appointed by the speaker of the house of 218
representatives, not more than two of whom shall be members of the 219
same political party, three members of the senate appointed by the 220
president of the senate, not more than two of whom shall be 221
members of the same political party, and the director of ~~mental~~ 222
~~retardation and~~ developmental disabilities. At least one member of 223
the joint council appointed by the speaker of the house of 224
representatives and at least one member appointed by the president 225
of the senate shall be a member of the house or senate committee 226
with primary responsibility for appropriation issues and at least 227
one member appointed by the speaker and at least one member 228
appointed by the president shall be a member of the house or 229
senate committee with primary responsibility for human services 230
issues. 231

Members of the joint council shall be reimbursed for their 232
actual and necessary expenses incurred in the performance of their 233
official duties, provided that reimbursement for such expenses 234
shall not exceed limits imposed upon the department of ~~mental~~ 235
~~retardation and~~ developmental disabilities by administrative rules 236
regulating travel within this state. Members shall receive no 237
other compensation. 238

The joint council shall organize itself within fifteen days 239
after the commencement of each regular session of the general 240
assembly by electing a chairperson and vice-chairperson. The joint 241
council may meet upon the call of the chairperson, the director, 242
or on the request of any three members. 243

Members of the joint council who are appointed from the 244
general assembly shall serve until the expiration of their terms 245
in the general assembly. Any vacancies occurring among the general 246
assembly members of the joint council shall be filled in the 247
manner of the original appointment. 248

(B) The joint council shall do all of the following: 249

(1) Appoint the original members of the citizen's advisory 250
council at any institution under the control of the department of 251
~~mental retardation and~~ developmental disabilities that is created 252
after November 15, 1981; 253

(2) Make final determinations in any dispute between the 254
director of ~~mental retardation and~~ developmental disabilities and 255
a citizen's advisory council concerning the appointment of members 256
to the citizen's advisory council, as provided for in section 257
5123.092 of the Revised Code; 258

(3) Receive reports from citizen's advisory councils on or 259
before the thirty-first day of January of each year, as required 260
by section 5123.093 of the Revised Code; 261

(4) Receive reports as appropriate concerning extenuating 262
circumstances at institutions under the control of the department 263
of ~~mental retardation and~~ developmental disabilities; 264

(5) Conduct reviews and make recommendations to the director 265
of ~~mental retardation and~~ developmental disabilities with respect 266
to any disputes between the department of ~~mental retardation and~~ 267
developmental disabilities and entities that have entered into 268
contracts with the department for the provision of protective 269

services to individuals with mental retardation or developmental 270
disabilities; 271

(6) Provide the director of ~~mental retardation and~~ 272
developmental disabilities with advice on legislative and fiscal 273
issues affecting the department of ~~mental retardation and~~ 274
developmental disabilities, county boards of mental retardation 275
and developmental disabilities, persons with mental retardation or 276
developmental disabilities, and providers of services to persons 277
with mental retardation or developmental disabilities and on 278
related issues the director requests the joint council to address; 279

(7) On behalf of the director of ~~mental retardation and~~ 280
developmental disabilities, advocate to the general assembly 281
legislative issues about which the joint council has provided 282
advice to the director. 283

(C) Reports and any correspondence received by the joint 284
council shall be deposited with the legislative service 285
commission, which shall retain them for not less than three years 286
after the date of deposit. 287

Sec. 101.39. (A) There is hereby created the joint 288
legislative committee on health care oversight. The committee may 289
review or study any matter related to the provision of health care 290
services that it considers of significance to the citizens of this 291
state, including the availability of health care, the quality of 292
health care, the effectiveness and efficiency of managed care 293
systems, and the operation of the medical assistance program 294
established under Chapter 5111. of the Revised Code or other 295
government health programs. 296

The department of job and family services, department of 297
health, department of aging, department of mental health, 298
department of ~~mental retardation and~~ developmental disabilities, 299
department of alcohol and drug addiction services, and other state 300

agencies shall cooperate with the committee in its study and 301
review of health care issues. On request, the departments shall 302
provide the committee with reports and other information 303
sufficient for the committee to fulfill its duties. 304

The committee may issue recommendations as it determines 305
appropriate. The recommendations may be made to the general 306
assembly, state agencies, private industry, or any other entity. 307

(B) The committee shall consist of the following members of 308
the general assembly: the chairperson of the senate's standing 309
committee with primary responsibility for health legislation, the 310
chairperson of the house of representatives' standing committee 311
with primary responsibility for health legislation, four members 312
of the house of representatives appointed by the speaker of the 313
house of representatives, and four members of the senate appointed 314
by the president of the senate. Not more than two members 315
appointed by the speaker of the house of representatives and not 316
more than two members appointed by the president of the senate may 317
be of the same political party. Except in 1995, appointments shall 318
be made not later than fifteen days after the commencement of the 319
first regular session of each general assembly. The chairpersons 320
of the standing committees with primary responsibility for health 321
legislation shall serve as co-chairpersons of the committee. 322

Each member of the committee shall hold office during the 324
general assembly in which the member is appointed and until a 325
successor has been appointed, notwithstanding the adjournment sine 326
die of the general assembly in which the member was appointed or 327
the expiration of the member's term as a member of the general 328
assembly. Any vacancies occurring among the members of the 329
committee shall be filled in the manner of the original 330
appointment. 331

The committee shall meet at least quarterly and at the call 332

of the co-chairpersons. The co-chairpersons shall determine the 333
time, place, and agenda for each meeting of the committee. 334

The committee has the same powers as other standing or select 335
committees of the general assembly. The committee may request 336
assistance from the legislative service commission ~~and the~~ 337
~~legislative budget office of the legislative service commission.~~ 338

Sec. 109.57. (A)(1) The superintendent of the bureau of 339
criminal identification and investigation shall procure from 340
wherever procurable and file for record photographs, pictures, 341
descriptions, fingerprints, measurements, and other information 342
that may be pertinent of all persons who have been convicted of 343
committing within this state a felony, any crime constituting a 344
misdemeanor on the first offense and a felony on subsequent 345
offenses, or any misdemeanor described in division (A)(1)(a), 346
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 347
of all children under eighteen years of age who have been 348
adjudicated delinquent children for committing within this state 349
an act that would be a felony or an offense of violence if 350
committed by an adult or who have been convicted of or pleaded 351
guilty to committing within this state a felony or an offense of 352
violence, and of all well-known and habitual criminals. The person 353
in charge of any county, multicounty, municipal, municipal-county, 354
or multicounty-municipal jail or workhouse, community-based 355
correctional facility, halfway house, alternative residential 356
facility, or state correctional institution and the person in 357
charge of any state institution having custody of a person 358
suspected of having committed a felony, any crime constituting a 359
misdemeanor on the first offense and a felony on subsequent 360
offenses, or any misdemeanor described in division (A)(1)(a), 361
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or 362
having custody of a child under eighteen years of age with respect 363
to whom there is probable cause to believe that the child may have 364

committed an act that would be a felony or an offense of violence 365
if committed by an adult shall furnish such material to the 366
superintendent of the bureau. Fingerprints, photographs, or other 367
descriptive information of a child who is under eighteen years of 368
age, has not been arrested or otherwise taken into custody for 369
committing an act that would be a felony or an offense of violence 370
who is not in any other category of child specified in this 371
division, if committed by an adult, has not been adjudicated a 372
delinquent child for committing an act that would be a felony or 373
an offense of violence if committed by an adult, has not been 374
convicted of or pleaded guilty to committing a felony or an 375
offense of violence, and is not a child with respect to whom there 376
is probable cause to believe that the child may have committed an 377
act that would be a felony or an offense of violence if committed 378
by an adult shall not be procured by the superintendent or 379
furnished by any person in charge of any county, multicounty, 380
municipal, municipal-county, or multicounty-municipal jail or 381
workhouse, community-based correctional facility, halfway house, 382
alternative residential facility, or state correctional 383
institution, except as authorized in section 2151.313 of the 384
Revised Code. 385

(2) Every clerk of a court of record in this state, other 386
than the supreme court or a court of appeals, shall send to the 387
superintendent of the bureau a weekly report containing a summary 388
of each case involving a felony, involving any crime constituting 389
a misdemeanor on the first offense and a felony on subsequent 390
offenses, involving a misdemeanor described in division (A)(1)(a), 391
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 392
or involving an adjudication in a case in which a child under 393
eighteen years of age was alleged to be a delinquent child for 394
committing an act that would be a felony or an offense of violence 395
if committed by an adult. The clerk of the court of common pleas 396
shall include in the report and summary the clerk sends under this 397

division all information described in divisions (A)(2)(a) to (f) 398
of this section regarding a case before the court of appeals that 399
is served by that clerk. The summary shall be written on the 400
standard forms furnished by the superintendent pursuant to 401
division (B) of this section and shall include the following 402
information: 403

(a) The incident tracking number contained on the standard 404
forms furnished by the superintendent pursuant to division (B) of 405
this section; 406

(b) The style and number of the case; 407

(c) The date of arrest, offense, summons, or arraignment; 408

(d) The date that the person was convicted of or pleaded 409
guilty to the offense, adjudicated a delinquent child for 410
committing the act that would be a felony or an offense of 411
violence if committed by an adult, found not guilty of the 412
offense, or found not to be a delinquent child for committing an 413
act that would be a felony or an offense of violence if committed 414
by an adult, the date of an entry dismissing the charge, an entry 415
declaring a mistrial of the offense in which the person is 416
discharged, an entry finding that the person or child is not 417
competent to stand trial, or an entry of a nolle prosequi, or the 418
date of any other determination that constitutes final resolution 419
of the case; 420

(e) A statement of the original charge with the section of 421
the Revised Code that was alleged to be violated; 422

(f) If the person or child was convicted, pleaded guilty, or 423
was adjudicated a delinquent child, the sentence or terms of 424
probation imposed or any other disposition of the offender or the 425
delinquent child. 426

If the offense involved the disarming of a law enforcement 427
officer or an attempt to disarm a law enforcement officer, the 428

clerk shall clearly state that fact in the summary, and the 429
superintendent shall ensure that a clear statement of that fact is 430
placed in the bureau's records. 431

(3) The superintendent shall cooperate with and assist 432
sheriffs, chiefs of police, and other law enforcement officers in 433
the establishment of a complete system of criminal identification 434
and in obtaining fingerprints and other means of identification of 435
all persons arrested on a charge of a felony, any crime 436
constituting a misdemeanor on the first offense and a felony on 437
subsequent offenses, or a misdemeanor described in division 438
(A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the 439
Revised Code and of all children under eighteen years of age 440
arrested or otherwise taken into custody for committing an act 441
that would be a felony or an offense of violence if committed by 442
an adult. The superintendent also shall file for record the 443
fingerprint impressions of all persons confined in a county, 444
multicounty, municipal, municipal-county, or multicounty-municipal 445
jail or workhouse, community-based correctional facility, halfway 446
house, alternative residential facility, or state correctional 447
institution for the violation of state laws and of all children 448
under eighteen years of age who are confined in a county, 449
multicounty, municipal, municipal-county, or multicounty-municipal 450
jail or workhouse, community-based correctional facility, halfway 451
house, alternative residential facility, or state correctional 452
institution or in any facility for delinquent children for 453
committing an act that would be a felony or an offense of violence 454
if committed by an adult, and any other information that the 455
superintendent may receive from law enforcement officials of the 456
state and its political subdivisions. 457

(4) The superintendent shall carry out Chapter 2950. of the 458
Revised Code with respect to the registration of persons who are 459
convicted of or plead guilty to a sexually oriented offense or a 460

child-victim oriented offense and with respect to all other duties 461
imposed on the bureau under that chapter. 462

(5) The bureau shall perform centralized recordkeeping 463
functions for criminal history records and services in this state 464
for purposes of the national crime prevention and privacy compact 465
set forth in section 109.571 of the Revised Code and is the 466
criminal history record repository as defined in that section for 467
purposes of that compact. The superintendent or the 468
superintendent's designee is the compact officer for purposes of 469
that compact and shall carry out the responsibilities of the 470
compact officer specified in that compact. 471

(B) The superintendent shall prepare and furnish to every 472
county, multicounty, municipal, municipal-county, or 473
multicounty-municipal jail or workhouse, community-based 474
correctional facility, halfway house, alternative residential 475
facility, or state correctional institution and to every clerk of 476
a court in this state specified in division (A)(2) of this section 477
standard forms for reporting the information required under 478
division (A) of this section. The standard forms that the 479
superintendent prepares pursuant to this division may be in a 480
tangible format, in an electronic format, or in both tangible 481
formats and electronic formats. 482

(C)(1) The superintendent may operate a center for 483
electronic, automated, or other data processing for the storage 484
and retrieval of information, data, and statistics pertaining to 485
criminals and to children under eighteen years of age who are 486
adjudicated delinquent children for committing an act that would 487
be a felony or an offense of violence if committed by an adult, 488
criminal activity, crime prevention, law enforcement, and criminal 489
justice, and may establish and operate a statewide communications 490
network to gather and disseminate information, data, and 491
statistics for the use of law enforcement agencies and for other 492

uses specified in this division. The superintendent may gather, 493
store, retrieve, and disseminate information, data, and statistics 494
that pertain to children who are under eighteen years of age and 495
that are gathered pursuant to sections 109.57 to 109.61 of the 496
Revised Code together with information, data, and statistics that 497
pertain to adults and that are gathered pursuant to those 498
sections. 499

(2) The superintendent or the superintendent's designee shall 500
gather information of the nature described in division (C)(1) of 501
this section that pertains to the offense and delinquency history 502
of a person who has been convicted of, pleaded guilty to, or been 503
adjudicated a delinquent child for committing a sexually oriented 504
offense or a child-victim oriented offense for inclusion in the 505
state registry of sex offenders and child-victim offenders 506
maintained pursuant to division (A)(1) of section 2950.13 of the 507
Revised Code and in the internet database operated pursuant to 508
division (A)(13) of that section and for possible inclusion in the 509
internet database operated pursuant to division (A)(11) of that 510
section. 511

(3) In addition to any other authorized use of information, 512
data, and statistics of the nature described in division (C)(1) of 513
this section, the superintendent or the superintendent's designee 514
may provide and exchange the information, data, and statistics 515
pursuant to the national crime prevention and privacy compact as 516
described in division (A)(5) of this section. 517

(D) The information and materials furnished to the 518
superintendent pursuant to division (A) of this section and 519
information and materials furnished to any board or person under 520
division (F) or (G) of this section are not public records under 521
section 149.43 of the Revised Code. The superintendent or the 522
superintendent's designee shall gather and retain information so 523
furnished under division (A) of this section that pertains to the 524

offense and delinquency history of a person who has been convicted 525
of, pleaded guilty to, or been adjudicated a delinquent child for 526
committing a sexually oriented offense or a child-victim oriented 527
offense for the purposes described in division (C)(2) of this 528
section. 529

(E) The attorney general shall adopt rules, in accordance 530
with Chapter 119. of the Revised Code, setting forth the procedure 531
by which a person may receive or release information gathered by 532
the superintendent pursuant to division (A) of this section. A 533
reasonable fee may be charged for this service. If a temporary 534
employment service submits a request for a determination of 535
whether a person the service plans to refer to an employment 536
position has been convicted of or pleaded guilty to an offense 537
listed in division (A)(1), (3), (4), (5), or (6) of section 538
109.572 of the Revised Code, the request shall be treated as a 539
single request and only one fee shall be charged. 540

(F)(1) As used in division (F)(2) of this section, "head 541
start agency" means an entity in this state that has been approved 542
to be an agency for purposes of subchapter II of the "Community 543
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 544
as amended. 545

(2)(a) In addition to or in conjunction with any request that 546
is required to be made under section 109.572, 2151.86, 3301.32, 547
3301.541, 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 548
5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 549
Code or that is made under section 3314.41, 3319.392, or 3326.25 550
of the Revised Code, the board of education of any school 551
district; the director of ~~mental retardation and~~ developmental 552
disabilities; any county board of mental retardation and 553
developmental disabilities; any entity under contract with a 554
county board of mental retardation and developmental disabilities; 555
the chief administrator of any chartered nonpublic school; the 556

chief administrator of any home health agency; the chief 557
administrator of or person operating any child day-care center, 558
type A family day-care home, or type B family day-care home 559
licensed or certified under Chapter 5104. of the Revised Code; the 560
administrator of any type C family day-care home certified 561
pursuant to Section 1 of Sub. H.B. 62 of the 121st general 562
assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general 563
assembly; the chief administrator of any head start agency; the 564
executive director of a public children services agency; a private 565
company described in section 3314.41, 3319.392, or 3326.25 of the 566
Revised Code; or an employer described in division (J)(2) of 567
section 3327.10 of the Revised Code may request that the 568
superintendent of the bureau investigate and determine, with 569
respect to any individual who has applied for employment in any 570
position after October 2, 1989, or any individual wishing to apply 571
for employment with a board of education may request, with regard 572
to the individual, whether the bureau has any information gathered 573
under division (A) of this section that pertains to that 574
individual. On receipt of the request, the superintendent shall 575
determine whether that information exists and, upon request of the 576
person, board, or entity requesting information, also shall 577
request from the federal bureau of investigation any criminal 578
records it has pertaining to that individual. The superintendent 579
or the superintendent's designee also may request criminal history 580
records from other states or the federal government pursuant to 581
the national crime prevention and privacy compact set forth in 582
section 109.571 of the Revised Code. Within thirty days of the 583
date that the superintendent receives a request, the 584
superintendent shall send to the board, entity, or person a report 585
of any information that the superintendent determines exists, 586
including information contained in records that have been sealed 587
under section 2953.32 of the Revised Code, and, within thirty days 588
of its receipt, shall send the board, entity, or person a report 589

of any information received from the federal bureau of 590
investigation, other than information the dissemination of which 591
is prohibited by federal law. 592

(b) When a board of education is required to receive 594
information under this section as a prerequisite to employment of 595
an individual pursuant to section 3319.39 of the Revised Code, it 596
may accept a certified copy of records that were issued by the 597
bureau of criminal identification and investigation and that are 598
presented by an individual applying for employment with the 599
district in lieu of requesting that information itself. In such a 600
case, the board shall accept the certified copy issued by the 601
bureau in order to make a photocopy of it for that individual's 602
employment application documents and shall return the certified 603
copy to the individual. In a case of that nature, a district only 604
shall accept a certified copy of records of that nature within one 605
year after the date of their issuance by the bureau. 606

(3) The state board of education may request, with respect to 607
any individual who has applied for employment after October 2, 608
1989, in any position with the state board or the department of 609
education, any information that a school district board of 610
education is authorized to request under division (F)(2) of this 611
section, and the superintendent of the bureau shall proceed as if 612
the request has been received from a school district board of 613
education under division (F)(2) of this section. 614

(4) When the superintendent of the bureau receives a request 615
for information under section 3319.291 of the Revised Code, the 616
superintendent shall proceed as if the request has been received 617
from a school district board of education under division (F)(2) of 618
this section. 619

(5) When a recipient of a classroom reading improvement grant 620
paid under section 3301.86 of the Revised Code requests, with 621

respect to any individual who applies to participate in providing 622
any program or service funded in whole or in part by the grant, 623
the information that a school district board of education is 624
authorized to request under division (F)(2)(a) of this section, 625
the superintendent of the bureau shall proceed as if the request 626
has been received from a school district board of education under 627
division (F)(2)(a) of this section. 628

(G) In addition to or in conjunction with any request that is 629
required to be made under section 3701.881, 3712.09, 3721.121, or 630
3722.151 of the Revised Code with respect to an individual who has 631
applied for employment in a position that involves providing 632
direct care to an older adult, the chief administrator of a home 633
health agency, hospice care program, home licensed under Chapter 634
3721. of the Revised Code, adult day-care program operated 635
pursuant to rules adopted under section 3721.04 of the Revised 636
Code, or adult care facility may request that the superintendent 637
of the bureau investigate and determine, with respect to any 638
individual who has applied after January 27, 1997, for employment 639
in a position that does not involve providing direct care to an 640
older adult, whether the bureau has any information gathered under 641
division (A) of this section that pertains to that individual. 642

In addition to or in conjunction with any request that is 643
required to be made under section 173.27 of the Revised Code with 644
respect to an individual who has applied for employment in a 645
position that involves providing ombudsperson services to 646
residents of long-term care facilities or recipients of 647
community-based long-term care services, the state long-term care 648
ombudsperson, ombudsperson's designee, or director of health may 649
request that the superintendent investigate and determine, with 650
respect to any individual who has applied for employment in a 651
position that does not involve providing such ombudsperson 652
services, whether the bureau has any information gathered under 653

division (A) of this section that pertains to that applicant. 654

In addition to or in conjunction with any request that is 655
required to be made under section 173.394 of the Revised Code with 656
respect to an individual who has applied for employment in a 657
position that involves providing direct care to an individual, the 658
chief administrator of a community-based long-term care agency may 659
request that the superintendent investigate and determine, with 660
respect to any individual who has applied for employment in a 661
position that does not involve providing direct care, whether the 662
bureau has any information gathered under division (A) of this 663
section that pertains to that applicant. 664

On receipt of a request under this division, the 665
superintendent shall determine whether that information exists 666
and, on request of the individual requesting information, shall 667
also request from the federal bureau of investigation any criminal 668
records it has pertaining to the applicant. The superintendent or 669
the superintendent's designee also may request criminal history 670
records from other states or the federal government pursuant to 671
the national crime prevention and privacy compact set forth in 672
section 109.571 of the Revised Code. Within thirty days of the 673
date a request is received, the superintendent shall send to the 674
requester a report of any information determined to exist, 675
including information contained in records that have been sealed 676
under section 2953.32 of the Revised Code, and, within thirty days 677
of its receipt, shall send the requester a report of any 678
information received from the federal bureau of investigation, 679
other than information the dissemination of which is prohibited by 680
federal law. 681

(H) Information obtained by a government entity or person 682
under this section is confidential and shall not be released or 683
disseminated. 684

(I) The superintendent may charge a reasonable fee for 685

providing information or criminal records under division (F)(2) or 686
(G) of this section. 687

(J) As used in this section, "sexually oriented offense" and 688
"child-victim oriented offense" have the same meanings as in 689
section 2950.01 of the Revised Code. 690

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 691
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 692
a completed form prescribed pursuant to division (C)(1) of this 693
section, and a set of fingerprint impressions obtained in the 694
manner described in division (C)(2) of this section, the 695
superintendent of the bureau of criminal identification and 696
investigation shall conduct a criminal records check in the manner 697
described in division (B) of this section to determine whether any 698
information exists that indicates that the person who is the 699
subject of the request previously has been convicted of or pleaded 700
guilty to any of the following: 701

(a) A violation of section 2903.01, 2903.02, 2903.03, 702
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 703
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 704
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 705
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 706
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 707
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 708
2925.06, or 3716.11 of the Revised Code, felonious sexual 709
penetration in violation of former section 2907.12 of the Revised 710
Code, a violation of section 2905.04 of the Revised Code as it 711
existed prior to July 1, 1996, a violation of section 2919.23 of 712
the Revised Code that would have been a violation of section 713
2905.04 of the Revised Code as it existed prior to July 1, 1996, 714
had the violation been committed prior to that date, or a 715
violation of section 2925.11 of the Revised Code that is not a 716

minor drug possession offense; 717

(b) A violation of an existing or former law of this state, 718
any other state, or the United States that is substantially 719
equivalent to any of the offenses listed in division (A)(1)(a) of 720
this section. 721

(2) On receipt of a request pursuant to section 5123.081 of 722
the Revised Code with respect to an applicant for employment in 723
any position with the department of ~~mental retardation and~~ 724
developmental disabilities, pursuant to section 5126.28 of the 725
Revised Code with respect to an applicant for employment in any 726
position with a county board of mental retardation and 727
developmental disabilities, or pursuant to section 5126.281 of the 728
Revised Code with respect to an applicant for employment in a 729
direct services position with an entity contracting with a county 730
board for employment, a completed form prescribed pursuant to 731
division (C)(1) of this section, and a set of fingerprint 732
impressions obtained in the manner described in division (C)(2) of 733
this section, the superintendent of the bureau of criminal 734
identification and investigation shall conduct a criminal records 735
check. The superintendent shall conduct the criminal records check 736
in the manner described in division (B) of this section to 737
determine whether any information exists that indicates that the 738
person who is the subject of the request has been convicted of or 739
pleaded guilty to any of the following: 740

(a) A violation of section 2903.01, 2903.02, 2903.03, 741
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 742
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 743
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 744
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 745
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 746
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 747
2925.03, or 3716.11 of the Revised Code; 748

(b) An existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(2)(a) of this section.

(3) On receipt of a request pursuant to section 173.27, 173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for employment in a position for which a criminal records check is required by those sections. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(3)(a) of this section.

(4) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with

a home health agency as a person responsible for the care, 781
custody, or control of a child, a completed form prescribed 782
pursuant to division (C)(1) of this section, and a set of 783
fingerprint impressions obtained in the manner described in 784
division (C)(2) of this section, the superintendent of the bureau 785
of criminal identification and investigation shall conduct a 786
criminal records check. The superintendent shall conduct the 787
criminal records check in the manner described in division (B) of 788
this section to determine whether any information exists that 789
indicates that the person who is the subject of the request 790
previously has been convicted of or pleaded guilty to any of the 791
following: 792

(a) A violation of section 2903.01, 2903.02, 2903.03, 793
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 794
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 795
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 796
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 797
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 798
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 799
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 800
violation of section 2925.11 of the Revised Code that is not a 801
minor drug possession offense; 802

(b) An existing or former law of this state, any other state, 803
or the United States that is substantially equivalent to any of 804
the offenses listed in division (A)(4)(a) of this section. 805

(5) On receipt of a request pursuant to section 5111.032, 806
5111.033, or 5111.034 of the Revised Code, a completed form 807
prescribed pursuant to division (C)(1) of this section, and a set 808
of fingerprint impressions obtained in the manner described in 809
division (C)(2) of this section, the superintendent of the bureau 810
of criminal identification and investigation shall conduct a 811
criminal records check. The superintendent shall conduct the 812

criminal records check in the manner described in division (B) of 813
this section to determine whether any information exists that 814
indicates that the person who is the subject of the request 815
previously has been convicted of, has pleaded guilty to, or has 816
been found eligible for intervention in lieu of conviction for any 817
of the following: 818

(a) A violation of section 2903.01, 2903.02, 2903.03, 819
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 820
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 821
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 822
2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 823
2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 824
2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 825
2913.40, 2913.43, 2913.47, 2913.48, 2913.49, 2913.51, 2917.11, 826
2919.12, 2919.22, 2919.24, 2919.25, 2921.13, 2921.36, 2923.02, 827
2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 828
2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, or 829
3716.11 of the Revised Code, felonious sexual penetration in 830
violation of former section 2907.12 of the Revised Code, a 831
violation of section 2905.04 of the Revised Code as it existed 832
prior to July 1, 1996, a violation of section 2919.23 of the 833
Revised Code that would have been a violation of section 2905.04 834
of the Revised Code as it existed prior to July 1, 1996, had the 835
violation been committed prior to that date; 836

(b) An existing or former law of this state, any other state, 837
or the United States that is substantially equivalent to any of 838
the offenses listed in division (A)(5)(a) of this section. 839

(6) On receipt of a request pursuant to section 3701.881 of 840
the Revised Code with respect to an applicant for employment with 841
a home health agency in a position that involves providing direct 842
care to an older adult, a completed form prescribed pursuant to 843
division (C)(1) of this section, and a set of fingerprint 844

impressions obtained in the manner described in division (C)(2) of 845
this section, the superintendent of the bureau of criminal 846
identification and investigation shall conduct a criminal records 847
check. The superintendent shall conduct the criminal records check 848
in the manner described in division (B) of this section to 849
determine whether any information exists that indicates that the 850
person who is the subject of the request previously has been 851
convicted of or pleaded guilty to any of the following: 852

(a) A violation of section 2903.01, 2903.02, 2903.03, 853
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 854
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 855
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 856
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 857
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 858
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 859
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 860
2925.22, 2925.23, or 3716.11 of the Revised Code; 861

(b) An existing or former law of this state, any other state, 862
or the United States that is substantially equivalent to any of 863
the offenses listed in division (A)(6)(a) of this section. 864

(7) When conducting a criminal records check upon a request 865
pursuant to section 3319.39 of the Revised Code for an applicant 866
who is a teacher, in addition to the determination made under 867
division (A)(1) of this section, the superintendent shall 868
determine whether any information exists that indicates that the 869
person who is the subject of the request previously has been 870
convicted of or pleaded guilty to any offense specified in section 871
3319.31 of the Revised Code. 872

(8) On receipt of a request pursuant to section 2151.86 of 873
the Revised Code, a completed form prescribed pursuant to division 874
(C)(1) of this section, and a set of fingerprint impressions 875
obtained in the manner described in division (C)(2) of this 876

section, the superintendent of the bureau of criminal 877
identification and investigation shall conduct a criminal records 878
check in the manner described in division (B) of this section to 879
determine whether any information exists that indicates that the 880
person who is the subject of the request previously has been 881
convicted of or pleaded guilty to any of the following: 882

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 883
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 884
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 885
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 886
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 887
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 888
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 889
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 890
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 891
of the Revised Code, a violation of section 2905.04 of the Revised 892
Code as it existed prior to July 1, 1996, a violation of section 893
2919.23 of the Revised Code that would have been a violation of 894
section 2905.04 of the Revised Code as it existed prior to July 1, 895
1996, had the violation been committed prior to that date, a 896
violation of section 2925.11 of the Revised Code that is not a 897
minor drug possession offense, two or more OVI or OVUAC violations 898
committed within the three years immediately preceding the 899
submission of the application or petition that is the basis of the 900
request, or felonious sexual penetration in violation of former 901
section 2907.12 of the Revised Code; 902

(b) A violation of an existing or former law of this state, 903
any other state, or the United States that is substantially 904
equivalent to any of the offenses listed in division (A)(8)(a) of 905
this section. 906

(9) Upon receipt of a request pursuant to section 5104.012 or 907
5104.013 of the Revised Code, a completed form prescribed pursuant 908

to division (C)(1) of this section, and a set of fingerprint 909
impressions obtained in the manner described in division (C)(2) of 910
this section, the superintendent of the bureau of criminal 911
identification and investigation shall conduct a criminal records 912
check in the manner described in division (B) of this section to 913
determine whether any information exists that indicates that the 914
person who is the subject of the request has been convicted of or 915
pleaded guilty to any of the following: 916

(a) A violation of section 2903.01, 2903.02, 2903.03, 917
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 918
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 919
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 920
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 921
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 922
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 923
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 924
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 925
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 926
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 927
3716.11 of the Revised Code, felonious sexual penetration in 928
violation of former section 2907.12 of the Revised Code, a 929
violation of section 2905.04 of the Revised Code as it existed 930
prior to July 1, 1996, a violation of section 2919.23 of the 931
Revised Code that would have been a violation of section 2905.04 932
of the Revised Code as it existed prior to July 1, 1996, had the 933
violation been committed prior to that date, a violation of 934
section 2925.11 of the Revised Code that is not a minor drug 935
possession offense, a violation of section 2923.02 or 2923.03 of 936
the Revised Code that relates to a crime specified in this 937
division, or a second violation of section 4511.19 of the Revised 938
Code within five years of the date of application for licensure or 939
certification. 940

(b) A violation of an existing or former law of this state, 941
any other state, or the United States that is substantially 942
equivalent to any of the offenses or violations described in 943
division (A)(9)(a) of this section. 944

(10) Upon receipt of a request pursuant to section 5153.111 945
of the Revised Code, a completed form prescribed pursuant to 946
division (C)(1) of this section, and a set of fingerprint 947
impressions obtained in the manner described in division (C)(2) of 948
this section, the superintendent of the bureau of criminal 949
identification and investigation shall conduct a criminal records 950
check in the manner described in division (B) of this section to 951
determine whether any information exists that indicates that the 952
person who is the subject of the request previously has been 953
convicted of or pleaded guilty to any of the following: 954

(a) A violation of section 2903.01, 2903.02, 2903.03, 955
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 956
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 957
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 958
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 959
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 960
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 961
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 962
felonious sexual penetration in violation of former section 963
2907.12 of the Revised Code, a violation of section 2905.04 of the 964
Revised Code as it existed prior to July 1, 1996, a violation of 965
section 2919.23 of the Revised Code that would have been a 966
violation of section 2905.04 of the Revised Code as it existed 967
prior to July 1, 1996, had the violation been committed prior to 968
that date, or a violation of section 2925.11 of the Revised Code 969
that is not a minor drug possession offense; 970

(b) A violation of an existing or former law of this state, 971
any other state, or the United States that is substantially 972

equivalent to any of the offenses listed in division (A)(10)(a) of 973
this section. 974

(11) On receipt of a request for a criminal records check 975
from an individual pursuant to section 4749.03 or 4749.06 of the 976
Revised Code, accompanied by a completed copy of the form 977
prescribed in division (C)(1) of this section and a set of 978
fingerprint impressions obtained in a manner described in division 979
(C)(2) of this section, the superintendent of the bureau of 980
criminal identification and investigation shall conduct a criminal 981
records check in the manner described in division (B) of this 982
section to determine whether any information exists indicating 983
that the person who is the subject of the request has been 984
convicted of or pleaded guilty to a felony in this state or in any 985
other state. If the individual indicates that a firearm will be 986
carried in the course of business, the superintendent shall 987
require information from the federal bureau of investigation as 988
described in division (B)(2) of this section. The superintendent 989
shall report the findings of the criminal records check and any 990
information the federal bureau of investigation provides to the 991
director of public safety. 992

(12) On receipt of a request pursuant to section 1321.37, 993
1322.03, 1322.031, or 4763.05 of the Revised Code, a completed 994
form prescribed pursuant to division (C)(1) of this section, and a 995
set of fingerprint impressions obtained in the manner described in 996
division (C)(2) of this section, the superintendent of the bureau 997
of criminal identification and investigation shall conduct a 998
criminal records check with respect to any person who has applied 999
for a license, permit, or certification from the department of 1000
commerce or a division in the department. The superintendent shall 1001
conduct the criminal records check in the manner described in 1002
division (B) of this section to determine whether any information 1003
exists that indicates that the person who is the subject of the 1004

request previously has been convicted of or pleaded guilty to any 1005
of the following: a violation of section 2913.02, 2913.11, 1006
2913.31, 2913.51, or 2925.03 of the Revised Code; any other 1007
criminal offense involving theft, receiving stolen property, 1008
embezzlement, forgery, fraud, passing bad checks, money 1009
laundering, or drug trafficking, or any criminal offense involving 1010
money or securities, as set forth in Chapters 2909., 2911., 2913., 1011
2915., 2921., 2923., and 2925. of the Revised Code; or any 1012
existing or former law of this state, any other state, or the 1013
United States that is substantially equivalent to those offenses. 1014

(13) On receipt of a request for a criminal records check 1015
from the treasurer of state under section 113.041 of the Revised 1016
Code or from an individual under section 4701.08, 4715.101, 1017
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 1018
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 1019
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 1020
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 1021
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 1022
a completed form prescribed under division (C)(1) of this section 1023
and a set of fingerprint impressions obtained in the manner 1024
described in division (C)(2) of this section, the superintendent 1025
of the bureau of criminal identification and investigation shall 1026
conduct a criminal records check in the manner described in 1027
division (B) of this section to determine whether any information 1028
exists that indicates that the person who is the subject of the 1029
request has been convicted of or pleaded guilty to any criminal 1030
offense in this state or any other state. The superintendent shall 1031
send the results of a check requested under section 113.041 of the 1032
Revised Code to the treasurer of state and shall send the results 1033
of a check requested under any of the other listed sections to the 1034
licensing board specified by the individual in the request. 1035
1036

(14) On receipt of a request pursuant to section 1121.23, 1038
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 1039
Code, a completed form prescribed pursuant to division (C)(1) of 1040
this section, and a set of fingerprint impressions obtained in the 1041
manner described in division (C)(2) of this section, the 1042
superintendent of the bureau of criminal identification and 1043
investigation shall conduct a criminal records check in the manner 1044
described in division (B) of this section to determine whether any 1045
information exists that indicates that the person who is the 1046
subject of the request previously has been convicted of or pleaded 1047
guilty to any criminal offense under any existing or former law of 1048
this state, any other state, or the United States. 1049

(15) Not later than thirty days after the date the 1050
superintendent receives a request of a type described in division 1051
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), 1052
or (14) of this section, the completed form, and the fingerprint 1053
impressions, the superintendent shall send the person, board, or 1054
entity that made the request any information, other than 1055
information the dissemination of which is prohibited by federal 1056
law, the superintendent determines exists with respect to the 1057
person who is the subject of the request that indicates that the 1058
person previously has been convicted of or pleaded guilty to any 1059
offense listed or described in division (A)(1), (2), (3), (4), 1060
(5), (6), (7), (8), (9), (10), (11), (12), or (14) of this 1061
section, as appropriate. The superintendent shall send the person, 1062
board, or entity that made the request a copy of the list of 1063
offenses specified in division (A)(1), (2), (3), (4), (5), (6), 1064
(7), (8), (9), (10), (11), (12), or (14) of this section, as 1065
appropriate. If the request was made under section 3701.881 of the 1066
Revised Code with regard to an applicant who may be both 1067
responsible for the care, custody, or control of a child and 1068
involved in providing direct care to an older adult, the 1069
superintendent shall provide a list of the offenses specified in 1070

divisions (A)(4) and (6) of this section. 1071

Not later than thirty days after the superintendent receives 1072
a request for a criminal records check pursuant to section 113.041 1073
of the Revised Code, the completed form, and the fingerprint 1074
impressions, the superintendent shall send the treasurer of state 1075
any information, other than information the dissemination of which 1076
is prohibited by federal law, the superintendent determines exist 1077
with respect to the person who is the subject of the request that 1078
indicates that the person previously has been convicted of or 1079
pleaded guilty to any criminal offense in this state or any other 1080
state. 1081

(B) The superintendent shall conduct any criminal records 1082
check requested under section 113.041, 121.08, 173.27, 173.394, 1083
1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 1733.47, 1084
1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 1085
3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 1086
4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 1087
4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 1088
4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 1089
4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 1090
4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 1091
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as 1092
follows: 1093

(1) The superintendent shall review or cause to be reviewed 1094
any relevant information gathered and compiled by the bureau under 1095
division (A) of section 109.57 of the Revised Code that relates to 1096
the person who is the subject of the request, including, if the 1097
criminal records check was requested under section 113.041, 1098
121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 1099
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 1100
4749.06, 4763.05, 5104.012, 5104.013, 5111.032, 5111.033, 1101
5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 1102

Code, any relevant information contained in records that have been 1103
sealed under section 2953.32 of the Revised Code; 1104

(2) If the request received by the superintendent asks for 1105
information from the federal bureau of investigation, the 1106
superintendent shall request from the federal bureau of 1107
investigation any information it has with respect to the person 1108
who is the subject of the request, including fingerprint-based 1109
checks of national crime information databases as described in 42 1110
U.S.C. 671 if the request is made pursuant to section 2151.86, 1111
5104.012, or 5104.013 of the Revised Code or if any other Revised 1112
Code section requires fingerprint-based checks of that nature, and 1113
shall review or cause to be reviewed any information the 1114
superintendent receives from that bureau. 1115

(3) The superintendent or the superintendent's designee may 1116
request criminal history records from other states or the federal 1117
government pursuant to the national crime prevention and privacy 1118
compact set forth in section 109.571 of the Revised Code. 1119

(C)(1) The superintendent shall prescribe a form to obtain 1120
the information necessary to conduct a criminal records check from 1121
any person for whom a criminal records check is requested under 1122
section 113.041 of the Revised Code or required by section 121.08, 1123
173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1124
1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 1125
3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 1126
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 1127
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 1128
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 1129
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 1130
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 1131
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 1132
5126.281, or 5153.111 of the Revised Code. The form that the 1133
superintendent prescribes pursuant to this division may be in a 1134

tangible format, in an electronic format, or in both tangible and 1135
electronic formats. 1136

(2) The superintendent shall prescribe standard impression 1137
sheets to obtain the fingerprint impressions of any person for 1138
whom a criminal records check is requested under section 113.041 1139
of the Revised Code or required by section 121.08, 173.27, 1140
173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 1141
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 1142
3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 1143
4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 1144
4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 1145
4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 1146
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 1147
4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 1148
5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 1149
5153.111 of the Revised Code. Any person for whom a records check 1150
is requested under or required by any of those sections shall 1151
obtain the fingerprint impressions at a county sheriff's office, 1152
municipal police department, or any other entity with the ability 1153
to make fingerprint impressions on the standard impression sheets 1154
prescribed by the superintendent. The office, department, or 1155
entity may charge the person a reasonable fee for making the 1156
impressions. The standard impression sheets the superintendent 1157
prescribes pursuant to this division may be in a tangible format, 1158
in an electronic format, or in both tangible and electronic 1159
formats. 1160

(3) Subject to division (D) of this section, the 1161
superintendent shall prescribe and charge a reasonable fee for 1162
providing a criminal records check requested under section 1163
113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1164
1315.141, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 1165
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 1166

4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 1167
4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 1168
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 1169
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 1170
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 1171
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 1172
5126.281, or 5153.111 of the Revised Code. The person making a 1173
criminal records request under any of those sections shall pay the 1174
fee prescribed pursuant to this division. A person making a 1175
request under section 3701.881 of the Revised Code for a criminal 1176
records check for an applicant who may be both responsible for the 1177
care, custody, or control of a child and involved in providing 1178
direct care to an older adult shall pay one fee for the request. 1179
In the case of a request under section 1121.23, 1155.03, 1163.05, 1180
1315.141, 1733.47, 1761.26, or 5111.032 of the Revised Code, the 1181
fee shall be paid in the manner specified in that section. 1182

(4) The superintendent of the bureau of criminal 1183
identification and investigation may prescribe methods of 1184
forwarding fingerprint impressions and information necessary to 1185
conduct a criminal records check, which methods shall include, but 1186
not be limited to, an electronic method. 1187
1188

(D) A determination whether any information exists that 1189
indicates that a person previously has been convicted of or 1190
pleaded guilty to any offense listed or described in division 1191
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 1192
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), 1193
(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), or (A)(14) of this 1194
section, or that indicates that a person previously has been 1195
convicted of or pleaded guilty to any criminal offense in this 1196
state or any other state regarding a criminal records check of a 1197
type described in division (A)(13) of this section, and that is 1198

made by the superintendent with respect to information considered 1199
in a criminal records check in accordance with this section is 1200
valid for the person who is the subject of the criminal records 1201
check for a period of one year from the date upon which the 1202
superintendent makes the determination. During the period in which 1203
the determination in regard to a person is valid, if another 1204
request under this section is made for a criminal records check 1205
for that person, the superintendent shall provide the information 1206
that is the basis for the superintendent's initial determination 1207
at a lower fee than the fee prescribed for the initial criminal 1208
records check. 1209

(E) As used in this section: 1210

(1) "Criminal records check" means any criminal records check 1211
conducted by the superintendent of the bureau of criminal 1212
identification and investigation in accordance with division (B) 1213
of this section. 1214

(2) "Minor drug possession offense" has the same meaning as 1215
in section 2925.01 of the Revised Code. 1216

(3) "Older adult" means a person age sixty or older. 1217

(4) "OVI or OVUAC violation" means a violation of section 1218
4511.19 of the Revised Code or a violation of an existing or 1219
former law of this state, any other state, or the United States 1220
that is substantially equivalent to section 4511.19 of the Revised 1221
Code. 1222

Sec. 109.71. There is hereby created in the office of the 1223
attorney general the Ohio peace officer training commission. The 1224
commission shall consist of nine members appointed by the governor 1225
with the advice and consent of the senate and selected as follows: 1226
one member representing the public; two members who are incumbent 1227
sheriffs; two members who are incumbent chiefs of police; one 1228

member from the bureau of criminal identification and 1229
investigation; one member from the state highway patrol; one 1230
member who is the special agent in charge of a field office of the 1231
federal bureau of investigation in this state; and one member from 1232
the department of education, trade and industrial education 1233
services, law enforcement training. 1234

This section does not confer any arrest authority or any 1235
ability or authority to detain a person, write or issue any 1236
citation, or provide any disposition alternative, as granted under 1237
Chapter 2935. of the Revised Code. 1238

As used in sections 109.71 to 109.801 of the Revised Code: 1239

(A) "Peace officer" means: 1240

(1) A deputy sheriff, marshal, deputy marshal, member of the 1241
organized police department of a township or municipal 1242
corporation, member of a township police district or joint 1243
township police district police force, member of a police force 1244
employed by a metropolitan housing authority under division (D) of 1245
section 3735.31 of the Revised Code, or township constable, who is 1246
commissioned and employed as a peace officer by a political 1247
subdivision of this state or by a metropolitan housing authority, 1248
and whose primary duties are to preserve the peace, to protect 1249
life and property, and to enforce the laws of this state, 1250
ordinances of a municipal corporation, resolutions of a township, 1251
or regulations of a board of county commissioners or board of 1252
township trustees, or any of those laws, ordinances, resolutions, 1253
or regulations; 1254

(2) A police officer who is employed by a railroad company 1255
and appointed and commissioned by the secretary of state pursuant 1256
to sections 4973.17 to 4973.22 of the Revised Code; 1257

(3) Employees of the department of taxation engaged in the 1258
enforcement of Chapter 5743. of the Revised Code and designated by 1259

the tax commissioner for peace officer training for purposes of	1260
the delegation of investigation powers under section 5743.45 of	1261
the Revised Code;	1262
(4) An undercover drug agent;	1263
(5) Enforcement agents of the department of public safety	1264
whom the director of public safety designates under section	1265
5502.14 of the Revised Code;	1266
(6) An employee of the department of natural resources who is	1267
a natural resources law enforcement staff officer designated	1268
pursuant to section 1501.013, a park officer designated pursuant	1269
to section 1541.10, a forest officer designated pursuant to	1270
section 1503.29, a preserve officer designated pursuant to section	1271
1517.10, a wildlife officer designated pursuant to section	1272
1531.13, or a state watercraft officer designated pursuant to	1273
section 1547.521 of the Revised Code;	1274
(7) An employee of a park district who is designated pursuant	1275
to section 511.232 or 1545.13 of the Revised Code;	1276
(8) An employee of a conservancy district who is designated	1277
pursuant to section 6101.75 of the Revised Code;	1278
(9) A police officer who is employed by a hospital that	1279
employs and maintains its own proprietary police department or	1280
security department, and who is appointed and commissioned by the	1281
secretary of state pursuant to sections 4973.17 to 4973.22 of the	1282
Revised Code;	1283
(10) Veterans' homes police officers designated under section	1284
5907.02 of the Revised Code;	1285
(11) A police officer who is employed by a qualified	1286
nonprofit corporation police department pursuant to section	1287
1702.80 of the Revised Code;	1288
(12) A state university law enforcement officer appointed	1289

under section 3345.04 of the Revised Code or a person serving as a 1290
state university law enforcement officer on a permanent basis on 1291
June 19, 1978, who has been awarded a certificate by the executive 1292
director of the Ohio peace officer training commission attesting 1293
to the person's satisfactory completion of an approved state, 1294
county, municipal, or department of natural resources peace 1295
officer basic training program; 1296

(13) A special police officer employed by the department of 1297
mental health pursuant to section 5119.14 of the Revised Code or 1298
the department of ~~mental retardation and~~ developmental 1299
disabilities pursuant to section 5123.13 of the Revised Code; 1300

(14) A member of a campus police department appointed under 1301
section 1713.50 of the Revised Code; 1302

(15) A member of a police force employed by a regional 1303
transit authority under division (Y) of section 306.35 of the 1304
Revised Code; 1305

(16) Investigators appointed by the auditor of state pursuant 1306
to section 117.091 of the Revised Code and engaged in the 1307
enforcement of Chapter 117. of the Revised Code; 1308

(17) A special police officer designated by the 1309
superintendent of the state highway patrol pursuant to section 1310
5503.09 of the Revised Code or a person who was serving as a 1311
special police officer pursuant to that section on a permanent 1312
basis on October 21, 1997, and who has been awarded a certificate 1313
by the executive director of the Ohio peace officer training 1314
commission attesting to the person's satisfactory completion of an 1315
approved state, county, municipal, or department of natural 1316
resources peace officer basic training program; 1317

(18) A special police officer employed by a port authority 1318
under section 4582.04 or 4582.28 of the Revised Code or a person 1319
serving as a special police officer employed by a port authority 1320

on a permanent basis on May 17, 2000, who has been awarded a 1321
certificate by the executive director of the Ohio peace officer 1322
training commission attesting to the person's satisfactory 1323
completion of an approved state, county, municipal, or department 1324
of natural resources peace officer basic training program; 1325

(19) A special police officer employed by a municipal 1326
corporation who has been awarded a certificate by the executive 1327
director of the Ohio peace officer training commission for 1328
satisfactory completion of an approved peace officer basic 1329
training program and who is employed on a permanent basis on or 1330
after March 19, 2003, at a municipal airport, or other municipal 1331
air navigation facility, that has scheduled operations, as defined 1332
in section 119.3 of Title 14 of the Code of Federal Regulations, 1333
14 C.F.R. 119.3, as amended, and that is required to be under a 1334
security program and is governed by aviation security rules of the 1335
transportation security administration of the United States 1336
department of transportation as provided in Parts 1542. and 1544. 1337
of Title 49 of the Code of Federal Regulations, as amended; 1338

(20) A police officer who is employed by an owner or operator 1339
of an amusement park that has an average yearly attendance in 1340
excess of six hundred thousand guests and that employs and 1341
maintains its own proprietary police department or security 1342
department, and who is appointed and commissioned by a judge of 1343
the appropriate municipal court or county court pursuant to 1344
section 4973.17 of the Revised Code; 1345

(21) A police officer who is employed by a bank, savings and 1346
loan association, savings bank, credit union, or association of 1347
banks, savings and loan associations, savings banks, or credit 1348
unions, who has been appointed and commissioned by the secretary 1349
of state pursuant to sections 4973.17 to 4973.22 of the Revised 1350
Code, and who has been awarded a certificate by the executive 1351
director of the Ohio peace officer training commission attesting 1352

to the person's satisfactory completion of a state, county, 1353
municipal, or department of natural resources peace officer basic 1354
training program; 1355

(22) An investigator, as defined in section 109.541 of the 1356
Revised Code, of the bureau of criminal identification and 1357
investigation who is commissioned by the superintendent of the 1358
bureau as a special agent for the purpose of assisting law 1359
enforcement officers or providing emergency assistance to peace 1360
officers pursuant to authority granted under that section; 1361

(23) A state fire marshal law enforcement officer appointed 1362
under section 3737.22 of the Revised Code or a person serving as a 1363
state fire marshal law enforcement officer on a permanent basis on 1364
or after July 1, 1982, who has been awarded a certificate by the 1365
executive director of the Ohio peace officer training commission 1366
attesting to the person's satisfactory completion of an approved 1367
state, county, municipal, or department of natural resources peace 1368
officer basic training program. 1369

(B) "Undercover drug agent" has the same meaning as in 1370
division (B)(2) of section 109.79 of the Revised Code. 1371

(C) "Crisis intervention training" means training in the use 1372
of interpersonal and communication skills to most effectively and 1373
sensitively interview victims of rape. 1374

(D) "Missing children" has the same meaning as in section 1375
2901.30 of the Revised Code. 1376

Sec. 109.77. (A) As used in this section, "felony" has the 1377
same meaning as in section 109.511 of the Revised Code. 1378

(B)(1) Notwithstanding any general, special, or local law or 1379
charter to the contrary, and except as otherwise provided in this 1380
section, no person shall receive an original appointment on a 1381
permanent basis as any of the following unless the person 1382

previously has been awarded a certificate by the executive 1383
director of the Ohio peace officer training commission attesting 1384
to the person's satisfactory completion of an approved state, 1385
county, municipal, or department of natural resources peace 1386
officer basic training program: 1387

(a) A peace officer of any county, township, municipal 1388
corporation, regional transit authority, or metropolitan housing 1389
authority; 1390

(b) A natural resources law enforcement staff officer, park 1391
officer, forest officer, preserve officer, wildlife officer, or 1392
state watercraft officer of the department of natural resources; 1393

(c) An employee of a park district under section 511.232 or 1394
1545.13 of the Revised Code; 1395

(d) An employee of a conservancy district who is designated 1396
pursuant to section 6101.75 of the Revised Code; 1397

(e) A state university law enforcement officer; 1398

(f) A special police officer employed by the department of 1399
mental health pursuant to section 5119.14 of the Revised Code or 1400
the department of ~~mental retardation and~~ developmental 1401
disabilities pursuant to section 5123.13 of the Revised Code; 1402

(g) An enforcement agent of the department of public safety 1403
whom the director of public safety designates under section 1404
5502.14 of the Revised Code; 1405

(h) A special police officer employed by a port authority 1406
under section 4582.04 or 4582.28 of the Revised Code; 1407

(i) A special police officer employed by a municipal 1408
corporation at a municipal airport, or other municipal air 1409
navigation facility, that has scheduled operations, as defined in 1410
section 119.3 of Title 14 of the Code of Federal Regulations, 14
C.F.R. 119.3, as amended, and that is required to be under a 1412

security program and is governed by aviation security rules of the 1413
transportation security administration of the United States 1414
department of transportation as provided in Parts 1542. and 1544. 1415
of Title 49 of the Code of Federal Regulations, as amended. 1416

(2) Every person who is appointed on a temporary basis or for 1417
a probationary term or on other than a permanent basis as any of 1418
the following shall forfeit the appointed position unless the 1419
person previously has completed satisfactorily or, within the time 1420
prescribed by rules adopted by the attorney general pursuant to 1421
section 109.74 of the Revised Code, satisfactorily completes a 1422
state, county, municipal, or department of natural resources peace 1423
officer basic training program for temporary or probationary 1424
officers and is awarded a certificate by the director attesting to 1425
the satisfactory completion of the program: 1426

(a) A peace officer of any county, township, municipal 1427
corporation, regional transit authority, or metropolitan housing 1428
authority; 1429

(b) A natural resources law enforcement staff officer, park 1430
officer, forest officer, preserve officer, wildlife officer, or 1431
state watercraft officer of the department of natural resources; 1432

(c) An employee of a park district under section 511.232 or 1433
1545.13 of the Revised Code; 1434

(d) An employee of a conservancy district who is designated 1435
pursuant to section 6101.75 of the Revised Code; 1436

(e) A special police officer employed by the department of 1437
mental health pursuant to section 5119.14 of the Revised Code or 1438
the department of ~~mental retardation and~~ developmental 1439
disabilities pursuant to section 5123.13 of the Revised Code; 1440

(f) An enforcement agent of the department of public safety 1441
whom the director of public safety designates under section 1442
5502.14 of the Revised Code; 1443

(g) A special police officer employed by a port authority 1444
under section 4582.04 or 4582.28 of the Revised Code; 1445

(h) A special police officer employed by a municipal 1446
corporation at a municipal airport, or other municipal air 1447
navigation facility, that has scheduled operations, as defined in 1448
section 119.3 of Title 14 of the Code of Federal Regulations, 14
C.F.R. 119.3, as amended, and that is required to be under a 1449
security program and is governed by aviation security rules of the 1450
transportation security administration of the United States 1451
department of transportation as provided in Parts 1542. and 1544. 1452
of Title 49 of the Code of Federal Regulations, as amended. 1453
1454

(3) For purposes of division (B) of this section, a state, 1455
county, municipal, or department of natural resources peace 1456
officer basic training program, regardless of whether the program 1457
is to be completed by peace officers appointed on a permanent or 1458
temporary, probationary, or other nonpermanent basis, shall 1459
include at least fifteen hours of training in the handling of the 1460
offense of domestic violence, other types of domestic 1461
violence-related offenses and incidents, and protection orders and 1462
consent agreements issued or approved under section 2919.26 or 1463
3113.31 of the Revised Code and at least six hours of crisis 1464
intervention training. The requirement to complete fifteen hours 1465
of training in the handling of the offense of domestic violence, 1466
other types of domestic violence-related offenses and incidents, 1467
and protection orders and consent agreements issued or approved 1468
under section 2919.26 or 3113.31 of the Revised Code does not 1469
apply to any person serving as a peace officer on March 27, 1979, 1470
and the requirement to complete six hours of training in crisis 1471
intervention does not apply to any person serving as a peace 1472
officer on April 4, 1985. Any person who is serving as a peace 1473
officer on April 4, 1985, who terminates that employment after 1474
that date, and who subsequently is hired as a peace officer by the 1475

same or another law enforcement agency shall complete the six 1476
hours of training in crisis intervention within the time 1477
prescribed by rules adopted by the attorney general pursuant to 1478
section 109.742 of the Revised Code. No peace officer shall have 1479
employment as a peace officer terminated and then be reinstated 1480
with intent to circumvent this section. 1481

(4) Division (B) of this section does not apply to any person 1482
serving on a permanent basis on March 28, 1985, as a park officer, 1483
forest officer, preserve officer, wildlife officer, or state 1484
watercraft officer of the department of natural resources or as an 1485
employee of a park district under section 511.232 or 1545.13 of 1486
the Revised Code, to any person serving on a permanent basis on 1487
March 6, 1986, as an employee of a conservancy district designated 1488
pursuant to section 6101.75 of the Revised Code, to any person 1489
serving on a permanent basis on January 10, 1991, as a preserve 1490
officer of the department of natural resources, to any person 1491
employed on a permanent basis on July 2, 1992, as a special police 1492
officer by the department of mental health pursuant to section 1493
5119.14 of the Revised Code or by the department of ~~mental~~ 1494
~~retardation and~~ developmental disabilities pursuant to section 1495
5123.13 of the Revised Code, to any person serving on a permanent 1496
basis on May 17, 2000, as a special police officer employed by a 1497
port authority under section 4582.04 or 4582.28 of the Revised 1498
Code, to any person serving on a permanent basis on ~~the effective~~ 1499
~~date of this amendment~~ March 19, 2003, as a special police officer 1500
employed by a municipal corporation at a municipal airport or 1501
other municipal air navigation facility described in division 1502
(A)(19) of section 109.71 of the Revised Code, to any person 1503
serving on a permanent basis on June 19, 1978, as a state 1504
university law enforcement officer pursuant to section 3345.04 of 1505
the Revised Code and who, immediately prior to June 19, 1978, was 1506
serving as a special police officer designated under authority of 1507
that section, or to any person serving on a permanent basis on 1508

September 20, 1984, as a liquor control investigator, known after 1509
June 30, 1999, as an enforcement agent of the department of public 1510
safety, engaged in the enforcement of Chapters 4301. and 4303. of 1511
the Revised Code. 1512

(5) Division (B) of this section does not apply to any person 1513
who is appointed as a regional transit authority police officer 1514
pursuant to division (Y) of section 306.35 of the Revised Code if, 1515
on or before July 1, 1996, the person has completed satisfactorily 1516
an approved state, county, municipal, or department of natural 1517
resources peace officer basic training program and has been 1518
awarded a certificate by the executive director of the Ohio peace 1519
officer training commission attesting to the person's satisfactory 1520
completion of such an approved program and if, on July 1, 1996, 1521
the person is performing peace officer functions for a regional 1522
transit authority. 1523

(C) No person, after September 20, 1984, shall receive an 1524
original appointment on a permanent basis as a veterans' home 1525
police officer designated under section 5907.02 of the Revised 1526
Code unless the person previously has been awarded a certificate 1527
by the executive director of the Ohio peace officer training 1528
commission attesting to the person's satisfactory completion of an 1529
approved police officer basic training program. Every person who 1530
is appointed on a temporary basis or for a probationary term or on 1531
other than a permanent basis as a veterans' home police officer 1532
designated under section 5907.02 of the Revised Code shall forfeit 1533
that position unless the person previously has completed 1534
satisfactorily or, within one year from the time of appointment, 1535
satisfactorily completes an approved police officer basic training 1536
program. 1537

(D) No bailiff or deputy bailiff of a court of record of this 1538
state and no criminal investigator who is employed by the state 1539
public defender shall carry a firearm, as defined in section 1540

2923.11 of the Revised Code, while on duty unless the bailiff, 1541
deputy bailiff, or criminal investigator has done or received one 1542
of the following: 1543

(1) Has been awarded a certificate by the executive director 1544
of the Ohio peace officer training commission, which certificate 1545
attests to satisfactory completion of an approved state, county, 1546
or municipal basic training program for bailiffs and deputy 1547
bailiffs of courts of record and for criminal investigators 1548
employed by the state public defender that has been recommended by 1549
the Ohio peace officer training commission; 1550

(2) Has successfully completed a firearms training program 1551
approved by the Ohio peace officer training commission prior to 1552
employment as a bailiff, deputy bailiff, or criminal investigator; 1553

(3) Prior to June 6, 1986, was authorized to carry a firearm 1554
by the court that employed the bailiff or deputy bailiff or, in 1555
the case of a criminal investigator, by the state public defender 1556
and has received training in the use of firearms that the Ohio 1557
peace officer training commission determines is equivalent to the 1558
training that otherwise is required by division (D) of this 1559
section. 1560

(E)(1) Before a person seeking a certificate completes an 1561
approved peace officer basic training program, the executive 1562
director of the Ohio peace officer training commission shall 1563
request the person to disclose, and the person shall disclose, any 1564
previous criminal conviction of or plea of guilty of that person 1565
to a felony. 1566

(2) Before a person seeking a certificate completes an 1567
approved peace officer basic training program, the executive 1568
director shall request a criminal history records check on the 1569
person. The executive director shall submit the person's 1570
fingerprints to the bureau of criminal identification and 1571

investigation, which shall submit the fingerprints to the federal 1572
bureau of investigation for a national criminal history records 1573
check. 1574

Upon receipt of the executive director's request, the bureau 1575
of criminal identification and investigation and the federal 1576
bureau of investigation shall conduct a criminal history records 1577
check on the person and, upon completion of the check, shall 1578
provide a copy of the criminal history records check to the 1579
executive director. The executive director shall not award any 1580
certificate prescribed in this section unless the executive 1581
director has received a copy of the criminal history records check 1582
on the person to whom the certificate is to be awarded. 1583

(3) The executive director of the commission shall not award 1584
a certificate prescribed in this section to a person who has been 1585
convicted of or has pleaded guilty to a felony or who fails to 1586
disclose any previous criminal conviction of or plea of guilty to 1587
a felony as required under division (E)(1) of this section. 1588

(4) The executive director of the commission shall revoke the 1589
certificate awarded to a person as prescribed in this section, and 1590
that person shall forfeit all of the benefits derived from being 1591
certified as a peace officer under this section, if the person, 1592
before completion of an approved peace officer basic training 1593
program, failed to disclose any previous criminal conviction of or 1594
plea of guilty to a felony as required under division (E)(1) of 1595
this section. 1596

(F)(1) Regardless of whether the person has been awarded the 1597
certificate or has been classified as a peace officer prior to, 1598
on, or after October 16, 1996, the executive director of the Ohio 1599
peace officer training commission shall revoke any certificate 1600
that has been awarded to a person as prescribed in this section if 1601
the person does either of the following: 1602

(a) Pleads guilty to a felony committed on or after January 1, 1997;

(b) Pleads guilty to a misdemeanor committed on or after January 1, 1997, pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the person agrees to surrender the certificate awarded to the person under this section.

(2) The executive director of the commission shall suspend any certificate that has been awarded to a person as prescribed in this section if the person is convicted, after trial, of a felony committed on or after January 1, 1997. The executive director shall suspend the certificate pursuant to division (F)(2) of this section pending the outcome of an appeal by the person from that conviction to the highest court to which the appeal is taken or until the expiration of the period in which an appeal is required to be filed. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that person, the executive director shall reinstate the certificate awarded to the person under this section. If the person files an appeal from that person's conviction of the felony and the conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the executive director shall revoke the certificate awarded to the person under this section.

(G)(1) If a person is awarded a certificate under this section and the certificate is revoked pursuant to division (E)(4) or (F) of this section, the person shall not be eligible to receive, at any time, a certificate attesting to the person's satisfactory completion of a peace officer basic training program.

(2) The revocation or suspension of a certificate under division (E)(4) or (F) of this section shall be in accordance with Chapter 119. of the Revised Code.

(H)(1) A person who was employed as a peace officer of a county, township, or municipal corporation of the state on January 1, 1966, and who has completed at least sixteen years of full-time active service as such a peace officer may receive an original appointment on a permanent basis and serve as a peace officer of a county, township, or municipal corporation, or as a state university law enforcement officer, without complying with the requirements of division (B) of this section.

(2) Any person who held an appointment as a state highway trooper on January 1, 1966, may receive an original appointment on a permanent basis and serve as a peace officer of a county, township, or municipal corporation, or as a state university law enforcement officer, without complying with the requirements of division (B) of this section.

(I) No person who is appointed as a peace officer of a county, township, or municipal corporation on or after April 9, 1985, shall serve as a peace officer of that county, township, or municipal corporation unless the person has received training in the handling of missing children and child abuse and neglect cases from an approved state, county, township, or municipal police officer basic training program or receives the training within the time prescribed by rules adopted by the attorney general pursuant to section 109.741 of the Revised Code.

(J) No part of any approved state, county, or municipal basic training program for bailiffs and deputy bailiffs of courts of record and no part of any approved state, county, or municipal basic training program for criminal investigators employed by the state public defender shall be used as credit toward the completion by a peace officer of any part of the approved state, county, or municipal peace officer basic training program that the peace officer is required by this section to complete satisfactorily.

(K) This section does not apply to any member of the police 1667
department of a municipal corporation in an adjoining state 1668
serving in this state under a contract pursuant to section 737.04 1669
of the Revised Code. 1670

Sec. 109.86. (A) The attorney general shall investigate any 1671
activity the attorney general has reasonable cause to believe is 1672
in violation of section 2903.34 of the Revised Code. Upon written 1673
request of the governor, the general assembly, the auditor of 1674
state, or the director of health, job and family services, aging, 1675
mental health, or ~~mental retardation and~~ developmental 1676
disabilities, the attorney general shall investigate any activity 1677
these persons believe is in violation of section 2903.34 of the 1678
Revised Code. If after an investigation the attorney general has 1679
probable cause to prosecute for the commission of a crime, the 1680
attorney general shall refer the evidence to the prosecuting 1681
attorney, director of law, or other similar chief legal officer 1682
having jurisdiction over the matter. If the prosecuting attorney 1683
decides to present the evidence to a grand jury, the prosecuting 1684
attorney shall notify the attorney general in writing of the 1685
decision within thirty days after referral of the matter and shall 1686
present the evidence prior to the discharge of the next regular 1687
grand jury. If the director of law or other chief legal officer 1688
decides to prosecute the case, the director or officer shall 1689
notify the attorney general in writing of the decision within 1690
thirty days and shall initiate prosecution within sixty days after 1691
the matter was referred to the director or officer. 1692

(B) If the prosecuting attorney, director of law, or other 1693
chief legal officer fails to notify the attorney general or to 1694
present evidence or initiate prosecution in accordance with 1695
division (A) of this section, the attorney general may present the 1696
evidence to a regular grand jury drawn and impaneled pursuant to 1697
sections 2939.01 to 2939.24 of the Revised Code, or to a special 1698

grand jury drawn and impaneled pursuant to section 2939.17 of the Revised Code, or the attorney general may initiate and prosecute any action in any court or tribunal of competent jurisdiction in this state. The attorney general, and any assistant or special counsel designated by the attorney general, have all the powers of a prosecuting attorney, director of law, or other chief legal officer when proceeding under this section. Nothing in this section shall limit or prevent a prosecuting attorney, director of law, or other chief legal officer from investigating and prosecuting criminal activity committed against a resident or patient of a care facility.

Sec. 121.02. The following administrative departments and their respective directors are hereby created:

(A) The office of budget and management, which shall be administered by the director of budget and management;

(B) The department of commerce, which shall be administered by the director of commerce;

(C) The department of administrative services, which shall be administered by the director of administrative services;

(D) The department of transportation, which shall be administered by the director of transportation;

(E) The department of agriculture, which shall be administered by the director of agriculture;

(F) The department of natural resources, which shall be administered by the director of natural resources;

(G) The department of health, which shall be administered by the director of health;

(H) The department of job and family services, which shall be administered by the director of job and family services;

(I) Until July 1, 1997, the department of liquor control,	1728
which shall be administered by the director of liquor control;	1729
(J) The department of public safety, which shall be	1730
administered by the director of public safety;	1731
(K) The department of mental health, which shall be	1732
administered by the director of mental health;	1733
(L) The department of mental retardation and developmental	1734
disabilities, which shall be administered by the director of	1735
mental retardation and developmental disabilities;	1736
(M) The department of insurance, which shall be administered	1737
by the superintendent of insurance as director thereof;	1738
(N) The department of development, which shall be	1739
administered by the director of development;	1740
(O) The department of youth services, which shall be	1741
administered by the director of youth services;	1742
(P) The department of rehabilitation and correction, which	1743
shall be administered by the director of rehabilitation and	1744
correction;	1745
(Q) The environmental protection agency, which shall be	1746
administered by the director of environmental protection;	1747
(R) The department of aging, which shall be administered by	1748
the director of aging;	1749
(S) The department of alcohol and drug addiction services,	1750
which shall be administered by the director of alcohol and drug	1751
addiction services;	1752
(T) The department of veterans services, which shall be	1753
administered by the director of veterans services.	1754
The director of each department shall exercise the powers and	1755
perform the duties vested by law in such department.	1756

Sec. 121.03. The following administrative department heads 1757
shall be appointed by the governor, with the advice and consent of 1758
the senate, and shall hold their offices during the term of the 1759
appointing governor, and are subject to removal at the pleasure of 1760
the governor. 1761

(A) The director of budget and management; 1762

(B) The director of commerce; 1763

(C) The director of transportation; 1764

(D) The director of agriculture; 1765

(E) The director of job and family services; 1766

(F) Until July 1, 1997, the director of liquor control; 1767

(G) The director of public safety; 1768

(H) The superintendent of insurance; 1769

(I) The director of development; 1770

(J) The tax commissioner; 1771

(K) The director of administrative services; 1772

(L) The director of natural resources; 1773

(M) The director of mental health; 1774

(N) The director of ~~mental retardation and~~ developmental 1775
disabilities; 1776

(O) The director of health; 1777

(P) The director of youth services; 1778

(Q) The director of rehabilitation and correction; 1779

(R) The director of environmental protection; 1780

(S) The director of aging; 1781

(T) The director of alcohol and drug addiction services; 1782

(U) The administrator of workers' compensation who meets the 1783
qualifications required under division (A) of section 4121.121 of 1784
the Revised Code; 1785

(V) The director of veterans services who meets the 1786
qualifications required under section 5902.01 of the Revised Code. 1787

Sec. 121.32. The commission on Hispanic-Latino affairs shall: 1788
1789

(A) Gather and disseminate information and conduct hearings, 1790
conferences, investigations, and special studies on problems and 1791
programs concerning Spanish-speaking people; 1792

(B) Secure appropriate recognition of the accomplishments and 1793
contributions of Spanish-speaking people to this state; 1794

(C) Stimulate public awareness of the problems of 1795
Spanish-speaking people by conducting a program of public 1796
education; 1797

(D) Develop, coordinate, and assist other public and private 1798
organizations that serve Spanish-speaking people, including the 1799
conducting of training programs for community leadership and 1800
service project staff; 1801

(E) Advise the governor, general assembly, and state 1802
departments and agencies of the nature, magnitude, and priorities 1803
of the problems of Spanish-speaking people; 1804

(F) Advise the governor, general assembly, and state 1805
departments and agencies on, and assist in the development and 1806
implementation of, comprehensive and coordinated policies, 1807
programs, and procedures focusing on the special problems and 1808
needs of Spanish-speaking people, especially in the fields of 1809
education, employment, energy, health, housing, welfare, and 1810
recreation; 1811

(G) Propose new programs concerning Spanish-speaking people 1812

to public and private agencies and evaluate for such agencies 1813
existing programs or prospective legislation concerning 1814
Spanish-speaking people; 1815

(H) Review and approve grants to be made from federal, state, 1816
or private funds which are administered or subcontracted by the 1817
office of Spanish-speaking affairs; 1818

(I) Review and approve the annual report prepared by the 1819
office of Spanish-speaking affairs; 1820

(J) Create an interagency council consisting of the following 1821
persons or their authorized representatives: one member of the 1822
senate appointed by the president of the senate; one member of the 1823
house of representatives appointed by the speaker of the house of 1824
representatives; the directors of administrative services, 1825
agriculture, education, development, health, highway safety, job 1826
and family services, liquor control, mental health, ~~mental~~ 1827
~~retardation~~ and developmental disabilities, natural resources, 1828
rehabilitation and correction, youth services, transportation, 1829
environmental protection, and budget and management; the 1830
chairperson of the Ohio civil rights commission, the 1831
administrators of the bureau of workers' compensation and the 1832
rehabilitation services commission, and an additional member of 1833
the governor's cabinet appointed by the governor. The commission 1834
on Hispanic-Latino affairs, by rule, may designate other state 1835
officers or their representatives to be members of the council. 1836
The director of the commission shall be the chairperson of the 1837
council. 1838

The interagency council shall provide and coordinate the 1839
exchange of information relative to the needs of Spanish-speaking 1840
people and promote the delivery of state services to such people. 1841
The council shall meet at the call of the chairperson. 1842

Sec. 121.36. (A) As used in this section, "home care 1843

dependent adult" means an individual who resides in a private home 1844
or other noninstitutional and unlicensed living arrangement, 1845
without the presence of a parent or guardian, but has health and 1846
safety needs that require the provision of regularly scheduled 1847
home care services to remain in the home or other living 1848
arrangement because one of the following is the case: 1849

(1) The individual is at least twenty-one years of age but 1850
less than sixty years of age and has a physical disability or 1851
mental impairment. 1852

(2) The individual is sixty years of age or older, regardless 1853
of whether the individual has a physical disability or mental 1854
impairment. 1855

(B) Except as provided in division (D) of this section, the 1856
departments of ~~mental retardation and~~ developmental disabilities, 1857
aging, job and family services, and health shall each implement 1858
this section with respect to all contracts entered into by the 1859
department for the provision of home care services to home care 1860
dependent adults that are paid for in whole or in part with 1861
federal, state, or local funds. Except as provided in division (D) 1862
of this section, each department shall also require all public and 1863
private entities that receive money from or through the department 1864
to comply with this section when entering into contracts for the 1865
provision of home care services to home care dependent adults that 1866
are paid for in whole or in part with federal, state, or local 1867
funds. Such entities may include county boards of mental 1868
retardation and developmental disabilities, area agencies on 1869
aging, county departments of job and family services, and boards 1870
of health of city and general health districts. 1871

(C) Beginning one year after ~~the effective date of this~~ 1872
~~section~~ September 26, 2003, each contract subject to this section 1873
shall include terms requiring that the provider of home care 1874
services to home care dependent adults have a system in place that 1875

effectively monitors the delivery of the services by its 1876
employees. To be considered an effective monitoring system for 1877
purposes of the contract, the system established by a provider 1878
must include at least the following components: 1879

(1) When providing home care services to home care dependent 1880
adults who have a mental impairment or life-threatening health 1881
condition, a mechanism to verify whether the provider's employees 1882
are present at the location where the services are to be provided 1883
and at the time the services are to be provided; 1884

(2) When providing home care services to all other home care 1885
dependent adults, a system to verify at the end of each working 1886
day whether the provider's employees have provided the services at 1887
the proper location and time; 1888

(3) A protocol to be followed in scheduling a substitute 1889
employee when the monitoring system identifies that an employee 1890
has failed to provide home care services at the proper location 1891
and time, including standards for determining the length of time 1892
that may elapse without jeopardizing the health and safety of the 1893
home care dependent adult; 1894

(4) Procedures for maintaining records of the information 1895
obtained through the monitoring system; 1896

(5) Procedures for compiling annual reports of the 1897
information obtained through the monitoring system, including 1898
statistics on the rate at which home care services were provided 1899
at the proper location and time; 1900

(6) Procedures for conducting random checks of the accuracy 1901
of the monitoring system. For purposes of conducting these checks, 1902
a random check is considered to be a check of not more than five 1903
per cent of the home care visits the provider's employees make to 1904
different home care dependent adults within a particular work 1905
shift. 1906

(D) In implementing this section, the departments shall 1907
exempt providers of home care services who are self-employed 1908
providers with no other employees or are otherwise considered by 1909
the departments not to be agency providers. The departments shall 1910
conduct a study on how the exempted providers may be made subject 1911
to the requirement of effectively monitoring whether home care 1912
services are being provided and have been provided at the proper 1913
location and time. Not later than two years after ~~the effective~~ 1914
~~date of this section~~ September 26, 2003, the departments shall 1915
prepare a report of their findings and recommendations. The report 1916
shall be submitted to the president of the senate and the speaker 1917
of the house of representatives. 1918

(E) The departments of ~~mental retardation and~~ developmental 1919
disabilities, aging, job and family services, and health shall 1920
each adopt rules as necessary to implement this section. The rules 1921
shall be adopted in accordance with Chapter 119. of the Revised 1922
Code. 1923

Sec. 121.37. (A)(1) There is hereby created the Ohio family 1924
and children first cabinet council. The council shall be composed 1925
of the superintendent of public instruction and the directors of 1926
youth services, job and family services, mental health, health, 1927
alcohol and drug addiction services, ~~mental retardation and~~ 1928
developmental disabilities, and budget and management. The 1929
chairperson of the council shall be the governor or the governor's 1930
designee and shall establish procedures for the council's internal 1931
control and management. 1932

The purpose of the cabinet council is to help families 1933
seeking government services. This section shall not be interpreted 1934
or applied to usurp the role of parents, but solely to streamline 1935
and coordinate existing government services for families seeking 1936
assistance for their children. 1937

(2) In seeking to fulfill its purpose, the council may do any	1938
of the following:	1939
(a) Advise and make recommendations to the governor and	1940
general assembly regarding the provision of services to children;	1941
(b) Advise and assess local governments on the coordination	1942
of service delivery to children;	1943
(c) Hold meetings at such times and places as may be	1944
prescribed by the council's procedures and maintain records of the	1945
meetings, except that records identifying individual children are	1946
confidential and shall be disclosed only as provided by law;	1947
(d) Develop programs and projects, including pilot projects,	1948
to encourage coordinated efforts at the state and local level to	1949
improve the state's social service delivery system;	1950
(e) Enter into contracts with and administer grants to county	1951
family and children first councils, as well as other county or	1952
multicounty organizations to plan and coordinate service delivery	1953
between state agencies and local service providers for families	1954
and children;	1955
(f) Enter into contracts with and apply for grants from	1956
federal agencies or private organizations;	1957
(g) Enter into interagency agreements to encourage	1958
coordinated efforts at the state and local level to improve the	1959
state's social service delivery system. The agreements may include	1960
provisions regarding the receipt, transfer, and expenditure of	1961
funds;	1962
(h) Identify public and private funding sources for services	1963
provided to alleged or adjudicated unruly children and children	1964
who are at risk of being alleged or adjudicated unruly children,	1965
including regulations governing access to and use of the services;	1966
(i) Collect information provided by local communities	1967

regarding successful programs for prevention, intervention, and 1968
treatment of unruly behavior, including evaluations of the 1969
programs; 1970

(j) Identify and disseminate publications regarding alleged 1971
or adjudicated unruly children and children who are at risk of 1972
being alleged or adjudicated unruly children and regarding 1973
programs serving those types of children; 1974

(k) Maintain an inventory of strategic planning facilitators 1975
for use by government or nonprofit entities that serve alleged or 1976
adjudicated unruly children or children who are at risk of being 1977
alleged or adjudicated unruly children. 1978

(3) The cabinet council shall provide for the following: 1979

(a) Reviews of service and treatment plans for children for 1980
which such reviews are requested; 1981

(b) Assistance as the council determines to be necessary to 1982
meet the needs of children referred by county family and children 1983
first councils; 1984

(c) Monitoring and supervision of a statewide, comprehensive, 1985
coordinated, multi-disciplinary, interagency system for infants 1986
and toddlers with developmental disabilities or delays and their 1987
families, as established pursuant to federal grants received and 1988
administered by the department of health for early intervention 1989
services under the "Individuals with Disabilities Education Act of 1990
2004," 20 U.S.C.A. 1400, as amended. 1991

(4) The cabinet council shall develop and implement the 1992
following: 1993

(a) An interagency process to select the indicators that will 1994
be used to measure progress toward increasing child well-being in 1995
the state and to update the indicators on an annual basis. The 1996
indicators shall focus on expectant parents and newborns thriving; 1997

infants and toddlers thriving; children being ready for school; 1998
children and youth succeeding in school; youth choosing healthy 1999
behaviors; and youth successfully transitioning into adulthood. 2000

(b) An interagency system to offer guidance and monitor 2001
progress toward increasing child well-being in the state and in 2002
each county; 2003

(c) An annual plan that identifies state-level agency efforts 2004
taken to ensure progress towards increasing child well-being in 2005
the state. 2006

On an annual basis, the cabinet council shall submit to the 2007
governor and the general assembly a report on the status of 2008
efforts to increase child well-being in the state. This report 2009
shall be made available to any other person on request. 2010

(B)(1) Each board of county commissioners shall establish a 2011
county family and children first council. The board may invite any 2012
local public or private agency or group that funds, advocates, or 2013
provides services to children and families to have a 2014
representative become a permanent or temporary member of its 2015
county council. Each county council must include the following 2016
individuals: 2017

(a) At least three individuals who are not employed by an 2018
agency represented on the council and whose families are or have 2019
received services from an agency represented on the council or 2020
another county's council. Where possible, the number of members 2021
representing families shall be equal to twenty per cent of the 2022
council's membership. 2023

(b) The director of the board of alcohol, drug addiction, and 2024
mental health services that serves the county, or, in the case of 2025
a county that has a board of alcohol and drug addiction services 2026
and a community mental health board, the directors of both boards. 2027
If a board of alcohol, drug addiction, and mental health services 2028

covers more than one county, the director may designate a person 2029
to participate on the county's council. 2030

(c) The health commissioner, or the commissioner's designee, 2031
of the board of health of each city and general health district in 2032
the county. If the county has two or more health districts, the 2033
health commissioner membership may be limited to the commissioners 2034
of the two districts with the largest populations. 2035

(d) The director of the county department of job and family 2036
services; 2037

(e) The executive director of the public children services 2038
agency; 2039

(f) The superintendent of the county board of mental 2040
retardation and developmental disabilities; 2041

(g) The superintendent of the city, exempted village, or 2042
local school district with the largest number of pupils residing 2043
in the county, as determined by the department of education, which 2044
shall notify each board of county commissioners of its 2045
determination at least biennially; 2046

(h) A school superintendent representing all other school 2047
districts with territory in the county, as designated at a 2048
biennial meeting of the superintendents of those districts; 2049

(i) A representative of the municipal corporation with the 2050
largest population in the county; 2051

(j) The president of the board of county commissioners or an 2052
individual designated by the board; 2053

(k) A representative of the regional office of the department 2054
of youth services; 2055

(l) A representative of the county's head start agencies, as 2056
defined in section 3301.32 of the Revised Code; 2057

(m) A representative of the county's early intervention 2058

collaborative established pursuant to the federal early 2059
intervention program operated under the "Individuals with 2060
Disabilities Education Act of 2004"; 2061

(n) A representative of a local nonprofit entity that funds, 2062
advocates, or provides services to children and families. 2063

Notwithstanding any other provision of law, the public 2064
members of a county council are not prohibited from serving on the 2065
council and making decisions regarding the duties of the council, 2066
including those involving the funding of joint projects and those 2067
outlined in the county's service coordination mechanism 2068
implemented pursuant to division (C) of this section. 2069

The cabinet council shall establish a state appeals process 2070
to resolve disputes among the members of a county council 2071
concerning whether reasonable responsibilities as members are 2072
being shared. The appeals process may be accessed only by a 2073
majority vote of the council members who are required to serve on 2074
the council. Upon appeal, the cabinet council may order that state 2075
funds for services to children and families be redirected to a 2076
county's board of county commissioners. 2077

The county's juvenile court judge senior in service or 2078
another judge of the juvenile court designated by the 2079
administrative judge or, where there is no administrative judge, 2080
by the judge senior in service shall serve as the judicial advisor 2081
to the county family and children first council. The judge may 2082
advise the county council on the court's utilization of resources, 2083
services, or programs provided by the entities represented by the 2084
members of the county council and how those resources, services, 2085
or programs assist the court in its administration of justice. 2086
Service of a judge as a judicial advisor pursuant to this section 2087
is a judicial function. 2088

(2) The purpose of the county council is to streamline and 2089

coordinate existing government services for families seeking 2090
services for their children. In seeking to fulfill its purpose, a 2091
county council shall provide for the following: 2092

(a) Referrals to the cabinet council of those children for 2093
whom the county council cannot provide adequate services; 2094

(b) Development and implementation of a process that annually 2095
evaluates and prioritizes services, fills service gaps where 2096
possible, and invents new approaches to achieve better results for 2097
families and children; 2098

(c) Participation in the development of a countywide, 2099
comprehensive, coordinated, multi-disciplinary, interagency system 2100
for infants and toddlers with developmental disabilities or delays 2101
and their families, as established pursuant to federal grants 2102
received and administered by the department of health for early 2103
intervention services under the "Individuals with Disabilities 2104
Education Act of 2004"; 2105

(d) Maintenance of an accountability system to monitor the 2106
county council's progress in achieving results for families and 2107
children; 2108

(e) Establishment of a mechanism to ensure ongoing input from 2109
a broad representation of families who are receiving services 2110
within the county system. 2111

(3) A county council shall develop and implement the 2112
following: 2113

(a) An interagency process to establish local indicators and 2114
monitor the county's progress toward increasing child well-being 2115
in the county; 2116

(b) An interagency process to identify local priorities to 2117
increase child well-being. The local priorities shall focus on 2118
expectant parents and newborns thriving; infants and toddlers 2119

thriving; children being ready for school; children and youth 2120
succeeding in school; youth choosing healthy behaviors; and youth 2121
successfully transitioning into adulthood and take into account 2122
the indicators established by the cabinet council under division 2123
(A)(4)(a) of this section. 2124

(c) An annual plan that identifies the county's interagency 2125
efforts to increase child well-being in the county. 2126

On an annual basis, the county council shall submit a report 2127
on the status of efforts by the county to increase child 2128
well-being in the county to the county's board of county 2129
commissioners and the cabinet council. This report shall be made 2130
available to any other person on request. 2131

(4)(a) Except as provided in division (B)(4)(b) of this 2132
section, a county council shall comply with the policies, 2133
procedures, and activities prescribed by the rules or interagency 2134
agreements of a state department participating on the cabinet 2135
council whenever the county council performs a function subject to 2136
those rules or agreements. 2137

(b) On application of a county council, the cabinet council 2138
may grant an exemption from any rules or interagency agreements of 2139
a state department participating on the council if an exemption is 2140
necessary for the council to implement an alternative program or 2141
approach for service delivery to families and children. The 2142
application shall describe the proposed program or approach and 2143
specify the rules or interagency agreements from which an 2144
exemption is necessary. The cabinet council shall approve or 2145
disapprove the application in accordance with standards and 2146
procedures it shall adopt. If an application is approved, the 2147
exemption is effective only while the program or approach is being 2148
implemented, including a reasonable period during which the 2149
program or approach is being evaluated for effectiveness. 2150

(5)(a) Each county council shall designate an administrative agent for the council from among the following public entities: the board of alcohol, drug addiction, and mental health services, including a board of alcohol and drug addiction or a community mental health board if the county is served by separate boards; the board of county commissioners; any board of health of the county's city and general health districts; the county department of job and family services; the county agency responsible for the administration of children services pursuant to section 5153.15 of the Revised Code; the county board of mental retardation and developmental disabilities; any of the county's boards of education or governing boards of educational service centers; or the county's juvenile court. Any of the foregoing public entities, other than the board of county commissioners, may decline to serve as the council's administrative agent.

A county council's administrative agent shall serve as the council's appointing authority for any employees of the council. The council shall file an annual budget with its administrative agent, with copies filed with the county auditor and with the board of county commissioners, unless the board is serving as the council's administrative agent. The council's administrative agent shall ensure that all expenditures are handled in accordance with policies, procedures, and activities prescribed by state departments in rules or interagency agreements that are applicable to the council's functions.

The administrative agent of a county council shall send notice of a member's absence if a member listed in division (B)(1) of this section has been absent from either three consecutive meetings of the county council or a county council subcommittee, or from one-quarter of such meetings in a calendar year, whichever is less. The notice shall be sent to the board of county commissioners that establishes the county council and, for the

members listed in divisions (B)(1)(b), (c), (e), and (l) of this 2183
section, to the governing board overseeing the respective entity; 2184
for the member listed in division (B)(1)(f) of this section, to 2185
the county board of mental retardation and developmental 2186
disabilities that employs the superintendent; for a member listed 2187
in division (B)(1)(g) or (h) of this section, to the school board 2188
that employs the superintendent; for the member listed in division 2189
(B)(1)(i) of this section, to the mayor of the municipal 2190
corporation; for the member listed in division (B)(1)(k) of this 2191
section, to the director of youth services; and for the member 2192
listed in division (B)(1)(n), to that member's board of trustees. 2193

The administrative agent for a county council may do any of 2194
the following on behalf of the council: 2195

(i) Enter into agreements or administer contracts with public 2196
or private entities to fulfill specific council business. Such 2197
agreements and contracts are exempt from the competitive bidding 2198
requirements of section 307.86 of the Revised Code if they have 2199
been approved by the county council and they are for the purchase 2200
of family and child welfare or child protection services or other 2201
social or job and family services for families and children. The 2202
approval of the county council is not required to exempt 2203
agreements or contracts entered into under section 5139.34, 2204
5139.41, or 5139.43 of the Revised Code from the competitive 2205
bidding requirements of section 307.86 of the Revised Code. 2206

(ii) As determined by the council, provide financial 2207
stipends, reimbursements, or both, to family representatives for 2208
expenses related to council activity; 2209

(iii) Receive by gift, grant, devise, or bequest any moneys, 2210
lands, or other property for the purposes for which the council is 2211
established. The agent shall hold, apply, and dispose of the 2212
moneys, lands, or other property according to the terms of the 2213
gift, grant, devise, or bequest. Any interest or earnings shall be 2214

treated in the same manner and are subject to the same terms as 2215
the gift, grant, devise, or bequest from which it accrues. 2216

(b)(i) If the county council designates the board of county 2217
commissioners as its administrative agent, the board may, by 2218
resolution, delegate any of its powers and duties as 2219
administrative agent to an executive committee the board 2220
establishes from the membership of the county council. The board 2221
shall name to the executive committee at least the individuals 2222
described in divisions (B)(1)(b) to (h) of this section and may 2223
appoint the president of the board or another individual as the 2224
chair of the executive committee. The executive committee must 2225
include at least one family county council representative who does 2226
not have a family member employed by an agency represented on the 2227
council. 2228

(ii) The executive committee may, with the approval of the 2229
board, hire an executive director to assist the county council in 2230
administering its powers and duties. The executive director shall 2231
serve in the unclassified civil service at the pleasure of the 2232
executive committee. The executive director may, with the approval 2233
of the executive committee, hire other employees as necessary to 2234
properly conduct the county council's business. 2235

(iii) The board may require the executive committee to submit 2236
an annual budget to the board for approval and may amend or repeal 2237
the resolution that delegated to the executive committee its 2238
authority as the county council's administrative agent. 2239

(6) Two or more county councils may enter into an agreement 2240
to administer their county councils jointly by creating a regional 2241
family and children first council. A regional council possesses 2242
the same duties and authority possessed by a county council, 2243
except that the duties and authority apply regionally rather than 2244
to individual counties. Prior to entering into an agreement to 2245
create a regional council, the members of each county council to 2246

be part of the regional council shall meet to determine whether 2247
all or part of the members of each county council will serve as 2248
members of the regional council. 2249

(7) A board of county commissioners may approve a resolution 2250
by a majority vote of the board's members that requires the county 2251
council to submit a statement to the board each time the council 2252
proposes to enter into an agreement, adopt a plan, or make a 2253
decision, other than a decision pursuant to section 121.38 of the 2254
Revised Code, that requires the expenditure of funds for two or 2255
more families. The statement shall describe the proposed 2256
agreement, plan, or decision. 2257

Not later than fifteen days after the board receives the 2258
statement, it shall, by resolution approved by a majority of its 2259
members, approve or disapprove the agreement, plan, or decision. 2260
Failure of the board to pass a resolution during that time period 2261
shall be considered approval of the agreement, plan, or decision. 2262

An agreement, plan, or decision for which a statement is 2263
required to be submitted to the board shall be implemented only if 2264
it is approved by the board. 2265

(C) Each county shall develop a county service coordination 2266
mechanism. The county service coordination mechanism shall serve 2267
as the guiding document for coordination of services in the 2268
county. For children who also receive services under the help me 2269
grow program, the service coordination mechanism shall be 2270
consistent with rules adopted by the department of health under 2271
section 3701.61 of the Revised Code. All family service 2272
coordination plans shall be developed in accordance with the 2273
county service coordination mechanism. The mechanism shall be 2274
developed and approved with the participation of the county 2275
entities representing child welfare; mental retardation and 2276
developmental disabilities; alcohol, drug addiction, and mental 2277
health services; health; juvenile judges; education; the county 2278

family and children first council; and the county early 2279
intervention collaborative established pursuant to the federal 2280
early intervention program operated under the "Individuals with 2281
Disabilities Education Act of 2004." The county shall establish an 2282
implementation schedule for the mechanism. The cabinet council may 2283
monitor the implementation and administration of each county's 2284
service coordination mechanism. 2285

Each mechanism shall include all of the following: 2286

(1) A procedure for an agency, including a juvenile court, or 2287
a family voluntarily seeking service coordination, to refer the 2288
child and family to the county council for service coordination in 2289
accordance with the mechanism; 2290

(2) A procedure ensuring that a family and all appropriate 2291
staff from involved agencies, including a representative from the 2292
appropriate school district, are notified of and invited to 2293
participate in all family service coordination plan meetings; 2294

(3) A procedure that permits a family to initiate a meeting 2295
to develop or review the family's service coordination plan and 2296
allows the family to invite a family advocate, mentor, or support 2297
person of the family's choice to participate in any such meeting; 2298

(4) A procedure for ensuring that a family service 2299
coordination plan meeting is conducted for each child who receives 2300
service coordination under the mechanism and for whom an emergency 2301
out-of-home placement has been made or for whom a nonemergency 2302
out-of-home placement is being considered. The meeting shall be 2303
conducted within ten days of an emergency out-of-home placement. 2304
The meeting shall be conducted before a nonemergency out-of-home 2305
placement. The family service coordination plan shall outline how 2306
the county council members will jointly pay for services, where 2307
applicable, and provide services in the least restrictive 2308
environment. 2309

(5) A procedure for monitoring the progress and tracking the 2310
outcomes of each service coordination plan requested in the county 2311
including monitoring and tracking children in out-of-home 2312
placements to assure continued progress, appropriateness of 2313
placement, and continuity of care after discharge from placement 2314
with appropriate arrangements for housing, treatment, and 2315
education. 2316

(6) A procedure for protecting the confidentiality of all 2317
personal family information disclosed during service coordination 2318
meetings or contained in the comprehensive family service 2319
coordination plan. 2320

(7) A procedure for assessing the needs and strengths of any 2321
child or family that has been referred to the council for service 2322
coordination, including a child whose parent or custodian is 2323
voluntarily seeking services, and for ensuring that parents and 2324
custodians are afforded the opportunity to participate; 2325

(8) A procedure for development of a family service 2326
coordination plan described in division (D) of this section; 2327

(9) A local dispute resolution process to serve as the 2328
process that must be used first to resolve disputes among the 2329
agencies represented on the county council concerning the 2330
provision of services to children, including children who are 2331
abused, neglected, dependent, unruly, alleged unruly, or 2332
delinquent children and under the jurisdiction of the juvenile 2333
court and children whose parents or custodians are voluntarily 2334
seeking services. The local dispute resolution process shall 2335
comply with sections 121.38, 121.381, and 121.382 of the Revised 2336
Code. The local dispute resolution process shall be used to 2337
resolve disputes between a child's parents or custodians and the 2338
county council regarding service coordination. The county council 2339
shall inform the parents or custodians of their right to use the 2340
dispute resolution process. Parents or custodians shall use 2341

existing local agency grievance procedures to address disputes not 2342
involving service coordination. The dispute resolution process is 2343
in addition to and does not replace other rights or procedures 2344
that parents or custodians may have under other sections of the 2345
Revised Code. 2346

The cabinet council shall adopt rules in accordance with 2347
Chapter 119. of the Revised Code establishing an administrative 2348
review process to address problems that arise concerning the 2349
operation of a local dispute resolution process. 2350

Nothing in division (C)(4) of this section shall be 2351
interpreted as overriding or affecting decisions of a juvenile 2352
court regarding an out-of-home placement, long-term placement, or 2353
emergency out-of-home placement. 2354

(D) Each county shall develop a family service coordination 2355
plan that does all of the following: 2356

(1) Designates service responsibilities among the various 2357
state and local agencies that provide services to children and 2358
their families, including children who are abused, neglected, 2359
dependent, unruly, or delinquent children and under the 2360
jurisdiction of the juvenile court and children whose parents or 2361
custodians are voluntarily seeking services; 2362

(2) Designates an individual, approved by the family, to 2363
track the progress of the family service coordination plan, 2364
schedule reviews as necessary, and facilitate the family service 2365
coordination plan meeting process; 2366

(3) Ensures that assistance and services to be provided are 2367
responsive to the strengths and needs of the family, as well as 2368
the family's culture, race, and ethnic group, by allowing the 2369
family to offer information and suggestions and participate in 2370
decisions. Identified assistance and services shall be provided in 2371
the least restrictive environment possible. 2372

(4) Includes a process for dealing with a child who is	2373
alleged to be an unruly child. The process shall include methods	2374
to divert the child from the juvenile court system;	2375
(5) Includes timelines for completion of goals specified in	2376
the plan with regular reviews scheduled to monitor progress toward	2377
those goals;	2378
(6) Includes a plan for dealing with short-term crisis	2379
situations and safety concerns.	2380
(E)(1) The process provided for under division (D)(4) of this	2381
section may include, but is not limited to, the following:	2382
(a) Designation of the person or agency to conduct the	2383
assessment of the child and the child's family as described in	2384
division (C)(7) of this section and designation of the instrument	2385
or instruments to be used to conduct the assessment;	2386
(b) An emphasis on the personal responsibilities of the child	2387
and the parental responsibilities of the parents, guardian, or	2388
custodian of the child;	2389
(c) Involvement of local law enforcement agencies and	2390
officials.	2391
(2) The method to divert a child from the juvenile court	2392
system that must be included in the service coordination process	2393
may include, but is not limited to, the following:	2394
(a) The preparation of a complaint under section 2151.27 of	2395
the Revised Code alleging that the child is an unruly child and	2396
notifying the child and the parents, guardian, or custodian that	2397
the complaint has been prepared to encourage the child and the	2398
parents, guardian, or custodian to comply with other methods to	2399
divert the child from the juvenile court system;	2400
(b) Conducting a meeting with the child, the parents,	2401
guardian, or custodian, and other interested parties to determine	2402

the appropriate methods to divert the child from the juvenile court system;

(c) A method to provide to the child and the child's family a short-term respite from a short-term crisis situation involving a confrontation between the child and the parents, guardian, or custodian;

(d) A program to provide a mentor to the child or the parents, guardian, or custodian;

(e) A program to provide parenting education to the parents, guardian, or custodian;

(f) An alternative school program for children who are truant from school, repeatedly disruptive in school, or suspended or expelled from school;

(g) Other appropriate measures, including, but not limited to, any alternative methods to divert a child from the juvenile court system that are identified by the Ohio family and children first cabinet council.

(F) Each county may review and revise the service coordination process described in division (D) of this section based on the availability of funds under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, or to the extent resources are available from any other federal, state, or local funds.

Sec. 123.01. (A) The department of administrative services, in addition to those powers enumerated in Chapters 124. and 125. of the Revised Code and provided elsewhere by law, shall exercise the following powers:

(1) To prepare, or contract to be prepared, by licensed engineers or architects, surveys, general and detailed plans, specifications, bills of materials, and estimates of cost for any

projects, improvements, or public buildings to be constructed by 2433
state agencies that may be authorized by legislative 2434
appropriations or any other funds made available therefor, 2435
provided that the construction of the projects, improvements, or 2436
public buildings is a statutory duty of the department. This 2437
section does not require the independent employment of an 2438
architect or engineer as provided by section 153.01 of the Revised 2439
Code in the cases to which that section applies nor affect or 2440
alter the existing powers of the director of transportation. 2441

(2) To have general supervision over the construction of any 2442
projects, improvements, or public buildings constructed for a 2443
state agency and over the inspection of materials previous to 2444
their incorporation into those projects, improvements, or 2445
buildings; 2446

(3) To make contracts for and supervise the construction of 2447
any projects and improvements or the construction and repair of 2448
buildings under the control of a state agency, except contracts 2449
for the repair of buildings under the management and control of 2450
the departments of public safety, job and family services, mental 2451
health, ~~mental retardation and~~ developmental disabilities, 2452
rehabilitation and correction, and youth services, the bureau of 2453
workers' compensation, the rehabilitation services commission, and 2454
boards of trustees of educational and benevolent institutions and 2455
except contracts for the construction of projects that do not 2456
require the issuance of a building permit or the issuance of a 2457
certificate of occupancy and that are necessary to remediate 2458
conditions at a hazardous waste facility, solid waste facility, or 2459
other location at which the director of environmental protection 2460
has reason to believe there is a substantial threat to public 2461
health or safety or the environment. These contracts shall be made 2462
and entered into by the directors of public safety, job and family 2463
services, mental health, ~~mental retardation and~~ developmental 2464

disabilities, rehabilitation and correction, and youth services, 2465
the administrator of workers' compensation, the rehabilitation 2466
services commission, the boards of trustees of such institutions, 2467
and the director of environmental protection, respectively. All 2468
such contracts may be in whole or in part on unit price basis of 2469
maximum estimated cost, with payment computed and made upon actual 2470
quantities or units. 2471

(4) To prepare and suggest comprehensive plans for the 2472
development of grounds and buildings under the control of a state 2473
agency; 2474

(5) To acquire, by purchase, gift, devise, lease, or grant, 2475
all real estate required by a state agency, in the exercise of 2476
which power the department may exercise the power of eminent 2477
domain, in the manner provided by sections 163.01 to 163.22 of the 2478
Revised Code; 2479

(6) To make and provide all plans, specifications, and models 2480
for the construction and perfection of all systems of sewerage, 2481
drainage, and plumbing for the state in connection with buildings 2482
and grounds under the control of a state agency; 2483

(7) To erect, supervise, and maintain all public monuments 2484
and memorials erected by the state, except where the supervision 2485
and maintenance is otherwise provided by law; 2486

(8) To procure, by lease, storage accommodations for a state 2487
agency; 2488

(9) To lease or grant easements or licenses for unproductive 2489
and unused lands or other property under the control of a state 2490
agency. Such leases, easements, or licenses shall be granted for a 2491
period not to exceed fifteen years and shall be executed for the 2492
state by the director of administrative services and the governor 2493
and shall be approved as to form by the attorney general, provided 2494
that leases, easements, or licenses may be granted to any county, 2495

township, municipal corporation, port authority, water or sewer 2496
district, school district, library district, health district, park 2497
district, soil and water conservation district, conservancy 2498
district, or other political subdivision or taxing district, or 2499
any agency of the United States government, for the exclusive use 2500
of that agency, political subdivision, or taxing district, without 2501
any right of sublease or assignment, for a period not to exceed 2502
fifteen years, and provided that the director shall grant leases, 2503
easements, or licenses of university land for periods not to 2504
exceed twenty-five years for purposes approved by the respective 2505
university's board of trustees wherein the uses are compatible 2506
with the uses and needs of the university and may grant leases of 2507
university land for periods not to exceed forty years for purposes 2508
approved by the respective university's board of trustees pursuant 2509
to section 123.77 of the Revised Code. 2510

(10) To lease office space in buildings for the use of a 2511
state agency; 2512

(11) To have general supervision and care of the storerooms, 2513
offices, and buildings leased for the use of a state agency; 2514

(12) To exercise general custodial care of all real property 2515
of the state; 2516

(13) To assign and group together state offices in any city 2517
in the state and to establish, in cooperation with the state 2518
agencies involved, rules governing space requirements for office 2519
or storage use; 2520

(14) To lease for a period not to exceed forty years, 2521
pursuant to a contract providing for the construction thereof 2522
under a lease-purchase plan, buildings, structures, and other 2523
improvements for any public purpose, and, in conjunction 2524
therewith, to grant leases, easements, or licenses for lands under 2525
the control of a state agency for a period not to exceed forty 2526

years. The lease-purchase plan shall provide that at the end of 2527
the lease period, the buildings, structures, and related 2528
improvements, together with the land on which they are situated, 2529
shall become the property of the state without cost. 2530

(a) Whenever any building, structure, or other improvement is 2531
to be so leased by a state agency, the department shall retain 2532
either basic plans, specifications, bills of materials, and 2533
estimates of cost with sufficient detail to afford bidders all 2534
needed information or, alternatively, all of the following plans, 2535
details, bills of materials, and specifications: 2536

(i) Full and accurate plans suitable for the use of mechanics 2537
and other builders in the improvement; 2538

(ii) Details to scale and full sized, so drawn and 2539
represented as to be easily understood; 2540

(iii) Accurate bills showing the exact quantity of different 2541
kinds of material necessary to the construction; 2542

(iv) Definite and complete specifications of the work to be 2543
performed, together with such directions as will enable a 2544
competent mechanic or other builder to carry them out and afford 2545
bidders all needed information; 2546

(v) A full and accurate estimate of each item of expense and 2547
of the aggregate cost thereof. 2548

(b) The department shall give public notice, in such 2549
newspaper, in such form, and with such phraseology as the director 2550
of administrative services prescribes, published once each week 2551
for four consecutive weeks, of the time when and place where bids 2552
will be received for entering into an agreement to lease to a 2553
state agency a building, structure, or other improvement. The last 2554
publication shall be at least eight days preceding the day for 2555
opening the bids. The bids shall contain the terms upon which the 2556
builder would propose to lease the building, structure, or other 2557

improvement to the state agency. The form of the bid approved by 2558
the department shall be used, and a bid is invalid and shall not 2559
be considered unless that form is used without change, alteration, 2560
or addition. Before submitting bids pursuant to this section, any 2561
builder shall comply with Chapter 153. of the Revised Code. 2562

(c) On the day and at the place named for receiving bids for 2563
entering into lease agreements with a state agency, the director 2564
of administrative services shall open the bids and shall publicly 2565
proceed immediately to tabulate the bids upon duplicate sheets. No 2566
lease agreement shall be entered into until the bureau of workers' 2567
compensation has certified that the person to be awarded the lease 2568
agreement has complied with Chapter 4123. of the Revised Code, 2569
until, if the builder submitting the lowest and best bid is a 2570
foreign corporation, the secretary of state has certified that the 2571
corporation is authorized to do business in this state, until, if 2572
the builder submitting the lowest and best bid is a person 2573
nonresident of this state, the person has filed with the secretary 2574
of state a power of attorney designating the secretary of state as 2575
its agent for the purpose of accepting service of summons in any 2576
action brought under Chapter 4123. of the Revised Code, and until 2577
the agreement is submitted to the attorney general and the 2578
attorney general's approval is certified thereon. Within thirty 2579
days after the day on which the bids are received, the department 2580
shall investigate the bids received and shall determine that the 2581
bureau and the secretary of state have made the certifications 2582
required by this section of the builder who has submitted the 2583
lowest and best bid. Within ten days of the completion of the 2584
investigation of the bids, the department shall award the lease 2585
agreement to the builder who has submitted the lowest and best bid 2586
and who has been certified by the bureau and secretary of state as 2587
required by this section. If bidding for the lease agreement has 2588
been conducted upon the basis of basic plans, specifications, 2589
bills of materials, and estimates of costs, upon the award to the 2590

builder the department, or the builder with the approval of the 2591
department, shall appoint an architect or engineer licensed in 2592
this state to prepare such further detailed plans, specifications, 2593
and bills of materials as are required to construct the building, 2594
structure, or improvement. The department shall adopt such rules 2595
as are necessary to give effect to this section. The department 2596
may reject any bid. Where there is reason to believe there is 2597
collusion or combination among bidders, the bids of those 2598
concerned therein shall be rejected. 2599

(15) To acquire by purchase, gift, devise, or grant and to 2600
transfer, lease, or otherwise dispose of all real property 2601
required to assist in the development of a conversion facility as 2602
defined in section 5709.30 of the Revised Code as that section 2603
existed before its repeal by Amended Substitute House Bill 95 of 2604
the 125th general assembly; 2605

(16) To lease for a period not to exceed forty years, 2606
notwithstanding any other division of this section, the 2607
state-owned property located at 408-450 East Town Street, 2608
Columbus, Ohio, formerly the state school for the deaf, to a 2609
developer in accordance with this section. "Developer," as used in 2610
this section, has the same meaning as in section 123.77 of the 2611
Revised Code. 2612

Such a lease shall be for the purpose of development of the 2613
land for use by senior citizens by constructing, altering, 2614
renovating, repairing, expanding, and improving the site as it 2615
existed on June 25, 1982. A developer desiring to lease the land 2616
shall prepare for submission to the department a plan for 2617
development. Plans shall include provisions for roads, sewers, 2618
water lines, waste disposal, water supply, and similar matters to 2619
meet the requirements of state and local laws. The plans shall 2620
also include provision for protection of the property by insurance 2621
or otherwise, and plans for financing the development, and shall 2622

set forth details of the developer's financial responsibility. 2623

The department may employ, as employees or consultants, 2624
persons needed to assist in reviewing the development plans. Those 2625
persons may include attorneys, financial experts, engineers, and 2626
other necessary experts. The department shall review the 2627
development plans and may enter into a lease if it finds all of 2628
the following: 2629

(a) The best interests of the state will be promoted by 2630
entering into a lease with the developer; 2631

(b) The development plans are satisfactory; 2632

(c) The developer has established the developer's financial 2633
responsibility and satisfactory plans for financing the 2634
development. 2635

The lease shall contain a provision that construction or 2636
renovation of the buildings, roads, structures, and other 2637
necessary facilities shall begin within one year after the date of 2638
the lease and shall proceed according to a schedule agreed to 2639
between the department and the developer or the lease will be 2640
terminated. The lease shall contain such conditions and 2641
stipulations as the director considers necessary to preserve the 2642
best interest of the state. Moneys received by the state pursuant 2643
to this lease shall be paid into the general revenue fund. The 2644
lease shall provide that at the end of the lease period the 2645
buildings, structures, and related improvements shall become the 2646
property of the state without cost. 2647

(17) To lease to any person any tract of land owned by the 2648
state and under the control of the department, or any part of such 2649
a tract, for the purpose of drilling for or the pooling of oil or 2650
gas. Such a lease shall be granted for a period not exceeding 2651
forty years, with the full power to contract for, determine the 2652
conditions governing, and specify the amount the state shall 2653

receive for the purposes specified in the lease, and shall be 2654
prepared as in other cases. 2655

(18) To manage the use of space owned and controlled by the 2656
department, including space in property under the jurisdiction of 2657
the Ohio building authority, by doing all of the following: 2658

(a) Biennially implementing, by state agency location, a 2659
census of agency employees assigned space; 2660

(b) Periodically in the discretion of the director of 2661
administrative services: 2662

(i) Requiring each state agency to categorize the use of 2663
space allotted to the agency between office space, common areas, 2664
storage space, and other uses, and to report its findings to the 2665
department; 2666

(ii) Creating and updating a master space utilization plan 2667
for all space allotted to state agencies. The plan shall 2668
incorporate space utilization metrics. 2669

(iii) Conducting a cost-benefit analysis to determine the 2670
effectiveness of state-owned buildings; 2671

(iv) Assessing the alternatives associated with consolidating 2672
the commercial leases for buildings located in Columbus. 2673

(c) Commissioning a comprehensive space utilization and 2674
capacity study in order to determine the feasibility of 2675
consolidating existing commercially leased space used by state 2676
agencies into a new state-owned facility. 2677

(B) This section and section 125.02 of the Revised Code shall 2678
not interfere with any of the following: 2679

(1) The power of the adjutant general to purchase military 2680
supplies, or with the custody of the adjutant general of property 2681
leased, purchased, or constructed by the state and used for 2682
military purposes, or with the functions of the adjutant general 2683

as director of state armories; 2684

(2) The power of the director of transportation in acquiring 2685
rights-of-way for the state highway system, or the leasing of 2686
lands for division or resident district offices, or the leasing of 2687
lands or buildings required in the maintenance operations of the 2688
department of transportation, or the purchase of real property for 2689
garage sites or division or resident district offices, or in 2690
preparing plans and specifications for and constructing such 2691
buildings as the director may require in the administration of the 2692
department; 2693

(3) The power of the director of public safety and the 2694
registrar of motor vehicles to purchase or lease real property and 2695
buildings to be used solely as locations to which a deputy 2696
registrar is assigned pursuant to division (B) of section 4507.011 2697
of the Revised Code and from which the deputy registrar is to 2698
conduct the deputy registrar's business, the power of the director 2699
of public safety to purchase or lease real property and buildings 2700
to be used as locations for division or district offices as 2701
required in the maintenance of operations of the department of 2702
public safety, and the power of the superintendent of the state 2703
highway patrol in the purchase or leasing of real property and 2704
buildings needed by the patrol, to negotiate the sale of real 2705
property owned by the patrol, to rent or lease real property owned 2706
or leased by the patrol, and to make or cause to be made repairs 2707
to all property owned or under the control of the patrol; 2708

(4) The power of the division of liquor control in the 2709
leasing or purchasing of retail outlets and warehouse facilities 2710
for the use of the division; 2711

(5) The power of the director of development to enter into 2712
leases of real property, buildings, and office space to be used 2713
solely as locations for the state's foreign offices to carry out 2714
the purposes of section 122.05 of the Revised Code; 2715

(6) The power of the director of environmental protection to 2716
enter into environmental covenants, to grant and accept easements, 2717
or to sell property pursuant to division (G) of section 3745.01 of 2718
the Revised Code. 2719

(C) Purchases for, and the custody and repair of, buildings 2720
under the management and control of the capitol square review and 2721
advisory board, the rehabilitation services commission, the bureau 2722
of workers' compensation, or the departments of public safety, job 2723
and family services, mental health, ~~mental retardation and~~ 2724
developmental disabilities, and rehabilitation and correction, and 2725
buildings of educational and benevolent institutions under the 2726
management and control of boards of trustees, are not subject to 2727
the control and jurisdiction of the department of administrative 2728
services. 2729

(D) Any instrument by which real property is acquired 2730
pursuant to this section shall identify the agency of the state 2731
that has the use and benefit of the real property as specified in 2732
section 5301.012 of the Revised Code. 2733

Sec. 124.11. The civil service of the state and the several 2734
counties, cities, civil service townships, city health districts, 2735
general health districts, and city school districts of the state 2736
shall be divided into the unclassified service and the classified 2737
service. 2738

(A) The unclassified service shall comprise the following 2739
positions, which shall not be included in the classified service, 2740
and which shall be exempt from all examinations required by this 2741
chapter: 2742

(1) All officers elected by popular vote or persons appointed 2743
to fill vacancies in those offices; 2744

(2) All election officers as defined in section 3501.01 of 2745

the Revised Code;	2746
(3)(a) The members of all boards and commissions, and heads of principal departments, boards, and commissions appointed by the governor or by and with the governor's consent;	2747 2748 2749
(b) The heads of all departments appointed by a board of county commissioners;	2750 2751
(c) The members of all boards and commissions and all heads of departments appointed by the mayor, or, if there is no mayor, such other similar chief appointing authority of any city or city school district;	2752 2753 2754 2755
Except as otherwise provided in division (A)(17) or (C) of this section, this chapter does not exempt the chiefs of police departments and chiefs of fire departments of cities or civil service townships from the competitive classified service.	2756 2757 2758 2759
(4) The members of county or district licensing boards or commissions and boards of revision, and not more than five deputy county auditors;	2760 2761 2762
(5) All officers and employees elected or appointed by either or both branches of the general assembly, and employees of the city legislative authority engaged in legislative duties;	2763 2764 2765
(6) All commissioned, warrant, and noncommissioned officers and enlisted persons in the Ohio organized militia, including military appointees in the adjutant general's department;	2766 2767 2768
(7)(a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and such employees as are engaged in educational or research duties connected with the public school system, colleges, and universities, as determined by the governing body of the public school system, colleges, and universities;	2769 2770 2771 2772 2773 2774 2775

(b) The library staff of any library in the state supported 2776
wholly or in part at public expense. 2777

(8) Four clerical and administrative support employees for 2778
each of the elective state officers, four clerical and 2779
administrative support employees for each board of county 2780
commissioners and one such employee for each county commissioner, 2781
and four clerical and administrative support employees for other 2782
elective officers and each of the principal appointive executive 2783
officers, boards, or commissions, except for civil service 2784
commissions, that are authorized to appoint such clerical and 2785
administrative support employees; 2786

(9) The deputies and assistants of state agencies authorized 2787
to act for and on behalf of the agency, or holding a fiduciary or 2788
administrative relation to that agency and those persons employed 2789
by and directly responsible to elected county officials or a 2790
county administrator and holding a fiduciary or administrative 2791
relationship to such elected county officials or county 2792
administrator, and the employees of such county officials whose 2793
fitness would be impracticable to determine by competitive 2794
examination, provided that division (A)(9) of this section shall 2795
not affect those persons in county employment in the classified 2796
service as of September 19, 1961. Nothing in division (A)(9) of 2797
this section applies to any position in a county department of job 2798
and family services created pursuant to Chapter 329. of the 2799
Revised Code. 2800

(10) Bailiffs, constables, official stenographers, and 2801
commissioners of courts of record, deputies of clerks of the 2802
courts of common pleas who supervise or who handle public moneys 2803
or secured documents, and such officers and employees of courts of 2804
record and such deputies of clerks of the courts of common pleas 2805
as the director of administrative services finds it impracticable 2806
to determine their fitness by competitive examination; 2807

(11) Assistants to the attorney general, special counsel 2808
appointed or employed by the attorney general, assistants to 2809
county prosecuting attorneys, and assistants to city directors of 2810
law; 2811

(12) Such teachers and employees in the agricultural 2812
experiment stations; such students in normal schools, colleges, 2813
and universities of the state who are employed by the state or a 2814
political subdivision of the state in student or intern 2815
classifications; and such unskilled labor positions as the 2816
director of administrative services or any municipal civil service 2817
commission may find it impracticable to include in the competitive 2818
classified service; provided such exemptions shall be by order of 2819
the commission or the director, duly entered on the record of the 2820
commission or the director with the reasons for each such 2821
exemption; 2822

(13) Any physician or dentist who is a full-time employee of 2823
the department of mental health, the department of ~~mental~~ 2824
~~retardation and~~ developmental disabilities, or an institution 2825
under the jurisdiction of either department; and physicians who 2826
are in residency programs at the institutions; 2827

(14) Up to twenty positions at each institution under the 2828
jurisdiction of the department of mental health or the department 2829
of ~~mental retardation and~~ developmental disabilities that the 2830
department director determines to be primarily administrative or 2831
managerial; and up to fifteen positions in any division of either 2832
department, excluding administrative assistants to the director 2833
and division chiefs, which are within the immediate staff of a 2834
division chief and which the director determines to be primarily 2835
and distinctively administrative and managerial; 2836

(15) Noncitizens of the United States employed by the state, 2837
or its counties or cities, as physicians or nurses who are duly 2838
licensed to practice their respective professions under the laws 2839

of this state, or medical assistants, in mental or chronic disease	2840
hospitals, or institutions;	2841
(16) Employees of the governor's office;	2842
(17) Fire chiefs and chiefs of police in civil service	2843
townships appointed by boards of township trustees under section	2844
505.38 or 505.49 of the Revised Code;	2845
(18) Executive directors, deputy directors, and program	2846
directors employed by boards of alcohol, drug addiction, and	2847
mental health services under Chapter 340. of the Revised Code, and	2848
secretaries of the executive directors, deputy directors, and	2849
program directors;	2850
(19) Superintendents, and management employees as defined in	2851
section 5126.20 of the Revised Code, of county boards of mental	2852
retardation and developmental disabilities;	2853
(20) Physicians, nurses, and other employees of a county	2854
hospital who are appointed pursuant to sections 339.03 and 339.06	2855
of the Revised Code;	2856
(21) The executive director of the state medical board, who	2857
is appointed pursuant to division (B) of section 4731.05 of the	2858
Revised Code;	2859
(22) County directors of job and family services as provided	2860
in section 329.02 of the Revised Code and administrators appointed	2861
under section 329.021 of the Revised Code;	2862
(23) A director of economic development who is hired pursuant	2863
to division (A) of section 307.07 of the Revised Code;	2864
(24) Chiefs of construction and compliance, of operations and	2865
maintenance, and of licensing and certification in the division of	2866
industrial compliance in the department of commerce;	2867
(25) The executive director of a county transit system	2868
appointed under division (A) of section 306.04 of the Revised	2869

Code;	2870
(26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, bureau of workers' compensation, industrial commission, state lottery commission, and public utilities commission of Ohio that the head of that administrative department or of that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay range 44 of salary schedule E-2 in section 124.152 of the Revised Code. The authority to establish positions in the unclassified service under division (A)(26) of this section is in addition to and does not limit any other authority that an administrative department or state agency has under the Revised Code to establish positions, appoint employees, or set compensation.	2871 2872 2873 2874 2875 2876 2877 2878 2879 2880 2881 2882 2883 2884 2885 2886 2887 2888
(27) Employees of the department of agriculture employed under section 901.09 of the Revised Code;	2889 2890
(28) For cities, counties, civil service townships, city health districts, general health districts, and city school districts, the deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals;	2891 2892 2893 2894 2895
(29) Employees who receive intermittent or temporary appointments under division (B) of section 124.30 of the Revised Code;	2896 2897 2898
(30) Employees appointed to administrative staff positions for which an appointing authority is given specific statutory	2899 2900

authority to set compensation; 2901

(31) Employees appointed to highway patrol cadet or highway 2902
patrol cadet candidate classifications; 2903

(32) Employees placed in the unclassified service by another 2904
section of the Revised Code. 2905

(B) The classified service shall comprise all persons in the 2906
employ of the state and the several counties, cities, city health 2907
districts, general health districts, and city school districts of 2908
the state, not specifically included in the unclassified service. 2909
Upon the creation by the board of trustees of a civil service 2910
township civil service commission, the classified service shall 2911
also comprise, except as otherwise provided in division (A)(17) or 2912
(C) of this section, all persons in the employ of a civil service 2913
township police or fire department having ten or more full-time 2914
paid employees. The classified service consists of two classes, 2915
which shall be designated as the competitive class and the 2916
unskilled labor class. 2917

(1) The competitive class shall include all positions and 2918
employments in the state and the counties, cities, city health 2919
districts, general health districts, and city school districts of 2920
the state, and, upon the creation by the board of trustees of a 2921
civil service township of a township civil service commission, all 2922
positions in a civil service township police or fire department 2923
having ten or more full-time paid employees, for which it is 2924
practicable to determine the merit and fitness of applicants by 2925
competitive examinations. Appointments shall be made to, or 2926
employment shall be given in, all positions in the competitive 2927
class that are not filled by promotion, reinstatement, transfer, 2928
or reduction, as provided in this chapter, and the rules of the 2929
director of administrative services, by appointment from those 2930
certified to the appointing officer in accordance with this 2931
chapter. 2932

(2) The unskilled labor class shall include ordinary 2933
unskilled laborers. Vacancies in the labor class for positions in 2934
service of the state shall be filled by appointment from lists of 2935
applicants registered by the director. Vacancies in the labor 2936
class for all other positions shall be filled by appointment from 2937
lists of applicants registered by a commission. The director or 2938
the commission, as applicable, by rule, shall require an applicant 2939
for registration in the labor class to furnish evidence or take 2940
tests as the director or commission considers proper with respect 2941
to age, residence, physical condition, ability to labor, honesty, 2942
sobriety, industry, capacity, and experience in the work or 2943
employment for which application is made. Laborers who fulfill the 2944
requirements shall be placed on the eligible list for the kind of 2945
labor or employment sought, and preference shall be given in 2946
employment in accordance with the rating received from that 2947
evidence or in those tests. Upon the request of an appointing 2948
officer, stating the kind of labor needed, the pay and probable 2949
length of employment, and the number to be employed, the director 2950
or commission, as applicable, shall certify from the highest on 2951
the list double the number to be employed; from this number, the 2952
appointing officer shall appoint the number actually needed for 2953
the particular work. If more than one applicant receives the same 2954
rating, priority in time of application shall determine the order 2955
in which their names shall be certified for appointment. 2956

(C) A municipal or civil service township civil service 2957
commission may place volunteer firefighters who are paid on a 2958
fee-for-service basis in either the classified or the unclassified 2959
civil service. 2960

(D) This division does not apply to persons in the 2961
unclassified service who have the right to resume positions in the 2962
classified service under sections 4121.121, 5119.071, 5120.07, 2963
5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the 2964

Revised Code. 2965

An appointing authority whose employees are paid directly by 2966
warrant of the director of budget and management may appoint a 2967
person who holds a certified position in the classified service 2968
within the appointing authority's agency to a position in the 2969
unclassified service within that agency. A person appointed 2970
pursuant to this division to a position in the unclassified 2971
service shall retain the right to resume the position and status 2972
held by the person in the classified service immediately prior to 2973
the person's appointment to the position in the unclassified 2974
service, regardless of the number of positions the person held in 2975
the unclassified service. An employee's right to resume a position 2976
in the classified service may only be exercised when an appointing 2977
authority demotes the employee to a pay range lower than the 2978
employee's current pay range or revokes the employee's appointment 2979
to the unclassified service. An employee forfeits the right to 2980
resume a position in the classified service when the employee is 2981
removed from the position in the unclassified service due to 2982
incompetence, inefficiency, dishonesty, drunkenness, immoral 2983
conduct, insubordination, discourteous treatment of the public, 2984
neglect of duty, violation of this chapter or the rules of the 2985
director of administrative services, any other failure of good 2986
behavior, any other acts of misfeasance, malfeasance, or 2987
nonfeasance in office, or conviction of a felony. An employee also 2988
forfeits the right to resume a position in the classified service 2989
upon transfer to a different agency. 2990

Reinstatement to a position in the classified service shall 2991
be to a position substantially equal to that position in the 2992
classified service held previously, as certified by the director 2993
of administrative services. If the position the person previously 2994
held in the classified service has been placed in the unclassified 2995
service or is otherwise unavailable, the person shall be appointed 2996

to a position in the classified service within the appointing 2997
authority's agency that the director of administrative services 2998
certifies is comparable in compensation to the position the person 2999
previously held in the classified service. Service in the position 3000
in the unclassified service shall be counted as service in the 3001
position in the classified service held by the person immediately 3002
prior to the person's appointment to the position in the 3003
unclassified service. When a person is reinstated to a position in 3004
the classified service as provided in this division, the person is 3005
entitled to all rights, status, and benefits accruing to the 3006
position in the classified service during the person's time of 3007
service in the position in the unclassified service. 3008

Sec. 124.27. (A) The head of a department, office, or 3009
institution, in which a position in the classified service is to 3010
be filled, shall notify the director of administrative services of 3011
the fact, and the director shall, except as otherwise provided in 3012
this section and sections 124.30 and 124.31 of the Revised Code, 3013
certify to the appointing authority the names and addresses of the 3014
ten candidates standing highest on the eligible list for the class 3015
or grade to which the position belongs, except that the director 3016
may certify less than ten names if ten names are not available. 3017
When less than ten names are certified to an appointing authority, 3018
appointment from that list shall not be mandatory. When a position 3019
in the classified service in the department of mental health or 3020
the department of ~~mental retardation and~~ developmental 3021
disabilities is to be filled, the director of administrative 3022
services shall make such certification to the appointing authority 3023
within seven working days of the date the eligible list is 3024
requested. 3025

(B) The appointing authority shall notify the director of a 3026
position in the classified service to be filled, and the 3027
appointing authority shall fill the vacant position by appointment 3028

of one of the ten persons certified by the director. If more than 3029
one position is to be filled, the director may certify a group of 3030
names from the eligible list, and the appointing authority shall 3031
appoint in the following manner: beginning at the top of the list, 3032
each time a selection is made, it must be from one of the first 3033
ten candidates remaining on the list who is willing to accept 3034
consideration for the position. If an eligible list becomes 3035
exhausted, and until a new list can be created, or when no 3036
eligible list for a position exists, names may be certified from 3037
eligible lists most appropriate for the group or class in which 3038
the position to be filled is classified. A person who is certified 3039
from an eligible list more than three times to the same appointing 3040
authority for the same or similar positions may be omitted from 3041
future certification to that appointing authority, provided that 3042
certification for a temporary appointment shall not be counted as 3043
one of those certifications. Every person who qualifies for 3044
veteran's preference under section 124.23 of the Revised Code, who 3045
is a resident of this state, and whose name is on the eligible 3046
list for a position shall be entitled to preference in original 3047
appointments to any such competitive position in the civil service 3048
of the state and its civil divisions over all other persons 3049
eligible for those appointments and standing on the relevant 3050
eligible list with a rating equal to that of the person qualifying 3051
for veteran's preference. Appointments to all positions in the 3052
classified service, that are not filled by promotion, transfer, or 3053
reduction, as provided in sections 124.01 to 124.64 of the Revised 3054
Code and the rules of the director prescribed under those 3055
sections, shall be made only from those persons whose names are 3056
certified to the appointing authority, and no employment, except 3057
as provided in those sections, shall be otherwise given in the 3058
classified service of this state or any political subdivision of 3059
the state. 3060

(C) All original and promotional appointments, including 3061

appointments made pursuant to section 124.30 of the Revised Code, 3062
shall be for a probationary period, not less than sixty days nor 3063
more than one year, to be fixed by the rules of the director, 3064
except as provided in section 124.231 of the Revised Code, and 3065
except for original appointments to a police department as a 3066
police officer or to a fire department as a firefighter which 3067
shall be for a probationary period of one year. No appointment or 3068
promotion is final until the appointee has satisfactorily served 3069
the probationary period. If the service of the probationary 3070
employee is unsatisfactory, the employee may be removed or reduced 3071
at any time during the probationary period. If the appointing 3072
authority decides to remove a probationary employee in the service 3073
of the state, the appointing authority shall communicate to the 3074
director the reason for that decision. A probationary employee 3075
duly removed or reduced in position for unsatisfactory service 3076
does not have the right to appeal the removal or reduction under 3077
section 124.34 of the Revised Code. 3078

Sec. 124.381. Each employee of the department of 3079
rehabilitation and correction, the department of mental health, 3080
the department of ~~mental retardation and~~ developmental 3081
disabilities, the Ohio veteran's home agency, or the Ohio schools 3082
for the deaf and blind, and each employee of the department of 3083
youth services as established in division (A) of section 124.14 of 3084
the Revised Code who suffers bodily injury inflicted by an inmate, 3085
patient, client, youth, or student in the facilities of these 3086
agencies during the time the employee is lawfully carrying out the 3087
assigned duties of the employee's position shall be paid the 3088
employee's total rate of pay during the period the employee is 3089
disabled as a result of that injury, but in no case to exceed one 3090
hundred twenty work days, in lieu of workers' compensation. Pay 3091
made according to this section shall not be charged to the 3092
employee's accumulation of sick leave credit. 3093

The director of administrative services shall adopt rules for 3094
the administration of the occupational injury leave program. The 3095
rules shall include, but not be limited to, provisions for 3096
determining a disability, for filing a claim for leave under this 3097
section, and for allowing or denying claims for the leave. 3098

During the time an employee is receiving injury compensation 3099
as provided in this section, the employee shall be exempt from the 3100
accumulation of vacation leave credit under section 124.134 of the 3101
Revised Code but shall continue to receive sick leave credit and 3102
personal leave credit under sections 124.382 and 124.386 of the 3103
Revised Code. 3104

In any case when an employee's disability, as covered by this 3105
section, extends beyond one hundred twenty work days, the employee 3106
shall immediately become subject to sections 124.382 and 124.385 3107
of the Revised Code regarding sick leave and disability leave 3108
benefits. 3109

An appointing authority may apply to the director of 3110
administrative services to grant injury leave in accordance with 3111
this section to law enforcement personnel employed by the agency. 3112

Sec. 125.602. (A) The department of ~~mental retardation and~~ 3113
developmental disabilities, the department of mental health, the 3114
department of job and family services, the rehabilitation services 3115
commission, and any other state or governmental agency or 3116
community rehabilitation program responsible for the provision of 3117
rehabilitation and vocational educational services to persons with 3118
work-limiting disabilities may, through written agreement, 3119
cooperate in providing resources to the department of 3120
administrative services for the operation of the office of 3121
procurement from community rehabilitation programs. These 3122
resources may include, but are not limited to, leadership and 3123
assistance in dealing with the societal aspects of meeting the 3124

needs of persons with work-limiting disabilities. 3125

(B) The office and all governmental entities that administer 3126
socioeconomic programs may enter into contractual agreements, 3127
cooperative working relationships, or other arrangements that are 3128
necessary for effective coordination and realization of the 3129
objectives of these entities. 3130

Sec. 125.603. (A) The office of procurement from community 3131
rehabilitation programs shall do the following in addition to 3132
other duties specified in sections 125.60 to 125.6012 of the 3133
Revised Code: 3134

(1) Establish, maintain, and periodically update a 3135
procurement list of approved supplies and services available from 3136
qualified nonprofit agencies; 3137

(2) Monitor the procurement practices of government ordering 3138
offices to ensure compliance with sections 125.60 to 125.6012 of 3139
the Revised Code; 3140

(3) In cooperation with qualified nonprofit agencies, 3141
government ordering offices, the department of ~~mental retardation~~ 3142
~~and~~ developmental disabilities, the department of mental health, 3143
the department of job and family services, and the rehabilitation 3144
services commission, develop and recommend to the director of 3145
administrative services rules the director shall adopt in 3146
accordance with Chapter 119. of the Revised Code for the effective 3147
and efficient administration of sections 125.60 to 125.6012 of the 3148
Revised Code; 3149

(4) Prepare a report of its activities by the last day of 3150
December of each year. The report shall be posted electronically 3151
on the office's web site. 3152

(B) The office of procurement from community rehabilitation 3153
programs may enter into contractual agreements and establish pilot 3154

programs to further the objectives of sections 125.60 to 125.6012 3155
of the Revised Code. 3156

Sec. 126.32. (A) Any officer of any state agency may 3157
authorize reimbursement for travel, including the costs of 3158
transportation, for lodging, and for meals to any person who is 3159
interviewing for a position that is classified in pay range 13 or 3160
above in schedule E-1 or schedule E-1 for step seven only, or is 3161
classified in schedule E-2, of section 124.152 of the Revised 3162
Code. 3163

(B) If a person is appointed to a position listed in section 3164
121.03 of the Revised Code, to the position of chairperson of the 3165
industrial commission, adjutant general, chancellor of the Ohio 3166
board of regents, superintendent of public instruction, 3167
chairperson of the public utilities commission of Ohio, or 3168
director of the state lottery commission, to a position holding a 3169
fiduciary relationship to the governor, to a position of an 3170
appointing authority of the department of mental health, ~~mental~~ 3171
~~retardation and~~ developmental disabilities, or rehabilitation and 3172
correction, to a position of superintendent in the department of 3173
youth services, or to a position under section 122.05 of the 3174
Revised Code, and if that appointment requires a permanent change 3175
of residence, the appropriate state agency may reimburse the 3176
person for the person's actual and necessary expenses, including 3177
the cost of in-transit storage of household goods and personal 3178
effects, of moving the person and members of the person's 3179
immediate family residing in the person's household, and of moving 3180
their household goods and personal effects, to the person's new 3181
location. 3182

Until that person moves the person's permanent residence to 3183
the new location, but not for a period that exceeds thirty 3184
consecutive days, the state agency may reimburse the person for 3185

the person's temporary living expenses at the new location that 3186
the person has incurred on behalf of the person and members of the 3187
person's immediate family residing in the person's household. In 3188
addition, the state agency may reimburse that person for the 3189
person's travel expenses between the new location and the person's 3190
former residence during this period for a maximum number of trips 3191
specified by rule of the director of budget and management, but 3192
the state agency shall not reimburse the person for travel 3193
expenses incurred for those trips by members of the person's 3194
immediate family. With the prior written approval of the director, 3195
the maximum thirty-day period for temporary living expenses may be 3196
extended for a person appointed to a position under section 122.05 3197
of the Revised Code. 3198

The director of development may reimburse a person appointed 3199
to a position under section 122.05 of the Revised Code for the 3200
person's actual and necessary expenses of moving the person and 3201
members of the person's immediate family residing in the person's 3202
household back to the United States and may reimburse a person 3203
appointed to such a position for the cost of storage of household 3204
goods and personal effects of the person and the person's 3205
immediate family while the person is serving outside the United 3206
States, if the person's office outside the United States is the 3207
person's primary job location. 3208

(C) All reimbursement under division (A) or (B) of this 3209
section shall be made in the manner, and at rates that do not 3210
exceed those, provided by rule of the director of budget and 3211
management in accordance with section 111.15 of the Revised Code. 3212
Reimbursements may be made under division (B) of this section 3213
directly to the persons who incurred the expenses or directly to 3214
the providers of goods or services the persons receive, as 3215
determined by the director of budget and management. 3216

Sec. 127.16. (A) Upon the request of either a state agency or 3217
the director of budget and management and after the controlling 3218
board determines that an emergency or a sufficient economic reason 3219
exists, the controlling board may approve the making of a purchase 3220
without competitive selection as provided in division (B) of this 3221
section. 3222

(B) Except as otherwise provided in this section, no state 3223
agency, using money that has been appropriated to it directly, 3224
shall: 3225

(1) Make any purchase from a particular supplier, that would 3226
amount to fifty thousand dollars or more when combined with both 3227
the amount of all disbursements to the supplier during the fiscal 3228
year for purchases made by the agency and the amount of all 3229
outstanding encumbrances for purchases made by the agency from the 3230
supplier, unless the purchase is made by competitive selection or 3231
with the approval of the controlling board; 3232

(2) Lease real estate from a particular supplier, if the 3233
lease would amount to seventy-five thousand dollars or more when 3234
combined with both the amount of all disbursements to the supplier 3235
during the fiscal year for real estate leases made by the agency 3236
and the amount of all outstanding encumbrances for real estate 3237
leases made by the agency from the supplier, unless the lease is 3238
made by competitive selection or with the approval of the 3239
controlling board. 3240

(C) Any person who authorizes a purchase in violation of 3241
division (B) of this section shall be liable to the state for any 3242
state funds spent on the purchase, and the attorney general shall 3243
collect the amount from the person. 3244

(D) Nothing in division (B) of this section shall be 3245
construed as: 3246

(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;	3247 3248 3249
(2) Applying to medicaid provider agreements under Chapter 5111. of the Revised Code or payments or provider agreements under the disability medical assistance program established under Chapter 5115. of the Revised Code;	3250 3251 3252 3253
(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;	3254 3255 3256
(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;	3257 3258 3259 3260 3261 3262 3263 3264 3265
(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;	3266 3267 3268 3269
(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.	3270 3271 3272 3273 3274 3275 3276 3277

(7) Applying to purchases made with money for the per cent	3278
for arts program established by section 3379.10 of the Revised	3279
Code;	3280
(8) Applying to purchases made by the rehabilitation services	3281
commission of services, or supplies, that are provided to persons	3282
with disabilities, or to purchases made by the commission in	3283
connection with the eligibility determinations it makes for	3284
applicants of programs administered by the social security	3285
administration;	3286
(9) Applying to payments by the department of job and family	3287
services under section 5111.13 of the Revised Code for group	3288
health plan premiums, deductibles, coinsurance, and other	3289
cost-sharing expenses;	3290
(10) Applying to any agency of the legislative branch of the	3291
state government;	3292
(11) Applying to agreements or contracts entered into under	3293
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the	3294
Revised Code;	3295
(12) Applying to purchases of services by the adult parole	3296
authority under section 2967.14 of the Revised Code or by the	3297
department of youth services under section 5139.08 of the Revised	3298
Code;	3299
(13) Applying to dues or fees paid for membership in an	3300
organization or association;	3301
(14) Applying to purchases of utility services pursuant to	3302
section 9.30 of the Revised Code;	3303
(15) Applying to purchases made in accordance with rules	3304
adopted by the department of administrative services of motor	3305
vehicle, aviation, or watercraft fuel, or emergency repairs of	3306
such vehicles;	3307

(16) Applying to purchases of tickets for passenger air transportation;	3308 3309
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	3310 3311 3312
(18) Applying to the judicial branch of state government;	3313
(19) Applying to purchases of liquor for resale by the division of liquor control;	3314 3315
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	3316 3317 3318
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	3319 3320 3321 3322
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	3323 3324 3325
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	3326 3327
(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;	3328 3329 3330 3331
(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code;	3332 3333 3334
(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax	3335 3336 3337

refund offset program of the internal revenue service of the 3338
United States department of the treasury; 3339

(27) Applying to contracts entered into by the department of 3340
~~mental retardation and~~ developmental disabilities under section 3341
5123.18 of the Revised Code; 3342

(28) Applying to payments made by the department of mental 3343
health under a physician recruitment program authorized by section 3344
5119.101 of the Revised Code; 3345

(29) Applying to contracts entered into with persons by the 3346
director of commerce for unclaimed funds collection and remittance 3347
efforts as provided in division (F) of section 169.03 of the 3348
Revised Code. The director shall keep an itemized accounting of 3349
unclaimed funds collected by those persons and amounts paid to 3350
them for their services. 3351

(30) Applying to purchases made by a state institution of 3352
higher education in accordance with the terms of a contract 3353
between the vendor and an inter-university purchasing group 3354
comprised of purchasing officers of state institutions of higher 3355
education; 3356

(31) Applying to the department of job and family services' 3357
purchases of health assistance services under the children's 3358
health insurance program part I provided for under section 5101.50 3359
of the Revised Code, the children's health insurance program part 3360
II provided for under section 5101.51 of the Revised Code, or the 3361
children's health insurance program part III provided for under 3362
section 5101.52 of the Revised Code, or the children's buy-in 3363
program provided for under sections 5101.5211 to 5101.5216 of the 3364
Revised Code; 3365

(32) Applying to payments by the attorney general from the 3366
reparations fund to hospitals and other emergency medical 3367
facilities for performing medical examinations to collect physical 3368

evidence pursuant to section 2907.28 of the Revised Code;	3369
(33) Applying to contracts with a contracting authority or administrative receiver under division (B) of section 5126.056 of the Revised Code;	3370 3371 3372
(34) Applying to reimbursements paid to the United States department of veterans affairs for pharmaceutical and patient supply purchases made on behalf of the Ohio veterans' home agency;	3373 3374 3375
(35) Applying to agreements entered into with terminal distributors of dangerous drugs under section 173.79 of the Revised Code;	3376 3377 3378
(36) Applying to payments by the superintendent of the bureau of criminal identification and investigation to the federal bureau of investigation for criminal records checks pursuant to section 109.572 of the Revised Code.	3379 3380 3381 3382
(E) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1) and (2) of this section, all of the following purchases by such agency shall not be considered:	3383 3384 3385 3386
(1) Purchases made through competitive selection or with controlling board approval;	3387 3388
(2) Purchases listed in division (D) of this section;	3389
(3) For the purposes of the threshold of division (B)(1) of this section only, leases of real estate.	3390 3391
(F) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.	3392 3393 3394
Sec. 140.01. As used in this chapter:	3395
(A) "Hospital agency" means any public hospital agency or any nonprofit hospital agency.	3396 3397

(B) "Public hospital agency" means any county, board of 3398
county hospital trustees established pursuant to section 339.02 of 3399
the Revised Code, county hospital commission established pursuant 3400
to section 339.14 of the Revised Code, municipal corporation, new 3401
community authority organized under Chapter 349. of the Revised 3402
Code, joint township hospital district, state or municipal 3403
university or college operating or authorized to operate a 3404
hospital facility, or the state. 3405

(C) "Nonprofit hospital agency" means a corporation or 3406
association not for profit, no part of the net earnings of which 3407
inures or may lawfully inure to the benefit of any private 3408
shareholder or individual, that has authority to own or operate a 3409
hospital facility or provides or is to provide services to one or 3410
more other hospital agencies. 3411

(D) "Governing body" means, in the case of a county, the 3412
board of county commissioners or other legislative body; in the 3413
case of a board of county hospital trustees, the board; in the 3414
case of a county hospital commission, the commission; in the case 3415
of a municipal corporation, the council or other legislative 3416
authority; in the case of a new community authority, its board of 3417
trustees; in the case of a joint township hospital district, the 3418
joint township district hospital board; in the case of a state or 3419
municipal university or college, its board of trustees or board of 3420
directors; in the case of a nonprofit hospital agency, the board 3421
of trustees or other body having general management of the agency; 3422
and, in the case of the state, the director of development or the 3423
Ohio higher educational facility commission. 3424

(E) "Hospital facilities" means buildings, structures and 3425
other improvements, additions thereto and extensions thereof, 3426
furnishings, equipment, and real estate and interests in real 3427
estate, used or to be used for or in connection with one or more 3428
hospitals, emergency, intensive, intermediate, extended, 3429

long-term, or self-care facilities, diagnostic and treatment and 3430
out-patient facilities, facilities related to programs for home 3431
health services, clinics, laboratories, public health centers, 3432
research facilities, and rehabilitation facilities, for or 3433
pertaining to diagnosis, treatment, care, or rehabilitation of 3434
sick, ill, injured, infirm, impaired, disabled, or handicapped 3435
persons, or the prevention, detection, and control of disease, and 3436
also includes education, training, and food service facilities for 3437
health professions personnel, housing facilities for such 3438
personnel and their families, and parking and service facilities 3439
in connection with any of the foregoing; and includes any one, 3440
part of, or any combination of the foregoing; and further includes 3441
site improvements, utilities, machinery, facilities, furnishings, 3442
and any separate or connected buildings, structures, improvements, 3443
sites, utilities, facilities, or equipment to be used in, or in 3444
connection with the operation or maintenance of, or supplementing 3445
or otherwise related to the services or facilities to be provided 3446
by, any one or more of such hospital facilities. 3447

(F) "Costs of hospital facilities" means the costs of 3448
acquiring hospital facilities or interests in hospital facilities, 3449
including membership interests in nonprofit hospital agencies, 3450
costs of constructing hospital facilities, costs of improving one 3451
or more hospital facilities, including reconstructing, 3452
rehabilitating, remodeling, renovating, and enlarging, costs of 3453
equipping and furnishing such facilities, and all financing costs 3454
pertaining thereto, including, without limitation thereto, costs 3455
of engineering, architectural, and other professional services, 3456
designs, plans, specifications and surveys, and estimates of cost, 3457
costs of tests and inspections, the costs of any indemnity or 3458
surety bonds and premiums on insurance, all related direct or 3459
allocable administrative expenses pertaining thereto, fees and 3460
expenses of trustees, depositories, and paying agents for the 3461
obligations, cost of issuance of the obligations and financing 3462

charges and fees and expenses of financial advisors, attorneys, 3463
accountants, consultants and rating services in connection 3464
therewith, capitalized interest on the obligations, amounts 3465
necessary to establish reserves as required by the bond 3466
proceedings, the reimbursement of all moneys advanced or applied 3467
by the hospital agency or others or borrowed from others for the 3468
payment of any item or items of costs of such facilities, and all 3469
other expenses necessary or incident to planning or determining 3470
feasibility or practicability with respect to such facilities, and 3471
such other expenses as may be necessary or incident to the 3472
acquisition, construction, reconstruction, rehabilitation, 3473
remodeling, renovation, enlargement, improvement, equipment, and 3474
furnishing of such facilities, the financing thereof, and the 3475
placing of the same in use and operation, including any one, part 3476
of, or combination of such classes of costs and expenses, and 3477
means the costs of refinancing obligations issued by, or 3478
reimbursement of money advanced by, nonprofit hospital agencies or 3479
others the proceeds of which were used for the payment of costs of 3480
hospital facilities, if the governing body of the public hospital 3481
agency determines that the refinancing or reimbursement advances 3482
the purposes of this chapter, whether or not the refinancing or 3483
reimbursement is in conjunction with the acquisition or 3484
construction of additional hospital facilities. 3485

(G) "Hospital receipts" means all moneys received by or on 3486
behalf of a hospital agency from or in connection with the 3487
ownership, operation, acquisition, construction, improvement, 3488
equipping, or financing of any hospital facilities, including, 3489
without limitation thereto, any rentals and other moneys received 3490
from the lease, sale, or other disposition of hospital facilities, 3491
and any gifts, grants, interest subsidies, or other moneys 3492
received under any federal program for assistance in financing the 3493
costs of hospital facilities, and any other gifts, grants, and 3494
donations, and receipts therefrom, available for financing the 3495

costs of hospital facilities.	3496
(H) "Obligations" means bonds, notes, or other evidences of indebtedness or obligation, including interest coupons pertaining thereto, issued or issuable by a public hospital agency to pay costs of hospital facilities.	3497 3498 3499 3500
(I) "Bond service charges" means principal, interest, and call premium, if any, required to be paid on obligations.	3501 3502
(J) "Bond proceedings" means one or more ordinances, resolutions, trust agreements, indentures, and other agreements or documents, and amendments and supplements to the foregoing, or any combination thereof, authorizing or providing for the terms, including any variable interest rates, and conditions applicable to, or providing for the security of, obligations and the provisions contained in such obligations.	3503 3504 3505 3506 3507 3508 3509
(K) "Nursing home" has the same meaning as in division (A)(1) of section 5701.13 of the Revised Code.	3510 3511
(L) "Residential care facility" has the same meaning as in division (A)(2) of section 5701.13 of the Revised Code.	3512 3513
(M) "Adult care facility" has the same meaning as in division (A)(3) of section 5701.13 of the Revised Code.	3514 3515
(N) "Independent living facility" means any self-care facility or other housing facility designed or used as a residence for elderly persons. An "independent living facility" does not include a residential facility, or that part of a residential facility, that is any of the following:	3516 3517 3518 3519 3520
(1) A hospital required to be certified by section 3727.02 of the Revised Code;	3521 3522
(2) A nursing home or residential care facility;	3523
(3) An adult care facility;	3524
(4) A hospice licensed under section 3712.04 of the Revised	3525

Code;	3526
(5) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;	3527 3528 3529
(6) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	3530 3531
(7) A facility certified as an alcohol and drug addiction program under section 3793.06 of the Revised Code;	3532 3533
(8) A residential facility licensed under section 5123.19 of the Revised Code or a facility providing services under a contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;	3534 3535 3536 3537
(9) A residential facility used as part of a hospital to provide housing for staff of the hospital or students pursuing a course of study at the hospital.	3538 3539 3540
Sec. 140.03. (A) Two or more hospital agencies may enter into agreements for the acquisition, construction, reconstruction, rehabilitation, remodeling, renovating, enlarging, equipping, and furnishing of hospital facilities, or the management, operation, occupancy, use, maintenance, and repair of hospital facilities, or for participation in programs, projects, activities, and services useful to, connected with, supplementing, or otherwise related to the services provided by, or the operation of, hospital facilities operated by one or more participating hospital agencies, including any combination of such purposes, all in such manner as to promote the public purpose stated in section 140.02 of the Revised Code. A city health district; general health district; board of alcohol, drug addiction, and mental health services; county board of mental retardation and developmental disabilities; the department of mental health; the department of mental retardation and	3541 3542 3543 3544 3545 3546 3547 3548 3549 3550 3551 3552 3553 3554 3555

developmental disabilities; or any public body engaged in the 3556
education or training of health professions personnel may join in 3557
any such agreement for purposes related to its authority under 3558
laws applicable to it, and as such a participant shall be 3559
considered a public hospital agency or hospital agency for the 3560
purposes of this section. 3561

(B) An agreement entered into under authority of this section 3562
shall, where appropriate, provide for: 3563

(1) The manner in which the title to the hospital facilities, 3564
including the sites and interest in real estate pertaining 3565
thereto, is to be held, transferred, or disposed of; 3566

(2) Unless provided for by lease pursuant to section 140.05 3567
of the Revised Code, the method by which such hospital facilities 3568
are to be acquired, constructed, or otherwise improved and by 3569
which they shall be managed, occupied, maintained, and repaired, 3570
including the designation of one of the hospital agencies to have 3571
charge of the details of acquisition, construction, or improvement 3572
pursuant to the contracting procedures prescribed under the law 3573
applicable to one of the participating public hospital agencies; 3574

(3) The management or administration of any such programs, 3575
projects, activities, or services, which may include management or 3576
administration by one of said hospital agencies or a board or 3577
agency thereof; 3578

(4) Annual, or more frequent, reports to the participating 3579
hospital agencies as to the revenues and receipts pertaining to 3580
the subject of the agreement, the expenditures thereof, the status 3581
and application of other funds contributed under such agreement, 3582
and such other matters as may be specified by or pursuant to such 3583
agreement; 3584

(5) The manner of apportionment or sharing of costs of 3585
hospital facilities, any other applicable costs of management, 3586

operation, maintenance, and repair of hospital facilities, and 3587
costs for the programs, projects, activities, and services forming 3588
the subject of the agreement, which apportionment or sharing may 3589
be prescribed in fixed amounts, or determined by ratios, formulas, 3590
or otherwise, and paid as service charges, rentals, or in such 3591
other manner as provided in the agreement, and may include amounts 3592
sufficient to meet the bond service charges and other payments and 3593
deposits required under the bond proceedings for obligations 3594
issued to pay costs of hospital facilities. A hospital agency may 3595
commit itself to make such payments at least for so long as any 3596
such obligations are outstanding. In the apportionment, different 3597
classes of costs or expenses may be apportioned to one or more, 3598
all or less than all, of the participating hospital agencies as 3599
determined under such agreement. 3600

(C) An agreement entered into under authority of this section 3601
may provide for: 3602

(1) An orderly process for making determinations or advising 3603
as to planning, execution, implementation, and operation, which 3604
may include designating one of the hospital agencies, or a board 3605
thereof, for any of such purposes, provisions for a committee, 3606
board, or commission, and for representation thereon, or as may 3607
otherwise be provided; 3608

(2) Securing necessary personnel, including participation of 3609
personnel from the respective hospital agencies; 3610

(3) Standards or conditions for the admission or 3611
participation of patients and physicians; 3612

(4) Conditions for admittance of other hospital agencies to 3613
participation under the agreement; 3614

(5) Fixing or establishing the method of determining charges 3615
to be made for particular services; 3616

(6) The manner of amending, supplementing, terminating, or 3617

withdrawal or removal of any party from, the agreement, and the 3618
term of the agreement, or an indefinite term; 3619

(7) Designation of the applicants for or recipients of any 3620
federal, state, or other aid, assistance, or loans available by 3621
reason of any activities conducted under the agreement; 3622

(8) Designation of one or more of the participating hospital 3623
agencies to maintain, prepare, and submit, on behalf of all 3624
parties to the agreement, any or all records and reports with 3625
regard to the activities conducted under the agreement; 3626

(9) Any incidental use of the hospital facilities, or 3627
services thereof, by participating public hospital agencies for 3628
any of their lawful purposes, which incidental use does not impair 3629
the character of the facilities as hospital facilities for any 3630
purpose of this chapter; 3631

(10) Such other matters as the parties thereto may agree upon 3632
for the purposes of division (A) of this section. 3633

(D) For the purpose of paying or contributing its share under 3634
an agreement made under this section, a public hospital agency 3635
may: 3636

(1) Expend any moneys from its general fund, and from any 3637
other funds not otherwise restricted by law, but including funds 3638
for permanent improvements of hospital facilities of such public 3639
hospital agency where the contribution is to be made toward the 3640
costs of hospital facilities under the agreement, and including 3641
funds derived from levies for, or receipts available for, 3642
operating expenses of hospital facilities or services of such 3643
public hospital agency where the contribution or payment is to be 3644
made toward operating expenses of the hospital facilities or 3645
services under the agreement or for the services provided thereby; 3646

(2) Issue obligations under Chapter 133. or section 140.06, 3647
339.14, 339.15, 513.12, or 3345.12 of the Revised Code, or Section 3648

3 of Article XVIII, Ohio Constitution, if applicable to such 3649
public hospital agency, to pay costs of hospital facilities, or 3650
issue obligations under any other provision of law authorizing 3651
such public hospital agency to issue obligations for any costs of 3652
hospital facilities; 3653

(3) Levy taxes under Chapter 5705. or section 513.13 or 3654
3709.29 of the Revised Code, if applicable to such public hospital 3655
agency, provided that the purpose of such levy may include the 3656
provision of funds for either or both permanent improvements and 3657
current expenses if required for the contribution or payment of 3658
such hospital agency under such agreement, and each such public 3659
hospital agency may issue notes in anticipation of any such levy, 3660
pursuant to the procedures provided in section 5705.191 of the 3661
Revised Code if the levy is solely for current expenses, and in 3662
section 5705.193 of the Revised Code if the levy is all or in part 3663
for permanent improvements; 3664

(4) Contribute real and personal property or interest therein 3665
without necessity for competitive bidding or public auction on 3666
disposition of such property. 3667

(E) Any funds provided by public hospital agencies that are 3668
parties to an agreement entered into under this section shall be 3669
transferred to and placed in a separate fund or funds of such 3670
participating public hospital agency as is designated under the 3671
agreement. The funds shall be applied for the purposes provided in 3672
such agreement and are subject to audit. Pursuant to any 3673
determinations to be made under such agreement, the funds shall be 3674
deposited, invested, and disbursed under the provisions of law 3675
applicable to the public hospital agency in whose custody the 3676
funds are held. This division is subject to the provisions of any 3677
applicable bond proceedings under section 133.08, 140.06, 339.15, 3678
or 3345.12 of the Revised Code or Section 3 of Article XVIII, Ohio 3679
Constitution. The records and reports of such public hospital 3680

agency under Chapter 117. of the Revised Code and sections 3702.51 3681
to 3702.62 of the Revised Code, with respect to the funds shall be 3682
sufficient without necessity for reports thereon by the other 3683
public hospital agencies participating under such agreement. 3684

(F)(1) Prior to its entry into any such agreement, the public 3685
hospital agency must determine, and set forth in a resolution or 3686
ordinance, that the contribution to be made by it under such 3687
agreement will be fair consideration for value and benefit to be 3688
derived by it under such agreement and that the agreement will 3689
promote the public purpose stated in section 140.02 of the Revised 3690
Code. 3691

(2) If the agreement is with a board of county commissioners, 3692
board of county hospital trustees, or county hospital commission 3693
and is an initial agreement for the acquisition or operation of a 3694
county hospital operated by a board of county hospital trustees 3695
under section 339.06 of the Revised Code, the governing body of 3696
the public hospital agency shall submit the agreement, accompanied 3697
by the resolution or ordinance, to the board of county 3698
commissioners for review pursuant to section 339.091 of the 3699
Revised Code. The agreement may be entered into only if the board 3700
of county commissioners adopts a resolution under that section. 3701
The requirements of division (F)(2) of this section do not apply 3702
to the agreement if one or more hospitals classified as general 3703
hospitals by the public health council under section 3701.07 of 3704
the Revised Code are operating in the same county as the county 3705
hospital. 3706

Sec. 140.05. (A)(1) A public hospital agency may lease any 3707
hospital facility to one or more hospital agencies for use as a 3708
hospital facility, or to one or more city or general health 3709
districts; boards of alcohol, drug addiction, and mental health 3710
services; county boards of mental retardation and developmental 3711

disabilities; the department of mental health; or the department 3712
of ~~mental retardation and~~ developmental disabilities, for uses 3713
which they are authorized to make thereof under the laws 3714
applicable to them, or any combination of them, and they may lease 3715
such facilities to or from a hospital agency for such uses, upon 3716
such terms and conditions as are agreed upon by the parties. Such 3717
lease may be for a term of fifty years or less and may provide for 3718
an option of the lessee to renew for a term of fifty years or 3719
less, as therein set forth. Prior to entering into such lease, the 3720
governing body of any public hospital agency granting such lease 3721
must determine, and set forth in a resolution or ordinance, that 3722
such lease will promote the public purpose stated in section 3723
140.02 of the Revised Code and that the lessor public hospital 3724
agency will be duly benefited thereby. 3725

(2) If the lease is with a board of county commissioners, 3726
board of county hospital trustees, or county hospital commission 3727
and is an agreement for the initial lease of a county hospital 3728
operated by a board of county hospital trustees under section 3729
339.06 of the Revised Code, the governing body of the public 3730
hospital agency shall submit the agreement, accompanied by the 3731
resolution or ordinance, to the board of county commissioners for 3732
review pursuant to section 339.091 of the Revised Code. The 3733
agreement may be entered into only if the board of county 3734
commissioners adopts a resolution under that section. The 3735
requirements of division (A)(2) of this section do not apply to 3736
the lease if one or more hospitals classified as general hospitals 3737
by the public health council under section 3701.07 of the Revised 3738
Code are operating in the same county as the county hospital. 3739

(B) Any lease entered into pursuant to this section shall 3740
provide that in the event that the lessee fails faithfully and 3741
efficiently to administer, maintain, and operate such leased 3742
facilities as hospital facilities, or fails to provide the 3743

services thereof without regard to race, creed, color, or national 3744
origin, or fails to require that any hospital agency using such 3745
facilities or the services thereof shall not discriminate by 3746
reason of race, creed, color, or national origin, after an 3747
opportunity to be heard upon written charges, said lease may be 3748
terminated at the time, in the manner and with consequences 3749
therein provided. If any such lease does not contain terms to the 3750
effect provided in this division, it shall nevertheless be deemed 3751
to contain such terms which shall be implemented as determined by 3752
the governing body of the lessor. 3753

(C) Such lease may provide for rentals commencing at any time 3754
agreed upon, or advance rental, and continuing for such period 3755
therein provided, notwithstanding and without diminution, rebate, 3756
or setoff by reason of time of availability of the hospital 3757
facility for use, delays in construction, failure of completion, 3758
damage or destruction of the hospital facilities, or for any other 3759
reason. 3760

(D) Such lease may provide for the sale or transfer of title 3761
of the leased facilities pursuant to an option to purchase, 3762
lease-purchase, or installment purchase upon terms therein 3763
provided or to be determined as therein provided, which may 3764
include provision for the continued use thereof as a hospital 3765
facility for some reasonable period, taking into account efficient 3766
useful life and other factors, as is provided therein. 3767

(E) Such lease may be entered as part of or in connection 3768
with an agreement pursuant to section 140.03 of the Revised Code. 3769
Any hospital facilities which are the subject of an agreement 3770
entered into under section 140.03 of the Revised Code may be 3771
leased pursuant to this section. 3772

(F) If land acquired by a public hospital agency for a 3773
hospital facility is adjacent to an existing hospital facility 3774
owned by another hospital agency, the public hospital agency may, 3775

in connection with such acquisition or the leasing of such land 3776
and hospital facilities thereon to one or more hospital agencies, 3777
enter into an agreement with the hospital agency which owns such 3778
adjacent hospital facility for the use of common walls in the 3779
construction, operation, or maintenance of hospital facilities of 3780
the public hospital agency. For the purpose of construction, 3781
operation, or maintenance of hospital facilities, a public 3782
hospital agency may acquire by purchase, gift, lease, lease with 3783
option to purchase, lease-purchase, or installment purchase, 3784
easement deed, or other agreement, real estate and interests in 3785
real estate, including rights to use space over, under or upon 3786
real property owned by others, and support, access, common wall, 3787
and other rights in connection therewith. Any public hospital 3788
agency or other political subdivision or any public agency, board, 3789
commission, institution, body, or instrumentality may grant such 3790
real estate, interests, or rights to any hospital agency upon such 3791
terms as are agreed upon without necessity for competitive bidding 3792
or public auction. 3793

Sec. 145.012. (A) "Public employee," as defined in division 3794
(A) of section 145.01 of the Revised Code, does not include any 3795
person: 3796

(1) Who is employed by a private, temporary-help service and 3797
performs services under the direction of a public employer or is 3798
employed on a contractual basis as an independent contractor under 3799
a personal service contract with a public employer; 3800

(2) Who is an emergency employee serving on a temporary basis 3801
in case of fire, snow, earthquake, flood, or other similar 3802
emergency; 3803

(3) Who is employed in a program established pursuant to the 3804
"Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 3805
1501; 3806

(4) Who is an appointed member of either the motor vehicle salvage dealers board or the motor vehicle dealer's board whose rate and method of payment are determined pursuant to division (J) of section 124.15 of the Revised Code;	3807 3808 3809 3810
(5) Who is employed as an election worker and paid less than five hundred dollars per calendar year for that service;	3811 3812
(6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training course approved under former section 3303.07 or section 4765.55 of the Revised Code or conducted under section 3737.33 of the Revised Code except for the following:	3813 3814 3815 3816 3817
(a) Any firefighter who has elected under section 145.013 of the Revised Code to remain a contributing member of the public employees retirement system;	3818 3819 3820
(b) Any firefighter who was eligible to transfer from the public employees retirement system to the Ohio police and fire pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer;	3821 3822 3823 3824
(c) Any firefighter who has elected under section 742.516 of the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system.	3825 3826 3827
(7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;	3828 3829 3830 3831 3832 3833
(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;	3834 3835
(9) Who is a member of the board of directors of a sanitary	3836

district established under Chapter 6115. of the Revised Code. 3837

(B) No inmate of a correctional institution operated by the 3838
department of rehabilitation and correction, no patient in a 3839
hospital for the mentally ill or criminally insane operated by the 3840
department of mental health, no resident in an institution for the 3841
mentally retarded operated by the department of ~~mental retardation~~ 3842
~~and~~ developmental disabilities, no resident admitted as a patient 3843
of a veterans' home operated under Chapter 5907. of the Revised 3844
Code, and no resident of a county home shall be considered as a 3845
public employee for the purpose of establishing membership or 3846
calculating service credit or benefits under this chapter. Nothing 3847
in this division shall be construed to affect any service credit 3848
attained by any person who was a public employee before becoming 3849
an inmate, patient, or resident at any institution listed in this 3850
division, or the payment of any benefit for which such a person or 3851
such a person's beneficiaries otherwise would be eligible. 3852
3853

Sec. 154.17. The departments of administrative services, 3854
mental health, ~~mental retardation and~~ developmental disabilities, 3855
rehabilitation and correction, and natural resources, the Ohio 3856
board of regents, institutions of higher education, and other 3857
state officers and state agencies shall cooperate with the 3858
commission in providing services and information requested by the 3859
commission for purposes of Chapter 154. of the Revised Code, and 3860
the commission may make mutually satisfactory arrangements 3861
therefor and may thereunder designate any governmental agency for 3862
the management or performance of particular functions of the 3863
commission, other than the authorization and issuance of 3864
obligations provided for in Chapter 154. of the Revised Code, 3865
pursuant to which designation, upon acceptance thereof by that 3866
governmental agency, that function may be carried out with the 3867
full force and effect as if performed by the commission. Any such 3868

designation shall be made only by formal action or written 3869
agreement of the commission. In the management of capital 3870
facilities or performance of other functions with respect thereto, 3871
a governmental agency may exercise all powers which it has under 3872
law with respect to other similar facilities under its 3873
jurisdiction. 3874

Contracts relating to capital facilities shall be made in 3875
accordance with the law pertaining to the governmental agency 3876
designated under authority of this section to perform such 3877
contracting function, and in any other case shall be made in 3878
accordance with Chapter 153. of the Revised Code, for which 3879
purpose the commission shall be considered the owner, provided 3880
that the commission may assign the function of owner to the 3881
department of administrative services or other governmental agency 3882
as it determines. The commission may acquire by assignment from 3883
any governmental agency contracts which are not completed and 3884
which involve acquiring, constructing, reconstructing, 3885
rehabilitating, remodeling, renovating, enlarging, improving, 3886
equipping, or furnishing capital facilities, provided that such 3887
governmental agency has complied with the procedures prescribed by 3888
laws for its letting of such contract. 3889

No contract shall be let or assignment thereof accepted under 3890
this section involving performance in accordance with plans and 3891
specifications until such plans and specifications have been 3892
submitted to and approved by the governmental agency to have 3893
responsibility for the management of the capital facilities 3894
provided for in such plans and specifications, which approval 3895
shall be considered to be given if no approval or disapproval is 3896
communicated in writing to the commission or its designee for such 3897
purpose within sixty days following such submission of plans and 3898
specifications. Approval by such governmental agency of changes in 3899
plans and specifications is not required if the director of 3900

administrative services or the designee of the commission for such 3901
purpose shall certify that such changes do not substantially 3902
change the location, character, or extent of such capital 3903
facilities. 3904

Sec. 154.20. (A) Subject to authorization by the general 3905
assembly under section 154.02 of the Revised Code, the issuing 3906
authority may issue obligations pursuant to this chapter to pay 3907
costs of capital facilities for mental hygiene and retardation, 3908
including housing for mental hygiene and retardation patients. 3909

(B) Any capital facilities for mental hygiene or retardation, 3910
including housing for mental hygiene and retardation patients, may 3911
be leased by the commission to the department of mental health, 3912
the department of ~~mental retardation and~~ developmental 3913
disabilities, or the department of alcohol and drug addiction 3914
services, and other agreements may be made by the commission and 3915
any one or more of these departments with respect to the use or 3916
purchase of such capital facilities or, subject to the approval of 3917
the director of the department, the commission may lease such 3918
capital facilities to, and make or provide for other agreements 3919
with respect to the use or purchase thereof with, any governmental 3920
agency having authority under law to operate such capital 3921
facilities, and the director of the department may sublease such 3922
capital facilities to, and make other agreements with respect to 3923
the use or purchase thereof with, any such governmental agency, 3924
which may include provisions for transmittal to the mental health 3925
bond service trust fund created under division (E) of this 3926
section, by such governmental agency or by a nonprofit corporation 3927
providing mental hygiene and retardation services for or under 3928
contract with or the supervision of that governmental agency, of 3929
receipts of that agency or nonprofit corporation from charges for 3930
the treatment or care of mental hygiene and retardation patients, 3931
all upon such terms and conditions as the parties may agree upon 3932

and pursuant to this chapter, notwithstanding any other provision 3933
of law affecting the leasing, acquisition, or disposition of 3934
capital facilities by the parties. 3935

(C) For purposes of this section, "available receipts" means 3936
all receipts of the state from charges for the treatment or care 3937
of mental hygiene and retardation patients, including support 3938
payments received under Chapter 5121. of the Revised Code and 3939
moneys required to be transmitted to the mental health bond 3940
service trust fund pursuant to subleases and other agreements 3941
between any of the departments and another governmental agency 3942
pursuant to division (B) of this section as the subleases and 3943
other agreements may be further implemented for internal planning, 3944
budgeting, and accounting purposes pursuant to rules adopted by 3945
the director of mental health, director of ~~mental retardation and~~ 3946
developmental disabilities, or director of alcohol and drug 3947
addiction services, any revenues or receipts derived by the 3948
commission from the operation, leasing, or other disposition of 3949
capital facilities financed under this section, the proceeds of 3950
obligations issued under this section and sections 154.11 and 3951
154.12 of the Revised Code, and also means any gifts, grants, 3952
donations, and pledges, and receipts therefrom, available for the 3953
payment of bond service charges on such obligations. The issuing 3954
authority may pledge all, or such portion as that authority 3955
determines, of the available receipts to the payment of bond 3956
service charges on obligations issued under this section and under 3957
sections 154.11 and 154.12 of the Revised Code and for the 3958
establishment and maintenance of any reserves, as provided in the 3959
bond proceedings, and make other provisions therein with respect 3960
to such available receipts as authorized by this chapter, which 3961
provisions shall be controlling notwithstanding any other 3962
provision of law pertaining thereto. 3963

(D) The issuing authority may covenant in the bond 3964

proceedings that the state and state agencies shall, so long as 3965
any obligations issued under this section are outstanding, cause 3966
to be charged and collected charges for the treatment or care of 3967
mental hygiene and retardation patients sufficient in amount to 3968
provide for the payment of bond service charges on such 3969
obligations and for the establishment and maintenance of any 3970
reserves, as provided in the bond proceedings, and such covenants 3971
shall be controlling notwithstanding any other provision of law 3972
pertaining to such charges. 3973

(E) There is hereby created the mental health bond service 3974
trust fund, which shall be in the custody of the treasurer of 3975
state but shall be separate and apart from and not a part of the 3976
state treasury. All moneys received by or on account of the 3977
commission or issuing authority or state agencies and required by 3978
the applicable bond proceedings to be deposited, transferred, or 3979
credited to the fund, and all other moneys transferred or 3980
allocated to or received for the purposes of the fund, shall be 3981
deposited with the treasurer of state and credited to such fund, 3982
subject to applicable provisions of the bond proceedings, but 3983
without necessity for any act of appropriation. The mental health 3984
bond service trust fund is a trust fund and is hereby pledged to 3985
the payment of bond service charges on the obligations issued 3986
pursuant to this section and sections 154.11 and 154.12 of the 3987
Revised Code to the extent provided in the applicable bond 3988
proceedings, and payment thereof from such fund shall be made or 3989
provided for by the treasurer of state in accordance with such 3990
bond proceedings without necessity for any act of appropriation. 3991

(F) There is hereby created in the state treasury the mental 3992
health facilities improvement fund. Subject to the bond 3993
proceedings therefor, all of the proceeds of the sale of 3994
obligations pursuant to this section shall be credited to the 3995
fund, except that any accrued interest shall be credited to the 3996

mental health bond service fund. The mental health facilities 3997
improvement fund may also be comprised of gifts, grants, 3998
appropriated moneys, and other sums and securities received to the 3999
credit of such fund. The fund shall be applied only to the 4000
following purposes: 4001

(1) Paying costs of capital facilities for mental hygiene and 4002
retardation, including housing for mental hygiene and retardation 4003
patients, under the jurisdiction of the department of mental 4004
health, department of ~~mental retardation~~ and developmental 4005
disabilities, or department of alcohol and drug addiction 4006
services; 4007

(2) Participating in capital facilities for mental hygiene 4008
and retardation, including housing for mental hygiene and 4009
retardation patients, with the federal government, municipal 4010
corporations, counties, or other governmental agencies, or a 4011
nonprofit corporation specifically chartered to provide a mental 4012
health or mental retardation service when such service fulfills a 4013
public purpose, which participation may be by grants or 4014
contributions to them for such capital facilities. Except as 4015
provided in division (G) of this section, the nonprofit 4016
corporation may act in concert with a limited partnership or a 4017
limited liability company eligible to participate in the nonprofit 4018
set-aside described in section 42(h)(5) of the "Internal Revenue 4019
Code of 1986," 100 Stat. 2198, 26 U.S.C. 42, and the Ohio housing 4020
finance agency's housing tax credit program for the purpose of 4021
making use of low-income housing tax credits in support of housing 4022
for mental hygiene and retardation patients. 4023

(G) A nonprofit corporation providing a mental retardation 4024
service must obtain written approval from the director of ~~mental~~ 4025
~~retardation~~ and developmental disabilities before acting in 4026
concert with a limited partnership or limited liability company as 4027
described in division (F)(2) of this section. However, the 4028

director may issue one blanket approval for all such nonprofit 4029
corporations. 4030

(H) This section is to be applied with other applicable 4031
provisions of this chapter. 4032

Sec. 173.03. (A) There is hereby created the Ohio advisory 4033
council for the aging, which shall consist of twelve members to be 4034
appointed by the governor with the advice and consent of the 4035
senate. Two ex officio members of the council shall be members of 4036
the house of representatives appointed by the speaker of the house 4037
of representatives and shall be members of two different political 4038
parties. Two ex officio members of the council shall be members of 4039
the senate appointed by the president of the senate and shall be 4040
members of two different political parties. The directors of 4041
mental health, ~~mental retardation and~~ developmental disabilities, 4042
health, and job and family services, or their designees, shall 4043
serve as ex officio members of the council. The council shall 4044
carry out its role as defined under the "Older Americans Act of 4045
1965," 79 Stat. 219, 42 U.S.C. 3001, as amended. 4046

At the first meeting of the council, and annually thereafter, 4047
the members shall select one of their members to serve as 4048
chairperson and one of their members to serve as vice-chairperson. 4049

(B) Members of the council shall be appointed for a term of 4050
three years, except that for the first appointment members of the 4051
Ohio commission on aging who were serving on the commission 4052
immediately prior to July 26, 1984, shall become members of the 4053
council for the remainder of their unexpired terms. Thereafter, 4054
appointment to the council shall be for a three-year term by the 4055
governor. Each member shall hold office from the date of 4056
appointment until the end of the term for which the member was 4057
appointed. Any member appointed to fill a vacancy occurring prior 4058
to the expiration of the term for which the member's predecessor 4059

was appointed shall hold office for the remainder of the term. Any 4060
member may continue in office subsequent to the expiration date of 4061
the member's term until a successor takes office and shall be 4062
compensated for the period served between the expiration of the 4063
member's term and the beginning of the successor's term. 4064

(C) Membership of the council shall represent all areas of 4065
Ohio and shall be as follows: 4066

(1) A majority of members of the council shall have attained 4067
the age of sixty and have a knowledge of and continuing interest 4068
in the affairs and welfare of the older citizens of Ohio. The 4069
fields of business, labor, health, law, and human services shall 4070
be represented in the membership. 4071

(2) No more than seven members shall be of the same political 4072
party. 4073

(D) Any member of the council may be removed from office by 4074
the governor for neglect of duty, misconduct, or malfeasance in 4075
office after being informed in writing of the charges and afforded 4076
an opportunity for a hearing. Two consecutive unexcused absences 4077
from regularly scheduled meetings constitute neglect of duty. 4078

(E) Members of the council shall be compensated at the rate 4079
of fifty dollars for each day actually employed in the discharge 4080
of official duties but not to exceed two thousand dollars per year 4081
and in addition shall be allowed actual and necessary expenses. 4082

(F) Council members are not limited as to the number of terms 4083
they may serve. 4084

(G) Council members shall not be interested directly or 4085
indirectly in any contract awarded by the department of aging. 4086

Sec. 2108.521. (A) If a mentally retarded person or a 4087
developmentally disabled person dies, if the department of ~~mental~~ 4088
~~retardation and~~ developmental disabilities or a county board of 4089

mental retardation and developmental disabilities has a good faith 4090
reason to believe that the deceased person's death occurred under 4091
suspicious circumstances, if the coroner was apprised of the 4092
circumstances of the death, and if the coroner after being so 4093
apprised of the circumstances declines to conduct an autopsy, the 4094
department or the board may file a petition in a court of common 4095
pleas seeking an order authorizing an autopsy or post-mortem 4096
examination under this section. 4097

(B) Upon the filing of a petition under division (A) of this 4098
section, the court may conduct, but is not required to conduct, a 4099
hearing on the petition. The court may determine whether to grant 4100
the petition without a hearing. The department or board, and all 4101
other interested parties, may submit information and statements to 4102
the court that are relevant to the petition, and, if the court 4103
conducts a hearing, may present evidence and testimony at the 4104
hearing. The court shall order the requested autopsy or 4105
post-mortem examination if it finds that, under the circumstances, 4106
the department or board has demonstrated a need for the autopsy or 4107
post-mortem examination. The court shall order an autopsy or 4108
post-mortem examination in the circumstances specified in this 4109
division regardless of whether any consent has been given, or has 4110
been given and withdrawn, under section 2108.50 of the Revised 4111
Code, and regardless of whether any information was presented to 4112
the coroner pursuant to section 313.131 of the Revised Code or to 4113
the court under this section regarding an autopsy being contrary 4114
to the deceased person's religious beliefs. 4115

(C) An autopsy or post-mortem examination ordered under this 4116
section may be performed upon the body of the deceased person by a 4117
licensed physician or surgeon. The court may identify in the order 4118
the person who is to perform the autopsy or post-mortem 4119
examination. If an autopsy or post-mortem examination is ordered 4120
under this section, the department or board that requested the 4121

autopsy or examination shall pay the physician or surgeon who 4122
performs the autopsy or examination for costs and expenses 4123
incurred in performing the autopsy or examination. 4124

Sec. 2109.01. "Fiduciary," as used in Chapters 2101. to 2131. 4125
of the Revised Code, means any person, other than an assignee or 4126
trustee for an insolvent debtor or a guardian under sections 4127
5905.01 to 5905.19 of the Revised Code, appointed by and 4128
accountable to the probate court and acting in a fiduciary 4129
capacity for any person, or charged with duties in relation to any 4130
property, interest, trust, or estate for the benefit of another; 4131
and includes an agency under contract with the department of 4132
~~mental retardation and~~ developmental disabilities for the 4133
provision of protective service under sections 5123.55 to 5123.59 4134
of the Revised Code, appointed by and accountable to the probate 4135
court as guardian or trustee with respect to mentally retarded or 4136
developmentally disabled persons. 4137

Sec. 2109.04. (A)(1) Unless otherwise provided by law, every 4138
fiduciary, prior to the issuance of ~~his~~ the fiduciary's letters as 4139
provided by section 2109.02 of the Revised Code, shall file in the 4140
probate court in which the letters are to be issued a bond with a 4141
penal sum in such amount as may be fixed by the court, but in no 4142
event less than double the probable value of the personal estate 4143
and of the annual real estate rentals which will come into such 4144
person's hands as a fiduciary. The bond of a fiduciary shall be in 4145
a form approved by the court and signed by two or more personal 4146
sureties or by one or more corporate sureties approved by the 4147
court. It shall be conditioned that the fiduciary faithfully and 4148
honestly will discharge the duties devolving upon ~~him~~ the person 4149
as fiduciary, and shall be conditioned further as may be provided 4150
by law. 4151

(2) Except as otherwise provided in this division, if the 4152

instrument creating the trust dispenses with the giving of a bond, 4153
the court shall appoint a fiduciary without bond, unless the court 4154
is of the opinion that the interest of the trust demands it. If 4155
the court is of that opinion, it may require bond to be given in 4156
any amount it fixes. If a parent nominates a guardian for ~~his~~ the 4157
parent's child in a will and provides in the will that the 4158
guardian may serve without giving bond, the court may appoint the 4159
guardian without bond or require the guardian to give bond in 4160
accordance with division (A)(1) of this section. 4161

(3) A guardian of the person only does not have to give bond 4162
unless, for good cause shown, the court considers a bond to be 4163
necessary. When a bond is required of a guardian of the person 4164
only, it shall be determined and filed in accordance with division 4165
(A)(1) of this section. This division does not apply to a guardian 4166
of the person only nominated in a parent's will if the will 4167
provides that the guardian may serve without giving bond. 4168

(4) When the probable value of the personal estate and of the 4169
annual real estate rentals that will come into the guardian's 4170
hands as a fiduciary is less than ten thousand dollars, the court 4171
may waive or reduce a bond required by division (A)(1) of this 4172
section. 4173

(B) When an executive director who is responsible for the 4174
administration of children services in the county is appointed as 4175
trustee of the estate of a ward pursuant to section 5153.18 of the 4176
Revised Code and has furnished bond under section 5153.13 of the 4177
Revised Code, or when an agency under contract with the department 4178
of ~~mental retardation and~~ developmental disabilities for the 4179
provision of protective service under sections 5123.55 to 5123.59 4180
of the Revised Code is appointed as trustee of the estate of a 4181
ward under such sections and any employees of the agency having 4182
custody or control of funds or property of such a ward have 4183
furnished bond under section 5123.59 of the Revised Code, the 4184

court may dispense with the giving of a bond. 4185

(C) When letters are granted without bond, at any later 4186
period on its own motion or upon the application of any party 4187
interested, the court may require bond to be given in such amount 4188
as may be fixed by the court. On failure to give such bond, the 4189
defaulting fiduciary shall be removed. 4190

No instrument authorizing a fiduciary whom it names to serve 4191
without bond shall be construed to relieve a successor fiduciary 4192
from the necessity of giving bond, unless the instrument clearly 4193
evidences such intention. 4194

The court by which a fiduciary is appointed may reduce the 4195
amount of the bond of such fiduciary at any time for good cause 4196
shown. 4197

When two or more persons are appointed as joint fiduciaries, 4198
the court may take a separate bond from each or a joint bond from 4199
all. 4200

Sec. 2111.01. As used in Chapters 2101. to 2131. of the 4201
Revised Code: 4202

(A) "Guardian," other than a guardian under sections 5905.01 4203
to 5905.19 of the Revised Code, means any person, association, or 4204
corporation appointed by the probate court to have the care and 4205
management of the person, the estate, or both of an incompetent or 4206
minor. When applicable, "guardian" includes, but is not limited 4207
to, a limited guardian, an interim guardian, a standby guardian, 4208
and an emergency guardian appointed pursuant to division (B) of 4209
section 2111.02 of the Revised Code. "Guardian" also includes an 4210
agency under contract with the department of ~~mental retardation~~ 4211
~~and~~ developmental disabilities for the provision of protective 4212
service under sections 5123.55 to 5123.59 of the Revised Code when 4213
appointed by the probate court to have the care and management of 4214

the person of an incompetent. 4215

(B) "Ward" means any person for whom a guardian is acting or 4216
for whom the probate court is acting pursuant to section 2111.50 4217
of the Revised Code. 4218

(C) "Resident guardian" means a guardian appointed by a 4219
probate court to have the care and management of property in this 4220
state that belongs to a nonresident ward. 4221

(D) "Incompetent" means any person who is so mentally 4222
impaired as a result of a mental or physical illness or 4223
disability, or mental retardation, or as a result of chronic 4224
substance abuse, that the person is incapable of taking proper 4225
care of the person's self or property or fails to provide for the 4226
person's family or other persons for whom the person is charged by 4227
law to provide, or any person confined to a correctional 4228
institution within this state. 4229

(E) "Next of kin" means any person who would be entitled to 4230
inherit from a ward under Chapter 2105. of the Revised Code if the 4231
ward dies intestate. 4232

(F) "Conservator" means a conservator appointed by the 4233
probate court in an order of conservatorship issued pursuant to 4234
section 2111.021 of the Revised Code. 4235

(G) "Parent" means a natural parent or adoptive parent of a 4236
minor child whose parental rights and responsibilities have not 4237
been terminated by a juvenile court or another court. 4238

Sec. 2111.02. (A) When found necessary, the probate court on 4239
its own motion or on application by any interested party shall 4240
appoint, subject to divisions (C) and (D) of this section and to 4241
section 2109.21 and division (B) of section 2111.121 of the 4242
Revised Code, a guardian of the person, the estate, or both, of a 4243
minor or incompetent, provided the person for whom the guardian is 4244

to be appointed is a resident of the county or has a legal 4245
settlement in the county and, except in the case of a minor, has 4246
had the opportunity to have the assistance of counsel in the 4247
proceeding for the appointment of such guardian. An interested 4248
party includes, but is not limited to, a person nominated in a 4249
durable power of attorney as described in division (D) of section 4250
1337.09 of the Revised Code or in a writing as described in 4251
division (A) of section 2111.121 of the Revised Code. 4252

Except when the guardian of an incompetent is an agency under 4253
contract with the department of ~~mental retardation and~~ 4254
developmental disabilities for the provision of protective 4255
services under sections 5123.55 to 5123.59 of the Revised Code, 4256
the guardian of an incompetent, by virtue of such appointment, 4257
shall be the guardian of the minor children of the guardian's 4258
ward, unless the court appoints some other person as their 4259
guardian. 4260

When the primary purpose of the appointment of a guardian is, 4261
or was, the collection, disbursement, or administration of moneys 4262
awarded by the veterans administration to the ward, or assets 4263
derived from such moneys, no court costs shall be charged in the 4264
proceeding for the appointment or in any subsequent proceedings 4265
made in pursuance of the appointment, unless the value of the 4266
estate, including the moneys then due under the veterans 4267
administration award, exceeds one thousand five hundred dollars. 4268

(B)(1) If the probate court finds it to be in the best 4269
interest of an incompetent or minor, it may appoint pursuant to 4270
divisions (A) and (C) of this section, on its own motion or on 4271
application by an interested party, a limited guardian with 4272
specific limited powers. The sections of the Revised Code, rules, 4273
and procedures governing guardianships apply to a limited 4274
guardian, except that the order of appointment and letters of 4275
authority of a limited guardian shall state the reasons for, and 4276

specify the limited powers of, the guardian. The court may appoint 4277
a limited guardian for a definite or indefinite period. An 4278
incompetent or minor for whom a limited guardian has been 4279
appointed retains all of the incompetent's or minor's rights in 4280
all areas not affected by the court order appointing the limited 4281
guardian. 4282

(2) If a guardian appointed pursuant to division (A) of this 4283
section is temporarily or permanently removed or resigns, and if 4284
the welfare of the ward requires immediate action, at any time 4285
after the removal or resignation, the probate court may appoint, 4286
ex parte and with or without notice to the ward or interested 4287
parties, an interim guardian for a maximum period of fifteen days. 4288
If the court appoints the interim guardian ex parte or without 4289
notice to the ward, the court, at its first opportunity, shall 4290
enter upon its journal with specificity the reason for acting ex 4291
parte or without notice, and, as soon as possible, shall serve 4292
upon the ward a copy of the order appointing the interim guardian. 4293
For good cause shown, after notice to the ward and interested 4294
parties and after hearing, the court may extend an interim 4295
guardianship for a specified period, but not to exceed an 4296
additional thirty days. 4297

(3) If a minor or incompetent has not been placed under a 4298
guardianship pursuant to division (A) of this section and if an 4299
emergency exists, and if it is reasonably certain that immediate 4300
action is required to prevent significant injury to the person or 4301
estate of the minor or incompetent, at any time after it receives 4302
notice of the emergency, the court, ex parte, may issue any order 4303
that it considers necessary to prevent injury to the person or 4304
estate of the minor or incompetent, or may appoint an emergency 4305
guardian for a maximum period of seventy-two hours. A written copy 4306
of any order issued by a court under this division shall be served 4307
upon the incompetent or minor as soon as possible after its 4308

issuance. Failure to serve such an order after its issuance or 4309
prior to the taking of any action under its authority does not 4310
invalidate the order or the actions taken. The powers of an 4311
emergency guardian shall be specified in the letters of 4312
appointment, and shall be limited to those powers that are 4313
necessary to prevent injury to the person or estate of the minor 4314
or incompetent. If the court acts ex parte or without notice to 4315
the minor or incompetent, the court, at its first opportunity, 4316
shall enter upon its journal a record of the case and, with 4317
specificity, the reason for acting ex parte or without notice. For 4318
good cause shown, after notice to the minor or incompetent and 4319
interested parties, and after hearing, the court may extend an 4320
emergency guardianship for a specified period, but not to exceed 4321
an additional thirty days. 4322

(C) Prior to the appointment of a guardian or limited 4323
guardian under division (A) or (B)(1) of this section, the court 4324
shall conduct a hearing on the matter of the appointment. The 4325
hearing shall be conducted in accordance with all of the 4326
following: 4327

(1) The proposed guardian or limited guardian shall appear at 4328
the hearing and, if appointed, shall swear under oath that the 4329
proposed guardian or limited guardian has made and will continue 4330
to make diligent efforts to file a true inventory in accordance 4331
with section 2111.14 of the Revised Code and find and report all 4332
assets belonging to the estate of the ward and that the proposed 4333
guardian or limited guardian faithfully and completely will 4334
fulfill the other duties of guardian, including the filing of 4335
timely and accurate reports and accountings; 4336

(2) If the hearing is conducted by a referee, the procedures 4337
set forth in Civil Rule 53 shall be followed; 4338

(3) If the hearing concerns the appointment of a guardian or 4339
limited guardian for an alleged incompetent, the burden of proving 4340

incompetency shall be by clear and convincing evidence; 4341

(4) Upon request of the applicant, the alleged incompetent 4342
for whom the appointment is sought or the alleged incompetent's 4343
counsel, or any interested party, a recording or record of the 4344
hearing shall be made; 4345

(5) Evidence of a less restrictive alternative to 4346
guardianship may be introduced, and when introduced, shall be 4347
considered by the court; 4348

(6) The court may deny a guardianship based upon a finding 4349
that a less restrictive alternative to guardianship exists; 4350

(7) If the hearing concerns the appointment of a guardian or 4351
limited guardian for an alleged incompetent, the alleged 4352
incompetent has all of the following rights: 4353

(a) The right to be represented by independent counsel of his 4354
choice; 4355

(b) The right to have a friend or family member of his choice 4356
present; 4357

(c) The right to have evidence of an independent expert 4358
evaluation introduced; 4359

(d) If the alleged incompetent is indigent, upon his request: 4360

(i) The right to have counsel and an independent expert 4361
evaluator appointed at court expense; 4362

(ii) If the guardianship, limited guardianship, or standby 4363
guardianship decision is appealed, the right to have counsel 4364
appointed and necessary transcripts for appeal prepared at court 4365
expense. 4366

(D)(1) When a person has been nominated to be a guardian of 4367
the estate of a minor in or pursuant to a durable power of 4368
attorney as described in division (D) of section 1337.09 of the 4369
Revised Code or a writing as described in division (A) of section 4370

2111.121 of the Revised Code, the person nominated has preference 4371
in appointment over a person selected by the minor. A person who 4372
has been nominated to be a guardian of the person of a minor in or 4373
pursuant to a durable power of attorney or writing of that nature 4374
does not have preference in appointment over a person selected by 4375
the minor, but the probate court may appoint the person named in 4376
the durable power of attorney or the writing, the person selected 4377
by the minor, or another person as guardian of the person of the 4378
minor. 4379

(2) A person nominated as a guardian of an incompetent adult 4380
child pursuant to section 1337.09 or 2111.121 of the Revised Code 4381
shall have preference in appointment over a person applying to be 4382
guardian if the person nominated is competent, suitable, and 4383
willing to accept the appointment, and if the incompetent adult 4384
child does not have a spouse or an adult child and has not 4385
designated a guardian prior to the court finding the adult child 4386
incompetent. 4387

Sec. 2111.10. As used in this section, "mentally retarded 4388
person" and "developmentally disabled person" have the same 4389
meanings as in section 5123.01 of the Revised Code. 4390

Any appointment of a corporation as guardian shall apply to 4391
the estate only and not to the person, except that a nonprofit 4392
corporation organized under the laws of this state and entitled to 4393
tax exempt status under section 501(a) of the "Internal Revenue 4394
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, that 4395
has a contract with the department of ~~mental retardation and~~ 4396
developmental disabilities to provide protective services may be 4397
appointed as a guardian of the person of a mentally retarded or 4398
developmentally disabled person and may serve as guardian pursuant 4399
to sections 5123.55 to 5123.59 of the Revised Code. 4400

Sec. 2133.25. (A) The department of health, by rule adopted 4401
pursuant to Chapter 119. of the Revised Code, shall adopt a 4402
standardized method of procedure for the withholding of CPR by 4403
physicians, emergency medical services personnel, and health care 4404
facilities in accordance with sections 2133.21 to 2133.26 of the 4405
Revised Code. The standardized method shall specify criteria for 4406
determining when a do-not-resuscitate order issued by a physician 4407
is current. The standardized method so adopted shall be the 4408
"do-not-resuscitate protocol" for purposes of sections 2133.21 to 4409
2133.26 of the Revised Code. The department also shall approve one 4410
or more standard forms of DNR identification to be used throughout 4411
this state. 4412

(B) The department of health shall adopt rules in accordance 4413
with Chapter 119. of the Revised Code for the administration of 4414
sections 2133.21 to 2133.26 of the Revised Code. 4415

(C) The department of health shall appoint an advisory 4416
committee to advise the department in the development of rules 4417
under this section. The advisory committee shall include, but 4418
shall not be limited to, representatives of each of the following 4419
organizations: 4420

(1) The association for hospitals and health systems (OHA); 4421

(2) The Ohio state medical association; 4422

(3) The Ohio chapter of the American college of emergency 4423
physicians; 4424

(4) The Ohio hospice organization; 4425

(5) The Ohio council for home care; 4426

(6) The Ohio health care association; 4427

(7) The Ohio ambulance association; 4428

(8) The Ohio medical directors association; 4429

(9) The Ohio association of emergency medical services;	4430
(10) The bioethics network of Ohio;	4431
(11) The Ohio nurses association;	4432
(12) The Ohio academy of nursing homes;	4433
(13) The Ohio association of professional firefighters;	4434
(14) The department of mental retardation and developmental disabilities;	4435 4436
(15) The Ohio osteopathic association;	4437
(16) The association of Ohio philanthropic homes, housing and services for the aging;	4438 4439
(17) The catholic conference of Ohio;	4440
(18) The department of aging;	4441
(19) The department of mental health;	4442
(20) The Ohio private residential association;	4443
(21) The northern Ohio fire fighters association.	4444
Sec. 2151.011. (A) As used in the Revised Code:	4445
(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:	4446 4447 4448
(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;	4449 4450 4451 4452 4453
(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under	4454 4455 4456

this chapter and Chapter 2152. of the Revised Code; 4457

(c) If division (A)(1)(a) or (b) of this section does not 4458
apply, the probate division of the court of common pleas. 4459

(2) "Juvenile judge" means a judge of a court having 4460
jurisdiction under this chapter. 4461

(3) "Private child placing agency" means any association, as 4462
defined in section 5103.02 of the Revised Code, that is certified 4463
under section 5103.03 of the Revised Code to accept temporary, 4464
permanent, or legal custody of children and place the children for 4465
either foster care or adoption. 4466

(4) "Private noncustodial agency" means any person, 4467
organization, association, or society certified by the department 4468
of job and family services that does not accept temporary or 4469
permanent legal custody of children, that is privately operated in 4470
this state, and that does one or more of the following: 4471

(a) Receives and cares for children for two or more 4472
consecutive weeks; 4473

(b) Participates in the placement of children in certified 4474
foster homes; 4475

(c) Provides adoption services in conjunction with a public 4476
children services agency or private child placing agency. 4477

(B) As used in this chapter: 4478

(1) "Adequate parental care" means the provision by a child's 4479
parent or parents, guardian, or custodian of adequate food, 4480
clothing, and shelter to ensure the child's health and physical 4481
safety and the provision by a child's parent or parents of 4482
specialized services warranted by the child's physical or mental 4483
needs. 4484

(2) "Adult" means an individual who is eighteen years of age 4485
or older. 4486

(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(4) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.

(5) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of age.

(6) "Child day camp," "child care," "child day-care center," "part-time child day-care center," "type A family day-care home," "certified type B family day-care home," "type B home," "administrator of a child day-care center," "administrator of a type A family day-care home," "in-home aide," and "authorized provider" have the same meanings as in section 5104.01 of the Revised Code.

(7) "Child care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of ~~mental retardation and~~ developmental disabilities, or the early childhood programs of the department of education.

(8) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code.	4518 4519
(9) "Commit" means to vest custody as ordered by the court.	4520
(10) "Counseling" includes both of the following:	4521
(a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.	4522 4523 4524 4525 4526
(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.	4527 4528 4529 4530 4531 4532
(11) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.	4533 4534 4535 4536
(12) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.	4537 4538
(13) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children.	4539 4540 4541 4542
(14) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.	4543 4544
(15) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.	4545 4546
(16) "Guardian" means a person, association, or corporation	4547

that is granted authority by a probate court pursuant to Chapter 4548
2111. of the Revised Code to exercise parental rights over a child 4549
to the extent provided in the court's order and subject to the 4550
residual parental rights of the child's parents. 4551

(17) "Habitual truant" means any child of compulsory school 4552
age who is absent without legitimate excuse for absence from the 4553
public school the child is supposed to attend for five or more 4554
consecutive school days, seven or more school days in one school 4555
month, or twelve or more school days in a school year. 4556

(18) "Juvenile traffic offender" has the same meaning as in 4557
section 2152.02 of the Revised Code. 4558

(19) "Legal custody" means a legal status that vests in the 4559
custodian the right to have physical care and control of the child 4560
and to determine where and with whom the child shall live, and the 4561
right and duty to protect, train, and discipline the child and to 4562
provide the child with food, shelter, education, and medical care, 4563
all subject to any residual parental rights, privileges, and 4564
responsibilities. An individual granted legal custody shall 4565
exercise the rights and responsibilities personally unless 4566
otherwise authorized by any section of the Revised Code or by the 4567
court. 4568

(20) A "legitimate excuse for absence from the public school 4569
the child is supposed to attend" includes, but is not limited to, 4570
any of the following: 4571

(a) The fact that the child in question has enrolled in and 4572
is attending another public or nonpublic school in this or another 4573
state; 4574

(b) The fact that the child in question is excused from 4575
attendance at school for any of the reasons specified in section 4576
3321.04 of the Revised Code; 4577

(c) The fact that the child in question has received an age 4578

and schooling certificate in accordance with section 3331.01 of 4579
the Revised Code. 4580

(21) "Mental illness" and "mentally ill person subject to 4581
hospitalization by court order" have the same meanings as in 4582
section 5122.01 of the Revised Code. 4583

(22) "Mental injury" means any behavioral, cognitive, 4584
emotional, or mental disorder in a child caused by an act or 4585
omission that is described in section 2919.22 of the Revised Code 4586
and is committed by the parent or other person responsible for the 4587
child's care. 4588

(23) "Mentally retarded person" has the same meaning as in 4589
section 5123.01 of the Revised Code. 4590

(24) "Nonsecure care, supervision, or training" means care, 4591
supervision, or training of a child in a facility that does not 4592
confine or prevent movement of the child within the facility or 4593
from the facility. 4594

(25) "Of compulsory school age" has the same meaning as in 4595
section 3321.01 of the Revised Code. 4596

(26) "Organization" means any institution, public, 4597
semipublic, or private, and any private association, society, or 4598
agency located or operating in the state, incorporated or 4599
unincorporated, having among its functions the furnishing of 4600
protective services or care for children, or the placement of 4601
children in certified foster homes or elsewhere. 4602

(27) "Out-of-home care" means detention facilities, shelter 4603
facilities, certified children's crisis care facilities, certified 4604
foster homes, placement in a prospective adoptive home prior to 4605
the issuance of a final decree of adoption, organizations, 4606
certified organizations, child day-care centers, type A family 4607
day-care homes, child care provided by type B family day-care home 4608
providers and by in-home aides, group home providers, group homes, 4609

institutions, state institutions, residential facilities, 4610
residential care facilities, residential camps, day camps, public 4611
schools, chartered nonpublic schools, educational service centers, 4612
hospitals, and medical clinics that are responsible for the care, 4613
physical custody, or control of children. 4614

(28) "Out-of-home care child abuse" means any of the 4615
following when committed by a person responsible for the care of a 4616
child in out-of-home care: 4617

(a) Engaging in sexual activity with a child in the person's 4618
care; 4619

(b) Denial to a child, as a means of punishment, of proper or 4620
necessary subsistence, education, medical care, or other care 4621
necessary for a child's health; 4622

(c) Use of restraint procedures on a child that cause injury 4623
or pain; 4624

(d) Administration of prescription drugs or psychotropic 4625
medication to the child without the written approval and ongoing 4626
supervision of a licensed physician; 4627

(e) Commission of any act, other than by accidental means, 4628
that results in any injury to or death of the child in out-of-home 4629
care or commission of any act by accidental means that results in 4630
an injury to or death of a child in out-of-home care and that is 4631
at variance with the history given of the injury or death. 4632

(29) "Out-of-home care child neglect" means any of the 4633
following when committed by a person responsible for the care of a 4634
child in out-of-home care: 4635

(a) Failure to provide reasonable supervision according to 4636
the standards of care appropriate to the age, mental and physical 4637
condition, or other special needs of the child; 4638

(b) Failure to provide reasonable supervision according to 4639

the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;

(c) Failure to develop a process for all of the following:

(i) Administration of prescription drugs or psychotropic drugs for the child;

(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;

(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.

(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;

(e) Confinement of the child to a locked room without monitoring by staff;

(f) Failure to provide ongoing security for all prescription and nonprescription medication;

(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.

(30) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.

(31) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised

Code, to transfer the permanent custody of the child to a public 4670
children services agency or a private child placing agency. 4671

(32) "Person" means an individual, association, corporation, 4672
or partnership and the state or any of its political subdivisions, 4673
departments, or agencies. 4674

(33) "Person responsible for a child's care in out-of-home 4675
care" means any of the following: 4676

(a) Any foster caregiver, in-home aide, or provider; 4677

(b) Any administrator, employee, or agent of any of the 4678
following: a public or private detention facility; shelter 4679
facility; certified children's crisis care facility; organization; 4680
certified organization; child day-care center; type A family 4681
day-care home; certified type B family day-care home; group home; 4682
institution; state institution; residential facility; residential 4683
care facility; residential camp; day camp; school district; 4684
community school; chartered nonpublic school; educational service 4685
center; hospital; or medical clinic; 4686

(c) Any person who supervises or coaches children as part of 4687
an extracurricular activity sponsored by a school district, public 4688
school, or chartered nonpublic school; 4689

(d) Any other person who performs a similar function with 4690
respect to, or has a similar relationship to, children. 4691

(34) "Physically impaired" means having one or more of the 4692
following conditions that substantially limit one or more of an 4693
individual's major life activities, including self-care, receptive 4694
and expressive language, learning, mobility, and self-direction: 4695

(a) A substantial impairment of vision, speech, or hearing; 4696

(b) A congenital orthopedic impairment; 4697

(c) An orthopedic impairment caused by disease, rheumatic 4698
fever or any other similar chronic or acute health problem, or 4699

amputation or another similar cause. 4700

(35) "Placement for adoption" means the arrangement by a 4701
public children services agency or a private child placing agency 4702
with a person for the care and adoption by that person of a child 4703
of whom the agency has permanent custody. 4704

(36) "Placement in foster care" means the arrangement by a 4705
public children services agency or a private child placing agency 4706
for the out-of-home care of a child of whom the agency has 4707
temporary custody or permanent custody. 4708

(37) "Planned permanent living arrangement" means an order of 4709
a juvenile court pursuant to which both of the following apply: 4710

(a) The court gives legal custody of a child to a public 4711
children services agency or a private child placing agency without 4712
the termination of parental rights. 4713

(b) The order permits the agency to make an appropriate 4714
placement of the child and to enter into a written agreement with 4715
a foster care provider or with another person or agency with whom 4716
the child is placed. 4717

(38) "Practice of social work" and "practice of professional 4718
counseling" have the same meanings as in section 4757.01 of the 4719
Revised Code. 4720

(39) "Sanction, service, or condition" means a sanction, 4721
service, or condition created by court order following an 4722
adjudication that a child is an unruly child that is described in 4723
division (A)(4) of section 2152.19 of the Revised Code. 4724

(40) "Protective supervision" means an order of disposition 4725
pursuant to which the court permits an abused, neglected, 4726
dependent, or unruly child to remain in the custody of the child's 4727
parents, guardian, or custodian and stay in the child's home, 4728
subject to any conditions and limitations upon the child, the 4729

child's parents, guardian, or custodian, or any other person that 4730
the court prescribes, including supervision as directed by the 4731
court for the protection of the child. 4732

(41) "Psychiatrist" has the same meaning as in section 4733
5122.01 of the Revised Code. 4734

(42) "Psychologist" has the same meaning as in section 4735
4732.01 of the Revised Code. 4736

(43) "Residential camp" means a program in which the care, 4737
physical custody, or control of children is accepted overnight for 4738
recreational or recreational and educational purposes. 4739

(44) "Residential care facility" means an institution, 4740
residence, or facility that is licensed by the department of 4741
mental health under section 5119.22 of the Revised Code and that 4742
provides care for a child. 4743

(45) "Residential facility" means a home or facility that is 4744
licensed by the department of ~~mental retardation and~~ developmental 4745
disabilities under section 5123.19 of the Revised Code and in 4746
which a child with a developmental disability resides. 4747

(46) "Residual parental rights, privileges, and 4748
responsibilities" means those rights, privileges, and 4749
responsibilities remaining with the natural parent after the 4750
transfer of legal custody of the child, including, but not 4751
necessarily limited to, the privilege of reasonable visitation, 4752
consent to adoption, the privilege to determine the child's 4753
religious affiliation, and the responsibility for support. 4754

(47) "School day" means the school day established by the 4755
state board of education pursuant to section 3313.48 of the 4756
Revised Code. 4757

(48) "School month" and "school year" have the same meanings 4758
as in section 3313.62 of the Revised Code. 4759

(49) "Secure correctional facility" means a facility under 4760
the direction of the department of youth services that is designed 4761
to physically restrict the movement and activities of children and 4762
used for the placement of children after adjudication and 4763
disposition. 4764

(50) "Sexual activity" has the same meaning as in section 4765
2907.01 of the Revised Code. 4766

(51) "Shelter" means the temporary care of children in 4767
physically unrestricted facilities pending court adjudication or 4768
disposition. 4769

(52) "Shelter for victims of domestic violence" has the same 4770
meaning as in section 3113.33 of the Revised Code. 4771

(53) "Temporary custody" means legal custody of a child who 4772
is removed from the child's home, which custody may be terminated 4773
at any time at the discretion of the court or, if the legal 4774
custody is granted in an agreement for temporary custody, by the 4775
person who executed the agreement. 4776

(C) For the purposes of this chapter, a child shall be 4777
presumed abandoned when the parents of the child have failed to 4778
visit or maintain contact with the child for more than ninety 4779
days, regardless of whether the parents resume contact with the 4780
child after that period of ninety days. 4781

Sec. 2151.421. (A)(1)(a) No person described in division 4782
(A)(1)(b) of this section who is acting in an official or 4783
professional capacity and knows, or has reasonable cause to 4784
suspect based on facts that would cause a reasonable person in a 4785
similar position to suspect, that a child under eighteen years of 4786
age or a mentally retarded, developmentally disabled, or 4787
physically impaired child under twenty-one years of age has 4788
suffered or faces a threat of suffering any physical or mental 4789

wound, injury, disability, or condition of a nature that 4790
reasonably indicates abuse or neglect of the child shall fail to 4791
immediately report that knowledge or reasonable cause to suspect 4792
to the entity or persons specified in this division. Except as 4793
provided in section 5120.173 of the Revised Code, the person 4794
making the report shall make it to the public children services 4795
agency or a municipal or county peace officer in the county in 4796
which the child resides or in which the abuse or neglect is 4797
occurring or has occurred. In the circumstances described in 4798
section 5120.173 of the Revised Code, the person making the report 4799
shall make it to the entity specified in that section. 4800

(b) Division (A)(1)(a) of this section applies to any person 4801
who is an attorney; physician, including a hospital intern or 4802
resident; dentist; podiatrist; practitioner of a limited branch of 4803
medicine as specified in section 4731.15 of the Revised Code; 4804
registered nurse; licensed practical nurse; visiting nurse; other 4805
health care professional; licensed psychologist; licensed school 4806
psychologist; independent marriage and family therapist or 4807
marriage and family therapist; speech pathologist or audiologist; 4808
coroner; administrator or employee of a child day-care center; 4809
administrator or employee of a residential camp or child day camp; 4810
administrator or employee of a certified child care agency or 4811
other public or private children services agency; school teacher; 4812
school employee; school authority; person engaged in social work 4813
or the practice of professional counseling; agent of a county 4814
humane society; person, other than a cleric, rendering spiritual 4815
treatment through prayer in accordance with the tenets of a 4816
well-recognized religion; employee of a county department of job 4817
and family services who is a professional and who works with 4818
children and families; superintendent, board member, or employee 4819
of a county board of mental retardation; investigative agent 4820
contracted with by a county board of mental retardation; employee 4821
of the department of ~~mental retardation and~~ developmental 4822

disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of a home health agency; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; or third party employed by a public children services agency to assist in providing child or family related services.

(2) Except as provided in division (A)(3) of this section, an attorney or a physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding.

(3) The client or patient in an attorney-client or physician-patient relationship described in division (A)(2) of this section is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to any communication the attorney or physician receives from the client or patient in that attorney-client or physician-patient relationship, and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(b) The attorney or physician knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar position to suspect, as a result of the communication or any observations made during that communication, that the client

or patient has suffered or faces a threat of suffering any 4855
physical or mental wound, injury, disability, or condition of a 4856
nature that reasonably indicates abuse or neglect of the client or 4857
patient. 4858

(c) The abuse or neglect does not arise out of the client's 4859
or patient's attempt to have an abortion without the notification 4860
of her parents, guardian, or custodian in accordance with section 4861
2151.85 of the Revised Code. 4862

(4)(a) No cleric and no person, other than a volunteer, 4863
designated by any church, religious society, or faith acting as a 4864
leader, official, or delegate on behalf of the church, religious 4865
society, or faith who is acting in an official or professional 4866
capacity, who knows, or has reasonable cause to believe based on 4867
facts that would cause a reasonable person in a similar position 4868
to believe, that a child under eighteen years of age or a mentally 4869
retarded, developmentally disabled, or physically impaired child 4870
under twenty-one years of age has suffered or faces a threat of 4871
suffering any physical or mental wound, injury, disability, or 4872
condition of a nature that reasonably indicates abuse or neglect 4873
of the child, and who knows, or has reasonable cause to believe 4874
based on facts that would cause a reasonable person in a similar 4875
position to believe, that another cleric or another person, other 4876
than a volunteer, designated by a church, religious society, or 4877
faith acting as a leader, official, or delegate on behalf of the 4878
church, religious society, or faith caused, or poses the threat of 4879
causing, the wound, injury, disability, or condition that 4880
reasonably indicates abuse or neglect shall fail to immediately 4881
report that knowledge or reasonable cause to believe to the entity 4882
or persons specified in this division. Except as provided in 4883
section 5120.173 of the Revised Code, the person making the report 4884
shall make it to the public children services agency or a 4885
municipal or county peace officer in the county in which the child 4886

resides or in which the abuse or neglect is occurring or has 4887
occurred. In the circumstances described in section 5120.173 of 4888
the Revised Code, the person making the report shall make it to 4889
the entity specified in that section. 4890

(b) Except as provided in division (A)(4)(c) of this section, 4891
a cleric is not required to make a report pursuant to division 4892
(A)(4)(a) of this section concerning any communication the cleric 4893
receives from a penitent in a cleric-penitent relationship, if, in 4894
accordance with division (C) of section 2317.02 of the Revised 4895
Code, the cleric could not testify with respect to that 4896
communication in a civil or criminal proceeding. 4897

(c) The penitent in a cleric-penitent relationship described 4898
in division (A)(4)(b) of this section is deemed to have waived any 4899
testimonial privilege under division (C) of section 2317.02 of the 4900
Revised Code with respect to any communication the cleric receives 4901
from the penitent in that cleric-penitent relationship, and the 4902
cleric shall make a report pursuant to division (A)(4)(a) of this 4903
section with respect to that communication, if all of the 4904
following apply: 4905

(i) The penitent, at the time of the communication, is either 4906
a child under eighteen years of age or a mentally retarded, 4907
developmentally disabled, or physically impaired person under 4908
twenty-one years of age. 4909

(ii) The cleric knows, or has reasonable cause to believe 4910
based on facts that would cause a reasonable person in a similar 4911
position to believe, as a result of the communication or any 4912
observations made during that communication, the penitent has 4913
suffered or faces a threat of suffering any physical or mental 4914
wound, injury, disability, or condition of a nature that 4915
reasonably indicates abuse or neglect of the penitent. 4916

(iii) The abuse or neglect does not arise out of the 4917

penitent's attempt to have an abortion performed upon a child 4918
under eighteen years of age or upon a mentally retarded, 4919
developmentally disabled, or physically impaired person under 4920
twenty-one years of age without the notification of her parents, 4921
guardian, or custodian in accordance with section 2151.85 of the 4922
Revised Code. 4923

(d) Divisions (A)(4)(a) and (c) of this section do not apply 4924
in a cleric-penitent relationship when the disclosure of any 4925
communication the cleric receives from the penitent is in 4926
violation of the sacred trust. 4927

(e) As used in divisions (A)(1) and (4) of this section, 4928
"cleric" and "sacred trust" have the same meanings as in section 4929
2317.02 of the Revised Code. 4930

(B) Anyone who knows, or has reasonable cause to suspect 4931
based on facts that would cause a reasonable person in similar 4932
circumstances to suspect, that a child under eighteen years of age 4933
or a mentally retarded, developmentally disabled, or physically 4934
impaired person under twenty-one years of age has suffered or 4935
faces a threat of suffering any physical or mental wound, injury, 4936
disability, or other condition of a nature that reasonably 4937
indicates abuse or neglect of the child may report or cause 4938
reports to be made of that knowledge or reasonable cause to 4939
suspect to the entity or persons specified in this division. 4940
Except as provided in section 5120.173 of the Revised Code, a 4941
person making a report or causing a report to be made under this 4942
division shall make it or cause it to be made to the public 4943
children services agency or to a municipal or county peace 4944
officer. In the circumstances described in section 5120.173 of the 4945
Revised Code, a person making a report or causing a report to be 4946
made under this division shall make it or cause it to be made to 4947
the entity specified in that section. 4948

(C) Any report made pursuant to division (A) or (B) of this 4949

section shall be made forthwith either by telephone or in person 4950
and shall be followed by a written report, if requested by the 4951
receiving agency or officer. The written report shall contain: 4952

(1) The names and addresses of the child and the child's 4953
parents or the person or persons having custody of the child, if 4954
known; 4955

(2) The child's age and the nature and extent of the child's 4956
injuries, abuse, or neglect that is known or reasonably suspected 4957
or believed, as applicable, to have occurred or of the threat of 4958
injury, abuse, or neglect that is known or reasonably suspected or 4959
believed, as applicable, to exist, including any evidence of 4960
previous injuries, abuse, or neglect; 4961

(3) Any other information that might be helpful in 4962
establishing the cause of the injury, abuse, or neglect that is 4963
known or reasonably suspected or believed, as applicable, to have 4964
occurred or of the threat of injury, abuse, or neglect that is 4965
known or reasonably suspected or believed, as applicable, to 4966
exist. 4967

Any person, who is required by division (A) of this section 4968
to report child abuse or child neglect that is known or reasonably 4969
suspected or believed to have occurred, may take or cause to be 4970
taken color photographs of areas of trauma visible on a child and, 4971
if medically indicated, cause to be performed radiological 4972
examinations of the child. 4973

(D) As used in this division, "children's advocacy center" 4974
and "sexual abuse of a child" have the same meanings as in section 4975
2151.425 of the Revised Code. 4976

(1) When a municipal or county peace officer receives a 4977
report concerning the possible abuse or neglect of a child or the 4978
possible threat of abuse or neglect of a child, upon receipt of 4979
the report, the municipal or county peace officer who receives the 4980

report shall refer the report to the appropriate public children 4981
services agency. 4982

(2) When a public children services agency receives a report 4983
pursuant to this division or division (A) or (B) of this section, 4984
upon receipt of the report, the public children services agency 4985
shall do both of the following: 4986

(a) Comply with section 2151.422 of the Revised Code; 4987

(b) If the county served by the agency is also served by a 4988
children's advocacy center and the report alleges sexual abuse of 4989
a child or another type of abuse of a child that is specified in 4990
the memorandum of understanding that creates the center as being 4991
within the center's jurisdiction, comply regarding the report with 4992
the protocol and procedures for referrals and investigations, with 4993
the coordinating activities, and with the authority or 4994
responsibility for performing or providing functions, activities, 4995
and services stipulated in the interagency agreement entered into 4996
under section 2151.428 of the Revised Code relative to that 4997
center. 4998

(E) No township, municipal, or county peace officer shall 4999
remove a child about whom a report is made pursuant to this 5000
section from the child's parents, stepparents, or guardian or any 5001
other persons having custody of the child without consultation 5002
with the public children services agency, unless, in the judgment 5003
of the officer, and, if the report was made by physician, the 5004
physician, immediate removal is considered essential to protect 5005
the child from further abuse or neglect. The agency that must be 5006
consulted shall be the agency conducting the investigation of the 5007
report as determined pursuant to section 2151.422 of the Revised 5008
Code. 5009

(F)(1) Except as provided in section 2151.422 of the Revised 5010
Code or in an interagency agreement entered into under section 5011

2151.428 of the Revised Code that applies to the particular 5012
report, the public children services agency shall investigate, 5013
within twenty-four hours, each report of child abuse or child 5014
neglect that is known or reasonably suspected or believed to have 5015
occurred and of a threat of child abuse or child neglect that is 5016
known or reasonably suspected or believed to exist that is 5017
referred to it under this section to determine the circumstances 5018
surrounding the injuries, abuse, or neglect or the threat of 5019
injury, abuse, or neglect, the cause of the injuries, abuse, 5020
neglect, or threat, and the person or persons responsible. The 5021
investigation shall be made in cooperation with the law 5022
enforcement agency and in accordance with the memorandum of 5023
understanding prepared under division (J) of this section. A 5024
representative of the public children services agency shall, at 5025
the time of initial contact with the person subject to the 5026
investigation, inform the person of the specific complaints or 5027
allegations made against the person. The information shall be 5028
given in a manner that is consistent with division (H)(1) of this 5029
section and protects the rights of the person making the report 5030
under this section. 5031

A failure to make the investigation in accordance with the 5032
memorandum is not grounds for, and shall not result in, the 5033
dismissal of any charges or complaint arising from the report or 5034
the suppression of any evidence obtained as a result of the report 5035
and does not give, and shall not be construed as giving, any 5036
rights or any grounds for appeal or post-conviction relief to any 5037
person. The public children services agency shall report each case 5038
to the uniform statewide automated child welfare information 5039
system that the department of job and family services shall 5040
maintain in accordance with section 5101.13 of the Revised Code. 5041
The public children services agency shall submit a report of its 5042
investigation, in writing, to the law enforcement agency. 5043

(2) The public children services agency shall make any 5044
recommendations to the county prosecuting attorney or city 5045
director of law that it considers necessary to protect any 5046
children that are brought to its attention. 5047

(G)(1)(a) Except as provided in division (H)(3) of this 5048
section, anyone or any hospital, institution, school, health 5049
department, or agency participating in the making of reports under 5050
division (A) of this section, anyone or any hospital, institution, 5051
school, health department, or agency participating in good faith 5052
in the making of reports under division (B) of this section, and 5053
anyone participating in good faith in a judicial proceeding 5054
resulting from the reports, shall be immune from any civil or 5055
criminal liability for injury, death, or loss to person or 5056
property that otherwise might be incurred or imposed as a result 5057
of the making of the reports or the participation in the judicial 5058
proceeding. 5059

(b) Notwithstanding section 4731.22 of the Revised Code, the 5060
physician-patient privilege shall not be a ground for excluding 5061
evidence regarding a child's injuries, abuse, or neglect, or the 5062
cause of the injuries, abuse, or neglect in any judicial 5063
proceeding resulting from a report submitted pursuant to this 5064
section. 5065

(2) In any civil or criminal action or proceeding in which it 5066
is alleged and proved that participation in the making of a report 5067
under this section was not in good faith or participation in a 5068
judicial proceeding resulting from a report made under this 5069
section was not in good faith, the court shall award the 5070
prevailing party reasonable attorney's fees and costs and, if a 5071
civil action or proceeding is voluntarily dismissed, may award 5072
reasonable attorney's fees and costs to the party against whom the 5073
civil action or proceeding is brought. 5074

(H)(1) Except as provided in divisions (H)(4) and (M) of this 5075

section, a report made under this section is confidential. The 5076
information provided in a report made pursuant to this section and 5077
the name of the person who made the report shall not be released 5078
for use, and shall not be used, as evidence in any civil action or 5079
proceeding brought against the person who made the report. In a 5080
criminal proceeding, the report is admissible in evidence in 5081
accordance with the Rules of Evidence and is subject to discovery 5082
in accordance with the Rules of Criminal Procedure. 5083

(2) No person shall permit or encourage the unauthorized 5084
dissemination of the contents of any report made under this 5085
section. 5086

(3) A person who knowingly makes or causes another person to 5087
make a false report under division (B) of this section that 5088
alleges that any person has committed an act or omission that 5089
resulted in a child being an abused child or a neglected child is 5090
guilty of a violation of section 2921.14 of the Revised Code. 5091

(4) If a report is made pursuant to division (A) or (B) of 5092
this section and the child who is the subject of the report dies 5093
for any reason at any time after the report is made, but before 5094
the child attains eighteen years of age, the public children 5095
services agency or municipal or county peace officer to which the 5096
report was made or referred, on the request of the child fatality 5097
review board, shall submit a summary sheet of information 5098
providing a summary of the report to the review board of the 5099
county in which the deceased child resided at the time of death. 5100
On the request of the review board, the agency or peace officer 5101
may, at its discretion, make the report available to the review 5102
board. If the county served by the public children services agency 5103
is also served by a children's advocacy center and the report of 5104
alleged sexual abuse of a child or another type of abuse of a 5105
child is specified in the memorandum of understanding that creates 5106
the center as being within the center's jurisdiction, the agency 5107

or center shall perform the duties and functions specified in this 5108
division in accordance with the interagency agreement entered into 5109
under section 2151.428 of the Revised Code relative to that 5110
advocacy center. 5111

(5) A public children services agency shall advise a person 5112
alleged to have inflicted abuse or neglect on a child who is the 5113
subject of a report made pursuant to this section, including a 5114
report alleging sexual abuse of a child or another type of abuse 5115
of a child referred to a children's advocacy center pursuant to an 5116
interagency agreement entered into under section 2151.428 of the 5117
Revised Code, in writing of the disposition of the investigation. 5118
The agency shall not provide to the person any information that 5119
identifies the person who made the report, statements of 5120
witnesses, or police or other investigative reports. 5121

(I) Any report that is required by this section, other than a 5122
report that is made to the state highway patrol as described in 5123
section 5120.173 of the Revised Code, shall result in protective 5124
services and emergency supportive services being made available by 5125
the public children services agency on behalf of the children 5126
about whom the report is made, in an effort to prevent further 5127
neglect or abuse, to enhance their welfare, and, whenever 5128
possible, to preserve the family unit intact. The agency required 5129
to provide the services shall be the agency conducting the 5130
investigation of the report pursuant to section 2151.422 of the 5131
Revised Code. 5132

(J)(1) Each public children services agency shall prepare a 5133
memorandum of understanding that is signed by all of the 5134
following: 5135

(a) If there is only one juvenile judge in the county, the 5136
juvenile judge of the county or the juvenile judge's 5137
representative; 5138

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

(c) The county peace officer;

(d) All chief municipal peace officers within the county;

(e) Other law enforcement officers handling child abuse and neglect cases in the county;

(f) The prosecuting attorney of the county;

(g) If the public children services agency is not the county department of job and family services, the county department of job and family services;

(h) The county humane society;

(i) If the public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center established by the memorandum.

(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to

follow the procedure set forth in the memorandum by the concerned 5169
officials is not grounds for, and shall not result in, the 5170
dismissal of any charges or complaint arising from any reported 5171
case of abuse or neglect or the suppression of any evidence 5172
obtained as a result of any reported child abuse or child neglect 5173
and does not give, and shall not be construed as giving, any 5174
rights or any grounds for appeal or post-conviction relief to any 5175
person. 5176

(3) A memorandum of understanding shall include all of the 5177
following: 5178

(a) The roles and responsibilities for handling emergency and 5179
nonemergency cases of abuse and neglect; 5180

(b) Standards and procedures to be used in handling and 5181
coordinating investigations of reported cases of child abuse and 5182
reported cases of child neglect, methods to be used in 5183
interviewing the child who is the subject of the report and who 5184
allegedly was abused or neglected, and standards and procedures 5185
addressing the categories of persons who may interview the child 5186
who is the subject of the report and who allegedly was abused or 5187
neglected. 5188

(4) If a public children services agency participated in the 5189
execution of a memorandum of understanding under section 2151.426 5190
of the Revised Code establishing a children's advocacy center, the 5191
agency shall incorporate the contents of that memorandum in the 5192
memorandum prepared pursuant to this section. 5193

(5) The clerk of the court of common pleas in the county may 5194
sign the memorandum of understanding prepared under division 5195
(J)(1) of this section. If the clerk signs the memorandum of 5196
understanding, the clerk shall execute all relevant 5197
responsibilities as required of officials specified in the 5198
memorandum. 5199

(K)(1) Except as provided in division (K)(4) of this section, 5200
a person who is required to make a report pursuant to division (A) 5201
of this section may make a reasonable number of requests of the 5202
public children services agency that receives or is referred the 5203
report, or of the children's advocacy center that is referred the 5204
report if the report is referred to a children's advocacy center 5205
pursuant to an interagency agreement entered into under section 5206
2151.428 of the Revised Code, to be provided with the following 5207
information: 5208

(a) Whether the agency or center has initiated an 5209
investigation of the report; 5210

(b) Whether the agency or center is continuing to investigate 5211
the report; 5212

(c) Whether the agency or center is otherwise involved with 5213
the child who is the subject of the report; 5214

(d) The general status of the health and safety of the child 5215
who is the subject of the report; 5216

(e) Whether the report has resulted in the filing of a 5217
complaint in juvenile court or of criminal charges in another 5218
court. 5219

(2) A person may request the information specified in 5220
division (K)(1) of this section only if, at the time the report is 5221
made, the person's name, address, and telephone number are 5222
provided to the person who receives the report. 5223

When a municipal or county peace officer or employee of a 5224
public children services agency receives a report pursuant to 5225
division (A) or (B) of this section the recipient of the report 5226
shall inform the person of the right to request the information 5227
described in division (K)(1) of this section. The recipient of the 5228
report shall include in the initial child abuse or child neglect 5229
report that the person making the report was so informed and, if 5230

provided at the time of the making of the report, shall include 5231
the person's name, address, and telephone number in the report. 5232

Each request is subject to verification of the identity of 5233
the person making the report. If that person's identity is 5234
verified, the agency shall provide the person with the information 5235
described in division (K)(1) of this section a reasonable number 5236
of times, except that the agency shall not disclose any 5237
confidential information regarding the child who is the subject of 5238
the report other than the information described in those 5239
divisions. 5240

(3) A request made pursuant to division (K)(1) of this 5241
section is not a substitute for any report required to be made 5242
pursuant to division (A) of this section. 5243

(4) If an agency other than the agency that received or was 5244
referred the report is conducting the investigation of the report 5245
pursuant to section 2151.422 of the Revised Code, the agency 5246
conducting the investigation shall comply with the requirements of 5247
division (K) of this section. 5248

(L) The director of job and family services shall adopt rules 5249
in accordance with Chapter 119. of the Revised Code to implement 5250
this section. The department of job and family services may enter 5251
into a plan of cooperation with any other governmental entity to 5252
aid in ensuring that children are protected from abuse and 5253
neglect. The department shall make recommendations to the attorney 5254
general that the department determines are necessary to protect 5255
children from child abuse and child neglect. 5256

(M)(1) As used in this division: 5257

(a) "Out-of-home care" includes a nonchartered nonpublic 5258
school if the alleged child abuse or child neglect, or alleged 5259
threat of child abuse or child neglect, described in a report 5260
received by a public children services agency allegedly occurred 5261

in or involved the nonchartered nonpublic school and the alleged 5262
perpetrator named in the report holds a certificate, permit, or 5263
license issued by the state board of education under section 5264
3301.071 or Chapter 3319. of the Revised Code. 5265

(b) "Administrator, director, or other chief administrative 5266
officer" means the superintendent of the school district if the 5267
out-of-home care entity subject to a report made pursuant to this 5268
section is a school operated by the district. 5269

(2) No later than the end of the day following the day on 5270
which a public children services agency receives a report of 5271
alleged child abuse or child neglect, or a report of an alleged 5272
threat of child abuse or child neglect, that allegedly occurred in 5273
or involved an out-of-home care entity, the agency shall provide 5274
written notice of the allegations contained in and the person 5275
named as the alleged perpetrator in the report to the 5276
administrator, director, or other chief administrative officer of 5277
the out-of-home care entity that is the subject of the report 5278
unless the administrator, director, or other chief administrative 5279
officer is named as an alleged perpetrator in the report. If the 5280
administrator, director, or other chief administrative officer of 5281
an out-of-home care entity is named as an alleged perpetrator in a 5282
report of alleged child abuse or child neglect, or a report of an 5283
alleged threat of child abuse or child neglect, that allegedly 5284
occurred in or involved the out-of-home care entity, the agency 5285
shall provide the written notice to the owner or governing board 5286
of the out-of-home care entity that is the subject of the report. 5287
The agency shall not provide witness statements or police or other 5288
investigative reports. 5289

(3) No later than three days after the day on which a public 5290
children services agency that conducted the investigation as 5291
determined pursuant to section 2151.422 of the Revised Code makes 5292
a disposition of an investigation involving a report of alleged 5293

child abuse or child neglect, or a report of an alleged threat of 5294
child abuse or child neglect, that allegedly occurred in or 5295
involved an out-of-home care entity, the agency shall send written 5296
notice of the disposition of the investigation to the 5297
administrator, director, or other chief administrative officer and 5298
the owner or governing board of the out-of-home care entity. The 5299
agency shall not provide witness statements or police or other 5300
investigative reports. 5301

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the 5302
Revised Code: 5303

(A) "Care facility" means any of the following: 5304

(1) Any "home" as defined in section 3721.10 or 5111.20 of 5305
the Revised Code; 5306

(2) Any "residential facility" as defined in section 5123.19 5307
of the Revised Code; 5308

(3) Any institution or facility operated or provided by the 5309
department of mental health or by the department of ~~mental~~ 5310
~~retardation and~~ developmental disabilities pursuant to sections 5311
5119.02 and 5123.03 of the Revised Code; 5312

(4) Any "residential facility" as defined in section 5119.22 5313
of the Revised Code; 5314

(5) Any unit of any hospital, as defined in section 3701.01 5315
of the Revised Code, that provides the same services as a nursing 5316
home, as defined in section 3721.01 of the Revised Code; 5317

(6) Any institution, residence, or facility that provides, 5318
for a period of more than twenty-four hours, whether for a 5319
consideration or not, accommodations to one individual or two 5320
unrelated individuals who are dependent upon the services of 5321
others; 5322

(7) Any "adult care facility" as defined in section 3722.01 5323

of the Revised Code; 5324

(8) Any adult foster home certified by the department of 5325
aging or its designee under section 173.36 of the Revised Code; 5326

(9) Any "community alternative home" as defined in section 5327
3724.01 of the Revised Code. 5328

(B) "Abuse" means knowingly causing physical harm or 5329
recklessly causing serious physical harm to a person by physical 5330
contact with the person or by the inappropriate use of a physical 5331
or chemical restraint, medication, or isolation on the person. 5332

(C)(1) "Gross neglect" means knowingly failing to provide a 5333
person with any treatment, care, goods, or service that is 5334
necessary to maintain the health or safety of the person when the 5335
failure results in physical harm or serious physical harm to the 5336
person. 5337

(2) "Neglect" means recklessly failing to provide a person 5338
with any treatment, care, goods, or service that is necessary to 5339
maintain the health or safety of the person when the failure 5340
results in serious physical harm to the person. 5341

(D) "Inappropriate use of a physical or chemical restraint, 5342
medication, or isolation" means the use of physical or chemical 5343
restraint, medication, or isolation as punishment, for staff 5344
convenience, excessively, as a substitute for treatment, or in 5345
quantities that preclude habilitation and treatment. 5346

Sec. 2919.271. (A)(1)(a) If a defendant is charged with a 5347
violation of section 2919.27 of the Revised Code or of a municipal 5348
ordinance that is substantially similar to that section, the court 5349
may order an evaluation of the mental condition of the defendant 5350
if the court determines that either of the following criteria 5351
apply: 5352

(i) If the alleged violation is a violation of a protection 5353

order issued or consent agreement approved pursuant to section 5354
2919.26 or 3113.31 of the Revised Code, that the violation 5355
allegedly involves conduct by the defendant that caused physical 5356
harm to the person or property of a family or household member 5357
covered by the order or agreement, or conduct by the defendant 5358
that caused a family or household member to believe that the 5359
defendant would cause physical harm to that member or that 5360
member's property. 5361

(ii) If the alleged violation is a violation of a protection 5362
order issued pursuant to section 2903.213 or 2903.214 of the 5363
Revised Code or a protection order issued by a court of another 5364
state, that the violation allegedly involves conduct by the 5365
defendant that caused physical harm to the person or property of 5366
the person covered by the order, or conduct by the defendant that 5367
caused the person covered by the order to believe that the 5368
defendant would cause physical harm to that person or that 5369
person's property. 5370

(b) If a defendant is charged with a violation of section 5371
2903.211 of the Revised Code or of a municipal ordinance that is 5372
substantially similar to that section, the court may order an 5373
evaluation of the mental condition of the defendant. 5374

(2) An evaluation ordered under division (A)(1) of this 5375
section shall be completed no later than thirty days from the date 5376
the order is entered pursuant to that division. In that order, the 5377
court shall do either of the following: 5378

(a) Order that the evaluation of the mental condition of the 5379
defendant be preceded by an examination conducted either by a 5380
forensic center that is designated by the department of mental 5381
health to conduct examinations and make evaluations of defendants 5382
charged with violations of section 2903.211 or 2919.27 of the 5383
Revised Code or of substantially similar municipal ordinances in 5384
the area in which the court is located, or by any other program or 5385

facility that is designated by the department of mental health or 5386
the department of ~~mental retardation and~~ developmental 5387
disabilities to conduct examinations and make evaluations of 5388
defendants charged with violations of section 2903.211 or 2919.27 5389
of the Revised Code or of substantially similar municipal 5390
ordinances, and that is operated by either department or is 5391
certified by either department as being in compliance with the 5392
standards established under division (I) of section 5119.01 of the 5393
Revised Code or division (C) of section 5123.04 of the Revised 5394
Code. 5395

(b) Designate a center, program, or facility other than one 5396
designated by the department of mental health or the department of 5397
~~mental retardation and~~ developmental disabilities, as described in 5398
division (A)(2)(a) of this section, to conduct the evaluation and 5399
preceding examination of the mental condition of the defendant. 5400

Whether the court acts pursuant to division (A)(2)(a) or (b) 5401
of this section, the court may designate examiners other than the 5402
personnel of the center, program, facility, or department involved 5403
to make the evaluation and preceding examination of the mental 5404
condition of the defendant. 5405

(B) If the court considers that additional evaluations of the 5406
mental condition of a defendant are necessary following the 5407
evaluation authorized by division (A) of this section, the court 5408
may order up to two additional similar evaluations. These 5409
evaluations shall be completed no later than thirty days from the 5410
date the applicable court order is entered. If more than one 5411
evaluation of the mental condition of the defendant is ordered 5412
under this division, the prosecutor and the defendant may 5413
recommend to the court an examiner whom each prefers to perform 5414
one of the evaluations and preceding examinations. 5415

(C)(1) The court may order a defendant who has been released 5416
on bail to submit to an examination under division (A) or (B) of 5417

this section. The examination shall be conducted either at the 5418
detention facility in which the defendant would have been confined 5419
if the defendant had not been released on bail, or, if so 5420
specified by the center, program, facility, or examiners involved, 5421
at the premises of the center, program, or facility. Additionally, 5422
the examination shall be conducted at the times established by the 5423
examiners involved. If such a defendant refuses to submit to an 5424
examination or a complete examination as required by the court or 5425
the center, program, facility, or examiners involved, the court 5426
may amend the conditions of the bail of the defendant and order 5427
the sheriff to take the defendant into custody and deliver the 5428
defendant to the detention facility in which the defendant would 5429
have been confined if the defendant had not been released on bail, 5430
or, if so specified by the center, program, facility, or examiners 5431
involved, to the premises of the center, program, or facility, for 5432
purposes of the examination. 5433

(2) A defendant who has not been released on bail shall be 5434
examined at the detention facility in which the defendant is 5435
confined or, if so specified by the center, program, facility, or 5436
examiners involved, at the premises of the center, program, or 5437
facility. 5438

(D) The examiner of the mental condition of a defendant under 5439
division (A) or (B) of this section shall file a written report 5440
with the court within thirty days after the entry of an order for 5441
the evaluation of the mental condition of the defendant. The 5442
report shall contain the findings of the examiner; the facts in 5443
reasonable detail on which the findings are based; the opinion of 5444
the examiner as to the mental condition of the defendant; the 5445
opinion of the examiner as to whether the defendant represents a 5446
substantial risk of physical harm to other persons as manifested 5447
by evidence of recent homicidal or other violent behavior, 5448
evidence of recent threats that placed other persons in reasonable 5449

fear of violent behavior and serious physical harm, or evidence of present dangerousness; and the opinion of the examiner as to the types of treatment or counseling that the defendant needs. The court shall provide copies of the report to the prosecutor and defense counsel.

(E) The costs of any evaluation and preceding examination of a defendant that is ordered pursuant to division (A) or (B) of this section shall be taxed as court costs in the criminal case.

(F) If the examiner considers it necessary in order to make an accurate evaluation of the mental condition of a defendant, an examiner under division (A) or (B) of this section may request any family or household member of the defendant to provide the examiner with information. A family or household member may, but is not required to, provide information to the examiner upon receipt of the request.

(G) As used in this section:

(1) "Bail" includes a recognizance.

(2) "Examiner" means a psychiatrist, a licensed independent social worker who is employed by a forensic center that is certified as being in compliance with the standards established under division (I) of section 5119.01 or division (C) of section 5123.04 of the Revised Code, a licensed professional clinical counselor who is employed at a forensic center that is certified as being in compliance with such standards, or a licensed clinical psychologist, except that in order to be an examiner, a licensed clinical psychologist shall meet the criteria of division (I)(1) of section 5122.01 of the Revised Code or be employed to conduct examinations by the department of mental health or by a forensic center certified as being in compliance with the standards established under division (I) of section 5119.01 or division (C) of section 5123.04 of the Revised Code that is designated by the

department of mental health. 5481

(3) "Family or household member" has the same meaning as in 5482
section 2919.25 of the Revised Code. 5483

(4) "Prosecutor" has the same meaning as in section 2935.01 5484
of the Revised Code. 5485

(5) "Psychiatrist" and "licensed clinical psychologist" have 5486
the same meanings as in section 5122.01 of the Revised Code. 5487

(6) "Protection order issued by a court of another state" has 5488
the same meaning as in section 2919.27 of the Revised Code. 5489

Sec. 2921.36. (A) No person shall knowingly convey, or 5490
attempt to convey, onto the grounds of a detention facility or of 5491
an institution that is under the control of the department of 5492
mental health or the department of ~~mental retardation and~~ 5493
developmental disabilities, any of the following items: 5494

(1) Any deadly weapon or dangerous ordnance, as defined in 5495
section 2923.11 of the Revised Code, or any part of or ammunition 5496
for use in such a deadly weapon or dangerous ordnance; 5497

(2) Any drug of abuse, as defined in section 3719.011 of the 5498
Revised Code; 5499

(3) Any intoxicating liquor, as defined in section 4301.01 of 5500
the Revised Code. 5501

(B) Division (A) of this section does not apply to any person 5502
who conveys or attempts to convey an item onto the grounds of a 5503
detention facility or of an institution under the control of the 5504
department of mental health or the department of ~~mental~~ 5505
~~retardation and~~ developmental disabilities pursuant to the written 5506
authorization of the person in charge of the detention facility or 5507
the institution and in accordance with the written rules of the 5508
detention facility or the institution. 5509

(C) No person shall knowingly deliver, or attempt to deliver, 5510
to any person who is confined in a detention facility or to any 5511
patient in an institution under the control of the department of 5512
mental health or the department of ~~mental retardation and~~ 5513
developmental disabilities, any item listed in division (A)(1), 5514
(2), or (3) of this section. 5515

(D) No person shall knowingly deliver, or attempt to deliver, 5516
cash to any person who is confined in a detention facility. 5517

(E) No person shall knowingly deliver, or attempt to deliver, 5518
to any person who is confined in a detention facility a cellular 5519
telephone, two-way radio, or other electronic communications 5520
device. 5521

(F)(1) It is an affirmative defense to a charge under 5522
division (A)(1) of this section that the weapon or dangerous 5523
ordnance in question was being transported in a motor vehicle for 5524
any lawful purpose, that it was not on the actor's person, and, if 5525
the weapon or dangerous ordnance in question was a firearm, that 5526
it was unloaded and was being carried in a closed package, box, or 5527
case or in a compartment that can be reached only by leaving the 5528
vehicle. 5529

(2) It is an affirmative defense to a charge under division 5530
(C) of this section that the actor was not otherwise prohibited by 5531
law from delivering the item to the confined person or the patient 5532
and that either of the following applies: 5533

(a) The actor was permitted by the written rules of the 5534
detention facility or the institution to deliver the item to the 5535
confined person or the patient. 5536

(b) The actor was given written authorization by the person 5537
in charge of the detention facility or the institution to deliver 5538
the item to the confined person or the patient. 5539

(G)(1) Whoever violates division (A)(1) of this section or 5540

commits a violation of division (C) of this section involving an 5541
item listed in division (A)(1) of this section is guilty of 5542
illegal conveyance of weapons onto the grounds of a detention 5543
facility or a mental health or mental retardation and 5544
developmental disabilities institution, a felony of the fourth 5545
degree. If the offender is an officer or employee of the 5546
department of rehabilitation and correction, the court shall 5547
impose a mandatory prison term. 5548

(2) Whoever violates division (A)(2) of this section or 5549
commits a violation of division (C) of this section involving any 5550
drug of abuse is guilty of illegal conveyance of drugs of abuse 5551
onto the grounds of a detention facility or a mental health or 5552
mental retardation and developmental disabilities institution, a 5553
felony of the third degree. If the offender is an officer or 5554
employee of the department of rehabilitation and correction or of 5555
the department of youth services, the court shall impose a 5556
mandatory prison term. 5557

(3) Whoever violates division (A)(3) of this section or 5558
commits a violation of division (C) of this section involving any 5559
intoxicating liquor is guilty of illegal conveyance of 5560
intoxicating liquor onto the grounds of a detention facility or a 5561
mental health or mental retardation and developmental disabilities 5562
institution, a misdemeanor of the second degree. 5563

(4) Whoever violates division (D) of this section is guilty 5564
of illegal conveyance of cash onto the grounds of a detention 5565
facility, a misdemeanor of the first degree. If the offender 5566
previously has been convicted of or pleaded guilty to a violation 5567
of division (D) of this section, illegal conveyance of cash onto 5568
the grounds of a detention facility is a felony of the fifth 5569
degree. 5570

(5) Whoever violates division (E) of this section is guilty 5571
of illegal conveyance of a communications device onto the grounds 5572

of a detention facility, a misdemeanor of the first degree, or if 5573
the offender previously has been convicted of or pleaded guilty to 5574
a violation of division (E) of this section, a felony of the fifth 5575
degree. 5576

Sec. 2921.38. (A) No person who is confined in a detention 5577
facility, with intent to harass, annoy, threaten, or alarm another 5578
person, shall cause or attempt to cause the other person to come 5579
into contact with blood, semen, urine, feces, or another bodily 5580
substance by throwing the bodily substance at the other person, by 5581
expelling the bodily substance upon the other person, or in any 5582
other manner. 5583

(B) No person, with intent to harass, annoy, threaten, or 5584
alarm a law enforcement officer, shall cause or attempt to cause 5585
the law enforcement officer to come into contact with blood, 5586
semen, urine, feces, or another bodily substance by throwing the 5587
bodily substance at the law enforcement officer, by expelling the 5588
bodily substance upon the law enforcement officer, or in any other 5589
manner. 5590

(C) No person, with knowledge that the person is a carrier of 5591
the virus that causes acquired immunodeficiency syndrome, is a 5592
carrier of a hepatitis virus, or is infected with tuberculosis and 5593
with intent to harass, annoy, threaten, or alarm another person, 5594
shall cause or attempt to cause the other person to come into 5595
contact with blood, semen, urine, feces, or another bodily 5596
substance by throwing the bodily substance at the other person, by 5597
expelling the bodily substance upon the other person, or in any 5598
other manner. 5599

(D) Whoever violates this section is guilty of harassment 5600
with a bodily substance. A violation of division (A) or (B) of 5601
this section is a felony of the fifth degree. A violation of 5602
division (C) of this section is a felony of the third degree. 5603

(E)(1) The court, on request of the prosecutor, or the law enforcement authority responsible for the investigation of the violation, shall cause a person who allegedly has committed a violation of this section to submit to one or more appropriate tests to determine if the person is a carrier of the virus that causes acquired immunodeficiency syndrome, is a carrier of a hepatitis virus, or is infected with tuberculosis.

(2) The court shall charge the offender with the costs of the test or tests ordered under division (E)(1) of this section unless the court determines that the accused is unable to pay, in which case the costs shall be charged to the entity that operates the detention facility in which the alleged offense occurred.

(F) This section does not apply to a person who is hospitalized, institutionalized, or confined in a facility operated by the department of mental health or the department of ~~mental retardation and~~ developmental disabilities.

Sec. 2930.061. (A) If a person is charged in a complaint, indictment, or information with any crime or specified delinquent act or with any other violation of law, and if the case involves a victim that the prosecutor in the case knows is a mentally retarded person or a developmentally disabled person, in addition to any other notices required under this chapter or under any other provision of law, the prosecutor in the case shall send written notice of the charges to the department of ~~mental retardation and~~ developmental disabilities. The written notice shall specifically identify the person so charged.

(B) As used in this section, "mentally retarded person" and "developmentally disabled person" have the same meanings as in section 5123.01 of the Revised Code.

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal,

deputy marshal, municipal police officer, township constable, 5634
police officer of a township or joint township police district, 5635
member of a police force employed by a metropolitan housing 5636
authority under division (D) of section 3735.31 of the Revised 5637
Code, member of a police force employed by a regional transit 5638
authority under division (Y) of section 306.35 of the Revised 5639
Code, state university law enforcement officer appointed under 5640
section 3345.04 of the Revised Code, veterans' home police officer 5641
appointed under section 5907.02 of the Revised Code, special 5642
police officer employed by a port authority under section 4582.04 5643
or 4582.28 of the Revised Code, or a special police officer 5644
employed by a municipal corporation at a municipal airport, or 5645
other municipal air navigation facility, that has scheduled 5646
operations, as defined in section 119.3 of Title 14 of the Code of 5647
Federal Regulations, 14 C.F.R. 119.3, as amended, and that is 5648
required to be under a security program and is governed by 5649
aviation security rules of the transportation security 5650
administration of the United States department of transportation 5651
as provided in Parts 1542. and 1544. of Title 49 of the Code of 5652
Federal Regulations, as amended, shall arrest and detain, until a 5653
warrant can be obtained, a person found violating, within the 5654
limits of the political subdivision, metropolitan housing 5655
authority housing project, regional transit authority facilities 5656
or areas of a municipal corporation that have been agreed to by a 5657
regional transit authority and a municipal corporation located 5658
within its territorial jurisdiction, college, university, 5659
veterans' home operated under Chapter 5907. of the Revised Code, 5660
port authority, or municipal airport or other municipal air 5661
navigation facility, in which the peace officer is appointed, 5662
employed, or elected, a law of this state, an ordinance of a 5663
municipal corporation, or a resolution of a township. 5664

(2) A peace officer of the department of natural resources, a 5665
state fire marshal law enforcement officer described in division 5666

(A)(23) of section 109.71 of the Revised Code, or an individual 5667
designated to perform law enforcement duties under section 5668
511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and 5669
detain, until a warrant can be obtained, a person found violating, 5670
within the limits of the peace officer's, state fire marshal law 5671
enforcement officer's, or individual's territorial jurisdiction, a 5672
law of this state. 5673

(3) The house sergeant at arms if the house sergeant at arms 5674
has arrest authority pursuant to division (E)(1) of section 5675
101.311 of the Revised Code and an assistant house sergeant at 5676
arms shall arrest and detain, until a warrant can be obtained, a 5677
person found violating, within the limits of the sergeant at 5678
arms's or assistant sergeant at arms's territorial jurisdiction 5679
specified in division (D)(1)(a) of section 101.311 of the Revised 5680
Code or while providing security pursuant to division (D)(1)(f) of 5681
section 101.311 of the Revised Code, a law of this state, an 5682
ordinance of a municipal corporation, or a resolution of a 5683
township. 5684

(B)(1) When there is reasonable ground to believe that an 5685
offense of violence, the offense of criminal child enticement as 5686
defined in section 2905.05 of the Revised Code, the offense of 5687
public indecency as defined in section 2907.09 of the Revised 5688
Code, the offense of domestic violence as defined in section 5689
2919.25 of the Revised Code, the offense of violating a protection 5690
order as defined in section 2919.27 of the Revised Code, the 5691
offense of menacing by stalking as defined in section 2903.211 of 5692
the Revised Code, the offense of aggravated trespass as defined in 5693
section 2911.211 of the Revised Code, a theft offense as defined 5694
in section 2913.01 of the Revised Code, or a felony drug abuse 5695
offense as defined in section 2925.01 of the Revised Code, has 5696
been committed within the limits of the political subdivision, 5697
metropolitan housing authority housing project, regional transit 5698

authority facilities or those areas of a municipal corporation 5699
that have been agreed to by a regional transit authority and a 5700
municipal corporation located within its territorial jurisdiction, 5701
college, university, veterans' home operated under Chapter 5907. 5702
of the Revised Code, port authority, or municipal airport or other 5703
municipal air navigation facility, in which the peace officer is 5704
appointed, employed, or elected or within the limits of the 5705
territorial jurisdiction of the peace officer, a peace officer 5706
described in division (A) of this section may arrest and detain 5707
until a warrant can be obtained any person who the peace officer 5708
has reasonable cause to believe is guilty of the violation. 5709

(2) For purposes of division (B)(1) of this section, the 5710
execution of any of the following constitutes reasonable ground to 5711
believe that the offense alleged in the statement was committed 5712
and reasonable cause to believe that the person alleged in the 5713
statement to have committed the offense is guilty of the 5714
violation: 5715

(a) A written statement by a person alleging that an alleged 5716
offender has committed the offense of menacing by stalking or 5717
aggravated trespass; 5718

(b) A written statement by the administrator of the 5719
interstate compact on mental health appointed under section 5720
5119.51 of the Revised Code alleging that a person who had been 5721
hospitalized, institutionalized, or confined in any facility under 5722
an order made pursuant to or under authority of section 2945.37, 5723
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 5724
Revised Code has escaped from the facility, from confinement in a 5725
vehicle for transportation to or from the facility, or from 5726
supervision by an employee of the facility that is incidental to 5727
hospitalization, institutionalization, or confinement in the 5728
facility and that occurs outside of the facility, in violation of 5729
section 2921.34 of the Revised Code; 5730

(c) A written statement by the administrator of any facility 5731
in which a person has been hospitalized, institutionalized, or 5732
confined under an order made pursuant to or under authority of 5733
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 5734
2945.402 of the Revised Code alleging that the person has escaped 5735
from the facility, from confinement in a vehicle for 5736
transportation to or from the facility, or from supervision by an 5737
employee of the facility that is incidental to hospitalization, 5738
institutionalization, or confinement in the facility and that 5739
occurs outside of the facility, in violation of section 2921.34 of 5740
the Revised Code. 5741

(3)(a) For purposes of division (B)(1) of this section, a 5742
peace officer described in division (A) of this section has 5743
reasonable grounds to believe that the offense of domestic 5744
violence or the offense of violating a protection order has been 5745
committed and reasonable cause to believe that a particular person 5746
is guilty of committing the offense if any of the following 5747
occurs: 5748

(i) A person executes a written statement alleging that the 5749
person in question has committed the offense of domestic violence 5750
or the offense of violating a protection order against the person 5751
who executes the statement or against a child of the person who 5752
executes the statement. 5753

(ii) No written statement of the type described in division 5754
(B)(3)(a)(i) of this section is executed, but the peace officer, 5755
based upon the peace officer's own knowledge and observation of 5756
the facts and circumstances of the alleged incident of the offense 5757
of domestic violence or the alleged incident of the offense of 5758
violating a protection order or based upon any other information, 5759
including, but not limited to, any reasonably trustworthy 5760
information given to the peace officer by the alleged victim of 5761
the alleged incident of the offense or any witness of the alleged 5762

incident of the offense, concludes that there are reasonable 5763
grounds to believe that the offense of domestic violence or the 5764
offense of violating a protection order has been committed and 5765
reasonable cause to believe that the person in question is guilty 5766
of committing the offense. 5767

(iii) No written statement of the type described in division 5768
(B)(3)(a)(i) of this section is executed, but the peace officer 5769
witnessed the person in question commit the offense of domestic 5770
violence or the offense of violating a protection order. 5771

(b) If pursuant to division (B)(3)(a) of this section a peace 5772
officer has reasonable grounds to believe that the offense of 5773
domestic violence or the offense of violating a protection order 5774
has been committed and reasonable cause to believe that a 5775
particular person is guilty of committing the offense, it is the 5776
preferred course of action in this state that the officer arrest 5777
and detain that person pursuant to division (B)(1) of this section 5778
until a warrant can be obtained. 5779

If pursuant to division (B)(3)(a) of this section a peace 5780
officer has reasonable grounds to believe that the offense of 5781
domestic violence or the offense of violating a protection order 5782
has been committed and reasonable cause to believe that family or 5783
household members have committed the offense against each other, 5784
it is the preferred course of action in this state that the 5785
officer, pursuant to division (B)(1) of this section, arrest and 5786
detain until a warrant can be obtained the family or household 5787
member who committed the offense and whom the officer has 5788
reasonable cause to believe is the primary physical aggressor. 5789
There is no preferred course of action in this state regarding any 5790
other family or household member who committed the offense and 5791
whom the officer does not have reasonable cause to believe is the 5792
primary physical aggressor, but, pursuant to division (B)(1) of 5793
this section, the peace officer may arrest and detain until a 5794

warrant can be obtained any other family or household member who 5795
committed the offense and whom the officer does not have 5796
reasonable cause to believe is the primary physical aggressor. 5797

(c) If a peace officer described in division (A) of this 5798
section does not arrest and detain a person whom the officer has 5799
reasonable cause to believe committed the offense of domestic 5800
violence or the offense of violating a protection order when it is 5801
the preferred course of action in this state pursuant to division 5802
(B)(3)(b) of this section that the officer arrest that person, the 5803
officer shall articulate in the written report of the incident 5804
required by section 2935.032 of the Revised Code a clear statement 5805
of the officer's reasons for not arresting and detaining that 5806
person until a warrant can be obtained. 5807

(d) In determining for purposes of division (B)(3)(b) of this 5808
section which family or household member is the primary physical 5809
aggressor in a situation in which family or household members have 5810
committed the offense of domestic violence or the offense of 5811
violating a protection order against each other, a peace officer 5812
described in division (A) of this section, in addition to any 5813
other relevant circumstances, should consider all of the 5814
following: 5815

(i) Any history of domestic violence or of any other violent 5816
acts by either person involved in the alleged offense that the 5817
officer reasonably can ascertain; 5818

(ii) If violence is alleged, whether the alleged violence was 5819
caused by a person acting in self-defense; 5820

(iii) Each person's fear of physical harm, if any, resulting 5821
from the other person's threatened use of force against any person 5822
or resulting from the other person's use or history of the use of 5823
force against any person, and the reasonableness of that fear; 5824

(iv) The comparative severity of any injuries suffered by the 5825

persons involved in the alleged offense. 5826

(e)(i) A peace officer described in division (A) of this 5827
section shall not require, as a prerequisite to arresting or 5828
charging a person who has committed the offense of domestic 5829
violence or the offense of violating a protection order, that the 5830
victim of the offense specifically consent to the filing of 5831
charges against the person who has committed the offense or sign a 5832
complaint against the person who has committed the offense. 5833

(ii) If a person is arrested for or charged with committing 5834
the offense of domestic violence or the offense of violating a 5835
protection order and if the victim of the offense does not 5836
cooperate with the involved law enforcement or prosecuting 5837
authorities in the prosecution of the offense or, subsequent to 5838
the arrest or the filing of the charges, informs the involved law 5839
enforcement or prosecuting authorities that the victim does not 5840
wish the prosecution of the offense to continue or wishes to drop 5841
charges against the alleged offender relative to the offense, the 5842
involved prosecuting authorities, in determining whether to 5843
continue with the prosecution of the offense or whether to dismiss 5844
charges against the alleged offender relative to the offense and 5845
notwithstanding the victim's failure to cooperate or the victim's 5846
wishes, shall consider all facts and circumstances that are 5847
relevant to the offense, including, but not limited to, the 5848
statements and observations of the peace officers who responded to 5849
the incident that resulted in the arrest or filing of the charges 5850
and of all witnesses to that incident. 5851

(f) In determining pursuant to divisions (B)(3)(a) to (g) of 5852
this section whether to arrest a person pursuant to division 5853
(B)(1) of this section, a peace officer described in division (A) 5854
of this section shall not consider as a factor any possible 5855
shortage of cell space at the detention facility to which the 5856
person will be taken subsequent to the person's arrest or any 5857

possibility that the person's arrest might cause, contribute to, 5858
or exacerbate overcrowding at that detention facility or at any 5859
other detention facility. 5860

(g) If a peace officer described in division (A) of this 5861
section intends pursuant to divisions (B)(3)(a) to (g) of this 5862
section to arrest a person pursuant to division (B)(1) of this 5863
section and if the officer is unable to do so because the person 5864
is not present, the officer promptly shall seek a warrant for the 5865
arrest of the person. 5866

(h) If a peace officer described in division (A) of this 5867
section responds to a report of an alleged incident of the offense 5868
of domestic violence or an alleged incident of the offense of 5869
violating a protection order and if the circumstances of the 5870
incident involved the use or threatened use of a deadly weapon or 5871
any person involved in the incident brandished a deadly weapon 5872
during or in relation to the incident, the deadly weapon that was 5873
used, threatened to be used, or brandished constitutes contraband, 5874
and, to the extent possible, the officer shall seize the deadly 5875
weapon as contraband pursuant to Chapter 2981. of the Revised 5876
Code. Upon the seizure of a deadly weapon pursuant to division 5877
(B)(3)(h) of this section, section 2981.12 of the Revised Code 5878
shall apply regarding the treatment and disposition of the deadly 5879
weapon. For purposes of that section, the "underlying criminal 5880
offense" that was the basis of the seizure of a deadly weapon 5881
under division (B)(3)(h) of this section and to which the deadly 5882
weapon had a relationship is any of the following that is 5883
applicable: 5884

(i) The alleged incident of the offense of domestic violence 5885
or the alleged incident of the offense of violating a protection 5886
order to which the officer who seized the deadly weapon responded; 5887

(ii) Any offense that arose out of the same facts and 5888
circumstances as the report of the alleged incident of the offense 5889

of domestic violence or the alleged incident of the offense of 5890
violating a protection order to which the officer who seized the 5891
deadly weapon responded. 5892

(4) If, in the circumstances described in divisions (B)(3)(a) 5893
to (g) of this section, a peace officer described in division (A) 5894
of this section arrests and detains a person pursuant to division 5895
(B)(1) of this section, or if, pursuant to division (B)(3)(h) of 5896
this section, a peace officer described in division (A) of this 5897
section seizes a deadly weapon, the officer, to the extent 5898
described in and in accordance with section 9.86 or 2744.03 of the 5899
Revised Code, is immune in any civil action for damages for 5900
injury, death, or loss to person or property that arises from or 5901
is related to the arrest and detention or the seizure. 5902

(C) When there is reasonable ground to believe that a 5903
violation of division (A)(1), (2), (3), (4), or (5) of section 5904
4506.15 or a violation of section 4511.19 of the Revised Code has 5905
been committed by a person operating a motor vehicle subject to 5906
regulation by the public utilities commission of Ohio under Title 5907
XLIX of the Revised Code, a peace officer with authority to 5908
enforce that provision of law may stop or detain the person whom 5909
the officer has reasonable cause to believe was operating the 5910
motor vehicle in violation of the division or section and, after 5911
investigating the circumstances surrounding the operation of the 5912
vehicle, may arrest and detain the person. 5913

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 5914
municipal police officer, member of a police force employed by a 5915
metropolitan housing authority under division (D) of section 5916
3735.31 of the Revised Code, member of a police force employed by 5917
a regional transit authority under division (Y) of section 306.35 5918
of the Revised Code, special police officer employed by a port 5919
authority under section 4582.04 or 4582.28 of the Revised Code, 5920
special police officer employed by a municipal corporation at a 5921

municipal airport or other municipal air navigation facility 5922
described in division (A) of this section, township constable, 5923
police officer of a township or joint township police district, 5924
state university law enforcement officer appointed under section 5925
3345.04 of the Revised Code, peace officer of the department of 5926
natural resources, individual designated to perform law 5927
enforcement duties under section 511.232, 1545.13, or 6101.75 of 5928
the Revised Code, the house sergeant at arms if the house sergeant 5929
at arms has arrest authority pursuant to division (E)(1) of 5930
section 101.311 of the Revised Code, or an assistant house 5931
sergeant at arms is authorized by division (A) or (B) of this 5932
section to arrest and detain, within the limits of the political 5933
subdivision, metropolitan housing authority housing project, 5934
regional transit authority facilities or those areas of a 5935
municipal corporation that have been agreed to by a regional 5936
transit authority and a municipal corporation located within its 5937
territorial jurisdiction, port authority, municipal airport or 5938
other municipal air navigation facility, college, or university in 5939
which the officer is appointed, employed, or elected or within the 5940
limits of the territorial jurisdiction of the peace officer, a 5941
person until a warrant can be obtained, the peace officer, outside 5942
the limits of that territory, may pursue, arrest, and detain that 5943
person until a warrant can be obtained if all of the following 5944
apply: 5945

(1) The pursuit takes place without unreasonable delay after 5946
the offense is committed; 5947

(2) The pursuit is initiated within the limits of the 5948
political subdivision, metropolitan housing authority housing 5949
project, regional transit authority facilities or those areas of a 5950
municipal corporation that have been agreed to by a regional 5951
transit authority and a municipal corporation located within its 5952
territorial jurisdiction, port authority, municipal airport or 5953

other municipal air navigation facility, college, or university in 5954
which the peace officer is appointed, employed, or elected or 5955
within the limits of the territorial jurisdiction of the peace 5956
officer; 5957

(3) The offense involved is a felony, a misdemeanor of the 5958
first degree or a substantially equivalent municipal ordinance, a 5959
misdemeanor of the second degree or a substantially equivalent 5960
municipal ordinance, or any offense for which points are 5961
chargeable pursuant to section 4510.036 of the Revised Code. 5962

(E) In addition to the authority granted under division (A) 5963
or (B) of this section: 5964

(1) A sheriff or deputy sheriff may arrest and detain, until 5965
a warrant can be obtained, any person found violating section 5966
4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 5967
4549.62, or Chapter 4511. or 4513. of the Revised Code on the 5968
portion of any street or highway that is located immediately 5969
adjacent to the boundaries of the county in which the sheriff or 5970
deputy sheriff is elected or appointed. 5971

(2) A member of the police force of a township police 5972
district created under section 505.48 of the Revised Code, a 5973
member of the police force of a joint township police district 5974
created under section 505.481 of the Revised Code, or a township 5975
constable appointed in accordance with section 509.01 of the 5976
Revised Code, who has received a certificate from the Ohio peace 5977
officer training commission under section 109.75 of the Revised 5978
Code, may arrest and detain, until a warrant can be obtained, any 5979
person found violating any section or chapter of the Revised Code 5980
listed in division (E)(1) of this section, other than sections 5981
4513.33 and 4513.34 of the Revised Code, on the portion of any 5982
street or highway that is located immediately adjacent to the 5983
boundaries of the township police district or joint township 5984
police district, in the case of a member of a township police 5985

district or joint township police district police force, or the 5986
unincorporated territory of the township, in the case of a 5987
township constable. However, if the population of the township 5988
that created the township police district served by the member's 5989
police force, or the townships that created the joint township 5990
police district served by the member's police force, or the 5991
township that is served by the township constable, is sixty 5992
thousand or less, the member of the township police district or 5993
joint police district police force or the township constable may 5994
not make an arrest under division (E)(2) of this section on a 5995
state highway that is included as part of the interstate system. 5996

(3) A police officer or village marshal appointed, elected, 5997
or employed by a municipal corporation may arrest and detain, 5998
until a warrant can be obtained, any person found violating any 5999
section or chapter of the Revised Code listed in division (E)(1) 6000
of this section on the portion of any street or highway that is 6001
located immediately adjacent to the boundaries of the municipal 6002
corporation in which the police officer or village marshal is 6003
appointed, elected, or employed. 6004

(4) A peace officer of the department of natural resources, a 6005
state fire marshal law enforcement officer described in division 6006
(A)(23) of section 109.71 of the Revised Code, or an individual 6007
designated to perform law enforcement duties under section 6008
511.232, 1545.13, or 6101.75 of the Revised Code may arrest and 6009
detain, until a warrant can be obtained, any person found 6010
violating any section or chapter of the Revised Code listed in 6011
division (E)(1) of this section, other than sections 4513.33 and 6012
4513.34 of the Revised Code, on the portion of any street or 6013
highway that is located immediately adjacent to the boundaries of 6014
the lands and waters that constitute the territorial jurisdiction 6015
of the peace officer or state fire marshal law enforcement 6016
officer. 6017

(F)(1) A department of mental health special police officer 6018
or a department of ~~mental retardation and~~ developmental 6019
disabilities special police officer may arrest without a warrant 6020
and detain until a warrant can be obtained any person found 6021
committing on the premises of any institution under the 6022
jurisdiction of the particular department a misdemeanor under a 6023
law of the state. 6024

A department of mental health special police officer or a 6025
department of ~~mental retardation and~~ developmental disabilities 6026
special police officer may arrest without a warrant and detain 6027
until a warrant can be obtained any person who has been 6028
hospitalized, institutionalized, or confined in an institution 6029
under the jurisdiction of the particular department pursuant to or 6030
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 6031
2945.40, 2945.401, or 2945.402 of the Revised Code and who is 6032
found committing on the premises of any institution under the 6033
jurisdiction of the particular department a violation of section 6034
2921.34 of the Revised Code that involves an escape from the 6035
premises of the institution. 6036

(2)(a) If a department of mental health special police 6037
officer or a department of ~~mental retardation and~~ developmental 6038
disabilities special police officer finds any person who has been 6039
hospitalized, institutionalized, or confined in an institution 6040
under the jurisdiction of the particular department pursuant to or 6041
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 6042
2945.40, 2945.401, or 2945.402 of the Revised Code committing a 6043
violation of section 2921.34 of the Revised Code that involves an 6044
escape from the premises of the institution, or if there is 6045
reasonable ground to believe that a violation of section 2921.34 6046
of the Revised Code has been committed that involves an escape 6047
from the premises of an institution under the jurisdiction of the 6048
department of mental health or the department of ~~mental~~ 6049

~~retardation and~~ developmental disabilities and if a department of 6050
mental health special police officer or a department of ~~mental~~ 6051
~~retardation and~~ developmental disabilities special police officer 6052
has reasonable cause to believe that a particular person who has 6053
been hospitalized, institutionalized, or confined in the 6054
institution pursuant to or under authority of section 2945.37, 6055
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 6056
Revised Code is guilty of the violation, the special police 6057
officer, outside of the premises of the institution, may pursue, 6058
arrest, and detain that person for that violation of section 6059
2921.34 of the Revised Code, until a warrant can be obtained, if 6060
both of the following apply: 6061

(i) The pursuit takes place without unreasonable delay after 6062
the offense is committed; 6063

(ii) The pursuit is initiated within the premises of the 6064
institution from which the violation of section 2921.34 of the 6065
Revised Code occurred. 6066

(b) For purposes of division (F)(2)(a) of this section, the 6067
execution of a written statement by the administrator of the 6068
institution in which a person had been hospitalized, 6069
institutionalized, or confined pursuant to or under authority of 6070
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 6071
2945.402 of the Revised Code alleging that the person has escaped 6072
from the premises of the institution in violation of section 6073
2921.34 of the Revised Code constitutes reasonable ground to 6074
believe that the violation was committed and reasonable cause to 6075
believe that the person alleged in the statement to have committed 6076
the offense is guilty of the violation. 6077

(G) As used in this section: 6078

(1) A "department of mental health special police officer" 6079
means a special police officer of the department of mental health 6080

designated under section 5119.14 of the Revised Code who is 6081
certified by the Ohio peace officer training commission under 6082
section 109.77 of the Revised Code as having successfully 6083
completed an approved peace officer basic training program. 6084

(2) A "department of ~~mental retardation and~~ developmental 6085
disabilities special police officer" means a special police 6086
officer of the department of ~~mental retardation and~~ developmental 6087
disabilities designated under section 5123.13 of the Revised Code 6088
who is certified by the Ohio peace officer training council under 6089
section 109.77 of the Revised Code as having successfully 6090
completed an approved peace officer basic training program. 6091

(3) "Deadly weapon" has the same meaning as in section 6092
2923.11 of the Revised Code. 6093

(4) "Family or household member" has the same meaning as in 6094
section 2919.25 of the Revised Code. 6095

(5) "Street" or "highway" has the same meaning as in section 6096
4511.01 of the Revised Code. 6097

(6) "Interstate system" has the same meaning as in section 6098
5516.01 of the Revised Code. 6099

(7) "Peace officer of the department of natural resources" 6100
means an employee of the department of natural resources who is a 6101
natural resources law enforcement staff officer designated 6102
pursuant to section 1501.013 of the Revised Code, a forest officer 6103
designated pursuant to section 1503.29 of the Revised Code, a 6104
preserve officer designated pursuant to section 1517.10 of the 6105
Revised Code, a wildlife officer designated pursuant to section 6106
1531.13 of the Revised Code, a park officer designated pursuant to 6107
section 1541.10 of the Revised Code, or a state watercraft officer 6108
designated pursuant to section 1547.521 of the Revised Code. 6109

(8) "Portion of any street or highway" means all lanes of the 6110
street or highway irrespective of direction of travel, including 6111

designated turn lanes, and any berm, median, or shoulder. 6112

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 of 6113
the Revised Code: 6114

(1) "Prosecutor" means a prosecuting attorney or a city 6115
director of law, village solicitor, or similar chief legal officer 6116
of a municipal corporation who has authority to prosecute a 6117
criminal case that is before the court or the criminal case in 6118
which a defendant in a criminal case has been found incompetent to 6119
stand trial or not guilty by reason of insanity. 6120

(2) "Examiner" means either of the following: 6121

(a) A psychiatrist or a licensed clinical psychologist who 6122
satisfies the criteria of division (I)(1) of section 5122.01 of 6123
the Revised Code or is employed by a certified forensic center 6124
designated by the department of mental health to conduct 6125
examinations or evaluations. 6126

(b) For purposes of a separate mental retardation evaluation 6127
that is ordered by a court pursuant to division (H) of section 6128
2945.371 of the Revised Code, a psychologist designated by the 6129
director of ~~mental retardation and~~ developmental disabilities 6130
pursuant to that section to conduct that separate mental 6131
retardation evaluation. 6132

(3) "Nonsecured status" means any unsupervised, off-grounds 6133
movement or trial visit from a hospital or institution, or any 6134
conditional release, that is granted to a person who is found 6135
incompetent to stand trial and is committed pursuant to section 6136
2945.39 of the Revised Code or to a person who is found not guilty 6137
by reason of insanity and is committed pursuant to section 2945.40 6138
of the Revised Code. 6139

(4) "Unsupervised, off-grounds movement" includes only 6140
off-grounds privileges that are unsupervised and that have an 6141

expectation of return to the hospital or institution on a daily 6142
basis. 6143

(5) "Trial visit" means a patient privilege of a longer 6144
stated duration of unsupervised community contact with an 6145
expectation of return to the hospital or institution at designated 6146
times. 6147

(6) "Conditional release" means a commitment status under 6148
which the trial court at any time may revoke a person's 6149
conditional release and order the rehospitalization or 6150
reinstitutionalization of the person as described in division (A) 6151
of section 2945.402 of the Revised Code and pursuant to which a 6152
person who is found incompetent to stand trial or a person who is 6153
found not guilty by reason of insanity lives and receives 6154
treatment in the community for a period of time that does not 6155
exceed the maximum prison term or term of imprisonment that the 6156
person could have received for the offense in question had the 6157
person been convicted of the offense instead of being found 6158
incompetent to stand trial on the charge of the offense or being 6159
found not guilty by reason of insanity relative to the offense. 6160

(7) "Licensed clinical psychologist," "mentally ill person 6161
subject to hospitalization by court order," and "psychiatrist" 6162
have the same meanings as in section 5122.01 of the Revised Code. 6163

(8) "Mentally retarded person subject to institutionalization 6164
by court order" has the same meaning as in section 5123.01 of the 6165
Revised Code. 6166

(B) In a criminal action in a court of common pleas, a county 6167
court, or a municipal court, the court, prosecutor, or defense may 6168
raise the issue of the defendant's competence to stand trial. If 6169
the issue is raised before the trial has commenced, the court 6170
shall hold a hearing on the issue as provided in this section. If 6171
the issue is raised after the trial has commenced, the court shall 6172

hold a hearing on the issue only for good cause shown or on the court's own motion.

(C) The court shall conduct the hearing required or authorized under division (B) of this section within thirty days after the issue is raised, unless the defendant has been referred for evaluation in which case the court shall conduct the hearing within ten days after the filing of the report of the evaluation or, in the case of a defendant who is ordered by the court pursuant to division (H) of section 2945.371 of the Revised Code to undergo a separate mental retardation evaluation conducted by a psychologist designated by the director of ~~mental retardation and~~ developmental disabilities, within ten days after the filing of the report of the separate mental retardation evaluation under that division. A hearing may be continued for good cause.

(D) The defendant shall be represented by counsel at the hearing conducted under division (C) of this section. If the defendant is unable to obtain counsel, the court shall appoint counsel under Chapter 120. of the Revised Code or under the authority recognized in division (C) of section 120.06, division (E) of section 120.16, division (E) of section 120.26, or section 2941.51 of the Revised Code before proceeding with the hearing.

(E) The prosecutor and defense counsel may submit evidence on the issue of the defendant's competence to stand trial. A written report of the evaluation of the defendant may be admitted into evidence at the hearing by stipulation, but, if either the prosecution or defense objects to its admission, the report may be admitted under sections 2317.36 to 2317.38 of the Revised Code or any other applicable statute or rule.

(F) The court shall not find a defendant incompetent to stand trial solely because the defendant is receiving or has received treatment as a voluntary or involuntary mentally ill patient under Chapter 5122. or a voluntary or involuntary mentally retarded

resident under Chapter 5123. of the Revised Code or because the 6205
defendant is receiving or has received psychotropic drugs or other 6206
medication, even if the defendant might become incompetent to 6207
stand trial without the drugs or medication. 6208

(G) A defendant is presumed to be competent to stand trial. 6209
If, after a hearing, the court finds by a preponderance of the 6210
evidence that, because of the defendant's present mental 6211
condition, the defendant is incapable of understanding the nature 6212
and objective of the proceedings against the defendant or of 6213
assisting in the defendant's defense, the court shall find the 6214
defendant incompetent to stand trial and shall enter an order 6215
authorized by section 2945.38 of the Revised Code. 6216

(H) Municipal courts shall follow the procedures set forth in 6217
sections 2945.37 to 2945.402 of the Revised Code. Except as 6218
provided in section 2945.371 of the Revised Code, a municipal 6219
court shall not order an evaluation of the defendant's competence 6220
to stand trial or the defendant's mental condition at the time of 6221
the commission of the offense to be conducted at any hospital 6222
operated by the department of mental health. Those evaluations 6223
shall be performed through community resources including, but not 6224
limited to, certified forensic centers, court probation 6225
departments, and community mental health agencies. All expenses of 6226
the evaluations shall be borne by the legislative authority of the 6227
municipal court, as defined in section 1901.03 of the Revised 6228
Code, and shall be taxed as costs in the case. If a defendant is 6229
found incompetent to stand trial or not guilty by reason of 6230
insanity, a municipal court may commit the defendant as provided 6231
in sections 2945.38 to 2945.402 of the Revised Code. 6232

Sec. 2945.371. (A) If the issue of a defendant's competence 6233
to stand trial is raised or if a defendant enters a plea of not 6234
guilty by reason of insanity, the court may order one or more 6235

evaluations of the defendant's present mental condition or, in the 6236
case of a plea of not guilty by reason of insanity, of the 6237
defendant's mental condition at the time of the offense charged. 6238
An examiner shall conduct the evaluation. 6239

(B) If the court orders more than one evaluation under 6240
division (A) of this section, the prosecutor and the defendant may 6241
recommend to the court an examiner whom each prefers to perform 6242
one of the evaluations. If a defendant enters a plea of not guilty 6243
by reason of insanity and if the court does not designate an 6244
examiner recommended by the defendant, the court shall inform the 6245
defendant that the defendant may have independent expert 6246
evaluation and that, if the defendant is unable to obtain 6247
independent expert evaluation, it will be obtained for the 6248
defendant at public expense if the defendant is indigent. 6249

(C) If the court orders an evaluation under division (A) of 6250
this section, the defendant shall be available at the times and 6251
places established by the examiners who are to conduct the 6252
evaluation. The court may order a defendant who has been released 6253
on bail or recognizance to submit to an evaluation under this 6254
section. If a defendant who has been released on bail or 6255
recognizance refuses to submit to a complete evaluation, the court 6256
may amend the conditions of bail or recognizance and order the 6257
sheriff to take the defendant into custody and deliver the 6258
defendant to a center, program, or facility operated or certified 6259
by the department of mental health or the department of ~~mental~~ 6260
~~retardation~~ and developmental disabilities where the defendant may 6261
be held for evaluation for a reasonable period of time not to 6262
exceed twenty days. 6263

(D) A defendant who has not been released on bail or 6264
recognizance may be evaluated at the defendant's place of 6265
detention. Upon the request of the examiner, the court may order 6266
the sheriff to transport the defendant to a program or facility 6267

operated by the department of mental health or the department of 6268
~~mental retardation and~~ developmental disabilities, where the 6269
defendant may be held for evaluation for a reasonable period of 6270
time not to exceed twenty days, and to return the defendant to the 6271
place of detention after the evaluation. A municipal court may 6272
make an order under this division only upon the request of a 6273
certified forensic center examiner. 6274

(E) If a court orders the evaluation to determine a 6275
defendant's mental condition at the time of the offense charged, 6276
the court shall inform the examiner of the offense with which the 6277
defendant is charged. 6278

(F) In conducting an evaluation of a defendant's mental 6279
condition at the time of the offense charged, the examiner shall 6280
consider all relevant evidence. If the offense charged involves 6281
the use of force against another person, the relevant evidence to 6282
be considered includes, but is not limited to, any evidence that 6283
the defendant suffered, at the time of the commission of the 6284
offense, from the "battered woman syndrome." 6285

(G) The examiner shall file a written report with the court 6286
within thirty days after entry of a court order for evaluation, 6287
and the court shall provide copies of the report to the prosecutor 6288
and defense counsel. The report shall include all of the 6289
following: 6290

(1) The examiner's findings; 6291

(2) The facts in reasonable detail on which the findings are 6292
based; 6293

(3) If the evaluation was ordered to determine the 6294
defendant's competence to stand trial, all of the following 6295
findings or recommendations that are applicable: 6296

(a) Whether the defendant is capable of understanding the 6297
nature and objective of the proceedings against the defendant or 6298

of assisting in the defendant's defense; 6299

(b) If the examiner's opinion is that the defendant is 6300
incapable of understanding the nature and objective of the 6301
proceedings against the defendant or of assisting in the 6302
defendant's defense, whether the defendant presently is mentally 6303
ill or mentally retarded and, if the examiner's opinion is that 6304
the defendant presently is mentally retarded, whether the 6305
defendant appears to be a mentally retarded person subject to 6306
institutionalization by court order; 6307

(c) If the examiner's opinion is that the defendant is 6308
incapable of understanding the nature and objective of the 6309
proceedings against the defendant or of assisting in the 6310
defendant's defense, the examiner's opinion as to the likelihood 6311
of the defendant becoming capable of understanding the nature and 6312
objective of the proceedings against the defendant and of 6313
assisting in the defendant's defense within one year if the 6314
defendant is provided with a course of treatment; 6315

(d) If the examiner's opinion is that the defendant is 6316
incapable of understanding the nature and objective of the 6317
proceedings against the defendant or of assisting in the 6318
defendant's defense and that the defendant presently is mentally 6319
ill or mentally retarded, the examiner's recommendation as to the 6320
least restrictive treatment alternative, consistent with the 6321
defendant's treatment needs for restoration to competency and with 6322
the safety of the community. 6323

(4) If the evaluation was ordered to determine the 6324
defendant's mental condition at the time of the offense charged, 6325
the examiner's findings as to whether the defendant, at the time 6326
of the offense charged, did not know, as a result of a severe 6327
mental disease or defect, the wrongfulness of the defendant's acts 6328
charged. 6329

(H) If the examiner's report filed under division (G) of this section indicates that in the examiner's opinion the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that in the examiner's opinion the defendant appears to be a mentally retarded person subject to institutionalization by court order, the court shall order the defendant to undergo a separate mental retardation evaluation conducted by a psychologist designated by the director of ~~mental retardation and~~ developmental disabilities. Divisions (C) to (F) of this section apply in relation to a separate mental retardation evaluation conducted under this division. The psychologist appointed under this division to conduct the separate mental retardation evaluation shall file a written report with the court within thirty days after the entry of the court order requiring the separate mental retardation evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the information described in divisions (G)(1) to (4) of this section. If the court orders a separate mental retardation evaluation of a defendant under this division, the court shall not conduct a hearing under divisions (B) to (H) of section 2945.37 of the Revised Code regarding that defendant until a report of the separate mental retardation evaluation conducted under this division has been filed. Upon the filing of that report, the court shall conduct the hearing within the period of time specified in division (C) of section 2945.37 of the Revised Code.

(I) An examiner appointed under divisions (A) and (B) of this section or under division (H) of this section to evaluate a defendant to determine the defendant's competence to stand trial also may be appointed to evaluate a defendant who has entered a plea of not guilty by reason of insanity, but an examiner of that nature shall prepare separate reports on the issue of competence

to stand trial and the defense of not guilty by reason of 6363
insanity. 6364

(J) No statement that a defendant makes in an evaluation or 6365
hearing under divisions (A) to (H) of this section relating to the 6366
defendant's competence to stand trial or to the defendant's mental 6367
condition at the time of the offense charged shall be used against 6368
the defendant on the issue of guilt in any criminal action or 6369
proceeding, but, in a criminal action or proceeding, the 6370
prosecutor or defense counsel may call as a witness any person who 6371
evaluated the defendant or prepared a report pursuant to a 6372
referral under this section. Neither the appointment nor the 6373
testimony of an examiner appointed under this section precludes 6374
the prosecutor or defense counsel from calling other witnesses or 6375
presenting other evidence on competency or insanity issues. 6376

(K) Persons appointed as examiners under divisions (A) and 6377
(B) of this section or under division (H) of this section shall be 6378
paid a reasonable amount for their services and expenses, as 6379
certified by the court. The certified amount shall be paid by the 6380
county in the case of county courts and courts of common pleas and 6381
by the legislative authority, as defined in section 1901.03 of the 6382
Revised Code, in the case of municipal courts. 6383

Sec. 2945.38. (A) If the issue of a defendant's competence to 6384
stand trial is raised and if the court, upon conducting the 6385
hearing provided for in section 2945.37 of the Revised Code, finds 6386
that the defendant is competent to stand trial, the defendant 6387
shall be proceeded against as provided by law. If the court finds 6388
the defendant competent to stand trial and the defendant is 6389
receiving psychotropic drugs or other medication, the court may 6390
authorize the continued administration of the drugs or medication 6391
or other appropriate treatment in order to maintain the 6392
defendant's competence to stand trial, unless the defendant's 6393

attending physician advises the court against continuation of the 6394
drugs, other medication, or treatment. 6395

(B)(1)(a) If, after taking into consideration all relevant 6396
reports, information, and other evidence, the court finds that the 6397
defendant is incompetent to stand trial and that there is a 6398
substantial probability that the defendant will become competent 6399
to stand trial within one year if the defendant is provided with a 6400
course of treatment, the court shall order the defendant to 6401
undergo treatment. If the defendant has been charged with a felony 6402
offense and if, after taking into consideration all relevant 6403
reports, information, and other evidence, the court finds that the 6404
defendant is incompetent to stand trial, but the court is unable 6405
at that time to determine whether there is a substantial 6406
probability that the defendant will become competent to stand 6407
trial within one year if the defendant is provided with a course 6408
of treatment, the court shall order continuing evaluation and 6409
treatment of the defendant for a period not to exceed four months 6410
to determine whether there is a substantial probability that the 6411
defendant will become competent to stand trial within one year if 6412
the defendant is provided with a course of treatment. 6413

(b) The court order for the defendant to undergo treatment or 6414
continuing evaluation and treatment under division (B)(1)(a) of 6415
this section shall specify that the treatment or continuing 6416
evaluation and treatment shall occur at a facility operated by the 6417
department of mental health or the department of ~~mental~~ 6418
~~retardation~~ and developmental disabilities, at a facility 6419
certified by either of those departments as being qualified to 6420
treat mental illness or mental retardation, at a public or private 6421
community mental health or mental retardation facility, or by a 6422
psychiatrist or another mental health or mental retardation 6423
professional. The order may restrict the defendant's freedom of 6424
movement as the court considers necessary. The prosecutor in the 6425

defendant's case shall send to the chief clinical officer of the 6426
hospital or facility, the managing officer of the institution, the 6427
director of the program, or the person to which the defendant is 6428
committed copies of relevant police reports and other background 6429
information that pertains to the defendant and is available to the 6430
prosecutor unless the prosecutor determines that the release of 6431
any of the information in the police reports or any of the other 6432
background information to unauthorized persons would interfere 6433
with the effective prosecution of any person or would create a 6434
substantial risk of harm to any person. 6435

In determining placement alternatives, the court shall 6436
consider the extent to which the person is a danger to the person 6437
and to others, the need for security, and the type of crime 6438
involved and shall order the least restrictive alternative 6439
available that is consistent with public safety and treatment 6440
goals. In weighing these factors, the court shall give preference 6441
to protecting public safety. 6442

(c) If the defendant is found incompetent to stand trial, if 6443
the chief clinical officer of the hospital or facility, the 6444
managing officer of the institution, the director of the program, 6445
or the person to which the defendant is committed for treatment or 6446
continuing evaluation and treatment under division (B)(1)(b) of 6447
this section determines that medication is necessary to restore 6448
the defendant's competency to stand trial, and if the defendant 6449
lacks the capacity to give informed consent or refuses medication, 6450
the chief clinical officer, managing officer, director, or person 6451
to which the defendant is committed for treatment or continuing 6452
evaluation and treatment may petition the court for authorization 6453
for the involuntary administration of medication. The court shall 6454
hold a hearing on the petition within five days of the filing of 6455
the petition if the petition was filed in a municipal court or a 6456
county court regarding an incompetent defendant charged with a 6457

misdemeanor or within ten days of the filing of the petition if 6458
the petition was filed in a court of common pleas regarding an 6459
incompetent defendant charged with a felony offense. Following the 6460
hearing, the court may authorize the involuntary administration of 6461
medication or may dismiss the petition. 6462

(2) If the court finds that the defendant is incompetent to 6463
stand trial and that, even if the defendant is provided with a 6464
course of treatment, there is not a substantial probability that 6465
the defendant will become competent to stand trial within one 6466
year, the court shall order the discharge of the defendant, unless 6467
upon motion of the prosecutor or on its own motion, the court 6468
either seeks to retain jurisdiction over the defendant pursuant to 6469
section 2945.39 of the Revised Code or files an affidavit in the 6470
probate court for the civil commitment of the defendant pursuant 6471
to Chapter 5122. or 5123. of the Revised Code alleging that the 6472
defendant is a mentally ill person subject to hospitalization by 6473
court order or a mentally retarded person subject to 6474
institutionalization by court order. If an affidavit is filed in 6475
the probate court, the trial court shall send to the probate court 6476
copies of all written reports of the defendant's mental condition 6477
that were prepared pursuant to section 2945.371 of the Revised 6478
Code. 6479

The trial court may issue the temporary order of detention 6480
that a probate court may issue under section 5122.11 or 5123.71 of 6481
the Revised Code, to remain in effect until the probable cause or 6482
initial hearing in the probate court. Further proceedings in the 6483
probate court are civil proceedings governed by Chapter 5122. or 6484
5123. of the Revised Code. 6485

(C) No defendant shall be required to undergo treatment, 6486
including any continuing evaluation and treatment, under division 6487
(B)(1) of this section for longer than whichever of the following 6488
periods is applicable: 6489

(1) One year, if the most serious offense with which the defendant is charged is one of the following offenses:

(a) Aggravated murder, murder, or an offense of violence for which a sentence of death or life imprisonment may be imposed;

(b) An offense of violence that is a felony of the first or second degree;

(c) A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described in division (C)(1)(a) or (b) of this section if the conspiracy, attempt, or complicity is a felony of the first or second degree.

(2) Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described in division (C)(1) of this section;

(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree;

(4) Thirty days, if the most serious offense with which the defendant is charged is a misdemeanor of the third or fourth degree, a minor misdemeanor, or an unclassified misdemeanor.

(D) Any defendant who is committed pursuant to this section shall not voluntarily admit the defendant or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code.

(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed to a hospital or other institution by the court under this section shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status. The court may grant a defendant supervised off-grounds movement to obtain medical treatment or specialized habilitation treatment services if the

person who supervises the treatment or the continuing evaluation 6520
and treatment of the defendant ordered under division (B)(1)(a) of 6521
this section informs the court that the treatment or continuing 6522
evaluation and treatment cannot be provided at the hospital or the 6523
institution to which the defendant is committed. The chief 6524
clinical officer of the hospital or the managing officer of the 6525
institution to which the defendant is committed or a designee of 6526
either of those persons may grant a defendant movement to a 6527
medical facility for an emergency medical situation with 6528
appropriate supervision to ensure the safety of the defendant, 6529
staff, and community during that emergency medical situation. The 6530
chief clinical officer of the hospital or the managing officer of 6531
the institution shall notify the court within twenty-four hours of 6532
the defendant's movement to the medical facility for an emergency 6533
medical situation under this division. 6534

(F) The person who supervises the treatment or continuing 6535
evaluation and treatment of a defendant ordered to undergo 6536
treatment or continuing evaluation and treatment under division 6537
(B)(1)(a) of this section shall file a written report with the 6538
court at the following times: 6539

(1) Whenever the person believes the defendant is capable of 6540
understanding the nature and objective of the proceedings against 6541
the defendant and of assisting in the defendant's defense; 6542

(2) For a felony offense, fourteen days before expiration of 6543
the maximum time for treatment as specified in division (C) of 6544
this section and fourteen days before the expiration of the 6545
maximum time for continuing evaluation and treatment as specified 6546
in division (B)(1)(a) of this section, and, for a misdemeanor 6547
offense, ten days before the expiration of the maximum time for 6548
treatment, as specified in division (C) of this section; 6549

(3) At a minimum, after each six months of treatment; 6550

(4) Whenever the person who supervises the treatment or 6551
continuing evaluation and treatment of a defendant ordered under 6552
division (B)(1)(a) of this section believes that there is not a 6553
substantial probability that the defendant will become capable of 6554
understanding the nature and objective of the proceedings against 6555
the defendant or of assisting in the defendant's defense even if 6556
the defendant is provided with a course of treatment. 6557

(G) A report under division (F) of this section shall contain 6558
the examiner's findings, the facts in reasonable detail on which 6559
the findings are based, and the examiner's opinion as to the 6560
defendant's capability of understanding the nature and objective 6561
of the proceedings against the defendant and of assisting in the 6562
defendant's defense. If, in the examiner's opinion, the defendant 6563
remains incapable of understanding the nature and objective of the 6564
proceedings against the defendant and of assisting in the 6565
defendant's defense and there is a substantial probability that 6566
the defendant will become capable of understanding the nature and 6567
objective of the proceedings against the defendant and of 6568
assisting in the defendant's defense if the defendant is provided 6569
with a course of treatment, if in the examiner's opinion the 6570
defendant remains mentally ill or mentally retarded, and if the 6571
maximum time for treatment as specified in division (C) of this 6572
section has not expired, the report also shall contain the 6573
examiner's recommendation as to the least restrictive treatment 6574
alternative that is consistent with the defendant's treatment 6575
needs for restoration to competency and with the safety of the 6576
community. The court shall provide copies of the report to the 6577
prosecutor and defense counsel. 6578

(H) If a defendant is committed pursuant to division (B)(1) 6579
of this section, within ten days after the treating physician of 6580
the defendant or the examiner of the defendant who is employed or 6581
retained by the treating facility advises that there is not a 6582

substantial probability that the defendant will become capable of 6583
understanding the nature and objective of the proceedings against 6584
the defendant or of assisting in the defendant's defense even if 6585
the defendant is provided with a course of treatment, within ten 6586
days after the expiration of the maximum time for treatment as 6587
specified in division (C) of this section, within ten days after 6588
the expiration of the maximum time for continuing evaluation and 6589
treatment as specified in division (B)(1)(a) of this section, 6590
within thirty days after a defendant's request for a hearing that 6591
is made after six months of treatment, or within thirty days after 6592
being advised by the treating physician or examiner that the 6593
defendant is competent to stand trial, whichever is the earliest, 6594
the court shall conduct another hearing to determine if the 6595
defendant is competent to stand trial and shall do whichever of 6596
the following is applicable: 6597

(1) If the court finds that the defendant is competent to 6598
stand trial, the defendant shall be proceeded against as provided 6599
by law. 6600

(2) If the court finds that the defendant is incompetent to 6601
stand trial, but that there is a substantial probability that the 6602
defendant will become competent to stand trial if the defendant is 6603
provided with a course of treatment, and the maximum time for 6604
treatment as specified in division (C) of this section has not 6605
expired, the court, after consideration of the examiner's 6606
recommendation, shall order that treatment be continued, may 6607
change the facility or program at which the treatment is to be 6608
continued, and shall specify whether the treatment is to be 6609
continued at the same or a different facility or program. 6610

(3) If the court finds that the defendant is incompetent to 6611
stand trial, if the defendant is charged with an offense listed in 6612
division (C)(1) of this section, and if the court finds that there 6613
is not a substantial probability that the defendant will become 6614

competent to stand trial even if the defendant is provided with a 6615
course of treatment, or if the maximum time for treatment relative 6616
to that offense as specified in division (C) of this section has 6617
expired, further proceedings shall be as provided in sections 6618
2945.39, 2945.401, and 2945.402 of the Revised Code. 6619

(4) If the court finds that the defendant is incompetent to 6620
stand trial, if the most serious offense with which the defendant 6621
is charged is a misdemeanor or a felony other than a felony listed 6622
in division (C)(1) of this section, and if the court finds that 6623
there is not a substantial probability that the defendant will 6624
become competent to stand trial even if the defendant is provided 6625
with a course of treatment, or if the maximum time for treatment 6626
relative to that offense as specified in division (C) of this 6627
section has expired, the court shall dismiss the indictment, 6628
information, or complaint against the defendant. A dismissal under 6629
this division is not a bar to further prosecution based on the 6630
same conduct. The court shall discharge the defendant unless the 6631
court or prosecutor files an affidavit in probate court for civil 6632
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 6633
If an affidavit for civil commitment is filed, the court may 6634
detain the defendant for ten days pending civil commitment. All of 6635
the following provisions apply to persons charged with a 6636
misdemeanor or a felony other than a felony listed in division 6637
(C)(1) of this section who are committed by the probate court 6638
subsequent to the court's or prosecutor's filing of an affidavit 6639
for civil commitment under authority of this division: 6640

(a) The chief clinical officer of the hospital or facility, 6641
the managing officer of the institution, the director of the 6642
program, or the person to which the defendant is committed or 6643
admitted shall do all of the following: 6644

(i) Notify the prosecutor, in writing, of the discharge of 6645
the defendant, send the notice at least ten days prior to the 6646

discharge unless the discharge is by the probate court, and state 6647
in the notice the date on which the defendant will be discharged; 6648

(ii) Notify the prosecutor, in writing, when the defendant is 6649
absent without leave or is granted unsupervised, off-grounds 6650
movement, and send this notice promptly after the discovery of the 6651
absence without leave or prior to the granting of the 6652
unsupervised, off-grounds movement, whichever is applicable; 6653

(iii) Notify the prosecutor, in writing, of the change of the 6654
defendant's commitment or admission to voluntary status, send the 6655
notice promptly upon learning of the change to voluntary status, 6656
and state in the notice the date on which the defendant was 6657
committed or admitted on a voluntary status. 6658

(b) Upon receiving notice that the defendant will be granted 6659
unsupervised, off-grounds movement, the prosecutor either shall 6660
re-indict the defendant or promptly notify the court that the 6661
prosecutor does not intend to prosecute the charges against the 6662
defendant. 6663

(I) If a defendant is convicted of a crime and sentenced to a 6664
jail or workhouse, the defendant's sentence shall be reduced by 6665
the total number of days the defendant is confined for evaluation 6666
to determine the defendant's competence to stand trial or 6667
treatment under this section and sections 2945.37 and 2945.371 of 6668
the Revised Code or by the total number of days the defendant is 6669
confined for evaluation to determine the defendant's mental 6670
condition at the time of the offense charged. 6671

Sec. 2945.39. (A) If a defendant who is charged with an 6672
offense described in division (C)(1) of section 2945.38 of the 6673
Revised Code is found incompetent to stand trial, after the 6674
expiration of the maximum time for treatment as specified in 6675
division (C) of that section or after the court finds that there 6676
is not a substantial probability that the defendant will become 6677

competent to stand trial even if the defendant is provided with a course of treatment, one of the following applies:

(1) The court or the prosecutor may file an affidavit in probate court for civil commitment of the defendant in the manner provided in Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may detain the defendant for ten days pending civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for civil commitment, the chief clinical officer of the hospital or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code within the periods of time and under the circumstances specified in those divisions.

(2) On the motion of the prosecutor or on its own motion, the court may retain jurisdiction over the defendant if, at a hearing, the court finds both of the following by clear and convincing evidence:

(a) The defendant committed the offense with which the defendant is charged.

(b) The defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order.

(B) In making its determination under division (A)(2) of this section as to whether to retain jurisdiction over the defendant, the court may consider all relevant evidence, including, but not limited to, any relevant psychiatric, psychological, or medical testimony or reports, the acts constituting the offense charged, and any history of the defendant that is relevant to the

defendant's ability to conform to the law. 6709

(C) If the court conducts a hearing as described in division 6710
(A)(2) of this section and if the court does not make both 6711
findings described in divisions (A)(2)(a) and (b) of this section 6712
by clear and convincing evidence, the court shall dismiss the 6713
indictment, information, or complaint against the defendant. Upon 6714
the dismissal, the court shall discharge the defendant unless the 6715
court or prosecutor files an affidavit in probate court for civil 6716
commitment of the defendant pursuant to Chapter 5122. or 5123. of 6717
the Revised Code. If the court or prosecutor files an affidavit 6718
for civil commitment, the court may order that the defendant be 6719
detained for up to ten days pending the civil commitment. If the 6720
probate court commits the defendant subsequent to the court's or 6721
prosecutor's filing of an affidavit for civil commitment, the 6722
chief clinical officer of the hospital or facility, the managing 6723
officer of the institution, the director of the program, or the 6724
person to which the defendant is committed or admitted shall send 6725
to the prosecutor the notices described in divisions (H)(4)(a)(i) 6726
to (iii) of section 2945.38 of the Revised Code within the periods 6727
of time and under the circumstances specified in those divisions. 6728
A dismissal of charges under this division is not a bar to further 6729
criminal proceedings based on the same conduct. 6730

(D)(1) If the court conducts a hearing as described in 6731
division (A)(2) of this section and if the court makes the 6732
findings described in divisions (A)(2)(a) and (b) of this section 6733
by clear and convincing evidence, the court shall commit the 6734
defendant to a hospital operated by the department of mental 6735
health, a facility operated by the department of ~~mental~~ 6736
~~retardation and~~ developmental disabilities, or another medical or 6737
psychiatric facility, as appropriate. In determining the place and 6738
nature of the commitment, the court shall order the least 6739
restrictive commitment alternative available that is consistent 6740

with public safety and the welfare of the defendant. In weighing 6741
these factors, the court shall give preference to protecting 6742
public safety. 6743

(2) If a court makes a commitment of a defendant under 6744
division (D)(1) of this section, the prosecutor shall send to the 6745
place of commitment all reports of the defendant's current mental 6746
condition and, except as otherwise provided in this division, any 6747
other relevant information, including, but not limited to, a 6748
transcript of the hearing held pursuant to division (A)(2) of this 6749
section, copies of relevant police reports, and copies of any 6750
prior arrest and conviction records that pertain to the defendant 6751
and that the prosecutor possesses. The prosecutor shall send the 6752
reports of the defendant's current mental condition in every case 6753
of commitment, and, unless the prosecutor determines that the 6754
release of any of the other relevant information to unauthorized 6755
persons would interfere with the effective prosecution of any 6756
person or would create a substantial risk of harm to any person, 6757
the prosecutor also shall send the other relevant information. 6758
Upon admission of a defendant committed under division (D)(1) of 6759
this section, the place of commitment shall send to the board of 6760
alcohol, drug addiction, and mental health services or the 6761
community mental health board serving the county in which the 6762
charges against the defendant were filed a copy of all reports of 6763
the defendant's current mental condition and a copy of the other 6764
relevant information provided by the prosecutor under this 6765
division, including, if provided, a transcript of the hearing held 6766
pursuant to division (A)(2) of this section, the relevant police 6767
reports, and the prior arrest and conviction records that pertain 6768
to the defendant and that the prosecutor possesses. 6769

(3) If a court makes a commitment under division (D)(1) of 6770
this section, all further proceedings shall be in accordance with 6771
sections 2945.401 and 2945.402 of the Revised Code. 6772

Sec. 2945.40. (A) If a person is found not guilty by reason of insanity, the verdict shall state that finding, and the trial court shall conduct a full hearing to determine whether the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. Prior to the hearing, if the trial judge believes that there is probable cause that the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or mentally retarded person subject to institutionalization by court order, the trial judge may issue a temporary order of detention for that person to remain in effect for ten court days or until the hearing, whichever occurs first.

Any person detained pursuant to a temporary order of detention issued under this division shall be held in a suitable facility, taking into consideration the place and type of confinement prior to and during trial.

(B) The court shall hold the hearing under division (A) of this section to determine whether the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order within ten court days after the finding of not guilty by reason of insanity. Failure to conduct the hearing within the ten-day period shall cause the immediate discharge of the respondent, unless the judge grants a continuance for not longer than ten court days for good cause shown or for any period of time upon motion of the respondent.

(C) If a person is found not guilty by reason of insanity, the person has the right to attend all hearings conducted pursuant to sections 2945.37 to 2945.402 of the Revised Code. At any hearing conducted pursuant to one of those sections, the court

shall inform the person that the person has all of the following 6804
rights: 6805

(1) The right to be represented by counsel and to have that 6806
counsel provided at public expense if the person is indigent, with 6807
the counsel to be appointed by the court under Chapter 120. of the 6808
Revised Code or under the authority recognized in division (C) of 6809
section 120.06, division (E) of section 120.16, division (E) of 6810
section 120.26, or section 2941.51 of the Revised Code; 6811

(2) The right to have independent expert evaluation and to 6812
have that independent expert evaluation provided at public expense 6813
if the person is indigent; 6814

(3) The right to subpoena witnesses and documents, to present 6815
evidence on the person's behalf, and to cross-examine witnesses 6816
against the person; 6817

(4) The right to testify in the person's own behalf and to 6818
not be compelled to testify; 6819

(5) The right to have copies of any relevant medical or 6820
mental health document in the custody of the state or of any place 6821
of commitment other than a document for which the court finds that 6822
the release to the person of information contained in the document 6823
would create a substantial risk of harm to any person. 6824

(D) The hearing under division (A) of this section shall be 6825
open to the public, and the court shall conduct the hearing in 6826
accordance with the Rules of Civil Procedure. The court shall make 6827
and maintain a full transcript and record of the hearing 6828
proceedings. The court may consider all relevant evidence, 6829
including, but not limited to, any relevant psychiatric, 6830
psychological, or medical testimony or reports, the acts 6831
constituting the offense in relation to which the person was found 6832
not guilty by reason of insanity, and any history of the person 6833
that is relevant to the person's ability to conform to the law. 6834

(E) Upon completion of the hearing under division (A) of this section, if the court finds there is not clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the court shall discharge the person, unless a detainer has been placed upon the person by the department of rehabilitation and correction, in which case the person shall be returned to that department.

(F) If, at the hearing under division (A) of this section, the court finds by clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, it shall commit the person to a hospital operated by the department of mental health, a facility operated by the department of ~~mental retardation~~ and developmental disabilities, or another medical or psychiatric facility, as appropriate, and further proceedings shall be in accordance with sections 2945.401 and 2945.402 of the Revised Code. In determining the place and nature of the commitment, the court shall order the least restrictive commitment alternative available that is consistent with public safety and the welfare of the person. In weighing these factors, the court shall give preference to protecting public safety.

(G) If a court makes a commitment of a person under division (F) of this section, the prosecutor shall send to the place of commitment all reports of the person's current mental condition, and, except as otherwise provided in this division, any other relevant information, including, but not limited to, a transcript of the hearing held pursuant to division (A) of this section, copies of relevant police reports, and copies of any prior arrest and conviction records that pertain to the person and that the prosecutor possesses. The prosecutor shall send the reports of the

person's current mental condition in every case of commitment, 6867
and, unless the prosecutor determines that the release of any of 6868
the other relevant information to unauthorized persons would 6869
interfere with the effective prosecution of any person or would 6870
create a substantial risk of harm to any person, the prosecutor 6871
also shall send the other relevant information. Upon admission of 6872
a person committed under division (F) of this section, the place 6873
of commitment shall send to the board of alcohol, drug addiction, 6874
and mental health services or the community mental health board 6875
serving the county in which the charges against the person were 6876
filed a copy of all reports of the person's current mental 6877
condition and a copy of the other relevant information provided by 6878
the prosecutor under this division, including, if provided, a 6879
transcript of the hearing held pursuant to division (A) of this 6880
section, the relevant police reports, and the prior arrest and 6881
conviction records that pertain to the person and that the 6882
prosecutor possesses. 6883

(H) A person who is committed pursuant to this section shall 6884
not voluntarily admit the person or be voluntarily admitted to a 6885
hospital or institution pursuant to ~~sections~~ section 5122.02, 6886
5122.15, 5123.69, or 5123.76 of the Revised Code. 6887

Sec. 2945.401. (A) A defendant found incompetent to stand 6888
trial and committed pursuant to section 2945.39 of the Revised 6889
Code or a person found not guilty by reason of insanity and 6890
committed pursuant to section 2945.40 of the Revised Code shall 6891
remain subject to the jurisdiction of the trial court pursuant to 6892
that commitment, and to the provisions of this section, until the 6893
final termination of the commitment as described in division 6894
(J)(1) of this section. If the jurisdiction is terminated under 6895
this division because of the final termination of the commitment 6896
resulting from the expiration of the maximum prison term or term 6897
of imprisonment described in division (J)(1)(b) of this section, 6898

the court or prosecutor may file an affidavit for the civil 6899
commitment of the defendant or person pursuant to Chapter 5122. or 6900
5123. of the Revised Code. 6901

(B) A hearing conducted under any provision of sections 6902
2945.37 to 2945.402 of the Revised Code shall not be conducted in 6903
accordance with Chapters 5122. and 5123. of the Revised Code. Any 6904
person who is committed pursuant to section 2945.39 or 2945.40 of 6905
the Revised Code shall not voluntarily admit the person or be 6906
voluntarily admitted to a hospital or institution pursuant to 6907
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 6908
All other provisions of Chapters 5122. and 5123. of the Revised 6909
Code regarding hospitalization or institutionalization shall apply 6910
to the extent they are not in conflict with this chapter. A 6911
commitment under section 2945.39 or 2945.40 of the Revised Code 6912
shall not be terminated and the conditions of the commitment shall 6913
not be changed except as otherwise provided in division (D)(2) of 6914
this section with respect to a mentally retarded person subject to 6915
institutionalization by court order or except by order of the 6916
trial court. 6917

(C) The hospital, facility, or program to which a defendant 6918
or person has been committed under section 2945.39 or 2945.40 of 6919
the Revised Code shall report in writing to the trial court, at 6920
the times specified in this division, as to whether the defendant 6921
or person remains a mentally ill person subject to hospitalization 6922
by court order or a mentally retarded person subject to 6923
institutionalization by court order and, in the case of a 6924
defendant committed under section 2945.39 of the Revised Code, as 6925
to whether the defendant remains incompetent to stand trial. The 6926
hospital, facility, or program shall make the reports after the 6927
initial six months of treatment and every two years after the 6928
initial report is made. The trial court shall provide copies of 6929
the reports to the prosecutor and to the counsel for the defendant 6930

or person. Within thirty days after its receipt pursuant to this 6931
division of a report from a hospital, facility, or program, the 6932
trial court shall hold a hearing on the continued commitment of 6933
the defendant or person or on any changes in the conditions of the 6934
commitment of the defendant or person. The defendant or person may 6935
request a change in the conditions of confinement, and the trial 6936
court shall conduct a hearing on that request if six months or 6937
more have elapsed since the most recent hearing was conducted 6938
under this section. 6939

(D)(1) Except as otherwise provided in division (D)(2) of 6940
this section, when a defendant or person has been committed under 6941
section 2945.39 or 2945.40 of the Revised Code, at any time after 6942
evaluating the risks to public safety and the welfare of the 6943
defendant or person, the chief clinical officer of the hospital, 6944
facility, or program to which the defendant or person is committed 6945
may recommend a termination of the defendant's or person's 6946
commitment or a change in the conditions of the defendant's or 6947
person's commitment. 6948

Except as otherwise provided in division (D)(2) of this 6949
section, if the chief clinical officer recommends on-grounds 6950
unsupervised movement, off-grounds supervised movement, or 6951
nonsecured status for the defendant or person or termination of 6952
the defendant's or person's commitment, the following provisions 6953
apply: 6954

(a) If the chief clinical officer recommends on-grounds 6955
unsupervised movement or off-grounds supervised movement, the 6956
chief clinical officer shall file with the trial court an 6957
application for approval of the movement and shall send a copy of 6958
the application to the prosecutor. Within fifteen days after 6959
receiving the application, the prosecutor may request a hearing on 6960
the application and, if a hearing is requested, shall so inform 6961
the chief clinical officer. If the prosecutor does not request a 6962

hearing within the fifteen-day period, the trial court shall 6963
approve the application by entering its order approving the 6964
requested movement or, within five days after the expiration of 6965
the fifteen-day period, shall set a date for a hearing on the 6966
application. If the prosecutor requests a hearing on the 6967
application within the fifteen-day period, the trial court shall 6968
hold a hearing on the application within thirty days after the 6969
hearing is requested. If the trial court, within five days after 6970
the expiration of the fifteen-day period, sets a date for a 6971
hearing on the application, the trial court shall hold the hearing 6972
within thirty days after setting the hearing date. At least 6973
fifteen days before any hearing is held under this division, the 6974
trial court shall give the prosecutor written notice of the date, 6975
time, and place of the hearing. At the conclusion of each hearing 6976
conducted under this division, the trial court either shall 6977
approve or disapprove the application and shall enter its order 6978
accordingly. 6979

(b) If the chief clinical officer recommends termination of 6980
the defendant's or person's commitment at any time or if the chief 6981
clinical officer recommends the first of any nonsecured status for 6982
the defendant or person, the chief clinical officer shall send 6983
written notice of this recommendation to the trial court and to 6984
the local forensic center. The local forensic center shall 6985
evaluate the committed defendant or person and, within thirty days 6986
after its receipt of the written notice, shall submit to the trial 6987
court and the chief clinical officer a written report of the 6988
evaluation. The trial court shall provide a copy of the chief 6989
clinical officer's written notice and of the local forensic 6990
center's written report to the prosecutor and to the counsel for 6991
the defendant or person. Upon the local forensic center's 6992
submission of the report to the trial court and the chief clinical 6993
officer, all of the following apply: 6994

(i) If the forensic center disagrees with the recommendation 6995
of the chief clinical officer, it shall inform the chief clinical 6996
officer and the trial court of its decision and the reasons for 6997
the decision. The chief clinical officer, after consideration of 6998
the forensic center's decision, shall either withdraw, proceed 6999
with, or modify and proceed with the recommendation. If the chief 7000
clinical officer proceeds with, or modifies and proceeds with, the 7001
recommendation, the chief clinical officer shall proceed in 7002
accordance with division (D)(1)(b)(iii) of this section. 7003

(ii) If the forensic center agrees with the recommendation of 7004
the chief clinical officer, it shall inform the chief clinical 7005
officer and the trial court of its decision and the reasons for 7006
the decision, and the chief clinical officer shall proceed in 7007
accordance with division (D)(1)(b)(iii) of this section. 7008

(iii) If the forensic center disagrees with the 7009
recommendation of the chief clinical officer and the chief 7010
clinical officer proceeds with, or modifies and proceeds with, the 7011
recommendation or if the forensic center agrees with the 7012
recommendation of the chief clinical officer, the chief clinical 7013
officer shall work with the board of alcohol, drug addiction, and 7014
mental health services or community mental health board serving 7015
the area, as appropriate, to develop a plan to implement the 7016
recommendation. If the defendant or person is on medication, the 7017
plan shall include, but shall not be limited to, a system to 7018
monitor the defendant's or person's compliance with the prescribed 7019
medication treatment plan. The system shall include a schedule 7020
that clearly states when the defendant or person shall report for 7021
a medication compliance check. The medication compliance checks 7022
shall be based upon the effective duration of the prescribed 7023
medication, taking into account the route by which it is taken, 7024
and shall be scheduled at intervals sufficiently close together to 7025
detect a potential increase in mental illness symptoms that the 7026

medication is intended to prevent. 7027

The chief clinical officer, after consultation with the board 7028
of alcohol, drug addiction, and mental health services or the 7029
community mental health board serving the area, shall send the 7030
recommendation and plan developed under division (D)(1)(b)(iii) of 7031
this section, in writing, to the trial court, the prosecutor and 7032
the counsel for the committed defendant or person. The trial court 7033
shall conduct a hearing on the recommendation and plan developed 7034
under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) 7035
and (d) and (E) to (J) of this section apply regarding the 7036
hearing. 7037

(c) If the chief clinical officer's recommendation is for 7038
nonsecured status or termination of commitment, the prosecutor may 7039
obtain an independent expert evaluation of the defendant's or 7040
person's mental condition, and the trial court may continue the 7041
hearing on the recommendation for a period of not more than thirty 7042
days to permit time for the evaluation. 7043

The prosecutor may introduce the evaluation report or present 7044
other evidence at the hearing in accordance with the Rules of 7045
Evidence. 7046

(d) The trial court shall schedule the hearing on a chief 7047
clinical officer's recommendation for nonsecured status or 7048
termination of commitment and shall give reasonable notice to the 7049
prosecutor and the counsel for the defendant or person. Unless 7050
continued for independent evaluation at the prosecutor's request 7051
or for other good cause, the hearing shall be held within thirty 7052
days after the trial court's receipt of the recommendation and 7053
plan. 7054

(2)(a) Division (D)(1) of this section does not apply to 7055
on-grounds unsupervised movement of a defendant or person who has 7056
been committed under section 2945.39 or 2945.40 of the Revised 7057

Code, who is a mentally retarded person subject to 7058
institutionalization by court order, and who is being provided 7059
residential habilitation, care, and treatment in a facility 7060
operated by the department of ~~mental retardation and~~ developmental 7061
disabilities. 7062

(b) If, pursuant to section 2945.39 of the Revised Code, the 7063
trial court commits a defendant who is found incompetent to stand 7064
trial and who is a mentally retarded person subject to 7065
institutionalization by court order, if the defendant is being 7066
provided residential habilitation, care, and treatment in a 7067
facility operated by the department of ~~mental retardation and~~ 7068
developmental disabilities, if an individual who is conducting a 7069
survey for the department of health to determine the facility's 7070
compliance with the certification requirements of the medicaid 7071
program under ~~chapter~~ Chapter 5111. of the Revised Code and Title 7072
XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 7073
301, as amended, cites the defendant's receipt of the residential 7074
habilitation, care, and treatment in the facility as being 7075
inappropriate under the certification requirements, if the 7076
defendant's receipt of the residential habilitation, care, and 7077
treatment in the facility potentially jeopardizes the facility's 7078
continued receipt of federal medicaid moneys, and if as a result 7079
of the citation the chief clinical officer of the facility 7080
determines that the conditions of the defendant's commitment 7081
should be changed, the department of ~~mental retardation and~~ 7082
developmental disabilities may cause the defendant to be removed 7083
from the particular facility and, after evaluating the risks to 7084
public safety and the welfare of the defendant and after 7085
determining whether another type of placement is consistent with 7086
the certification requirements, may place the defendant in another 7087
facility that the department selects as an appropriate facility 7088
for the defendant's continued receipt of residential habilitation, 7089
care, and treatment and that is a no less secure setting than the 7090

facility in which the defendant had been placed at the time of the 7091
citation. Within three days after the defendant's removal and 7092
alternative placement under the circumstances described in 7093
division (D)(2)(b) of this section, the department of ~~mental~~ 7094
~~retardation and~~ developmental disabilities shall notify the trial 7095
court and the prosecutor in writing of the removal and alternative 7096
placement. 7097

The trial court shall set a date for a hearing on the removal 7098
and alternative placement, and the hearing shall be held within 7099
twenty-one days after the trial court's receipt of the notice from 7100
the department of ~~mental retardation and~~ developmental 7101
disabilities. At least ~~ten days~~ ten days before the hearing is 7102
held, the trial court shall give the prosecutor, the department of 7103
~~mental retardation and~~ developmental disabilities, and the counsel 7104
for the defendant written notice of the date, time, and place of 7105
the hearing. At the hearing, the trial court shall consider the 7106
citation issued by the individual who conducted the survey for the 7107
department of health to be prima-facie evidence of the fact that 7108
the defendant's commitment to the particular facility was 7109
inappropriate under the certification requirements of the medicaid 7110
program under Chapter 5111. of the Revised Code and Title XIX of 7111
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 7112
as amended, and potentially jeopardizes the particular facility's 7113
continued receipt of federal medicaid moneys. At the conclusion of 7114
the hearing, the trial court may approve or disapprove the 7115
defendant's removal and alternative placement. If the trial court 7116
approves the defendant's removal and alternative placement, the 7117
department of ~~mental retardation and~~ developmental disabilities 7118
may continue the defendant's alternative placement. If the trial 7119
court disapproves the defendant's removal and alternative 7120
placement, it shall enter an order modifying the defendant's 7121
removal and alternative placement, but that order shall not 7122
require the department of ~~mental retardation and~~ developmental 7123

disabilities to replace the defendant for purposes of continued 7124
residential habilitation, care, and treatment in the facility 7125
associated with the citation issued by the individual who 7126
conducted the survey for the department of health. 7127

(E) In making a determination under this section regarding 7128
nonsecured status or termination of commitment, the trial court 7129
shall consider all relevant factors, including, but not limited 7130
to, all of the following: 7131

(1) Whether, in the trial court's view, the defendant or 7132
person currently represents a substantial risk of physical harm to 7133
the defendant or person or others; 7134

(2) Psychiatric and medical testimony as to the current 7135
mental and physical condition of the defendant or person; 7136

(3) Whether the defendant or person has insight into the 7137
defendant's or person's condition so that the defendant or person 7138
will continue treatment as prescribed or seek professional 7139
assistance as needed; 7140

(4) The grounds upon which the state relies for the proposed 7141
commitment; 7142

(5) Any past history that is relevant to establish the 7143
defendant's or person's degree of conformity to the laws, rules, 7144
regulations, and values of society; 7145

(6) If there is evidence that the defendant's or person's 7146
mental illness is in a state of remission, the medically suggested 7147
cause and degree of the remission and the probability that the 7148
defendant or person will continue treatment to maintain the 7149
remissive state of the defendant's or person's illness should the 7150
defendant's or person's commitment conditions be altered. 7151

(F) At any hearing held pursuant to division (C) or (D)(1) or 7152
(2) of this section, the defendant or the person shall have all 7153

the rights of a defendant or person at a commitment hearing as 7154
described in section 2945.40 of the Revised Code. 7155

(G) In a hearing held pursuant to division (C) or (D)(1) of 7156
this section, the prosecutor has the burden of proof as follows: 7157

(1) For a recommendation of termination of commitment, to 7158
show by clear and convincing evidence that the defendant or person 7159
remains a mentally ill person subject to hospitalization by court 7160
order or a mentally retarded person subject to 7161
institutionalization by court order; 7162

(2) For a recommendation for a change in the conditions of 7163
the commitment to a less restrictive status, to show by clear and 7164
convincing evidence that the proposed change represents a threat 7165
to public safety or a threat to the safety of any person. 7166

(H) In a hearing held pursuant to division (C) or (D)(1) or 7167
(2) of this section, the prosecutor shall represent the state or 7168
the public interest. 7169

(I) At the conclusion of a hearing conducted under division 7170
(D)(1) of this section regarding a recommendation from the chief 7171
clinical officer of a hospital, program, or facility, the trial 7172
court may approve, disapprove, or modify the recommendation and 7173
shall enter an order accordingly. 7174

(J)(1) A defendant or person who has been committed pursuant 7175
to section 2945.39 or 2945.40 of the Revised Code continues to be 7176
under the jurisdiction of the trial court until the final 7177
termination of the commitment. For purposes of division (J) of 7178
this section, the final termination of a commitment occurs upon 7179
the earlier of one of the following: 7180

(a) The defendant or person no longer is a mentally ill 7181
person subject to hospitalization by court order or a mentally 7182
retarded person subject to institutionalization by court order, as 7183
determined by the trial court; 7184

(b) The expiration of the maximum prison term or term of imprisonment that the defendant or person could have received if the defendant or person had been convicted of the most serious offense with which the defendant or person is charged or in relation to which the defendant or person was found not guilty by reason of insanity;

(c) The trial court enters an order terminating the commitment under the circumstances described in division (J)(2)(a)(ii) of this section.

(2)(a) If a defendant is found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code, if neither of the circumstances described in divisions (J)(1)(a) and (b) of this section applies to that defendant, and if a report filed with the trial court pursuant to division (C) of this section indicates that the defendant presently is competent to stand trial or if, at any other time during the period of the defendant's commitment, the prosecutor, the counsel for the defendant, or the chief clinical officer of the hospital, facility, or program to which the defendant is committed files an application with the trial court alleging that the defendant presently is competent to stand trial and requesting a hearing on the competency issue or the trial court otherwise has reasonable cause to believe that the defendant presently is competent to stand trial and determines on its own motion to hold a hearing on the competency issue, the trial court shall schedule a hearing on the competency of the defendant to stand trial, shall give the prosecutor, the counsel for the defendant, and the chief clinical officer notice of the date, time, and place of the hearing at least fifteen days before the hearing, and shall conduct the hearing within thirty days of the filing of the application or of its own motion. If, at the conclusion of the hearing, the trial court determines that the defendant presently is capable of

understanding the nature and objective of the proceedings against 7217
the defendant and of assisting in the defendant's defense, the 7218
trial court shall order that the defendant is competent to stand 7219
trial and shall be proceeded against as provided by law with 7220
respect to the applicable offenses described in division (C)(1) of 7221
section 2945.38 of the Revised Code and shall enter whichever of 7222
the following additional orders is appropriate: 7223

(i) If the trial court determines that the defendant remains 7224
a mentally ill person subject to hospitalization by court order or 7225
a mentally retarded person subject to institutionalization by 7226
court order, the trial court shall order that the defendant's 7227
commitment to the hospital, facility, or program be continued 7228
during the pendency of the trial on the applicable offenses 7229
described in division (C)(1) of section 2945.38 of the Revised 7230
Code. 7231

(ii) If the trial court determines that the defendant no 7232
longer is a mentally ill person subject to hospitalization by 7233
court order or a mentally retarded person subject to 7234
institutionalization by court order, the trial court shall order 7235
that the defendant's commitment to the hospital, facility, or 7236
program shall not be continued during the pendency of the trial on 7237
the applicable offenses described in division (C)(1) of section 7238
2945.38 of the Revised Code. This order shall be a final 7239
termination of the commitment for purposes of division (J)(1)(c) 7240
of this section. 7241

(b) If, at the conclusion of the hearing described in 7242
division (J)(2)(a) of this section, the trial court determines 7243
that the defendant remains incapable of understanding the nature 7244
and objective of the proceedings against the defendant or of 7245
assisting in the defendant's defense, the trial court shall order 7246
that the defendant continues to be incompetent to stand trial, 7247
that the defendant's commitment to the hospital, facility, or 7248

program shall be continued, and that the defendant remains subject 7249
to the jurisdiction of the trial court pursuant to that 7250
commitment, and to the provisions of this section, until the final 7251
termination of the commitment as described in division (J)(1) of 7252
this section. 7253

Sec. 2967.22. Whenever it is brought to the attention of the 7254
adult parole authority or a department of probation that a 7255
parolee, person under a community control sanction, person under 7256
transitional control, or releasee appears to be a mentally ill 7257
person subject to hospitalization by court order, as defined in 7258
section 5122.01 of the Revised Code, or a mentally retarded person 7259
subject to institutionalization by court order, as defined in 7260
section 5123.01 of the Revised Code, the parole or probation 7261
officer, subject to the approval of the chief of the adult parole 7262
authority, the designee of the chief of the adult parole 7263
authority, or the chief probation officer, may file an affidavit 7264
under section 5122.11 or 5123.71 of the Revised Code. A parolee, 7265
person under a community control sanction, or releasee who is 7266
involuntarily detained under Chapter 5122. or 5123. of the Revised 7267
Code shall receive credit against the period of parole or 7268
community control or the term of post-release control for the 7269
period of involuntary detention. 7270

If a parolee, person under a community control sanction, 7271
person under transitional control, or releasee escapes from an 7272
institution or facility within the department of mental health or 7273
the department of ~~mental retardation and~~ developmental 7274
disabilities, the superintendent of the institution immediately 7275
shall notify the chief of the adult parole authority or the chief 7276
probation officer. Notwithstanding the provisions of section 7277
5122.26 of the Revised Code, the procedure for the apprehension, 7278
detention, and return of the parolee, person under a community 7279
control sanction, person under transitional control, or releasee 7280

is the same as that provided for the apprehension, detention, and 7281
return of persons who escape from institutions operated by the 7282
department of rehabilitation and correction. If the escaped 7283
parolee, person under transitional control, or releasee is not 7284
apprehended and returned to the custody of the department of 7285
mental health or the department of ~~mental retardation and~~ 7286
developmental disabilities within ninety days after the escape, 7287
the parolee, person under transitional control, or releasee shall 7288
be discharged from the custody of the department of mental health 7289
or the department of ~~mental retardation and~~ developmental 7290
disabilities and returned to the custody of the department of 7291
rehabilitation and correction. If the escaped person under a 7292
community control sanction is not apprehended and returned to the 7293
custody of the department of mental health or the department of 7294
~~mental retardation and~~ developmental disabilities within ninety 7295
days after the escape, the person under a community control 7296
sanction shall be discharged from the custody of the department of 7297
mental health or the department of ~~mental retardation and~~ 7298
developmental disabilities and returned to the custody of the 7299
court that sentenced that person. 7300

Sec. 3301.15. The state board of education or its authorized 7301
representatives may inspect all institutions under the control of 7302
the department of job and family services, the department of 7303
mental health, the department of ~~mental retardation and~~ 7304
developmental disabilities, and the department of rehabilitation 7305
and correction which employ teachers, and may make a report on the 7306
teaching, discipline, and school equipment in these institutions 7307
to the director of job and family services, the director of mental 7308
health, the director of ~~mental retardation and~~ developmental 7309
disabilities, the director of rehabilitation and correction, and 7310
the governor. 7311

Sec. 3304.231. There is hereby created a brain injury 7312
advisory committee, which shall advise the administrator of the 7313
rehabilitation services commission and the brain injury program 7314
with regard to unmet needs of survivors of brain injury, 7315
development of programs for survivors and their families, 7316
establishment of training programs for health care professionals, 7317
and any other matter within the province of the brain injury 7318
program. The committee shall consist of not less than eighteen and 7319
not more than twenty-one members as follows: 7320

(A) Not less than ten and not more than twelve members 7321
appointed by the administrator of the rehabilitation services 7322
commission, including all of the following: a survivor of brain 7323
injury, a relative of a survivor of brain injury, a licensed 7324
physician recommended by the Ohio chapter of the American college 7325
of emergency physicians, a licensed physician recommended by the 7326
Ohio state medical association, one other health care 7327
professional, a rehabilitation professional, an individual who 7328
represents the brain injury association of Ohio, and not less than 7329
three nor more than five individuals who shall represent the 7330
public; 7331

(B) The directors of the departments of health, alcohol and 7332
drug addiction services, ~~mental retardation and~~ developmental 7333
disabilities, mental health, job and family services, and highway 7334
safety; the administrator of workers' compensation; the 7335
superintendent of public instruction; and the administrator of the 7336
rehabilitation services commission. Any of the officials specified 7337
in this division may designate an individual to serve in the 7338
official's place as a member of the committee. 7339

The director of health shall make initial appointments to the 7340
committee by November 1, 1990. Appointments made after July 26, 7341
1991, shall be made by the administrator of the rehabilitation 7342

services commission. Terms of office shall be two years. Members 7343
may be reappointed. Vacancies shall be filled in the manner 7344
provided for original appointments. Any member appointed to fill a 7345
vacancy occurring prior to the expiration date of the term for 7346
which the member's predecessor was appointed shall hold office as 7347
a member for the remainder of that term. 7348

Members of the committee shall serve without compensation, 7349
but shall be reimbursed for actual and necessary expenses incurred 7350
in the performance of their duties. 7351

Sec. 3313.65. (A) As used in this section and section 3313.64 7352
of the Revised Code: 7353

(1) A person is "in a residential facility" if the person is 7354
a resident or a resident patient of an institution, home, or other 7355
residential facility that is: 7356

(a) Licensed as a nursing home, residential care facility, or 7357
home for the aging by the director of health under section 3721.02 7358
of the Revised Code or licensed as a community alternative home by 7359
the director of health under section 3724.03 of the Revised Code; 7360

(b) Licensed as an adult care facility by the director of 7361
health under Chapter 3722. of the Revised Code; 7362

(c) Maintained as a county home or district home by the board 7363
of county commissioners or a joint board of county commissioners 7364
under Chapter 5155. of the Revised Code; 7365

(d) Operated or administered by a board of alcohol, drug 7366
addiction, and mental health services under section 340.03 or 7367
340.06 of the Revised Code, or provides residential care pursuant 7368
to contracts made under section 340.03 or 340.033 of the Revised 7369
Code; 7370

(e) Maintained as a state institution for the mentally ill 7371
under Chapter 5119. of the Revised Code; 7372

(f) Licensed by the department of mental health under section 5119.20 or 5119.22 of the Revised Code;	7373 7374
(g) Licensed as a residential facility by the department of mental retardation and developmental disabilities under section 5123.19 of the Revised Code;	7375 7376 7377
(h) Operated by the veteran's administration or another agency of the United States government;	7378 7379
(i) The Ohio soldiers' and sailors' home.	7380
(2) A person is "in a correctional facility" if any of the following apply:	7381 7382
(a) The person is an Ohio resident and is:	7383
(i) Imprisoned, as defined in section 1.05 of the Revised Code;	7384 7385
(ii) Serving a term in a community-based correctional facility or a district community-based correctional facility;	7386 7387
(iii) Required, as a condition of parole, a post-release control sanction, a community control sanction, transitional control, or early release from imprisonment, as a condition of shock parole or shock probation granted under the law in effect prior to July 1, 1996, or as a condition of a furlough granted under the version of section 2967.26 of the Revised Code in effect prior to March 17, 1998, to reside in a halfway house or other community residential center licensed under section 2967.14 of the Revised Code or a similar facility designated by the court of common pleas that established the condition or by the adult parole authority.	7388 7389 7390 7391 7392 7393 7394 7395 7396 7397 7398
(b) The person is imprisoned in a state correctional institution of another state or a federal correctional institution but was an Ohio resident at the time the sentence was imposed for the crime for which the person is imprisoned.	7399 7400 7401 7402

(3) A person is "in a juvenile residential placement" if the person is an Ohio resident who is under twenty-one years of age and has been removed, by the order of a juvenile court, from the place the person resided at the time the person became subject to the court's jurisdiction in the matter that resulted in the person's removal.

(4) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(5) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

(B) If the circumstances described in division (C) of this section apply, the determination of what school district must admit a child to its schools and what district, if any, is liable for tuition shall be made in accordance with this section, rather than section 3313.64 of the Revised Code.

(C) A child who does not reside in the school district in which the child's parent resides and for whom a tuition obligation previously has not been established under division (C)(2) of section 3313.64 of the Revised Code shall be admitted to the schools of the district in which the child resides if at least one of the child's parents is in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, is not known to reside in this state.

(D) Regardless of who has custody or care of the child, whether the child resides in a home, or whether the child receives special education, if a district admits a child under division (C) of this section, tuition shall be paid to that district as follows:

(1) If the child's parent is in a juvenile residential placement, by the district in which the child's parent resided at

the time the parent became subject to the jurisdiction of the juvenile court;

(2) If the child's parent is in a correctional facility, by the district in which the child's parent resided at the time the sentence was imposed;

(3) If the child's parent is in a residential facility, by the district in which the parent resided at the time the parent was admitted to the residential facility, except that if the parent was transferred from another residential facility, tuition shall be paid by the district in which the parent resided at the time the parent was admitted to the facility from which the parent first was transferred;

(4) In the event of a disagreement as to which school district is liable for tuition under division (C)(1), (2), or (3) of this section, the superintendent of public instruction shall determine which district shall pay tuition.

(E) If a child covered by division (D) of this section receives special education in accordance with Chapter 3323. of the Revised Code, the tuition shall be paid in accordance with section 3323.13 or 3323.14 of the Revised Code. Tuition for children who do not receive special education shall be paid in accordance with division (J) of section 3313.64 of the Revised Code.

Sec. 3313.715. The board of education of a school district may request from the director of ~~mental retardation and~~ developmental disabilities the appropriate identification numbers for all students residing in the district who are medical assistance recipients under Chapter 5111. of the Revised Code. The director shall furnish such numbers upon receipt of lists of student names furnished by the district board, in such form as the director may require.

The director of job and family services shall provide the 7464
director of ~~mental retardation and~~ developmental disabilities with 7465
the data necessary for compliance with this section. 7466

Section 3319.321 of the Revised Code does not apply to the 7467
release of student names or other data to the director of ~~mental~~ 7468
~~retardation and~~ developmental disabilities for the purposes of 7469
this section. Chapter 1347. of the Revised Code does not apply to 7470
information required to be kept by a school board or the 7471
departments of job and family services or ~~mental retardation and~~ 7472
developmental disabilities to the extent necessary to comply with 7473
this section and section 3313.714 of the Revised Code. However, 7474
any such information or data shall be used only for the specific 7475
legal purposes of such boards and departments and shall not be 7476
released to any unauthorized person. 7477

Sec. 3323.01. As used in this chapter: 7478

(A) "Child with a disability" means a child who is at least 7479
three years of age and less than twenty-two years of age; who has 7480
mental retardation, a hearing impairment (including deafness), a 7481
speech or language impairment, a visual impairment (including 7482
blindness), a serious emotional disturbance, an orthopedic 7483
impairment, autism, traumatic brain injury, an other health 7484
impairment, a specific learning disability, deaf-blindness, or 7485
multiple disabilities; and who, by reason thereof, needs special 7486
education and related services. 7487

A "child with a disability" may include a child who is at 7488
least three years of age and less than six years of age; who is 7489
experiencing developmental delays, as defined by standards adopted 7490
by the state board of education and as measured by appropriate 7491
diagnostic instruments and procedures in one or more of the 7492
following areas: physical development, cognitive development, 7493
communication development, social or emotional development, or 7494

adaptive development; and who, by reason thereof, needs special education and related services.	7495 7496
(B) "County MR/DD board" means a county board of mental retardation and developmental disabilities.	7497 7498
(C) "Free appropriate public education" means special education and related services that meet all of the following:	7499 7500
(1) Are provided at public expense, under public supervision and direction, and without charge;	7501 7502
(2) Meet the standards of the state board of education;	7503
(3) Include an appropriate preschool, elementary, or secondary education as otherwise provided by the law of this state;	7504 7505 7506
(4) Are provided for each child with a disability in conformity with the child's individualized education program.	7507 7508
(D) "Homeless children" means "homeless children and youths" as defined in section 725 of the "McKinney-Vento Homeless Assistance Act," 42 U.S.C. 11434a.	7509 7510 7511
(E) "Individualized education program" or "IEP" means the written statement described in section 3323.011 of the Revised Code.	7512 7513 7514
(F) "Individualized education program team" or "IEP team" means a group of individuals composed of:	7515 7516
(1) The parents of a child with a disability;	7517
(2) At least one regular education teacher of the child, if the child is or may be participating in the regular education environment;	7518 7519 7520
(3) At least one special education teacher, or where appropriate, at least one special education provider of the child;	7521 7522
(4) A representative of the school district who meets all of	7523

the following: 7524

(a) Is qualified to provide, or supervise the provision of, 7525
specially designed instruction to meet the unique needs of 7526
children with disabilities; 7527

(b) Is knowledgeable about the general education curriculum; 7528

(c) Is knowledgeable about the availability of resources of 7529
the school district. 7530

(5) An individual who can interpret the instructional 7531
implications of evaluation results, who may be a member of the 7532
team as described in divisions (F)(2) to (4) of this section; 7533

(6) At the discretion of the parent or the school district, 7534
other individuals who have knowledge or special expertise 7535
regarding the child, including related services personnel as 7536
appropriate; 7537

(7) Whenever appropriate, the child with a disability. 7538

(G) "Instruction in braille reading and writing" means the 7539
teaching of the system of reading and writing through touch 7540
commonly known as standard English braille. 7541

(H) "Other educational agency" means a department, division, 7542
bureau, office, institution, board, commission, committee, 7543
authority, or other state or local agency, which is not a city, 7544
local, or exempted village school district or an agency 7545
administered by the department of ~~mental retardation and~~ 7546
developmental disabilities, that provides or seeks to provide 7547
special education or related services to children with 7548
disabilities. The term "other educational agency" includes a joint 7549
vocational school district. 7550

(I) "Parent" of a child with a disability, except as used in 7551
sections 3323.09 and 3323.141 of the Revised Code, means: 7552

(1) A natural or adoptive parent of a child but not a foster 7553

parent of a child; 7554

(2) A guardian, but not the state if the child is a ward of 7555
the state; 7556

(3) An individual acting in the place of a natural or 7557
adoptive parent, including a grandparent, stepparent, or other 7558
relative, with whom the child lives, or an individual who is 7559
legally responsible for the child's welfare; 7560

(4) An individual assigned to be a surrogate parent, provided 7561
the individual is not prohibited by this chapter from serving as a 7562
surrogate parent for a child. 7563

(J) "Preschool child with a disability" means a child with a 7564
disability who is at least three years of age but is not of 7565
compulsory school age, as defined under section 3321.01 of the 7566
Revised Code, and who is not currently enrolled in kindergarten. 7567

(K) "Related services" means transportation, and such 7568
developmental, corrective, and other supportive services 7569
(including speech-language pathology and audiology services, 7570
interpreting services, psychological services, physical and 7571
occupational therapy, recreation, including therapeutic 7572
recreation, school nurse services designed to enable a child with 7573
a disability to receive a free appropriate public education as 7574
described in the individualized education program of the child, 7575
counseling services, including rehabilitation counseling, 7576
orientation and mobility services, school health services, social 7577
work services in schools, and parent counseling and training, and 7578
medical services, except that such medical services shall be for 7579
diagnostic and evaluation purposes only) as may be required to 7580
assist a child with a disability to benefit from special 7581
education, and includes the early identification and assessment of 7582
disabling conditions in children. "Related services" does not 7583
include a medical device that is surgically implanted, or the 7584

replacement of such device. 7585

(L) "School district" means a city, local, or exempted 7586
village school district. 7587

(M) "School district of residence," as used in sections 7588
3323.09, 3323.091, 3323.13, and 3323.14 of the Revised Code, 7589
means: 7590

(1) The school district in which the child's natural or 7591
adoptive parents reside; 7592

(2) If the school district specified in division (M)(1) of 7593
this section cannot be determined, the last school district in 7594
which the child's natural or adoptive parents are known to have 7595
resided if the parents' whereabouts are unknown; 7596

(3) If the school district specified in division (M)(2) of 7597
this section cannot be determined, the school district determined 7598
under section 2151.362 of the Revised Code, or if no district has 7599
been so determined, the school district as determined by the 7600
probate court of the county in which the child resides. 7601

(4) Notwithstanding divisions (M)(1) to (3) of this section, 7602
if a school district is required by section 3313.65 of the Revised 7603
Code to pay tuition for a child, that district shall be the 7604
child's school district of residence. 7605

(N) "Special education" means specially designed instruction, 7606
at no cost to parents, to meet the unique needs of a child with a 7607
disability. "Special education" includes instruction conducted in 7608
the classroom, in the home, in hospitals and institutions, and in 7609
other settings, including an early childhood education setting, 7610
and instruction in physical education. 7611

(O) "Student with a visual impairment" means any person who 7612
is less than twenty-two years of age and who has a visual 7613
impairment as that term is defined in this section. 7614

(P) "Transition services" means a coordinated set of 7615
activities for a child with a disability that meet all of the 7616
following: 7617

(1) Is designed to be within a results-oriented process, that 7618
is focused on improving the academic and functional achievement of 7619
the child with a disability to facilitate the child's movement 7620
from school to post-school activities, including post-secondary 7621
education; vocational education; integrated employment (including 7622
supported employment); continuing and adult education; adult 7623
services; independent living; or community participation; 7624

(2) Is based on the individual child's needs, taking into 7625
account the child's strengths, preferences, and interests; 7626

(3) Includes instruction, related services, community 7627
experiences, the development of employment and other post-school 7628
adult living objectives, and, when appropriate, acquisition of 7629
daily living skills and functional vocational evaluation. 7630

"Transition services" for children with disabilities may be 7631
special education, if provided as specially designed instruction, 7632
or may be a related service, if required to assist a child with a 7633
disability to benefit from special education. 7634

(Q) "Visual impairment" for any individual means that one of 7635
the following applies to the individual: 7636

(1) The individual has a visual acuity of 20/200 or less in 7637
the better eye with correcting lenses or has a limited field of 7638
vision in the better eye such that the widest diameter subtends an 7639
angular distance of no greater than twenty degrees. 7640

(2) The individual has a medically indicated expectation of 7641
meeting the requirements of division (Q)(1) of this section over a 7642
period of time. 7643

(3) The individual has a medically diagnosed and medically 7644

uncorrectable limitation in visual functioning that adversely 7645
affects the individual's ability to read and write standard print 7646
at levels expected of the individual's peers of comparable ability 7647
and grade level. 7648

(R) "Ward of the state" has the same meaning as in section 7649
602(36) of the "Individuals with Disabilities Education 7650
Improvement Act of 2004," 20 U.S.C. 1401(36). 7651

Sec. 3323.021. As used in this section, "participating county 7652
MR/DD board" means a county board of mental retardation and 7653
developmental disabilities electing to participate in the 7654
provision of or contracting for educational services for children 7655
under division (D) of section 5126.05 of the Revised Code. 7656

(A) When a school district, educational service center, or 7657
participating county MR/DD board enters into an agreement or 7658
contract with another school district, educational service center, 7659
or participating county MR/DD board to provide educational 7660
services to a disabled child during a school year, both of the 7661
following shall apply: 7662

(1) Beginning with fiscal year 1999, if the provider of the 7663
services intends to increase the amount it charges for some or all 7664
of those services during the next school year or if the provider 7665
intends to cease offering all or part of those services during the 7666
next school year, the provider shall notify the entity for which 7667
the services are provided of these intended changes no later ~~that~~ 7668
than the first day of March of the current fiscal year. 7669

(2) Beginning with fiscal year 1999, if the entity for which 7670
services are provided intends to cease obtaining those services 7671
from the provider for the next school year or intends to change 7672
the type or amount of services it obtains from the provider for 7673
the next school year, the entity shall notify the service provider 7674
of these intended changes no later than the first day of March of 7675

the current fiscal year. 7676

(B) School districts, educational service centers, 7677
participating county MR/DD boards, and other applicable 7678
governmental entities shall collaborate where possible to maximize 7679
federal sources of revenue to provide additional funds for special 7680
education related services for disabled children. Annually, each 7681
school district shall report to the department of education any 7682
amounts of money the district received through such medical 7683
assistance program. 7684

(C) The state board of education, the department of ~~mental~~ 7685
~~retardation and~~ developmental disabilities, and the department of 7686
job and family services shall develop working agreements for 7687
pursuing additional funds for services for disabled children. 7688

Sec. 3323.03. The state board of education shall, in 7689
consultation with the department of health, the department of 7690
mental health, and the department of ~~mental retardation and~~ 7691
developmental disabilities, establish standards and procedures for 7692
the identification, location, and evaluation of all children with 7693
disabilities residing in the state, including children with 7694
disabilities who are homeless children or are wards of the state 7695
and children with disabilities attending nonpublic schools, 7696
regardless of the severity of their disabilities, and who are in 7697
need of special education and related services. The state board 7698
shall develop and implement a practical method to determine which 7699
children with disabilities are currently receiving needed special 7700
education and related services. 7701

In conducting the evaluation, the board of education of each 7702
school district shall use a variety of assessment tools and 7703
strategies to gather relevant functional, developmental, and 7704
academic information about the child, including information 7705
provided by the child's parent. The board of education of each 7706

school district, in consultation with the county MR/DD board, the 7707
county family and children first council, and the board of 7708
alcohol, drug addiction, and mental health services of each county 7709
in which the school district has territory, shall identify, 7710
locate, and evaluate all children with disabilities residing 7711
within the district to determine which children with disabilities 7712
are not receiving appropriate special education and related 7713
services. In addition, the board of education of each school 7714
district, in consultation with such county boards or council, 7715
shall identify, locate, and evaluate all children with 7716
disabilities who are enrolled by their parents in nonpublic 7717
elementary and secondary schools located within the public school 7718
district, without regard to where those children reside in 7719
accordance with rules of the state board of education or 7720
guidelines of the superintendent of public instruction. 7721

Each county MR/DD board, county family and children first 7722
council, and board of alcohol, drug addiction, and mental health 7723
services and the board's or council's contract agencies may 7724
transmit to boards of education the names and addresses of 7725
children with disabilities who are not receiving appropriate 7726
special education and related services. 7727

Sec. 3323.04. The state board of education, in consultation 7728
with the department of mental health and the department of ~~mental~~ 7729
~~retardation~~ and developmental disabilities, shall establish 7730
procedures and standards for the development of individualized 7731
education programs for children with disabilities. 7732

The state board shall require the board of education of each 7733
school district to develop an individualized education program for 7734
each child with a disability who is at least three years of age 7735
and less than twenty-two years of age residing in the district in 7736
a manner that is in accordance with rules of the state board. 7737

Prior to the placement of a child with a disability in a program operated under section 3323.09 of the Revised Code, the district board of education shall consult the county MR/DD board of the county in which the child resides regarding the proposed placement.

A child with a disability enrolled in a nonpublic school or facility shall be provided special education and related services, in accordance with an individualized education program, at no cost for those services, if the child is placed in, or referred to, that nonpublic school or facility by the department of education or a school district.

The IEP team shall review the individualized education program of each child with a disability periodically, but at least annually, to determine whether the annual goals for the child are being achieved, and shall revise the individualized education program as appropriate.

The state board shall establish procedures and standards to assure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, shall be educated with children who are not disabled. Special classes, separate schools, or other removal of children with disabilities from the regular educational environment shall be used only when the nature or severity of a child's disability is such that education in regular classes with supplementary aids and services cannot be achieved satisfactorily.

If an agency directly affected by a placement decision objects to such decision, an impartial hearing officer, appointed by the department of education from a list prepared by the department, shall conduct a hearing to review the placement decision. The agencies that are parties to a hearing shall divide the costs of such hearing equally. The decision of the hearing

officer shall be final, except that any party to the hearing who 7770
is aggrieved by the findings or the decision of the hearing 7771
officer may appeal the findings or decision in accordance with 7772
division (H) of section 3323.05 of the Revised Code or the parent 7773
of any child affected by such decision may present a complaint in 7774
accordance with that section. 7775

Sec. 3323.07. The state board of education shall authorize 7776
the establishment and maintenance of special education and related 7777
services for all children with disabilities who are at least three 7778
years of age and less than twenty-two years of age, including 7779
children with disabilities who have been suspended or expelled 7780
from school, and may authorize special education and related 7781
services for children with disabilities who are less than three 7782
years of age in accordance with rules adopted by the state board. 7783
The state board shall require the boards of education of school 7784
districts, shall authorize the department of mental health and the 7785
department of ~~mental retardation and~~ developmental disabilities, 7786
and may authorize any other educational agency, to establish and 7787
maintain such special education and related services in accordance 7788
with standards adopted by the state board. 7789

Sec. 3323.09. (A) As used in this section: 7790

(1) "Home" has the meaning given in section 3313.64 of the 7791
Revised Code. 7792

(2) "Preschool child" means a child who is at least age three 7793
but under age six on the thirtieth day of September of an academic 7794
year. 7795

(B) Each county MR/DD board shall establish special education 7796
programs for all children with disabilities who in accordance with 7797
section 3323.04 of the Revised Code have been placed in special 7798
education programs operated by the county board and for preschool 7799

children who are developmentally delayed or at risk of being 7800
developmentally delayed. The board annually shall submit to the 7801
department of education a plan for the provision of these programs 7802
and, if applicable, a request for approval of units under section 7803
3317.05 of the Revised Code. The superintendent of public 7804
instruction shall review the plan and approve or modify it in 7805
accordance with rules adopted by the state board of education 7806
under section 3301.07 of the Revised Code. The superintendent of 7807
public instruction shall compile the plans submitted by county 7808
boards and shall submit a comprehensive plan to the state board. 7809

A county MR/DD board may combine transportation for children 7810
enrolled in classes funded under section 3317.20 or units approved 7811
under section 3317.05 with transportation for children and adults 7812
enrolled in programs and services offered by the board under 7813
section 5126.12 of the Revised Code. 7814

(C) A county MR/DD board that during the school year provided 7815
special education pursuant to this section for any child with 7816
mental disabilities under twenty-two years of age shall prepare 7817
and submit the following reports and statements: 7818

(1) The board shall prepare a statement for each child who at 7819
the time of receiving such special education was a resident of a 7820
home and was not in the legal or permanent custody of an Ohio 7821
resident or a government agency in this state, and whose natural 7822
or adoptive parents are not known to have been residents of this 7823
state subsequent to the child's birth. The statement shall contain 7824
the child's name, the name of the child's school district of 7825
residence, the name of the county board providing the special 7826
education, and the number of months, including any fraction of a 7827
month, it was provided. Not later than the thirtieth day of June, 7828
the board shall forward a certified copy of such statement to both 7829
the director of ~~mental retardation and~~ developmental disabilities 7830
and to the home. 7831

Within thirty days after its receipt of a statement, the home 7832
shall pay tuition to the county board computed in the manner 7833
prescribed by section 3323.141 of the Revised Code. 7834

(2) The board shall prepare a report for each school district 7835
that is the school district of residence of one or more of such 7836
children for whom statements are not required by division (C)(1) 7837
of this section. The report shall contain the name of the county 7838
board providing special education, the name of each child 7839
receiving special education, the number of months, including 7840
fractions of a month, that the child received it, and the name of 7841
the child's school district of residence. Not later than the 7842
thirtieth day of June, the board shall forward certified copies of 7843
each report to the school district named in the report, the 7844
superintendent of public instruction, and the director of ~~mental~~ 7845
~~retardation and~~ developmental disabilities. 7846

Sec. 3323.091. (A) The department of mental health, the 7847
department of ~~mental retardation and~~ developmental disabilities, 7848
the department of youth services, and the department of 7849
rehabilitation and correction shall establish and maintain special 7850
education programs for children with disabilities in institutions 7851
under their jurisdiction according to standards adopted by the 7852
state board of education. 7853

(B) The superintendent of each state institution required to 7854
provide services under division (A) of this section, and each 7855
county MR/DD board, providing special education for preschool 7856
children with disabilities under this chapter may apply to the 7857
state department of education for unit funding, which shall be 7858
paid in accordance with sections 3317.052 and 3317.053 of the 7859
Revised Code. 7860

The superintendent of each state institution required to 7861
provide services under division (A) of this section may apply to 7862

the department of education for special education and related 7863
services weighted funding for children with disabilities other 7864
than preschool children with disabilities, calculated in 7865
accordance with section 3317.201 of the Revised Code. 7866

Each county MR/DD board providing special education for 7867
children with disabilities other than preschool children with 7868
disabilities may apply to the department of education for base 7869
cost and special education and related services weighted funding 7870
calculated in accordance with section 3317.20 of the Revised Code. 7871
7872

(C) In addition to the authorization to apply for state 7873
funding described in division (B) of this section, each state 7874
institution required to provide services under division (A) of 7875
this section is entitled to tuition payments calculated in the 7876
manner described in division (C) of this section. 7877

On or before the thirtieth day of June of each year, the 7878
superintendent of each institution that during the school year 7879
provided special education pursuant to this section shall prepare 7880
a statement for each child with a disability under twenty-two 7881
years of age who has received special education. The statement 7882
shall contain the child's data verification code assigned pursuant 7883
to division (D)(2) of section 3301.0714 of the Revised Code and 7884
the name of the child's school district of residence. Within sixty 7885
days after receipt of such statement, the department of education 7886
shall perform one of the following: 7887

(1) For any child except a preschool child with a disability 7888
described in division (C)(2) of this section, pay to the 7889
institution submitting the statement an amount equal to the 7890
tuition calculated under division (A) of section 3317.08 of the 7891
Revised Code for the period covered by the statement, and deduct 7892
the same from the amount of state funds, if any, payable under 7893
sections 3317.022 and 3317.023 of the Revised Code, to the child's 7894

school district of residence or, if the amount of such state funds 7895
is insufficient, require the child's school district of residence 7896
to pay the institution submitting the statement an amount equal to 7897
the amount determined under this division. 7898

(2) For any preschool child with a disability not included in 7899
a unit approved under division (B) of section 3317.05 of the 7900
Revised Code, perform the following: 7901

(a) Pay to the institution submitting the statement an amount 7902
equal to the tuition calculated under division (B) of section 7903
3317.08 of the Revised Code for the period covered by the 7904
statement, except that in calculating the tuition under that 7905
section the operating expenses of the institution submitting the 7906
statement under this section shall be used instead of the 7907
operating expenses of the school district of residence; 7908

(b) Deduct from the amount of state funds, if any, payable 7909
under sections 3317.022 and 3317.023 of the Revised Code to the 7910
child's school district of residence an amount equal to the amount 7911
paid under division (C)(2)(a) of this section. 7912

Sec. 3323.141. (A) When a child who is not in the legal or 7913
permanent custody of an Ohio resident or a government agency in 7914
this state and whose natural or adoptive parents are not known to 7915
have been residents of this state subsequent to the child's birth 7916
is a resident of a home as defined in section 3313.64 of the 7917
Revised Code and receives special education and related services 7918
from a school district or county MR/DD board, the home shall pay 7919
tuition to the board providing the special education. 7920

(B) In the case of a child described in division (A) of this 7921
section who receives special education and related services from a 7922
school district, tuition shall be the amount determined under 7923
division (B)(1) or (2) of this section. 7924

(1) For a child other than a child described in division 7925
(B)(2) of this section the tuition shall be an amount equal to the 7926
sum of the following: 7927

(a) Tuition as determined in the manner provided for by 7928
division (B) of section 3317.081 of the Revised Code for the 7929
district that provides the special education; 7930

(b) Such excess cost as is determined by using a formula 7931
established by rule of the department of education. The excess 7932
cost computed in this section shall not be used as excess cost 7933
computed under section 3323.14 of the Revised Code. 7934

(2) For a child who is a preschool child with a disability 7935
not included in a unit approved under division (B) of section 7936
3317.05 of the Revised Code, the tuition shall be computed as 7937
follows: 7938

(a) Determine the amount of the tuition of the district 7939
providing the education for the child as calculated under division 7940
(B) of section 3317.08 of the Revised Code; 7941

(b) For each type of special education service included in 7942
the computation of the amount of tuition under division (B)(2)(a) 7943
of this section, divide the amount determined for that computation 7944
under division (B)(2) of section 3317.08 of the Revised Code by 7945
the total number of preschool children with disabilities used for 7946
that computation under division (B)(3) of section 3317.08 of the 7947
Revised Code; 7948

(c) Determine the sum of the quotients obtained under 7949
division (B)(2)(b) of this section; 7950

(d) Determine the sum of the amounts determined under 7951
divisions (B)(2)(a) and (c) of this section. 7952

(C) In the case of a child described in division (A) of this 7953
section who receives special education and related services from a 7954

county MR/DD board, tuition shall be the amount determined under 7955
division (C)(1) or (2) of this section. 7956

(1) For a child other than a child described in division 7957
(C)(2) of this section, the tuition shall be an amount equal to 7958
such board's per capita cost of providing special education and 7959
related services for children at least three but less than 7960
twenty-two years of age as determined by using a formula 7961
established by rule of the department of ~~mental retardation and~~ 7962
developmental disabilities. 7963

(2) For a child who is a preschool child with a disability 7964
not included in a unit approved under division (B) of section 7965
3317.05 of the Revised Code, the tuition shall equal the sum of 7966
the amounts of each such board's per capita cost of providing each 7967
of the special education or related service that the child 7968
receives. The calculation of tuition shall be made by using a 7969
formula established by rule of the department of ~~mental~~ 7970
~~retardation and~~ developmental disabilities. The formula for the 7971
calculation of per capita costs under division (C)(2) of this 7972
section shall be based only on each such MR/DD board's cost of 7973
providing each type of special education or related service to 7974
preschool children with disabilities not included in a unit 7975
approved under division (B) of section 3317.05 of the Revised 7976
Code. 7977

(D) If a home fails to pay the tuition required under this 7978
section, the board of education or county MR/DD board providing 7979
the education may recover in a civil action the tuition and the 7980
expenses incurred in prosecuting the action, including court costs 7981
and reasonable attorney's fees. If the prosecuting attorney or 7982
city director of law represents the board in such action, costs 7983
and reasonable attorney's fees awarded by the court, based upon 7984
the time spent preparing and presenting the case by the 7985
prosecuting attorney, director, or a designee of either, shall be 7986

deposited in the county or city general fund. 7987

Sec. 3323.31. The Franklin county educational service center 7988
shall establish the Ohio Center for Autism and Low Incidence. The 7989
Center shall administer programs and coordinate services for 7990
infants, preschool and school-age children, and adults with autism 7991
and low incidence disabilities. The Center's principal focus shall 7992
be programs and services for persons with autism. The Center shall 7993
be under the direction of an executive director, appointed by the 7994
superintendent of the service center in consultation with the 7995
advisory board established under section 3323.33 of the Revised 7996
Code. 7997

In addition to its other duties, the Ohio Center for Autism 7998
and Low Incidence shall participate as a member of an interagency 7999
workgroup on autism, as it is established by the department of 8000
~~mental retardation and~~ developmental disabilities and shall 8001
provide technical assistance and support to the department in the 8002
department's leadership role to develop and implement the 8003
initiatives identified by the workgroup. 8004

Sec. 3501.01. As used in the sections of the Revised Code 8005
relating to elections and political communications: 8006

(A) "General election" means the election held on the first 8007
Tuesday after the first Monday in each November. 8008

(B) "Regular municipal election" means the election held on 8009
the first Tuesday after the first Monday in November in each 8010
odd-numbered year. 8011

(C) "Regular state election" means the election held on the 8012
first Tuesday after the first Monday in November in each 8013
even-numbered year. 8014

(D) "Special election" means any election other than those 8015
elections defined in other divisions of this section. A special 8016

election may be held only on the first Tuesday after the first 8017
Monday in February, May, August, or November, or on the day 8018
authorized by a particular municipal or county charter for the 8019
holding of a primary election, except that in any year in which a 8020
presidential primary election is held, no special election shall 8021
be held in February or May, except as authorized by a municipal or 8022
county charter, but may be held on the first Tuesday after the 8023
first Monday in March. 8024

(E)(1) "Primary" or "primary election" means an election held 8025
for the purpose of nominating persons as candidates of political 8026
parties for election to offices, and for the purpose of electing 8027
persons as members of the controlling committees of political 8028
parties and as delegates and alternates to the conventions of 8029
political parties. Primary elections shall be held on the first 8030
Tuesday after the first Monday in May of each year except in years 8031
in which a presidential primary election is held. 8032

(2) "Presidential primary election" means a primary election 8033
as defined by division (E)(1) of this section at which an election 8034
is held for the purpose of choosing delegates and alternates to 8035
the national conventions of the major political parties pursuant 8036
to section 3513.12 of the Revised Code. Unless otherwise 8037
specified, presidential primary elections are included in 8038
references to primary elections. In years in which a presidential 8039
primary election is held, all primary elections shall be held on 8040
the first Tuesday after the first Monday in March except as 8041
otherwise authorized by a municipal or county charter. 8042

(F) "Political party" means any group of voters meeting the 8043
requirements set forth in section 3517.01 of the Revised Code for 8044
the formation and existence of a political party. 8045

(1) "Major political party" means any political party 8046
organized under the laws of this state whose candidate for 8047
governor or nominees for presidential electors received no less 8048

than twenty per cent of the total vote cast for such office at the 8049
most recent regular state election. 8050

(2) "Intermediate political party" means any political party 8051
organized under the laws of this state whose candidate for 8052
governor or nominees for presidential electors received less than 8053
twenty per cent but not less than ten per cent of the total vote 8054
cast for such office at the most recent regular state election. 8055

(3) "Minor political party" means any political party 8056
organized under the laws of this state whose candidate for 8057
governor or nominees for presidential electors received less than 8058
ten per cent but not less than five per cent of the total vote 8059
cast for such office at the most recent regular state election or 8060
which has filed with the secretary of state, subsequent to any 8061
election in which it received less than five per cent of such 8062
vote, a petition signed by qualified electors equal in number to 8063
at least one per cent of the total vote cast for such office in 8064
the last preceding regular state election, except that a newly 8065
formed political party shall be known as a minor political party 8066
until the time of the first election for governor or president 8067
which occurs not less than twelve months subsequent to the 8068
formation of such party, after which election the status of such 8069
party shall be determined by the vote for the office of governor 8070
or president. 8071

(G) "Dominant party in a precinct" or "dominant political 8072
party in a precinct" means that political party whose candidate 8073
for election to the office of governor at the most recent regular 8074
state election at which a governor was elected received more votes 8075
than any other person received for election to that office in such 8076
precinct at such election. 8077

(H) "Candidate" means any qualified person certified in 8078
accordance with the provisions of the Revised Code for placement 8079
on the official ballot of a primary, general, or special election 8080

to be held in this state, or any qualified person who claims to be 8081
a write-in candidate, or who knowingly assents to being 8082
represented as a write-in candidate by another at either a 8083
primary, general, or special election to be held in this state. 8084

(I) "Independent candidate" means any candidate who claims 8085
not to be affiliated with a political party, and whose name has 8086
been certified on the office-type ballot at a general or special 8087
election through the filing of a statement of candidacy and 8088
nominating petition, as prescribed in section 3513.257 of the 8089
Revised Code. 8090

(J) "Nonpartisan candidate" means any candidate whose name is 8091
required, pursuant to section 3505.04 of the Revised Code, to be 8092
listed on the nonpartisan ballot, including all candidates for 8093
judicial office, for member of any board of education, for 8094
municipal or township offices in which primary elections are not 8095
held for nominating candidates by political parties, and for 8096
offices of municipal corporations having charters that provide for 8097
separate ballots for elections for these offices. 8098

(K) "Party candidate" means any candidate who claims to be a 8099
member of a political party, whose name has been certified on the 8100
office-type ballot at a general or special election through the 8101
filing of a declaration of candidacy and petition of candidate, 8102
and who has won the primary election of the candidate's party for 8103
the public office the candidate seeks or is selected by party 8104
committee in accordance with section 3513.31 of the Revised Code. 8105

(L) "Officer of a political party" includes, but is not 8106
limited to, any member, elected or appointed, of a controlling 8107
committee, whether representing the territory of the state, a 8108
district therein, a county, township, a city, a ward, a precinct, 8109
or other territory, of a major, intermediate, or minor political 8110
party. 8111

(M) "Question or issue" means any question or issue certified	8112
in accordance with the Revised Code for placement on an official	8113
ballot at a general or special election to be held in this state.	8114
(N) "Elector" or "qualified elector" means a person having	8115
the qualifications provided by law to be entitled to vote.	8116
(O) "Voter" means an elector who votes at an election.	8117
(P) "Voting residence" means that place of residence of an	8118
elector which shall determine the precinct in which the elector	8119
may vote.	8120
(Q) "Precinct" means a district within a county established	8121
by the board of elections of such county within which all	8122
qualified electors having a voting residence therein may vote at	8123
the same polling place.	8124
(R) "Polling place" means that place provided for each	8125
precinct at which the electors having a voting residence in such	8126
precinct may vote.	8127
(S) "Board" or "board of elections" means the board of	8128
elections appointed in a county pursuant to section 3501.06 of the	8129
Revised Code.	8130
(T) "Political subdivision" means a county, township, city,	8131
village, or school district.	8132
(U) "Election officer" or "election official" means any of	8133
the following:	8134
(1) Secretary of state;	8135
(2) Employees of the secretary of state serving the division	8136
of elections in the capacity of attorney, administrative officer,	8137
administrative assistant, elections administrator, office manager,	8138
or clerical supervisor;	8139
(3) Director of a board of elections;	8140

(4) Deputy director of a board of elections;	8141
(5) Member of a board of elections;	8142
(6) Employees of a board of elections;	8143
(7) Precinct polling place judges;	8144
(8) Employees appointed by the boards of elections on a temporary or part-time basis.	8145 8146
(V) "Acknowledgment notice" means a notice sent by a board of elections, on a form prescribed by the secretary of state, informing a voter registration applicant or an applicant who wishes to change the applicant's residence or name of the status of the application; the information necessary to complete or update the application, if any; and if the application is complete, the precinct in which the applicant is to vote.	8147 8148 8149 8150 8151 8152 8153
(W) "Confirmation notice" means a notice sent by a board of elections, on a form prescribed by the secretary of state, to a registered elector to confirm the registered elector's current address.	8154 8155 8156 8157
(X) "Designated agency" means an office or agency in the state that provides public assistance or that provides state-funded programs primarily engaged in providing services to persons with disabilities and that is required by the National Voter Registration Act of 1993 to implement a program designed and administered by the secretary of state for registering voters, or any other public or government office or agency that implements a program designed and administered by the secretary of state for registering voters, including the department of job and family services, the program administered under section 3701.132 of the Revised Code by the department of health, the department of mental health, the department of mental retardation and developmental disabilities, the rehabilitation services commission, and any other agency the secretary of state designates. "Designated	8158 8159 8160 8161 8162 8163 8164 8165 8166 8167 8168 8169 8170 8171

agency" does not include public high schools and vocational 8172
schools, public libraries, or the office of a county treasurer. 8173

(Y) "National Voter Registration Act of 1993" means the 8174
"National Voter Registration Act of 1993," 107 Stat. 77, 42 8175
U.S.C.A. 1973gg. 8176

(Z) "Voting Rights Act of 1965" means the "Voting Rights Act 8177
of 1965," 79 Stat. 437, 42 U.S.C.A. 1973, as amended. 8178

(AA) "Photo identification" means a document that meets each 8179
of the following requirements: 8180

(1) It shows the name of the individual to whom it was 8181
issued, which shall conform to the name in the poll list or 8182
signature pollbook. 8183

(2) It shows the current address of the individual to whom it 8184
was issued, which shall conform to the address in the poll list or 8185
signature pollbook, except for a driver's license or a state 8186
identification card issued under section 4507.50 of the Revised 8187
Code, which may show either the current or former address of the 8188
individual to whom it was issued, regardless of whether that 8189
address conforms to the address in the poll list or signature 8190
pollbook. 8191

(3) It shows a photograph of the individual to whom it was 8192
issued. 8193

(4) It includes an expiration date that has not passed. 8194

(5) It was issued by the government of the United States or 8195
this state. 8196

Sec. 3701.78. (A) There is hereby created the commission on 8197
minority health, consisting of eighteen members. The governor 8198
shall appoint to the commission nine members from among health 8199
researchers, health planners, and health professionals. The 8200
speaker of the house of representatives shall appoint to the 8201

commission two members of the house of representatives, not more 8202
than one of whom is a member of the same political party, and the 8203
president of the senate shall appoint to the commission two 8204
members of the senate, not more than one of whom is a member of 8205
the same political party. The directors of health, mental health, 8206
~~mental retardation and~~ developmental disabilities, and job and 8207
family services, or their designees, and the superintendent of 8208
public instruction, or the superintendent's designee, shall be 8209
members of the commission. The commission shall elect a 8210
chairperson from among its members. Of the members appointed by 8211
the governor, five shall be appointed to initial terms of one 8212
year, and four shall be appointed to initial terms of two years. 8213
Thereafter, all members appointed by the governor shall be 8214
appointed to terms of two years. All members of the commission 8215
appointed by the speaker of the house of representatives or the 8216
president of the senate shall be nonvoting members of the 8217
commission and be appointed within thirty days after the 8218
commencement of the first regular session of each general 8219
assembly, and shall serve until the expiration of the session of 8220
the general assembly during which they were appointed. Members of 8221
the commission shall serve without compensation, but shall be 8222
reimbursed for the actual and necessary expenses they incur in the 8223
performance of their official duties. 8224

(B) The commission shall promote health and the prevention of 8225
disease among members of minority groups. Each year the commission 8226
shall distribute grants from available funds to community-based 8227
health groups to be used to promote health and the prevention of 8228
disease among members of minority groups. As used in this 8229
division, "minority group" means any of the following economically 8230
disadvantaged groups: Blacks, American Indians, Hispanics, and 8231
Orientals. The commission shall adopt and maintain rules pursuant 8232
to Chapter 119. of the Revised Code to provide for the 8233
distribution of these grants. No group shall qualify to receive a 8234

grant from the commission unless it receives at least twenty per 8235
cent of its funds from sources other than grants distributed under 8236
this section. 8237

(C) The commission may appoint such employees as it considers 8238
necessary to carry out its duties under this section. The 8239
department of health shall provide office space for the 8240
commission. 8241

(D) The commission shall meet at the call of its chairperson 8242
to conduct its official business. A majority of the voting members 8243
of the commission constitute a quorum. The votes of at least eight 8244
voting members of the commission are necessary for the commission 8245
to take any official action or to approve the distribution of 8246
grants under this section. 8247

Sec. 3705.36. Three years after the date a birth defects 8248
information system is implemented pursuant to section 3705.30 of 8249
the Revised Code, and annually thereafter, the department of 8250
health shall prepare a report regarding the birth defects 8251
information system. The council created under section 3705.34 of 8252
the Revised Code shall, not later than two years after the date a 8253
birth defects information system is implemented, specify the 8254
information the department is to include in each report. The 8255
department shall file the report with the governor, the president 8256
and minority leader of the senate, the speaker and minority leader 8257
of the house of representatives, the departments of ~~mental~~ 8258
~~retardation and~~ developmental disabilities, education, and job and 8259
family services, the commission on minority health, and the news 8260
media. 8261

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 8262
3721.99 of the Revised Code: 8263

(1)(a) "Home" means an institution, residence, or facility 8264

that provides, for a period of more than twenty-four hours, 8265
whether for a consideration or not, accommodations to three or 8266
more unrelated individuals who are dependent upon the services of 8267
others, including a nursing home, residential care facility, home 8268
for the aging, and a veterans' home operated under Chapter 5907. 8269
of the Revised Code. 8270

(b) "Home" also means both of the following: 8271

(i) Any facility that a person, as defined in section 3702.51 8272
of the Revised Code, proposes for certification as a skilled 8273
nursing facility or nursing facility under Title XVIII or XIX of 8274
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 8275
as amended, and for which a certificate of need, other than a 8276
certificate to recategorize hospital beds as described in section 8277
3702.522 of the Revised Code or division (R)(7)(d) of the version 8278
of section 3702.51 of the Revised Code in effect immediately prior 8279
to April 20, 1995, has been granted to the person under sections 8280
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 8281

(ii) A county home or district home that is or has been 8282
licensed as a residential care facility. 8283

(c) "Home" does not mean any of the following: 8284

(i) Except as provided in division (A)(1)(b) of this section, 8285
a public hospital or hospital as defined in section 3701.01 or 8286
5122.01 of the Revised Code; 8287

(ii) A residential facility for mentally ill persons as 8288
defined under section 5119.22 of the Revised Code; 8289

(iii) A residential facility as defined in section 5123.19 of 8290
the Revised Code; 8291

(iv) A community alternative home as defined in section 8292
3724.01 of the Revised Code; 8293

(v) An adult care facility as defined in section 3722.01 of 8294

the Revised Code;	8295
(vi) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;	8296 8297
(vii) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	8298 8299
(viii) A facility providing services under contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;	8300 8301 8302
(ix) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;	8303 8304 8305
(x) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;	8306 8307 8308 8309 8310 8311 8312 8313 8314 8315
(xi) A county home or district home that has never been licensed as a residential care facility.	8316 8317
(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.	8318 8319 8320 8321 8322
(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental	8323 8324

retardation as defined in section 5123.01 of the Revised Code. 8325

(4) "Skilled nursing care" means procedures that require 8326
technical skills and knowledge beyond those the untrained person 8327
possesses and that are commonly employed in providing for the 8328
physical, mental, and emotional needs of the ill or otherwise 8329
incapacitated. "Skilled nursing care" includes, but is not limited 8330
to, the following: 8331

(a) Irrigations, catheterizations, application of dressings, 8332
and supervision of special diets; 8333

(b) Objective observation of changes in the patient's 8334
condition as a means of analyzing and determining the nursing care 8335
required and the need for further medical diagnosis and treatment; 8336

(c) Special procedures contributing to rehabilitation; 8337

(d) Administration of medication by any method ordered by a 8338
physician, such as hypodermically, rectally, or orally, including 8339
observation of the patient after receipt of the medication; 8340

(e) Carrying out other treatments prescribed by the physician 8341
that involve a similar level of complexity and skill in 8342
administration. 8343

(5)(a) "Personal care services" means services including, but 8344
not limited to, the following: 8345

(i) Assisting residents with activities of daily living; 8346

(ii) Assisting residents with self-administration of 8347
medication, in accordance with rules adopted under section 3721.04 8348
of the Revised Code; 8349

(iii) Preparing special diets, other than complex therapeutic 8350
diets, for residents pursuant to the instructions of a physician 8351
or a licensed dietitian, in accordance with rules adopted under 8352
section 3721.04 of the Revised Code. 8353

(b) "Personal care services" does not include "skilled 8354

nursing care" as defined in division (A)(4) of this section. A 8355
facility need not provide more than one of the services listed in 8356
division (A)(5)(a) of this section to be considered to be 8357
providing personal care services. 8358

(6) "Nursing home" means a home used for the reception and 8359
care of individuals who by reason of illness or physical or mental 8360
impairment require skilled nursing care and of individuals who 8361
require personal care services but not skilled nursing care. A 8362
nursing home is licensed to provide personal care services and 8363
skilled nursing care. 8364

(7) "Residential care facility" means a home that provides 8365
either of the following: 8366

(a) Accommodations for seventeen or more unrelated 8367
individuals and supervision and personal care services for three 8368
or more of those individuals who are dependent on the services of 8369
others by reason of age or physical or mental impairment; 8370

(b) Accommodations for three or more unrelated individuals, 8371
supervision and personal care services for at least three of those 8372
individuals who are dependent on the services of others by reason 8373
of age or physical or mental impairment, and, to at least one of 8374
those individuals, any of the skilled nursing care authorized by 8375
section 3721.011 of the Revised Code. 8376

(8) "Home for the aging" means a home that provides services 8377
as a residential care facility and a nursing home, except that the 8378
home provides its services only to individuals who are dependent 8379
on the services of others by reason of both age and physical or 8380
mental impairment. 8381

The part or unit of a home for the aging that provides 8382
services only as a residential care facility is licensed as a 8383
residential care facility. The part or unit that may provide 8384
skilled nursing care beyond the extent authorized by section 8385

3721.011 of the Revised Code is licensed as a nursing home. 8386

(9) "County home" and "district home" mean a county home or 8387
district home operated under Chapter 5155. of the Revised Code. 8388

(B) The public health council may further classify homes. For 8389
the purposes of this chapter, any residence, institution, hotel, 8390
congregate housing project, or similar facility that meets the 8391
definition of a home under this section is such a home regardless 8392
of how the facility holds itself out to the public. 8393

(C) For purposes of this chapter, personal care services or 8394
skilled nursing care shall be considered to be provided by a 8395
facility if they are provided by a person employed by or 8396
associated with the facility or by another person pursuant to an 8397
agreement to which neither the resident who receives the services 8398
nor the resident's sponsor is a party. 8399

(D) Nothing in division (A)(4) of this section shall be 8400
construed to permit skilled nursing care to be imposed on an 8401
individual who does not require skilled nursing care. 8402

Nothing in division (A)(5) of this section shall be construed 8403
to permit personal care services to be imposed on an individual 8404
who is capable of performing the activity in question without 8405
assistance. 8406

(E) Division (A)(1)(c)(x) of this section does not prohibit a 8407
facility, infirmary, or other entity described in that division 8408
from seeking licensure under sections 3721.01 to 3721.09 of the 8409
Revised Code or certification under Title XVIII or XIX of the 8410
"Social Security Act." However, such a facility, infirmary, or 8411
entity that applies for licensure or certification must meet the 8412
requirements of those sections or titles and the rules adopted 8413
under them and obtain a certificate of need from the director of 8414
health under section 3702.52 of the Revised Code. 8415

(F) Nothing in this chapter, or rules adopted pursuant to it, 8416

shall be construed as authorizing the supervision, regulation, or 8417
control of the spiritual care or treatment of residents or 8418
patients in any home who rely upon treatment by prayer or 8419
spiritual means in accordance with the creed or tenets of any 8420
recognized church or religious denomination. 8421

Sec. 3721.14. To assist in the implementation of the rights 8422
granted in division (A) of section 3721.13 of the Revised Code, 8423
each home shall provide: 8424

(A) Appropriate staff training to implement each resident's 8425
rights under division (A) of section 3721.13 of the Revised Code, 8426
including, but not limited to, explaining: 8427

(1) The resident's rights and the staff's responsibility in 8428
the implementation of the rights; 8429

(2) The staff's obligation to provide all residents who have 8430
similar needs with comparable service. 8431

(B) Arrangements for a resident's needed ancillary services; 8432

(C) Protected areas outside the home for residents to enjoy 8433
outdoor activity, within the capacity of the facility, consistent 8434
with applicable laws and rules; 8435

(D) Adequate indoor space, which need not be dedicated to 8436
that purpose, for families of residents to meet privately with 8437
families of other residents; 8438

(E) Access to the following persons to enter the home during 8439
reasonable hours, except where such access would interfere with 8440
resident care or the privacy of residents: 8441

(1) Employees of the department of health, department of 8442
mental health, department of ~~mental retardation and~~ developmental 8443
disabilities, department of aging, department of job and family 8444
services, and county departments of job and family services; 8445

(2) Prospective residents and their sponsors;	8446
(3) A resident's sponsors;	8447
(4) Residents' rights advocates;	8448
(5) A resident's attorney;	8449
(6) A minister, priest, rabbi, or other person ministering to a resident's religious needs.	8450 8451
(F) In writing, a description of the home's grievance procedures.	8452 8453
Sec. 3722.01. (A) As used in this chapter:	8454
(1) "Owner" means the person who owns the business of and who ultimately controls the operation of an adult care facility and to whom the manager, if different from the owner, is responsible.	8455 8456 8457
(2) "Manager" means the person responsible for the daily operation of an adult care facility. The manager and the owner of a facility may be the same person.	8458 8459 8460
(3) "Adult" means an individual eighteen years of age or older.	8461 8462
(4) "Unrelated" means that an adult resident is not related to the owner or manager of an adult care facility or to the owner's or manager's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.	8463 8464 8465 8466 8467
(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code.	8468 8469
(6)(a) "Personal care services" means services including, but not limited to, the following:	8470 8471
(i) Assisting residents with activities of daily living;	8472
(ii) Assisting residents with self-administration of	8473

medication, in accordance with rules adopted by the public health council pursuant to this chapter; 8474
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(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted by the public health council pursuant to this chapter. 8476
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(b) "Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(6)(a) of this section to be considered to be providing personal care services. 8480
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(7) "Adult family home" means a residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of those adults. 8485
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(8) "Adult group home" means a residence or facility that provides accommodations to six to sixteen unrelated adults and provides supervision and personal care services to at least three of the unrelated adults. 8489
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(9) "Adult care facility" means an adult family home or an adult group home. For the purposes of this chapter, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom are provided personal care services, is an adult care facility regardless of how the facility holds itself out to the public. "Adult care facility" does not include: 8493
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(a) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients; 8501
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(b) A nursing home, residential care facility, or home for 8504

the aging as defined in section 3721.01 of the Revised Code; 8505

(c) A community alternative home as defined in section 8506
3724.01 of the Revised Code; 8507

(d) An alcohol and drug addiction program as defined in 8508
section 3793.01 of the Revised Code; 8509

(e) A residential facility for the mentally ill licensed by 8510
the department of mental health under section 5119.22 of the 8511
Revised Code; 8512

(f) A facility licensed to provide methadone treatment under 8513
section 3793.11 of the Revised Code; 8514

(g) A residential facility licensed under section 5123.19 of 8515
the Revised Code or otherwise regulated by the department of 8516
~~mental retardation and~~ developmental disabilities; 8517

(h) Any residence, institution, hotel, congregate housing 8518
project, or similar facility that provides personal care services 8519
to fewer than three residents or that provides, for any number of 8520
residents, only housing, housekeeping, laundry, meal preparation, 8521
social or recreational activities, maintenance, security, 8522
transportation, and similar services that are not personal care 8523
services or skilled nursing care; 8524

(i) Any facility that receives funding for operating costs 8525
from the department of development under any program established 8526
to provide emergency shelter housing or transitional housing for 8527
the homeless; 8528

(j) A terminal care facility for the homeless that has 8529
entered into an agreement with a hospice care program under 8530
section 3712.07 of the Revised Code; 8531

(k) A facility approved by the veterans administration under 8532
section 104(a) of the "Veterans Health Care Amendments of 1983," 8533
97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively 8534

for the placement and care of veterans; 8535

(1) Until January 1, 1994, the portion of a facility in which 8536
care is provided exclusively to members of a religious order if 8537
the facility is owned by or part of a nonprofit institution of 8538
higher education authorized to award degrees by the Ohio board of 8539
regents under Chapter 1713. of the Revised Code. 8540

(10) "Residents' rights advocate" means: 8541

(a) An employee or representative of any state or local 8542
government entity that has a responsibility for residents of adult 8543
care facilities and has registered with the department of health 8544
under section 3701.07 of the Revised Code; 8545

(b) An employee or representative, other than a manager or 8546
employee of an adult care facility or nursing home, of any private 8547
nonprofit corporation or association that qualifies for tax-exempt 8548
status under section 501(a) of the "Internal Revenue Code of 8549
1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has 8550
registered with the department of health under section 3701.07 of 8551
the Revised Code, and whose purposes include educating and 8552
counseling residents, assisting residents in resolving problems 8553
and complaints concerning their care and treatment, and assisting 8554
them in securing adequate services. 8555

(11) "Sponsor" means an adult relative, friend, or guardian 8556
of a resident of an adult care facility who has an interest in or 8557
responsibility for the resident's welfare. 8558

(12) "Ombudsperson" means a "representative of the office of 8559
the state long-term care ombudsperson program" as defined in 8560
section 173.14 of the Revised Code. 8561

(13) "Mental health agency" means a community mental health 8562
agency, as defined in section 5119.22 of the Revised Code, under 8563
contract with a board of alcohol, drug addiction, and mental 8564
health services pursuant to division (A)(8)(a) of section 340.03 8565

of the Revised Code. 8566

(B) For purposes of this chapter, personal care services or 8567
skilled nursing care shall be considered to be provided by a 8568
facility if they are provided by a person employed by or 8569
associated with the facility or by another person pursuant to an 8570
agreement to which neither the resident who receives the services 8571
nor the resident's sponsor is a party. 8572

(C) Nothing in division (A)(6) of this section shall be 8573
construed to permit personal care services to be imposed upon a 8574
resident who is capable of performing the activity in question 8575
without assistance. 8576

Sec. 3727.01. As used in this section, "health maintenance 8577
organization" means a public or private organization organized 8578
under the law of any state that is qualified under section 1310(d) 8579
of Title XIII of the "Public Health Service Act," 87 Stat. 931 8580
(1973), 42 U.S.C. 300e-9, or that does all of the following: 8581

(A) Provides or otherwise makes available to enrolled 8582
participants health care services including at least the following 8583
basic health care services: usual physician services, 8584
hospitalization, laboratory, x-ray, emergency and preventive 8585
service, and out-of-area coverage; 8586

(B) Is compensated, except for copayments, for the provision 8587
of basic health care services to enrolled participants by a 8588
payment that is paid on a periodic basis without regard to the 8589
date the health care services are provided and that is fixed 8590
without regard to the frequency, extent, or kind of health service 8591
actually provided; 8592

(C) Provides physician services primarily in either of the 8593
following ways: 8594

(1) Directly through physicians who are either employees or 8595

partners of the organization; 8596

(2) Through arrangements with individual physicians or one or 8597
more groups of physicians organized on a group-practice or 8598
individual-practice basis. 8599

As used in this chapter, "hospital" means an institution 8600
classified as a hospital under section 3701.07 of the Revised Code 8601
in which are provided to inpatients diagnostic, medical, surgical, 8602
obstetrical, psychiatric, or rehabilitation care for a continuous 8603
period longer than twenty-four hours or a hospital operated by a 8604
health maintenance organization. "Hospital" does not include a 8605
facility licensed under Chapter 3721. of the Revised Code, a 8606
health care facility operated by the department of mental health 8607
or the department of ~~mental retardation and~~ developmental 8608
disabilities, a health maintenance organization that does not 8609
operate a hospital, the office of any private licensed health care 8610
professional, whether organized for individual or group practice, 8611
or a clinic that provides ambulatory patient services and where 8612
patients are not regularly admitted as inpatients. "Hospital" also 8613
does not include an institution for the sick that is operated 8614
exclusively for patients who use spiritual means for healing and 8615
for whom the acceptance of medical care is inconsistent with their 8616
religious beliefs, accredited by a national accrediting 8617
organization, exempt from federal income taxation under section 8618
501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 8619
U.S.C.A. 1, as amended, and providing twenty-four hour nursing 8620
care pursuant to the exemption in division (E) of section 4723.32 8621
of the Revised Code from the licensing requirements of Chapter 8622
4723. of the Revised Code. 8623

Sec. 3735.58. (A) The director of mental health, the director 8624
of ~~mental retardation and~~ developmental disabilities, or the 8625
director of rehabilitation and correction may enter into contracts 8626

for the sale of land not needed by their departments and under 8627
their jurisdiction or supervision to metropolitan housing 8628
authorities for use by such an authority for a housing project or 8629
projects. Such contract may contain such conditions and terms as 8630
are, in the discretion of the directors, in the best interests of 8631
the state and the welfare of the residents of the state. 8632

(B) The director may, upon receipt of a request from a 8633
metropolitan housing authority, request the approval of the 8634
governor to sell and convey land not needed by ~~his~~ the director's 8635
department and under ~~his~~ the director's jurisdiction or 8636
supervision to an authority, subject to such terms and conditions 8637
consistent with the public interest and welfare of the residents 8638
of the state as the director considers necessary. The governor, 8639
with the approval of the controlling board, may approve the 8640
request. Such property shall be appraised at its fair market value 8641
before it is conveyed. The director of administrative services 8642
shall cause it to be appraised by three disinterested persons and 8643
shall determine the fee which each appraiser shall receive, not to 8644
exceed fifty dollars. All appraisal fees shall be paid by the 8645
authority which shall deposit with the director one hundred fifty 8646
dollars before the appraisal is made. If the deposit exceeds the 8647
appraisal fee, the balance shall be returned to the authority. The 8648
appraisal value, when approved by the director, is the purchase 8649
price. If the purchase price is not paid within ninety days after 8650
notice to the authority of the approved appraisal value, the 8651
director shall withdraw ~~his~~ approval of the appraisal value and no 8652
deed shall be delivered to the authority without the written 8653
approval of the director of the purchase price. If the purchase 8654
price is paid within ninety days, a deed shall be prepared and 8655
recorded pursuant to section 5301.13 of the Revised Code. 8656

(C) Moneys received from sales of land to a metropolitan 8657
housing authority shall be placed in the state treasury in special 8658

funds, to be used for such purposes of the department of mental 8659
health, the department of ~~mental retardation and~~ developmental 8660
disabilities, or the department of rehabilitation and correction 8661
as is appropriate. 8662

Sec. 4115.32. (A) Subject to section 4115.36 of the Revised 8663
Code, there is hereby created the state committee for the purchase 8664
of products and services provided by persons with severe 8665
disabilities. The committee shall be composed ex officio of the 8666
following persons, or their designees: 8667

(1) The directors of administrative services, mental health, 8668
~~mental retardation and~~ developmental disabilities, transportation, 8669
natural resources, and commerce; 8670

(2) The administrators of the rehabilitation services 8671
commission and the bureau of workers' compensation; 8672

(3) The secretary of state; 8673

(4) One representative of a purchasing department of a 8674
political subdivision who is designated by the governor. 8675

The governor shall appoint two representatives of a qualified 8676
nonprofit agency for persons with severe disabilities, and a 8677
person with a severe disability to the committee. 8678

(B) Within thirty days after September 29, 1995, the governor 8679
shall appoint the representatives of a qualified nonprofit agency 8680
for persons with severe disabilities to the committee for a term 8681
ending August 31, 1996. Thereafter, terms for such representatives 8682
are for three years, each term ending on the same day of the same 8683
month of the year as did the term that it succeeds. Each committee 8684
member shall serve from the date of the member's appointment until 8685
the end of the term for which the member was appointed. Vacancies 8686
shall be filled in the same manner provided for original 8687
appointments. Any member appointed to fill a vacancy occurring 8688

prior to the expiration date of the term for which the member's predecessor was appointed shall serve as a member for the remainder of that term. A member shall serve subsequent to the expiration of the member's term and shall continue to serve until the member's successor takes office.

(C) Members of the committee shall serve without compensation. Except as otherwise provided in divisions (C)(1) and (2) of this section, members shall be reimbursed for actual and necessary expenses, including travel expenses, incurred while away from their homes or regular places of business and incurred while performing services for the committee.

(1) The members listed in divisions (A)(1) to (3) of this section, or their designees, shall not be reimbursed for any expenses.

(2) No member of the committee who is entitled to receive reimbursement for the performance of services for the committee from another agency or entity shall receive reimbursement from the committee.

(D) The committee shall elect from among its members a chairperson. The committee may request from any agency of the state, political subdivision, or instrumentality of the state any information necessary to enable it to carry out the intent of sections 4115.31 to 4115.35 of the Revised Code. Upon request of the committee, the agency, subdivision, or instrumentality shall furnish the information to the chairperson of the committee.

(E) The committee shall not later than one hundred eighty days following the close of each fiscal year transmit to the governor, the general assembly, and each qualified nonprofit agency for persons with severe disabilities a report that includes the names of the committee members serving during the preceding fiscal year, the dates of committee meetings in that year, and any

recommendations for changes in sections 4115.31 to 4115.35 of the Revised Code that the committee determines are necessary.

(F) The director of administrative services shall designate a subordinate to act as executive director of the committee and shall furnish other staff and clerical assistance, office space, and supplies required by the committee.

Sec. 4723.071. (A) As used in this section, "health-related activities," "MR/DD personnel," "prescribed medication," and "tube feeding" have the same meanings as in section 5123.41 of the Revised Code.

(B) The board of nursing shall adopt rules as it considers necessary to govern nursing delegation as it applies to MR/DD personnel who administer prescribed medications, perform health-related activities, and perform tube feedings pursuant to the authority granted under section 5123.42 of the Revised Code. The board shall not establish in the rules any requirement that is inconsistent with the authority of MR/DD personnel granted under that section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(C) The board of nursing may accept complaints from any person or government entity regarding the performance or qualifications of MR/DD personnel who administer prescribed medications, perform health-related activities, and perform tube feedings pursuant to the authority granted under section 5123.42 of the Revised Code. The board shall refer all complaints received to the department of ~~mental retardation and~~ developmental disabilities. The board may participate in an investigation of a complaint being conducted by the department under section 5123.421 of the Revised Code.

Sec. 5101.35. (A) As used in this section:

(1) "Agency" means the following entities that administer a family services program:

- (a) The department of job and family services;
- (b) A county department of job and family services;
- (c) A public children services agency;
- (d) A private or government entity administering, in whole or in part, a family services program for or on behalf of the department of job and family services or a county department of job and family services or public children services agency.

(2) "Appellant" means an applicant, participant, former participant, recipient, or former recipient of a family services program who is entitled by federal or state law to a hearing regarding a decision or order of the agency that administers the program.

(3) "Family services program" means assistance provided under a Title IV-A program as defined in section 5101.80 of the Revised Code or under Chapter 5104., 5111., or 5115. or section 173.35, 5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the Revised Code, other than assistance provided under section 5101.46 of the Revised Code by the department of mental health, the department of ~~mental retardation and~~ developmental disabilities, a board of alcohol, drug addiction, and mental health services, or a county board of mental retardation and developmental disabilities.

(B) Except as provided by divisions (G) and (H) of this section, an appellant who appeals under federal or state law a decision or order of an agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services. This state hearing shall be conducted in accordance with rules adopted under this section. The state hearing shall be recorded, but neither the recording nor a transcript of the recording shall be part of the

official record of the proceeding. A state hearing decision is 8781
binding upon the agency and department, unless it is reversed or 8782
modified on appeal to the director of job and family services or a 8783
court of common pleas. 8784

(C) Except as provided by division (G) of this section, an 8785
appellant who disagrees with a state hearing decision may make an 8786
administrative appeal to the director of job and family services 8787
in accordance with rules adopted under this section. This 8788
administrative appeal does not require a hearing, but the director 8789
or the director's designee shall review the state hearing decision 8790
and previous administrative action and may affirm, modify, remand, 8791
or reverse the state hearing decision. Any person designated to 8792
make an administrative appeal decision on behalf of the director 8793
shall have been admitted to the practice of law in this state. An 8794
administrative appeal decision is the final decision of the 8795
department and is binding upon the department and agency, unless 8796
it is reversed or modified on appeal to the court of common pleas. 8797

(D) An agency shall comply with a decision issued pursuant to 8798
division (B) or (C) of this section within the time limits 8799
established by rules adopted under this section. If a county 8800
department of job and family services or a public children 8801
services agency fails to comply within these time limits, the 8802
department may take action pursuant to section 5101.24 of the 8803
Revised Code. If another agency fails to comply within the time 8804
limits, the department may force compliance by withholding funds 8805
due the agency or imposing another sanction established by rules 8806
adopted under this section. 8807

(E) An appellant who disagrees with an administrative appeal 8808
decision of the director of job and family services or the 8809
director's designee issued under division (C) of this section may 8810
appeal from the decision to the court of common pleas pursuant to 8811
section 119.12 of the Revised Code. The appeal shall be governed 8812

by section 119.12 of the Revised Code except that: 8813

(1) The person may appeal to the court of common pleas of the 8814
county in which the person resides, or to the court of common 8815
pleas of Franklin county if the person does not reside in this 8816
state. 8817

(2) The person may apply to the court for designation as an 8818
indigent and, if the court grants this application, the appellant 8819
shall not be required to furnish the costs of the appeal. 8820

(3) The appellant shall mail the notice of appeal to the 8821
department of job and family services and file notice of appeal 8822
with the court within thirty days after the department mails the 8823
administrative appeal decision to the appellant. For good cause 8824
shown, the court may extend the time for mailing and filing notice 8825
of appeal, but such time shall not exceed six months from the date 8826
the department mails the administrative appeal decision. Filing 8827
notice of appeal with the court shall be the only act necessary to 8828
vest jurisdiction in the court. 8829

(4) The department shall be required to file a transcript of 8830
the testimony of the state hearing with the court only if the 8831
court orders the department to file the transcript. The court 8832
shall make such an order only if it finds that the department and 8833
the appellant are unable to stipulate to the facts of the case and 8834
that the transcript is essential to a determination of the appeal. 8835
The department shall file the transcript not later than thirty 8836
days after the day such an order is issued. 8837

(F) The department of job and family services shall adopt 8838
rules in accordance with Chapter 119. of the Revised Code to 8839
implement this section, including rules governing the following: 8840

(1) State hearings under division (B) of this section. The 8841
rules shall include provisions regarding notice of eligibility 8842
termination and the opportunity of an appellant appealing a 8843

decision or order of a county department of job and family 8844
services to request a county conference with the county department 8845
before the state hearing is held. 8846

(2) Administrative appeals under division (C) of this 8847
section; 8848

(3) Time limits for complying with a decision issued under 8849
division (B) or (C) of this section; 8850

(4) Sanctions that may be applied against an agency under 8851
division (D) of this section. 8852

(G) The department of job and family services may adopt rules 8853
in accordance with Chapter 119. of the Revised Code establishing 8854
an appeals process for an appellant who appeals a decision or 8855
order regarding a Title IV-A program identified under division 8856
(A)(4)(c), (d), (e), or (f) of section 5101.80 of the Revised Code 8857
that is different from the appeals process established by this 8858
section. The different appeals process may include having a state 8859
agency that administers the Title IV-A program pursuant to an 8860
interagency agreement entered into under section 5101.801 of the 8861
Revised Code administer the appeals process. 8862

(H) If an appellant receiving medicaid through a health 8863
insuring corporation that holds a certificate of authority under 8864
Chapter 1751. of the Revised Code is appealing a denial of 8865
medicaid services based on lack of medical necessity or other 8866
clinical issues regarding coverage by the health insuring 8867
corporation, the person hearing the appeal may order an 8868
independent medical review if that person determines that a review 8869
is necessary. The review shall be performed by a health care 8870
professional with appropriate clinical expertise in treating the 8871
recipient's condition or disease. The department shall pay the 8872
costs associated with the review. 8873

A review ordered under this division shall be part of the 8874

record of the hearing and shall be given appropriate evidentiary 8875
consideration by the person hearing the appeal. 8876

(I) The requirements of Chapter 119. of the Revised Code 8877
apply to a state hearing or administrative appeal under this 8878
section only to the extent, if any, specifically provided by rules 8879
adopted under this section. 8880

Sec. 5101.46. (A) As used in this section: 8881

(1) "Title XX" means Title XX of the "Social Security Act," 8882
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 8883

(2) "Respective local agency" means, with respect to the 8884
department of job and family services, a county department of job 8885
and family services; with respect to the department of mental 8886
health, a board of alcohol, drug addiction, and mental health 8887
services; and with respect to the department of ~~mental-retardation~~ 8888
~~and~~ developmental disabilities, a county board of mental 8889
retardation and developmental disabilities. 8890

(3) "Federal poverty guidelines" means the poverty guidelines 8891
as revised annually by the United States department of health and 8892
human services in accordance with section 673(2) of the "Omnibus 8893
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 8894
9902, as amended, for a family size equal to the size of the 8895
family of the person whose income is being determined. 8896

(B) The departments of job and family services, mental 8897
health, and ~~mental-retardation~~ and developmental disabilities, 8898
with their respective local agencies, shall administer the 8899
provision of social services funded through grants made under 8900
Title XX. The social services furnished with Title XX funds shall 8901
be directed at the following goals: 8902

(1) Achieving or maintaining economic self-support to 8903
prevent, reduce, or eliminate dependency; 8904

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;	8905 8906
(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;	8907 8908 8909
(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;	8910 8911 8912
(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.	8913 8914 8915
(C)(1) All federal funds received under Title XX shall be appropriated as follows:	8916 8917
(a) Seventy-two and one-half per cent to the department of job and family services;	8918 8919
(b) Twelve and ninety-three one-hundredths per cent to the department of mental health;	8920 8921
(c) Fourteen and fifty-seven one-hundredths per cent to the department of mental retardation and developmental disabilities.	8922 8923
(2) Each state department shall, subject to the approval of the controlling board, develop formulas for the distribution of their Title XX appropriations to their respective local agencies. The formulas shall take into account the total population of the area that is served by the agency, the percentage of the population in the area that falls below the federal poverty guidelines, and the agency's history of and ability to utilize Title XX funds.	8924 8925 8926 8927 8928 8929 8930 8931
(3) Each of the state departments shall expend no more than three per cent of its Title XX appropriation for state administrative costs. Each of the department's respective local	8932 8933 8934

agencies shall expend no more than fourteen per cent of its Title 8935
XX appropriation for local administrative costs. 8936

(4) The department of job and family services shall expend no 8937
more than two per cent of its Title XX appropriation for the 8938
training of the following: 8939

(a) Employees of county departments of job and family 8940
services; 8941

(b) Providers of services under contract with the state 8942
departments' respective local agencies; 8943

(c) Employees of a public children services agency directly 8944
engaged in providing Title XX services. 8945

(D) The department of job and family services shall prepare a 8946
biennial comprehensive Title XX social services plan on the 8947
intended use of Title XX funds. The department shall develop a 8948
method for obtaining public comment during the development of the 8949
plan and following its completion. 8950

For each state fiscal year, the department of job and family 8951
services shall prepare a report on the actual use of Title XX 8952
funds. The department shall make the annual report available for 8953
public inspection. 8954

The departments of mental health and ~~mental retardation and~~ 8955
developmental disabilities shall prepare and submit to the 8956
department of job and family services the portions of each 8957
biennial plan and annual report that apply to services for mental 8958
health and mental retardation and developmental disabilities. Each 8959
respective local agency of the three state departments shall 8960
submit information as necessary for the preparation of biennial 8961
plans and annual reports. 8962

(E) Each county department shall adopt a county profile for 8963
the administration and provision of Title XX social services in 8964

the county. In developing its county profile, the county 8965
department shall take into consideration the comments and 8966
recommendations received from the public by the county family 8967
services planning committee pursuant to section 329.06 of the 8968
Revised Code. As part of its preparation of the county profile, 8969
the county department may prepare a local needs report analyzing 8970
the need for Title XX social services. 8971

The county department shall submit the county profile to the 8972
board of county commissioners for its review. Once the county 8973
profile has been approved by the board, the county department 8974
shall file a copy of the county profile with the department of job 8975
and family services. The department shall approve the county 8976
profile if the department determines the profile provides for the 8977
Title XX social services to meet the goals specified in division 8978
(B) of this section. 8979

(F) Any of the three state departments and their respective 8980
local agencies may require that an entity under contract to 8981
provide social services with Title XX funds submit to an audit on 8982
the basis of alleged misuse or improper accounting of funds. If an 8983
audit is required, the social services provider shall reimburse 8984
the state department or local agency for the cost it incurred in 8985
conducting the audit or having the audit conducted. 8986

If an audit demonstrates that a social services provider is 8987
responsible for one or more adverse findings, the provider shall 8988
reimburse the appropriate state department or its respective local 8989
agency the amount of the adverse findings. The amount shall not be 8990
reimbursed with Title XX funds received under this section. The 8991
three state departments and their respective local agencies may 8992
terminate or refuse to enter into a Title XX contract with a 8993
social services provider if there are adverse findings in an audit 8994
that are the responsibility of the provider. 8995

(G) The department of job and family services may adopt rules 8996

to implement and carry out the purposes of this section. Rules 8997
governing financial and operational matters of the department or 8998
matters between the department and county departments of job and 8999
family services shall be adopted as internal management rules in 9000
accordance with section 111.15 of the Revised Code. Rules 9001
governing eligibility for services, program participation, and 9002
other matters pertaining to applicants and participants shall be 9003
adopted in accordance with Chapter 119. of the Revised Code. 9004

Sec. 5103.02. As used in sections 5103.03 to 5103.17 of the 9005
Revised Code: 9006

(A) "Association" or "institution" includes any incorporated 9007
or unincorporated organization, society, association, or agency, 9008
public or private, that receives or cares for children for two or 9009
more consecutive weeks; any individual, including the operator of 9010
a foster home, who, for hire, gain, or reward, receives or cares 9011
for children for two or more consecutive weeks, unless the 9012
individual is related to them by blood or marriage; and any 9013
individual not in the regular employ of a court, or of an 9014
institution or association certified in accordance with section 9015
5103.03 of the Revised Code, who in any manner becomes a party to 9016
the placing of children in foster homes, unless the individual is 9017
related to such children by blood or marriage, or is the appointed 9018
guardian of such children; provided, that any organization, 9019
society, association, school, agency, child guidance center, 9020
detention or rehabilitation facility, or children's clinic 9021
licensed, regulated, approved, operated under the direction of, or 9022
otherwise certified by the department of education, a local board 9023
of education, the department of youth services, the department of 9024
mental health, or the department of ~~mental retardation and~~ 9025
developmental disabilities, or any individual who provides care 9026
for only a single-family group, placed there by their parents or 9027
other relative having custody, shall not be considered as being 9028

within the purview of these sections. 9029

(B) "Family foster home" means a foster home that is not a 9030
specialized foster home. 9031

(C) "Foster caregiver" means a person holding a valid foster 9032
home certificate issued under section 5103.03 of the Revised Code. 9033

(D) "Foster home" means a private residence in which children 9034
are received apart from their parents, guardian, or legal 9035
custodian, by an individual reimbursed for providing the children 9036
nonsecure care, supervision, or training twenty-four hours a day. 9037
"Foster home" does not include care provided for a child in the 9038
home of a person other than the child's parent, guardian, or legal 9039
custodian while the parent, guardian, or legal custodian is 9040
temporarily away. Family foster homes and specialized foster homes 9041
are types of foster homes. 9042

(E) "Medically fragile foster home" means a foster home that 9043
provides specialized medical services designed to meet the needs 9044
of children with intensive health care needs who meet all of the 9045
following criteria: 9046

(1) Under rules adopted by the department of job and family 9047
services governing payment under Chapter 5111. of the Revised Code 9048
for long-term care services, the children require a skilled level 9049
of care. 9050

(2) The children require the services of a doctor of medicine 9051
or osteopathic medicine at least once a week due to the 9052
instability of their medical conditions. 9053

(3) The children require the services of a registered nurse 9054
on a daily basis. 9055

(4) The children are at risk of institutionalization in a 9056
hospital, skilled nursing facility, or intermediate care facility 9057
for the mentally retarded. 9058

(F) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency that recommends that the department of job and family services take any of the following actions under section 5103.03 of the Revised Code regarding a foster home:

(1) Issue a certificate;

(2) Deny a certificate;

(3) Renew a certificate;

(4) Deny renewal of a certificate;

(5) Revoke a certificate.

(G) "Specialized foster home" means a medically fragile foster home or a treatment foster home.

(H) "Treatment foster home" means a foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received in the foster home and that receives and cares for children who are emotionally or behaviorally disturbed, chemically dependent, mentally retarded, developmentally disabled, or who otherwise have exceptional needs.

Sec. 5103.13. (A) As used in this section and section 5103.131 of the Revised Code:

(1)(a) "Children's crisis care facility" means a facility that has as its primary purpose the provision of residential and other care to either or both of the following:

(i) One or more preteens voluntarily placed in the facility by the preteen's parent or other caretaker who is facing a crisis that causes the parent or other caretaker to seek temporary care for the preteen and referral for support services;

(ii) One or more preteens placed in the facility by a public children services agency or private child placing agency that has

legal custody or permanent custody of the preteen and determines 9088
that an emergency situation exists necessitating the preteen's 9089
placement in the facility rather than an institution certified 9090
under section 5103.03 of the Revised Code or elsewhere. 9091

(b) "Children's crisis care facility" does not include either 9092
of the following: 9093

(i) Any organization, society, association, school, agency, 9094
child guidance center, detention or rehabilitation facility, or 9095
children's clinic licensed, regulated, approved, operated under 9096
the direction of, or otherwise certified by the department of 9097
education, a local board of education, the department of youth 9098
services, the department of mental health, or the department of 9099
~~mental retardation and~~ developmental disabilities; 9100

(ii) Any individual who provides care for only a 9101
single-family group, placed there by their parents or other 9102
relative having custody. 9103

(2) "Legal custody" and "permanent custody" have the same 9104
meanings as in section 2151.011 of the Revised Code. 9105

(3) "Preteen" means an individual under thirteen years of 9106
age. 9107

(B) No person shall operate a children's crisis care facility 9108
or hold a children's crisis care facility out as a certified 9109
children's crisis care facility unless there is a valid children's 9110
crisis care facility certificate issued under this section for the 9111
facility. 9112

(C) A person seeking to operate a children's crisis care 9113
facility shall apply to the director of job and family services to 9114
obtain a certificate for the facility. The director shall certify 9115
the person's children's crisis care facility if the facility meets 9116
all of the certification standards established in rules adopted 9117
under division (F) of this section and the person complies with 9118

all of the rules governing the certification of children's crisis 9119
care facilities adopted under that division. The issuance of a 9120
children's crisis care facility certificate does not exempt the 9121
facility from a requirement to obtain another certificate or 9122
license mandated by law. 9123

(D)(1) No certified children's crisis care facility shall do 9124
any of the following: 9125

(a) Provide residential care to a preteen for more than one 9126
hundred twenty days in a calendar year; 9127

(b) Subject to division (D)(1)(c) of this section and except 9128
as provided in division (D)(2) of this section, provide 9129
residential care to a preteen for more than sixty consecutive 9130
days; 9131

(c) Except as provided in division (D)(3) of this section, 9132
provide residential care to a preteen for more than seventy-two 9133
consecutive hours if a public children services agency or private 9134
child placing agency placed the preteen in the facility; 9135

(d) Fail to comply with section 2151.86 of the Revised Code. 9136

(2) A certified children's crisis care facility may provide 9137
residential care to a preteen for up to ninety consecutive days, 9138
other than a preteen placed in the facility by a public children 9139
services agency or private child placing agency, if any of the 9140
following are the case: 9141

(a) The preteen's parent or other caretaker is enrolled in an 9142
alcohol and drug addiction program certified under section 3793.06 9143
of the Revised Code or a community mental health service certified 9144
under section 5119.611 of the Revised Code; 9145

(b) The preteen's parent or other caretaker is an inpatient 9146
in a hospital; 9147

(c) The preteen's parent or other caretaker is incarcerated; 9148

(d) A physician has diagnosed the preteen's parent or other 9149
caretaker as medically incapacitated. 9150

(3) A certified children's crisis care facility may provide 9151
residential care to a preteen placed in the facility by a public 9152
children services agency or private child placing agency for more 9153
than seventy-two consecutive hours if the director of job and 9154
family services or the director's designee issues the agency a 9155
waiver of the seventy-two consecutive hour limitation. The waiver 9156
may authorize the certified children's crisis care facility to 9157
provide residential care to the preteen for up to fourteen 9158
consecutive days. 9159

(E) The director of job and family services may suspend or 9160
revoke a children's crisis care facility's certificate pursuant to 9161
Chapter 119. of the Revised Code if the facility violates division 9162
(D) of this section or ceases to meet any of the certification 9163
standards established in rules adopted under division (F) of this 9164
section or the facility's operator ceases to comply with any of 9165
the rules governing the certification of children's crisis care 9166
facilities adopted under that division. 9167

(F) Not later than ninety days after ~~the effective date of~~ 9168
~~this amendment~~ September 21, 2006, the director of job and family 9169
services shall adopt rules pursuant to Chapter 119. of the Revised 9170
Code for the certification of children's crisis care facilities. 9171
The rules shall specify that a certificate shall not be issued to 9172
an applicant if the conditions at the children's crisis care 9173
facility would jeopardize the health or safety of the preteens 9174
placed in the facility. 9175

Sec. 5104.08. (A) There is hereby created in the department 9176
of job and family services a child care advisory council to advise 9177
and assist the department in the administration of this chapter 9178
and in the development of child care. The council shall consist of 9179

twenty-two voting members appointed by the director of job and 9180
family services with the approval of the governor. The director of 9181
job and family services, the director of ~~mental retardation and~~ 9182
developmental disabilities, the director of mental health, the 9183
superintendent of public instruction, the director of health, the 9184
director of commerce, and the state fire marshal shall serve as 9185
nonvoting members of the council. 9186

Six members shall be representatives of child care centers 9187
subject to licensing, the members to represent a variety of 9188
centers, including nonprofit and proprietary, from different 9189
geographical areas of the state. At least three members shall be 9190
parents, guardians, or custodians of children receiving child care 9191
or publicly funded child care in the child's own home, a center, a 9192
type A home, a head start program, a certified type B home, or a 9193
type B home at the time of appointment. Three members shall be 9194
representatives of in-home aides, type A homes, certified type B 9195
homes, or type B homes or head start programs. At least six 9196
members shall represent county departments of job and family 9197
services. The remaining members shall be representatives of the 9198
teaching, child development, and health professions, and other 9199
individuals interested in the welfare of children. At least six 9200
members of the council shall not be employees or licensees of a 9201
child day-care center, head start program, or type A home, or 9202
providers operating a certified type B home or type B home, or 9203
in-home aides. 9204

Appointments shall be for three-year terms. Vacancies shall 9205
be filled for the unexpired terms. A member of the council is 9206
subject to removal by the director of job and family services for 9207
a willful and flagrant exercise of authority or power that is not 9208
authorized by law, for a refusal or willful neglect to perform any 9209
official duty as a member of the council imposed by law, or for 9210
being guilty of misfeasance, malfeasance, nonfeasance, or gross 9211

neglect of duty as a member of the council. 9212

There shall be two co-chairpersons of the council. One 9213
co-chairperson shall be the director of job and family services or 9214
the director's designee, and one co-chairperson shall be elected 9215
by the members of the council. The council shall meet as often as 9216
is necessary to perform its duties, provided that it shall meet at 9217
least once in each quarter of each calendar year and at the call 9218
of the co-chairpersons. The co-chairpersons or their designee 9219
shall send to each member a written notice of the date, time, and 9220
place of each meeting. 9221

Members of the council shall serve without compensation, but 9222
shall be reimbursed for necessary expenses. 9223

(B) The child care advisory council shall advise the director 9224
on matters affecting the licensing of centers and type A homes and 9225
the certification of type B homes and in-home aides. The council 9226
shall make an annual report to the director of job and family 9227
services that addresses the availability, affordability, 9228
accessibility, and quality of child care and that summarizes the 9229
recommendations and plans of action that the council has proposed 9230
to the director during the preceding fiscal year. The director of 9231
job and family services shall provide copies of the report to the 9232
governor, speaker and minority leader of the house of 9233
representatives, and the president and minority leader of the 9234
senate and, on request, shall make copies available to the public. 9235

(C) The director of job and family services shall adopt rules 9236
pursuant to Chapter 119. of the Revised Code to implement this 9237
section. 9238

Sec. 5107.24. (A) As used in this section: 9239

(1) "Adult-supervised living arrangement" means a family 9240
setting approved, licensed, or certified by the department of job 9241

and family services, the department of mental health, the 9242
department of ~~mental retardation and~~ developmental disabilities, 9243
the department of youth services, a public children services 9244
agency, a private child placing agency, or a private noncustodial 9245
agency that is maintained by a person age eighteen or older who 9246
assumes responsibility for the care and control of a minor parent, 9247
pregnant minor, or child of a minor parent or provides the minor 9248
parent, pregnant minor, or child of a minor parent supportive 9249
services, including counseling, guidance, and supervision. 9250
"Adult-supervised living arrangement" does not mean a public 9251
institution. 9252

(2) "Child of a minor parent" means a child born to a minor 9253
parent, except that the child ceases to be considered a child of 9254
minor parent when the minor parent attains age eighteen. 9255

(3) "Minor parent" means a parent who is under age eighteen 9256
and is not married. 9257

(4) "Pregnant minor" means a pregnant person who is under age 9258
eighteen and not married. 9259

(B)(1) Except as provided in division (B)(2) of this section 9260
and to the extent permitted by Title IV-A and federal regulations 9261
adopted under Title IV-A, a pregnant minor, minor parent, or child 9262
of a minor parent must reside in a place of residence maintained 9263
by a parent, guardian, custodian, or specified relative of the 9264
pregnant minor or minor parent as the parent's, guardian's, 9265
custodian's, or specified relative's own home to be eligible to 9266
participate in Ohio works first. 9267

(2) To the extent permitted by Title IV-A and federal 9268
regulations adopted under it, a pregnant minor, minor parent, or 9269
child of a minor parent is exempt from the requirement of division 9270
(B)(1) of this section if any of the following apply: 9271

(a) The minor parent or pregnant minor does not have a 9272

parent, guardian, custodian, or specified relative living or whose 9273
whereabouts are known. 9274

(b) No parent, guardian, custodian, or specified relative of 9275
the minor parent or pregnant minor will allow the pregnant minor, 9276
minor parent, or minor parent's child to live in the parent's, 9277
guardian's, custodian's, or specified relative's home. 9278

(c) The department of job and family services, a county 9279
department of job and family services, or a public children 9280
services agency determines that the physical or emotional health 9281
or safety of the pregnant minor, minor parent, or minor parent's 9282
child would be in jeopardy if the pregnant minor, minor parent, or 9283
minor parent's child lived in the same home as the parent, 9284
guardian, custodian, or specified relative. 9285

(d) The department of job and family services, a county 9286
department of job and family services, or a public children 9287
services agency otherwise determines that it is in the best 9288
interest of the pregnant minor, minor parent, or minor parent's 9289
child to waive the requirement of division (B)(1) of this section. 9290

(C) A pregnant minor, minor parent, or child of a minor 9291
parent exempt from the requirement of division (B)(1) of this 9292
section must reside in an adult-supervised living arrangement to 9293
be eligible to participate in Ohio works first. 9294

(D) The department of job and family services, whenever 9295
possible and to the extent permitted by Title IV-A and federal 9296
regulations adopted under it, shall provide cash assistance under 9297
Ohio works first to the parent, guardian, custodian, or specified 9298
relative of a pregnant minor or minor parent on behalf of the 9299
pregnant minor, minor parent, or minor parent's child. 9300

Sec. 5111.042. The departments of ~~mental-retardation and~~ 9301
developmental disabilities and job and family services may 9302

approve, reduce, deny, or terminate a service included in the 9303
individualized service plan developed for a medicaid recipient 9304
with mental retardation or other developmental disability who is 9305
eligible for medicaid case management services. If either 9306
department approves, reduces, denies, or terminates a service, 9307
that department shall timely notify the medicaid recipient that 9308
the recipient may request a hearing under section 5101.35 of the 9309
Revised Code. 9310

Sec. 5111.151. (A) This section applies to eligibility 9311
determinations for all cases involving medicaid provided pursuant 9312
to this chapter, qualified medicare beneficiaries, specified 9313
low-income medicare beneficiaries, qualifying individuals-1, 9314
qualifying individuals-2, and medical assistance for covered 9315
families and children. 9316

(B) As used in this section: 9317

(1) "Trust" means any arrangement in which a grantor 9318
transfers real or personal property to a trust with the intention 9319
that it be held, managed, or administered by at least one trustee 9320
for the benefit of the grantor or beneficiaries. "Trust" includes 9321
any legal instrument or device similar to a trust. 9322

(2) "Legal instrument or device similar to a trust" includes, 9323
but is not limited to, escrow accounts, investment accounts, 9324
partnerships, contracts, and other similar arrangements that are 9325
not called trusts under state law but are similar to a trust and 9326
to which all of the following apply: 9327

(a) The property in the trust is held, managed, retained, or 9328
administered by a trustee. 9329

(b) The trustee has an equitable, legal, or fiduciary duty to 9330
hold, manage, retain, or administer the property for the benefit 9331
of the beneficiary. 9332

- (c) The trustee holds identifiable property for the beneficiary. 9333
9334
- (3) "Grantor" is a person who creates a trust, including all of the following: 9335
9336
- (a) An individual; 9337
- (b) An individual's spouse; 9338
- (c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse; 9339
9340
9341
- (d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse. 9342
9343
9344
- (4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust. 9345
9346
- (5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries. 9347
9348
- (6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association. 9349
9350
9351
- (7) "Applicant" is an individual who applies for medicaid or the individual's spouse. 9352
9353
- (8) "Recipient" is an individual who receives medicaid or the individual's spouse. 9354
9355
- (9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable: 9356
9357
9358
- (a) A trust that provides that the trust can be terminated only by a court; 9359
9360
- (b) A trust that terminates on the happening of an event, but 9361

only if the event occurs at the direction or control of the 9362
grantor, beneficiary, or trustee. 9363

(10) "Irrevocable trust" is a trust that cannot be revoked by 9364
the grantor or terminated by a court and that terminates only on 9365
the occurrence of an event outside of the control or direction of 9366
the beneficiary or grantor. 9367

(11) "Payment" is any disbursement from the principal or income 9368
of the trust, including actual cash, noncash or property 9369
disbursements, or the right to use and occupy real property. 9370

(12) "Payments to or for the benefit of the applicant or 9371
recipient" is a payment to any person resulting in a direct or 9372
indirect benefit to the applicant or recipient. 9373

(13) "Testamentary trust" is a trust that is established by a 9374
will and does not take effect until after the death of the person 9375
who created the trust. 9376

(C) If an applicant or recipient is a beneficiary of a trust, 9377
the county department of job and family services shall determine 9378
what type of trust it is and shall treat the trust in accordance 9379
with the appropriate provisions of this section and rules adopted 9380
by the department of job and family services governing trusts. The 9381
county department of job and family services may determine that 9382
the trust or portion of the trust is one of the following: 9383

(1) A countable resource; 9384

(2) Countable income; 9385

(3) A countable resource and countable income; 9386

(4) Not a countable resource or countable income. 9387

(D)(1) A trust or legal instrument or device similar to a 9388
trust shall be considered a medicaid qualifying trust if all of 9389
the following apply: 9390

(a) The trust was established on or prior to August 10, 1993. 9391

(b) The trust was not established by a will.	9392
(c) The trust was established by an applicant or recipient.	9393
(d) The applicant or recipient is or may become the beneficiary of all or part of the trust.	9394 9395
(e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient.	9396 9397 9398
(2) If a trust meets the requirement of division (D)(1) of this section, the amount of the trust that is considered by the county department of job and family services as an available resource to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust.	9399 9400 9401 9402 9403 9404 9405 9406 9407 9408
(3) Amounts that are actually distributed from a medicaid qualifying trust to a beneficiary for any purpose shall be treated in accordance with rules adopted by the department of job and family services governing income.	9409 9410 9411 9412
(4) Availability of a medicaid qualifying trust shall be considered without regard to any of the following:	9413 9414
(a) Whether or not the trust is irrevocable or was established for purposes other than to enable a grantor to qualify for medicaid, medical assistance for covered families and children, or as a qualified medicare beneficiary, specified low-income medicare beneficiary, qualifying individual-1, or qualifying individual-2;	9415 9416 9417 9418 9419 9420
(b) Whether or not the trustee actually exercises discretion.	9421

(5) If any real or personal property is transferred to a
medicaid qualifying trust that is not distributable to the
applicant or recipient, the transfer shall be considered an
improper disposition of assets and shall be subject to section
5111.0116 of the Revised Code and rules to implement that section
adopted under section 5111.011 of the Revised Code.

(6) The baseline date for the look-back period for
disposition of assets involving a medicaid qualifying trust shall
be the date on which the applicant or recipient is both
institutionalized and first applies for medicaid.

(E)(1) A trust or legal instrument or device similar to a
trust shall be considered a self-settled trust if all of the
following apply:

(a) The trust was established on or after August 11, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient,
spouse of an applicant or recipient, or a person, including a
court or administrative body, with legal authority to act in place
of or on behalf of an applicant, recipient, or spouse, or acting
at the direction or on request of an applicant, recipient, or
spouse.

(2) A trust that meets the requirements of division (E)(1) of
this section and is a revocable trust shall be treated by the
county department of job and family services as follows:

(a) The corpus of the trust shall be considered a resource
available to the applicant or recipient.

(b) Payments from the trust to or for the benefit of the
applicant or recipient shall be considered unearned income of the
applicant or recipient.

(c) Any other payments from the trust shall be considered an

improper disposition of assets and shall be subject to section 9452
5111.0116 of the Revised Code and rules to implement that section 9453
adopted under section 5111.011 of the Revised Code. 9454

(3) A trust that meets the requirements of division (E)(1) of 9455
this section and is an irrevocable trust shall be treated by the 9456
county department of job and family services as follows: 9457

(a) If there are any circumstances under which payment from 9458
the trust could be made to or for the benefit of the applicant or 9459
recipient, including a payment that can be made only in the 9460
future, the portion from which payments could be made shall be 9461
considered a resource available to the applicant or recipient. The 9462
county department of job and family services shall not take into 9463
account when payments can be made. 9464

(b) Any payment that is actually made to or for the benefit 9465
of the applicant or recipient from either the corpus or income 9466
shall be considered unearned income. 9467

(c) If a payment is made to someone other than to the 9468
applicant or recipient and the payment is not for the benefit of 9469
the applicant or recipient, the payment shall be considered an 9470
improper disposition of assets and shall be subject to section 9471
5111.0116 of the Revised Code and rules to implement that section 9472
adopted under section 5111.011 of the Revised Code. 9473

(d) The date of the disposition shall be the later of the 9474
date of establishment of the trust or the date of the occurrence 9475
of the event. 9476

(e) When determining the value of the disposed asset under 9477
this provision, the value of the trust shall be its value on the 9478
date payment to the applicant or recipient was foreclosed. 9479

(f) Any income earned or other resources added subsequent to 9480
the foreclosure date shall be added to the total value of the 9481
trust. 9482

(g) Any payments to or for the benefit of the applicant or 9483
recipient after the foreclosure date but prior to the application 9484
date shall be subtracted from the total value. Any other payments 9485
shall not be subtracted from the value. 9486

(h) Any addition of assets after the foreclosure date shall 9487
be considered a separate disposition. 9488

(4) If a trust is funded with assets of another person or 9489
persons in addition to assets of the applicant or recipient, the 9490
applicable provisions of this section and rules adopted by the 9491
department of job and family services governing trusts shall apply 9492
only to the portion of the trust attributable to the applicant or 9493
recipient. 9494

(5) The availability of a self-settled trust shall be 9495
considered without regard to any of the following: 9496

(a) The purpose for which the trust is established; 9497

(b) Whether the trustees have exercised or may exercise 9498
discretion under the trust; 9499

(c) Any restrictions on when or whether distributions may be 9500
made from the trust; 9501

(d) Any restrictions on the use of distributions from the 9502
trust. 9503

(6) The baseline date for the look-back period for 9504
dispositions of assets involving a self-settled trust shall be the 9505
date on which the applicant or recipient is both institutionalized 9506
and first applies for medicaid. 9507

(F) The principal or income from any of the following shall 9508
be exempt from being counted as a resource by a county department 9509
of job and family services: 9510

(1)(a) A special needs trust that meets all of the following 9511
requirements: 9512

- (i) The trust contains assets of an applicant or recipient 9513
under sixty-five years of age and may contain the assets of other 9514
individuals. 9515
- (ii) The applicant or recipient is disabled as defined in 9516
rules adopted by the department of job and family services. 9517
- (iii) The trust is established for the benefit of the 9518
applicant or recipient by a parent, grandparent, legal guardian, 9519
or a court. 9520
- (iv) The trust requires that on the death of the applicant or 9521
recipient the state will receive all amounts remaining in the 9522
trust up to an amount equal to the total amount of medicaid paid 9523
on behalf of the applicant or recipient. 9524
- (b) If a special needs trust meets the requirements of 9525
division (F)(1)(a) of this section and has been established for a 9526
disabled applicant or recipient under sixty-five years of age, the 9527
exemption for the trust granted pursuant to division (F) of this 9528
section shall continue after the disabled applicant or recipient 9529
becomes sixty-five years of age if the applicant or recipient 9530
continues to be disabled as defined in rules adopted by the 9531
department of job and family services. Except for income earned by 9532
the trust, the grantor shall not add to or otherwise augment the 9533
trust after the applicant or recipient attains sixty-five years of 9534
age. An addition or augmentation of the trust by the applicant or 9535
recipient with the applicant's own assets after the applicant or 9536
recipient attains sixty-five years of age shall be treated as an 9537
improper disposition of assets. 9538
- (c) Cash distributions to the applicant or recipient shall be 9539
counted as unearned income. All other distributions from the trust 9540
shall be treated as provided in rules adopted by the department of 9541
job and family services governing in-kind income. 9542
- (d) Transfers of assets to a special needs trust shall not be 9543

treated as an improper transfer of resources. Assets held prior to 9544
the transfer to the trust shall be considered as countable assets 9545
or countable income or countable assets and income. 9546

(2)(a) A qualifying income trust that meets all of the 9547
following requirements: 9548

(i) The trust is composed only of pension, social security, 9549
and other income to the applicant or recipient, including 9550
accumulated interest in the trust. 9551

(ii) The income is received by the individual and the right 9552
to receive the income is not assigned or transferred to the trust. 9553

(iii) The trust requires that on the death of the applicant 9554
or recipient the state will receive all amounts remaining in the 9555
trust up to an amount equal to the total amount of medicaid paid 9556
on behalf of the applicant or recipient. 9557

(b) No resources shall be used to establish or augment the 9558
trust. 9559

(c) If an applicant or recipient has irrevocably transferred 9560
or assigned the applicant's or recipient's right to receive income 9561
to the trust, the trust shall not be considered a qualifying 9562
income trust by the county department of job and family services. 9563

(d) Income placed in a qualifying income trust shall not be 9564
counted in determining an applicant's or recipient's eligibility 9565
for medicaid. The recipient of the funds may place any income 9566
directly into a qualifying income trust without those funds 9567
adversely affecting the applicant's or recipient's eligibility for 9568
medicaid. Income generated by the trust that remains in the trust 9569
shall not be considered as income to the applicant or recipient. 9570

(e) All income placed in a qualifying income trust shall be 9571
combined with any countable income not placed in the trust to 9572
arrive at a base income figure to be used for spend down 9573

calculations. 9574

(f) The base income figure shall be used for post-eligibility 9575
deductions, including personal needs allowance, monthly income 9576
allowance, family allowance, and medical expenses not subject to 9577
third party payment. Any income remaining shall be used toward 9578
payment of patient liability. Payments made from a qualifying 9579
income trust shall not be combined with the base income figure for 9580
post-eligibility calculations. 9581

(g) The base income figure shall be used when determining the 9582
spend down budget for the applicant or recipient. Any income 9583
remaining after allowable deductions are permitted as provided 9584
under rules adopted by the department of job and family services 9585
shall be considered the applicant's or recipient's spend down 9586
liability. 9587

(3)(a) A pooled trust that meets all of the following 9588
requirements: 9589

(i) The trust contains the assets of the applicant or 9590
recipient of any age who is disabled as defined in rules adopted 9591
by the department of job and family services. 9592

(ii) The trust is established and managed by a nonprofit 9593
association. 9594

(iii) A separate account is maintained for each beneficiary 9595
of the trust but, for purposes of investment and management of 9596
funds, the trust pools the funds in these accounts. 9597

(iv) Accounts in the trust are established by the applicant 9598
or recipient, the applicant's or recipient's parent, grandparent, 9599
or legal guardian, or a court solely for the benefit of 9600
individuals who are disabled. 9601

(v) The trust requires that, to the extent that any amounts 9602
remaining in the beneficiary's account on the death of the 9603

beneficiary are not retained by the trust, the trust pay to the 9604
state the amounts remaining in the trust up to an amount equal to 9605
the total amount of medicaid paid on behalf of the beneficiary. 9606

(b) Cash distributions to the applicant or recipient shall be 9607
counted as unearned income. All other distributions from the trust 9608
shall be treated as provided in rules adopted by the department of 9609
job and family services governing in-kind income. 9610

(c) Transfers of assets to a pooled trust shall not be 9611
treated as an improper disposition of assets. Assets held prior to 9612
the transfer to the trust shall be considered as countable assets, 9613
countable income, or countable assets and income. 9614

(4) A supplemental services trust that meets the requirements 9615
of section 5815.28 of the Revised Code and to which all of the 9616
following apply: 9617

(a) A person may establish a supplemental services trust 9618
pursuant to section 5815.28 of the Revised Code only for another 9619
person who is eligible to receive services through one of the 9620
following agencies: 9621

(i) The department of ~~mental retardation and~~ developmental 9622
disabilities; 9623

(ii) A county board of mental retardation and developmental 9624
disabilities; 9625

(iii) The department of mental health; 9626

(iv) A board of alcohol, drug addiction, and mental health 9627
services. 9628

(b) A county department of job and family services shall not 9629
determine eligibility for another agency's program. An applicant 9630
or recipient shall do one of the following: 9631

(i) Provide documentation from one of the agencies listed in 9632
division (F)(4)(a) of this section that establishes that the 9633

applicant or recipient was determined to be eligible for services 9634
from the agency at the time of the creation of the trust; 9635

(ii) Provide an order from a court of competent jurisdiction 9636
that states that the applicant or recipient was eligible for 9637
services from one of the agencies listed in division (F)(4)(a) of 9638
this section at the time of the creation of the trust. 9639

(c) At the time the trust is created, the trust principal 9640
does not exceed the maximum amount permitted. The maximum amount 9641
permitted in calendar year 2006 is two hundred twenty-two thousand 9642
dollars. Each year thereafter, the maximum amount permitted is the 9643
prior year's amount plus two thousand dollars. 9644

(d) A county department of job and family services shall 9645
review the trust to determine whether it complies with the 9646
provisions of section 5815.28 of the Revised Code. 9647

(e) Payments from supplemental services trusts shall be 9648
exempt as long as the payments are for supplemental services as 9649
defined in rules adopted by the department of job and family 9650
services. All supplemental services shall be purchased by the 9651
trustee and shall not be purchased through direct cash payments to 9652
the beneficiary. 9653

(f) If a trust is represented as a supplemental services 9654
trust and a county department of job and family services 9655
determines that the trust does not meet the requirements provided 9656
in division (F)(4) of this section and section 5815.28 of the 9657
Revised Code, the county department of job and family services 9658
shall not consider it an exempt trust. 9659

(G)(1) A trust or legal instrument or device similar to a 9660
trust shall be considered a trust established by an individual for 9661
the benefit of the applicant or recipient if all of the following 9662
apply: 9663

(a) The trust is created by a person other than the applicant 9664

or recipient. 9665

(b) The trust names the applicant or recipient as a 9666
beneficiary. 9667

(c) The trust is funded with assets or property in which the 9668
applicant or recipient has never held an ownership interest prior 9669
to the establishment of the trust. 9670

(2) Any portion of a trust that meets the requirements of 9671
division (G)(1) of this section shall be an available resource 9672
only if the trust permits the trustee to expend principal, corpus, 9673
or assets of the trust for the applicant's or recipient's medical 9674
care, care, comfort, maintenance, health, welfare, general well 9675
being, or any combination of these purposes. 9676

(3) A trust that meets the requirements of division (G)(1) of 9677
this section shall be considered an available resource even if the 9678
trust contains any of the following types of provisions: 9679

(a) A provision that prohibits the trustee from making 9680
payments that would supplant or replace medicaid or other public 9681
assistance; 9682

(b) A provision that prohibits the trustee from making 9683
payments that would impact or have an effect on the applicant's or 9684
recipient's right, ability, or opportunity to receive medicaid or 9685
other public assistance; 9686

(c) A provision that attempts to prevent the trust or its 9687
corpus or principal from being counted as an available resource. 9688

(4) A trust that meets the requirements of division (G)(1) of 9689
this section shall not be counted as an available resource if at 9690
least one of the following circumstances applies: 9691

(a) If a trust contains a clear statement requiring the 9692
trustee to preserve a portion of the trust for another beneficiary 9693
or remainderman, that portion of the trust shall not be counted as 9694

an available resource. Terms of a trust that grant discretion to 9695
preserve a portion of the trust shall not qualify as a clear 9696
statement requiring the trustee to preserve a portion of the 9697
trust. 9698

(b) If a trust contains a clear statement requiring the 9699
trustee to use a portion of the trust for a purpose other than 9700
medical care, care, comfort, maintenance, welfare, or general well 9701
being of the applicant or recipient, that portion of the trust 9702
shall not be counted as an available resource. Terms of a trust 9703
that grant discretion to limit the use of a portion of the trust 9704
shall not qualify as a clear statement requiring the trustee to 9705
use a portion of the trust for a particular purpose. 9706

(c) If a trust contains a clear statement limiting the 9707
trustee to making fixed periodic payments, the trust shall not be 9708
counted as an available resource and payments shall be treated in 9709
accordance with rules adopted by the department of job and family 9710
services governing income. Terms of a trust that grant discretion 9711
to limit payments shall not qualify as a clear statement requiring 9712
the trustee to make fixed periodic payments. 9713

(d) If a trust contains a clear statement that requires the 9714
trustee to terminate the trust if it is counted as an available 9715
resource, the trust shall not be counted as an available resource. 9716
Terms of a trust that grant discretion to terminate the trust do 9717
not qualify as a clear statement requiring the trustee to 9718
terminate the trust. 9719

(e) If a person obtains a judgment from a court of competent 9720
jurisdiction that expressly prevents the trustee from using part 9721
or all of the trust for the medical care, care, comfort, 9722
maintenance, welfare, or general well being of the applicant or 9723
recipient, the trust or that portion of the trust subject to the 9724
court order shall not be counted as a resource. 9725

(f) If a trust is specifically exempt from being counted as 9726
an available resource by a provision of the Revised Code, rules, 9727
or federal law, the trust shall not be counted as a resource. 9728

(g) If an applicant or recipient presents a final judgment 9729
from a court demonstrating that the applicant or recipient was 9730
unsuccessful in a civil action against the trustee to compel 9731
payments from the trust, the trust shall not be counted as an 9732
available resource. 9733

(h) If an applicant or recipient presents a final judgment 9734
from a court demonstrating that in a civil action against the 9735
trustee the applicant or recipient was only able to compel limited 9736
or periodic payments, the trust shall not be counted as an 9737
available resource and payments shall be treated in accordance 9738
with rules adopted by the department of job and family services 9739
governing income. 9740

(i) If an applicant or recipient provides written 9741
documentation showing that the cost of a civil action brought to 9742
compel payments from the trust would be cost prohibitive, the 9743
trust shall not be counted as an available resource. 9744

(5) Any actual payments to the applicant or recipient from a 9745
trust that meet the requirements of division (G)(1) of this 9746
section, including trusts that are not counted as an available 9747
resource, shall be treated as provided in rules adopted by the 9748
department of job and family services governing income. Payments 9749
to any person other than the applicant or recipient shall not be 9750
considered income to the applicant or recipient. Payments from the 9751
trust to a person other than the applicant or recipient shall not 9752
be considered an improper disposition of assets. 9753

Sec. 5111.202. (A) As used in this section: 9754

(1) "Dementia" includes Alzheimer's disease or a related 9755

disorder. 9756

(2) "Serious mental illness" means "serious mental illness," 9757
as defined by the United States department of health and human 9758
services in regulations adopted under section 1919(e)(7)(G)(i) of 9759
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 9760
as amended. 9761

(3) "Mentally ill individual" means an individual who has a 9762
serious mental illness other than either of the following: 9763

(a) A primary diagnosis of dementia; 9764

(b) A primary diagnosis that is not a primary diagnosis of 9765
dementia and a primary diagnosis of something other than a serious 9766
mental illness. 9767

(4) "Mentally retarded individual" means an individual who is 9768
mentally retarded or has a related condition, as described in 9769
section 1905(d) of the "Social Security Act." 9770

(5) "Specialized services" means the services specified by 9771
the United States department of health and human services in 9772
regulations adopted under section 1919(e)(7)(G)(iii) of the 9773
"Social Security Act." 9774

(B)(1) Except as provided in division (D) of this section, no 9775
nursing facility shall admit as a resident any mentally ill 9776
individual unless the facility has received evidence that the 9777
department of mental health has determined both of the following 9778
under section 5119.061 of the Revised Code: 9779

(a) That the individual requires the level of services 9780
provided by a nursing facility because of the individual's 9781
physical and mental condition; 9782

(b) Whether the individual requires specialized services for 9783
mental illness. 9784

(2) Except as provided in division (D) of this section, no 9785

nursing facility shall admit as a resident any mentally retarded 9786
individual unless the facility has received evidence that the 9787
department of ~~mental retardation and~~ developmental disabilities 9788
has determined both of the following under section 5123.021 of the 9789
Revised Code: 9790

(a) That the individual requires the level of services 9791
provided by a nursing facility because of the individual's 9792
physical and mental condition; 9793

(b) Whether the individual requires specialized services for 9794
mental retardation. 9795

(C) The department of job and family services shall not make 9796
payments under the medical assistance program to a nursing 9797
facility on behalf of any individual who is admitted to the 9798
facility in violation of division (B) of this section for the 9799
period beginning on the date of admission and ending on the date 9800
the requirements of division (B) of this section are met. 9801

(D) A determination under division (B) of this section is not 9802
required for any individual who is exempted from the requirement 9803
that a determination be made by division (B)(2) of section 9804
5119.061 of the Revised Code or rules adopted by the department of 9805
mental health under division (E)(3) of that section, or by 9806
division (B)(2) of section 5123.021 of the Revised Code or rules 9807
adopted by the department of ~~mental retardation and~~ developmental 9808
disabilities under division (E)(3) of that section. 9809

Sec. 5111.203. Regardless of whether or not an applicant for 9810
admission to a nursing facility or resident of a nursing facility 9811
is an applicant for or recipient of medical assistance, the 9812
department of job and family services shall provide notice and an 9813
opportunity for a hearing to any applicant for admission to a 9814
nursing facility or resident of a nursing facility who is 9815
adversely affected by a determination made by the department of 9816

mental health under section 5119.061 of the Revised Code or by the 9817
department of ~~mental retardation and~~ developmental disabilities 9818
under section 5123.021 of the Revised Code. The hearing shall be 9819
conducted in the same manner as hearings conducted under section 9820
5101.35 of the Revised Code. Any decision made by the department 9821
of job and family services on the basis of the hearing is binding 9822
on the department of mental health and the department of ~~mental~~ 9823
~~retardation and~~ developmental disabilities. 9824

Sec. 5111.211. (A) The department of ~~mental retardation and~~ 9825
developmental disabilities is responsible for the nonfederal share 9826
of claims submitted for services that are covered by the medicaid 9827
program and provided to an eligible medicaid recipient by an 9828
intermediate care facility for the mentally retarded if all of the 9829
following are the case: 9830

(1) The services are provided on or after July 1, 2003; 9831

(2) The facility receives initial certification by the 9832
director of health as an intermediate care facility for the 9833
mentally retarded on or after June 1, 2003; 9834

(3) The facility, or a portion of the facility, is licensed 9835
by the director of ~~mental retardation and~~ developmental 9836
disabilities as a residential facility under section 5123.19 of 9837
the Revised Code; 9838

(4) There is a valid provider agreement for the facility. 9839

(B) Each month, the department of job and family services 9840
shall invoice the department of ~~mental retardation and~~ 9841
developmental disabilities by interagency transfer voucher for the 9842
claims for which the department of ~~mental retardation and~~ 9843
developmental disabilities is responsible pursuant to this 9844
section. 9845

Sec. 5111.251. (A) The department of job and family services 9846

shall pay a provider for each of the provider's eligible 9847
intermediate care facilities for the mentally retarded for its 9848
reasonable capital costs, a per resident per day rate established 9849
prospectively each fiscal year for each intermediate care facility 9850
for the mentally retarded. Except as otherwise provided in 9851
sections 5111.20 to 5111.33 of the Revised Code, the rate shall be 9852
based on the facility's capital costs for the calendar year 9853
preceding the fiscal year in which the rate will be paid. The rate 9854
shall equal the sum of the following: 9855

(1) The facility's desk-reviewed, actual, allowable, per diem 9856
cost of ownership for the preceding cost reporting period, limited 9857
as provided in divisions (C) and (F) of this section; 9858

(2) Any efficiency incentive determined under division (B) of 9859
this section; 9860

(3) Any amounts for renovations determined under division (D) 9861
of this section; 9862

(4) Any amounts for return on equity determined under 9863
division (I) of this section. 9864

Buildings shall be depreciated using the straight line method 9865
over forty years or over a different period approved by the 9866
department. Components and equipment shall be depreciated using 9867
the straight line method over a period designated by the director 9868
of job and family services in rules adopted under section 5111.02 9869
of the Revised Code, consistent with the guidelines of the 9870
American hospital association, or over a different period approved 9871
by the department of job and family services. Any rules authorized 9872
by this division that specify useful lives of buildings, 9873
components, or equipment apply only to assets acquired on or after 9874
July 1, 1993. Depreciation for costs paid or reimbursed by any 9875
government agency shall not be included in costs of ownership or 9876
renovation unless that part of the payment under sections 5111.20 9877

to 5111.33 of the Revised Code is used to reimburse the government 9878
agency. 9879

(B) The department of job and family services shall pay to a 9880
provider for each of the provider's eligible intermediate care 9881
facilities for the mentally retarded an efficiency incentive equal 9882
to fifty per cent of the difference between any desk-reviewed, 9883
actual, allowable cost of ownership and the applicable limit on 9884
cost of ownership payments under division (C) of this section. For 9885
purposes of computing the efficiency incentive, depreciation for 9886
costs paid or reimbursed by any government agency shall be 9887
considered as a cost of ownership, and the applicable limit under 9888
division (C) of this section shall apply both to facilities with 9889
more than eight beds and facilities with eight or fewer beds. The 9890
efficiency incentive paid to a provider for a facility with eight 9891
or fewer beds shall not exceed three dollars per patient day, 9892
adjusted annually for the inflation rate for the twelve-month 9893
period beginning on the first day of July of the calendar year 9894
preceding the calendar year that precedes the fiscal year for 9895
which the efficiency incentive is determined and ending on the 9896
thirtieth day of the following June, using the consumer price 9897
index for shelter costs for all urban consumers for the north 9898
central region, as published by the United States bureau of labor 9899
statistics. 9900

(C) Cost of ownership payments for intermediate care 9901
facilities for the mentally retarded with more than eight beds 9902
shall not exceed the following limits: 9903

(1) For facilities with dates of licensure prior to January 9904
1, 1958, not exceeding two dollars and fifty cents per patient 9905
day; 9906

(2) For facilities with dates of licensure after December 31, 9907
1957, but prior to January 1, 1968, not exceeding: 9908

(a) Three dollars and fifty cents per patient day if the cost 9909
of construction was three thousand five hundred dollars or more 9910
per bed; 9911

(b) Two dollars and fifty cents per patient day if the cost 9912
of construction was less than three thousand five hundred dollars 9913
per bed. 9914

(3) For facilities with dates of licensure after December 31, 9915
1967, but prior to January 1, 1976, not exceeding: 9916

(a) Four dollars and fifty cents per patient day if the cost 9917
of construction was five thousand one hundred fifty dollars or 9918
more per bed; 9919

(b) Three dollars and fifty cents per patient day if the cost 9920
of construction was less than five thousand one hundred fifty 9921
dollars per bed, but exceeds three thousand five hundred dollars 9922
per bed; 9923

(c) Two dollars and fifty cents per patient day if the cost 9924
of construction was three thousand five hundred dollars or less 9925
per bed. 9926

(4) For facilities with dates of licensure after December 31, 9927
1975, but prior to January 1, 1979, not exceeding: 9928

(a) Five dollars and fifty cents per patient day if the cost 9929
of construction was six thousand eight hundred dollars or more per 9930
bed; 9931

(b) Four dollars and fifty cents per patient day if the cost 9932
of construction was less than six thousand eight hundred dollars 9933
per bed but exceeds five thousand one hundred fifty dollars per 9934
bed; 9935

(c) Three dollars and fifty cents per patient day if the cost 9936
of construction was five thousand one hundred fifty dollars or 9937
less per bed, but exceeds three thousand five hundred dollars per 9938

bed;	9939
(d) Two dollars and fifty cents per patient day if the cost	9940
of construction was three thousand five hundred dollars or less	9941
per bed.	9942
(5) For facilities with dates of licensure after December 31,	9943
1978, but prior to January 1, 1980, not exceeding:	9944
(a) Six dollars per patient day if the cost of construction	9945
was seven thousand six hundred twenty-five dollars or more per	9946
bed;	9947
(b) Five dollars and fifty cents per patient day if the cost	9948
of construction was less than seven thousand six hundred	9949
twenty-five dollars per bed but exceeds six thousand eight hundred	9950
dollars per bed;	9951
(c) Four dollars and fifty cents per patient day if the cost	9952
of construction was six thousand eight hundred dollars or less per	9953
bed but exceeds five thousand one hundred fifty dollars per bed;	9954
(d) Three dollars and fifty cents per patient day if the cost	9955
of construction was five thousand one hundred fifty dollars or	9956
less but exceeds three thousand five hundred dollars per bed;	9957
(e) Two dollars and fifty cents per patient day if the cost	9958
of construction was three thousand five hundred dollars or less	9959
per bed.	9960
(6) For facilities with dates of licensure after December 31,	9961
1979, but prior to January 1, 1981, not exceeding:	9962
(a) Twelve dollars per patient day if the beds were	9963
originally licensed as residential facility beds by the department	9964
of mental retardation and developmental disabilities;	9965
(b) Six dollars per patient day if the beds were originally	9966
licensed as nursing home beds by the department of health.	9967
(7) For facilities with dates of licensure after December 31,	9968

1980, but prior to January 1, 1982, not exceeding:	9969
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	9970 9971 9972
(b) Six dollars and forty-five cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	9973 9974 9975
(8) For facilities with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:	9976 9977
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	9978 9979 9980
(b) Six dollars and seventy-nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	9981 9982 9983
(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:	9984 9985
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	9986 9987 9988
(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	9989 9990 9991
(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:	9992 9993
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	9994 9995 9996 9997
(b) Seven dollars and twenty-three cents per patient day if	9998

the beds were originally licensed as nursing home beds by the department of health.	9999 10000
(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:	10001 10002
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	10003 10004 10005 10006
(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	10007 10008 10009
(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:	10010 10011
(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	10012 10013 10014
(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	10015 10016 10017
(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:	10018 10019
(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	10020 10021 10022 10023
(b) Seven dollars and sixty-seven cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	10024 10025 10026
(14) For facilities with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen	10027 10028

dollars and twenty-six cents per patient day;	10029
(15) For facilities with dates of licensure after December	10030
31, 1988, but prior to January 1, 1990, not exceeding thirteen	10031
dollars and forty-six cents per patient day;	10032
(16) For facilities with dates of licensure after December	10033
31, 1989, but prior to January 1, 1991, not exceeding thirteen	10034
dollars and sixty cents per patient day;	10035
(17) For facilities with dates of licensure after December	10036
31, 1990, but prior to January 1, 1992, not exceeding thirteen	10037
dollars and forty-nine cents per patient day;	10038
(18) For facilities with dates of licensure after December	10039
31, 1991, but prior to January 1, 1993, not exceeding thirteen	10040
dollars and sixty-seven cents per patient day;	10041
(19) For facilities with dates of licensure after December	10042
31, 1992, not exceeding fourteen dollars and twenty-eight cents	10043
per patient day.	10044
(D) Beginning January 1, 1981, regardless of the original	10045
date of licensure, the department of job and family services shall	10046
pay a rate for the per diem capitalized costs of renovations to	10047
intermediate care facilities for the mentally retarded made after	10048
January 1, 1981, not exceeding six dollars per patient day using	10049
1980 as the base year and adjusting the amount annually until June	10050
30, 1993, for fluctuations in construction costs calculated by the	10051
department using the "Dodge building cost indexes, northeastern	10052
and north central states," published by Marshall and Swift. The	10053
payment provided for in this division is the only payment that	10054
shall be made for the capitalized costs of a nonextensive	10055
renovation of an intermediate care facility for the mentally	10056
retarded. Nonextensive renovation costs shall not be included in	10057
cost of ownership, and a nonextensive renovation shall not affect	10058
the date of licensure for purposes of division (C) of this	10059

section. This division applies to nonextensive renovations 10060
regardless of whether they are made by an owner or a lessee. If 10061
the tenancy of a lessee that has made renovations ends before the 10062
depreciation expense for the renovation costs has been fully 10063
reported, the former lessee shall not report the undepreciated 10064
balance as an expense. 10065

For a nonextensive renovation to qualify for payment under 10066
this division, both of the following conditions must be met: 10067

(1) At least five years have elapsed since the date of 10068
licensure or date of an extensive renovation of the portion of the 10069
facility that is proposed to be renovated, except that this 10070
condition does not apply if the renovation is necessary to meet 10071
the requirements of federal, state, or local statutes, ordinances, 10072
rules, or policies. 10073

(2) The provider has obtained prior approval from the 10074
department of job and family services. The provider shall submit a 10075
plan that describes in detail the changes in capital assets to be 10076
accomplished by means of the renovation and the timetable for 10077
completing the project. The time for completion of the project 10078
shall be no more than eighteen months after the renovation begins. 10079
The director of job and family services shall adopt rules under 10080
section 5111.02 of the Revised Code that specify criteria and 10081
procedures for prior approval of renovation projects. No provider 10082
shall separate a project with the intent to evade the 10083
characterization of the project as a renovation or as an extensive 10084
renovation. No provider shall increase the scope of a project 10085
after it is approved by the department of job and family services 10086
unless the increase in scope is approved by the department. 10087

(E) The amounts specified in divisions (C) and (D) of this 10088
section shall be adjusted beginning July 1, 1993, for the 10089
estimated inflation for the twelve-month period beginning on the 10090
first day of July of the calendar year preceding the calendar year 10091

that precedes the fiscal year for which rate will be paid and 10092
ending on the thirtieth day of the following June, using the 10093
consumer price index for shelter costs for all urban consumers for 10094
the north central region, as published by the United States bureau 10095
of labor statistics. 10096

(F)(1) For facilities of eight or fewer beds that have dates 10097
of licensure or have been granted project authorization by the 10098
department of ~~mental retardation and~~ developmental disabilities 10099
before July 1, 1993, and for facilities of eight or fewer beds 10100
that have dates of licensure or have been granted project 10101
authorization after that date if the providers of the facilities 10102
demonstrate that they made substantial commitments of funds on or 10103
before that date, cost of ownership shall not exceed eighteen 10104
dollars and thirty cents per resident per day. The eighteen-dollar 10105
and thirty-cent amount shall be increased by the change in the 10106
"Dodge building cost indexes, northeastern and north central 10107
states," published by Marshall and Swift, during the period 10108
beginning June 30, 1990, and ending July 1, 1993, and by the 10109
change in the consumer price index for shelter costs for all urban 10110
consumers for the north central region, as published by the United 10111
States bureau of labor statistics, annually thereafter. 10112

(2) For facilities with eight or fewer beds that have dates 10113
of licensure or have been granted project authorization by the 10114
department of ~~mental retardation and~~ developmental disabilities on 10115
or after July 1, 1993, for which substantial commitments of funds 10116
were not made before that date, cost of ownership payments shall 10117
not exceed the applicable amount calculated under division (F)(1) 10118
of this section, if the department of job and family services 10119
gives prior approval for construction of the facility. If the 10120
department does not give prior approval, cost of ownership 10121
payments shall not exceed the amount specified in division (C) of 10122
this section. 10123

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this section, the total payment for cost of ownership, cost of ownership efficiency incentive, and capitalized costs of renovations for an intermediate care facility for the mentally retarded with eight or fewer beds shall not exceed the sum of the limitations specified in divisions (C) and (D) of this section.

(G) Notwithstanding any provision of this section or section 5111.241 of the Revised Code, the director of job and family services may adopt rules under section 5111.02 of the Revised Code that provide for a calculation of a combined maximum payment limit for indirect care costs and cost of ownership for intermediate care facilities for the mentally retarded with eight or fewer beds.

(H) After the date on which a transaction of sale is closed, the provider shall refund to the department the amount of excess depreciation paid to the provider for the facility by the department for each year the provider has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the provider has received payment for the facility. For the purposes of this division, "depreciation paid to the provider for the facility" means the amount paid to the provider for the intermediate care facility for the mentally retarded for cost of ownership pursuant to this section less any amount paid for interest costs. For the purposes of this division, "excess depreciation" is the intermediate care facility for the mentally retarded's depreciated basis, which is the provider's cost less accumulated depreciation, subtracted from the purchase price but not exceeding the amount of depreciation paid to the provider for the facility.

(I) The department of job and family services shall pay a provider for each of the provider's eligible proprietary intermediate care facilities for the mentally retarded a return on

the facility's net equity computed at the rate of one and one-half 10156
times the average of interest rates on special issues of public 10157
debt obligations issued to the federal hospital insurance trust 10158
fund for the cost reporting period. No facility's return on net 10159
equity paid under this division shall exceed one dollar per 10160
patient day. 10161

In calculating the rate for return on net equity, the 10162
department shall use the greater of the facility's inpatient days 10163
during the applicable cost reporting period or the number of 10164
inpatient days the facility would have had during that period if 10165
its occupancy rate had been ninety-five per cent. 10166

(J)(1) Except as provided in division (J)(2) of this section, 10167
if a provider leases or transfers an interest in a facility to 10168
another provider who is a related party, the related party's 10169
allowable cost of ownership shall include the lesser of the 10170
following: 10171

(a) The annual lease expense or actual cost of ownership, 10172
whichever is applicable; 10173

(b) The reasonable cost to the lessor or provider making the 10174
transfer. 10175

(2) If a provider leases or transfers an interest in a 10176
facility to another provider who is a related party, regardless of 10177
the date of the lease or transfer, the related party's allowable 10178
cost of ownership shall include the annual lease expense or actual 10179
cost of ownership, whichever is applicable, subject to the 10180
limitations specified in divisions (B) to (I) of this section, if 10181
all of the following conditions are met: 10182

(a) The related party is a relative of owner; 10183

(b) In the case of a lease, if the lessor retains any 10184
ownership interest, it is, except as provided in division 10185
(J)(2)(d)(ii) of this section, in only the real property and any 10186

improvements on the real property; 10187

(c) In the case of a transfer, the provider making the 10188
transfer retains, except as provided in division (J)(2)(d)(iv) of 10189
this section, no ownership interest in the facility; 10190

(d) The department of job and family services determines that 10191
the lease or transfer is an arm's length transaction pursuant to 10192
rules adopted under section 5111.02 of the Revised Code. The rules 10193
shall provide that a lease or transfer is an arm's length 10194
transaction if all of the following, as applicable, apply: 10195

(i) In the case of a lease, once the lease goes into effect, 10196
the lessor has no direct or indirect interest in the lessee or, 10197
except as provided in division (J)(2)(b) of this section, the 10198
facility itself, including interest as an owner, officer, 10199
director, employee, independent contractor, or consultant, but 10200
excluding interest as a lessor. 10201

(ii) In the case of a lease, the lessor does not reacquire an 10202
interest in the facility except through the exercise of a lessor's 10203
rights in the event of a default. If the lessor reacquires an 10204
interest in the facility in this manner, the department shall 10205
treat the facility as if the lease never occurred when the 10206
department calculates its reimbursement rates for capital costs. 10207

(iii) In the case of a transfer, once the transfer goes into 10208
effect, the provider that made the transfer has no direct or 10209
indirect interest in the provider that acquires the facility or 10210
the facility itself, including interest as an owner, officer, 10211
director, employee, independent contractor, or consultant, but 10212
excluding interest as a creditor. 10213

(iv) In the case of a transfer, the provider that made the 10214
transfer does not reacquire an interest in the facility except 10215
through the exercise of a creditor's rights in the event of a 10216
default. If the provider reacquires an interest in the facility in 10217

this manner, the department shall treat the facility as if the 10218
transfer never occurred when the department calculates its 10219
reimbursement rates for capital costs. 10220

(v) The lease or transfer satisfies any other criteria 10221
specified in the rules. 10222

(e) Except in the case of hardship caused by a catastrophic 10223
event, as determined by the department, or in the case of a lessor 10224
or provider making the transfer who is at least sixty-five years 10225
of age, not less than twenty years have elapsed since, for the 10226
same facility, allowable cost of ownership was determined most 10227
recently under this division. 10228

Sec. 5111.291. Notwithstanding sections 5111.20 to 5111.33 of 10229
the Revised Code, the department of job and family services may 10230
compute the rate for intermediate care facilities for the mentally 10231
retarded operated by the department of ~~mental retardation and~~ 10232
developmental disabilities or the department of mental health 10233
according to the reasonable cost principles of Title XVIII. 10234

Sec. 5111.65. As used in sections 5111.65 to 5111.688 of the 10235
Revised Code: 10236

(A) "Change of operator" means an entering operator becoming 10237
the operator of a nursing facility or intermediate care facility 10238
for the mentally retarded in the place of the exiting operator. 10239

(1) Actions that constitute a change of operator include the 10240
following: 10241

(a) A change in an exiting operator's form of legal 10242
organization, including the formation of a partnership or 10243
corporation from a sole proprietorship; 10244

(b) A transfer of all the exiting operator's ownership 10245
interest in the operation of the facility to the entering 10246

operator, regardless of whether ownership of any or all of the 10247
real property or personal property associated with the facility is 10248
also transferred; 10249

(c) A lease of the facility to the entering operator or the 10250
exiting operator's termination of the exiting operator's lease; 10251

(d) If the exiting operator is a partnership, dissolution of 10252
the partnership; 10253

(e) If the exiting operator is a partnership, a change in 10254
composition of the partnership unless both of the following apply: 10255

(i) The change in composition does not cause the 10256
partnership's dissolution under state law. 10257

(ii) The partners agree that the change in composition does 10258
not constitute a change in operator. 10259

(f) If the operator is a corporation, dissolution of the 10260
corporation, a merger of the corporation into another corporation 10261
that is the survivor of the merger, or a consolidation of one or 10262
more other corporations to form a new corporation. 10263

(2) The following, alone, do not constitute a change of 10264
operator: 10265

(a) A contract for an entity to manage a nursing facility or 10266
intermediate care facility for the mentally retarded as the 10267
operator's agent, subject to the operator's approval of daily 10268
operating and management decisions; 10269

(b) A change of ownership, lease, or termination of a lease 10270
of real property or personal property associated with a nursing 10271
facility or intermediate care facility for the mentally retarded 10272
if an entering operator does not become the operator in place of 10273
an exiting operator; 10274

(c) If the operator is a corporation, a change of one or more 10275
members of the corporation's governing body or transfer of 10276

ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(B) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded.

(C) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or intermediate care facility for the mentally retarded resides in the facility.

(D) "Effective date of a voluntary termination" means the day the intermediate care facility for the mentally retarded ceases to accept medicaid patients.

(E) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid patients other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation.

(F) "Entering operator" means the person or government entity that will become the operator of a nursing facility or intermediate care facility for the mentally retarded when a change of operator occurs.

(G) "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a change of operator;

(2) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a facility closure;

(3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary

termination; 10307

(4) An operator of a nursing facility that is undergoing or 10308
has undergone a voluntary withdrawal of participation. 10309

(H)(1) "Facility closure" means discontinuance of the use of 10310
the building, or part of the building, that houses the facility as 10311
a nursing facility or intermediate care facility for the mentally 10312
retarded that results in the relocation of all of the facility's 10313
residents. A facility closure occurs regardless of any of the 10314
following: 10315

(a) The operator completely or partially replacing the 10316
facility by constructing a new facility or transferring the 10317
facility's license to another facility; 10318

(b) The facility's residents relocating to another of the 10319
operator's facilities; 10320

(c) Any action the department of health takes regarding the 10321
facility's certification under Title XIX of the "Social Security 10322
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may 10323
result in the transfer of part of the facility's survey findings 10324
to another of the operator's facilities; 10325

(d) Any action the department of health takes regarding the 10326
facility's license under Chapter 3721. of the Revised Code; 10327

(e) Any action the department of ~~mental retardation and~~ 10328
developmental disabilities takes regarding the facility's license 10329
under section 5123.19 of the Revised Code. 10330

(2) A facility closure does not occur if all of the 10331
facility's residents are relocated due to an emergency evacuation 10332
and one or more of the residents return to a medicaid-certified 10333
bed in the facility not later than thirty days after the 10334
evacuation occurs. 10335

(I) "Fiscal year," "intermediate care facility for the 10336

mentally retarded," "nursing facility," "operator," "owner," and "provider agreement" have the same meanings as in section 5111.20 of the Revised Code.

(J) "Voluntary termination" means an operator's voluntary election to terminate the participation of an intermediate care facility for the mentally retarded in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code.

(K) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.

Sec. 5111.677. Neither of the following shall affect the department of job and family services' determination of whether or when a change of operator occurs or the effective date of an entering operator's provider agreement under section 5111.671, section 5111.672, or, pursuant to section 5111.675, section 5111.22 of the Revised Code:

(A) The department of health's determination that a change of operator has or has not occurred for purposes of licensure under Chapter 3721. of the Revised Code;

(B) The department of ~~mental retardation and~~ developmental disabilities' determination that a change of operator has or has not occurred for purposes of licensure under section 5123.19 of the Revised Code.

Sec. 5111.709. (A) There is hereby created the medicaid buy-in advisory council. The council shall consist of all of the following:

(1) The following voting members:

(a) The executive director of assistive technology of Ohio or the executive director's designee;	10366 10367
(b) The director of the axis center for public awareness of people with disabilities or the director's designee;	10368 10369
(c) The executive director of the cerebral palsy association of Ohio or the executive director's designee;	10370 10371
(d) The chief executive officer of Ohio advocates for mental health or the chief executive officer's designee;	10372 10373
(e) The state director of the Ohio chapter of AARP or the state director's designee;	10374 10375
(f) The director of the Ohio developmental disabilities council created under section 5123.35 of the Revised Code or the director's designee;	10376 10377 10378
(g) The executive director of the governor's council on people with disabilities created under section 3303.41 of the Revised Code or the executive director's designee;	10379 10380 10381
(h) The administrator of the legal rights service created under section 5123.60 of the Revised Code or the administrator's designee;	10382 10383 10384
(i) The chairperson of the Ohio Olmstead task force or the chairperson's designee;	10385 10386
(j) The executive director of the Ohio statewide independent living council or the executive director's designee;	10387 10388
(k) The president of the Ohio chapter of the national multiple sclerosis society or the president's designee;	10389 10390
(l) The executive director of the arc of Ohio or the executive director's designee;	10391 10392
(m) The executive director of the commission on minority health or the executive director's designee;	10393 10394

(n) The executive director of the brain injury association of Ohio or the executive director's designee; 10395
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(o) The executive officer of any other advocacy organization who volunteers to serve on the council, or such an executive officer's designee, if the other voting members, at a meeting called by the chairperson elected under division (C) of this section, determine it is appropriate for the advocacy organization to be represented on the council; 10397
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(p) One or more participants who volunteer to serve on the council and are selected by the other voting members at a meeting the chairperson calls after the medicaid buy-in for workers with disabilities program is implemented. 10403
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(2) The following non-voting members: 10407

(a) The director of job and family services or the director's designee; 10408
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(b) The administrator of the rehabilitation services commission or the administrator's designee; 10410
10411

(c) The director of alcohol and drug addiction services or the director's designee; 10412
10413

(d) The director of ~~mental retardation and~~ developmental disabilities or the director's designee; 10414
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(e) The director of mental health or the director's designee; 10416

(f) The executive officer of any other government entity, or the executive officer's designee, if the voting members, at a meeting called by the chairperson, determine it is appropriate for the government entity to be represented on the council. 10417
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(B) All members of the medicaid buy-in advisory council shall serve without compensation or reimbursement, except as serving on the council is considered part of their usual job duties. 10421
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(C) The voting members of the medicaid buy-in advisory 10424

council shall elect one of the members of the council to serve as 10425
the council's chairperson for a two-year term. The chairperson may 10426
be re-elected to successive terms. 10427

(D) The department of job and family services shall provide 10428
the Ohio medicaid buy-in advisory council with accommodations for 10429
the council to hold its meetings and shall provide the council 10430
with other administrative assistance the council needs to perform 10431
its duties. 10432

Sec. 5111.87. (A) As used in this section and section 10433
5111.871 of the Revised Code: 10434

(1) "Intermediate care facility for the mentally retarded" 10435
has the same meaning as in section 5111.20 of the Revised Code. 10436

(2) "Medicaid waiver component" has the same meaning as in 10437
section 5111.85 of the Revised Code. 10438

(B) The director of job and family services may apply to the 10439
United States secretary of health and human services for both of 10440
the following: 10441

(1) One or more medicaid waiver components under which home 10442
and community-based services are provided to individuals with 10443
mental retardation or other developmental disability as an 10444
alternative to placement in an intermediate care facility for the 10445
mentally retarded; 10446

(2) One or more medicaid waiver components under which home 10447
and community-based services are provided in the form of any of 10448
the following: 10449

(a) Early intervention and supportive services for children 10450
under three years of age who have developmental delays or 10451
disabilities the director determines are significant; 10452

(b) Therapeutic services for children who have autism; 10453

(c) Specialized habilitative services for individuals who are 10454
eighteen years of age or older and have autism. 10455

(C) No medicaid waiver component authorized by division 10456
(B)(2)(b) or (c) of this section shall provide services that are 10457
available under another medicaid waiver component. No medicaid 10458
waiver component authorized by division (B)(2)(b) of this section 10459
shall provide services to an individual that the individual is 10460
eligible to receive through an individualized education program as 10461
defined in section 3323.01 of the Revised Code. 10462

(D) The director of ~~mental retardation and~~ developmental 10463
disabilities or director of health may request that the director 10464
of job and family services apply for one or more medicaid waivers 10465
under this section. 10466

(E) Before applying for a waiver under this section, the 10467
director of job and family services shall seek, accept, and 10468
consider public comments. 10469

Sec. 5111.871. The department of job and family services 10470
shall enter into a contract with the department of ~~mental~~ 10471
~~retardation and~~ developmental disabilities under section 5111.91 10472
of the Revised Code with regard to one or more of the components 10473
of the medicaid program established by the department of job and 10474
family services under one or more of the medicaid waivers sought 10475
under section 5111.87 of the Revised Code. The contract shall 10476
provide for the department of ~~mental retardation and~~ developmental 10477
disabilities to administer the components in accordance with the 10478
terms of the waivers. The directors of job and family services and 10479
~~mental retardation and~~ developmental disabilities shall adopt 10480
rules in accordance with Chapter 119. of the Revised Code 10481
governing the components. 10482

If the department of ~~mental retardation and~~ developmental 10483
disabilities or the department of job and family services denies 10484

an individual's application for home and community-based services 10485
provided under any of these medicaid components, the department 10486
that denied the services shall give timely notice to the 10487
individual that the individual may request a hearing under section 10488
5101.35 of the Revised Code. 10489

The departments of ~~mental retardation and~~ developmental 10490
disabilities and job and family services may approve, reduce, 10491
deny, or terminate a service included in the individualized 10492
service plan developed for a medicaid recipient eligible for home 10493
and community-based services provided under any of these medicaid 10494
components. The departments shall consider the recommendations a 10495
county board of mental retardation and developmental disabilities 10496
makes under division (A)(1)(c) of section 5126.055 of the Revised 10497
Code. If either department approves, reduces, denies, or 10498
terminates a service, that department shall give timely notice to 10499
the medicaid recipient that the recipient may request a hearing 10500
under section 5101.35 of the Revised Code. 10501

If supported living, as defined in section 5126.01 of the 10502
Revised Code, is to be provided as a service under any of these 10503
components, any person or government entity with a current, valid 10504
medicaid provider agreement and a current, valid certificate under 10505
section 5123.161 of the Revised Code may provide the service. 10506

If a service is to be provided under any of these components 10508
by a residential facility, as defined in section 5123.19 of the 10509
Revised Code, any person or government entity with a current, 10510
valid medicaid provider agreement and a current, valid license 10511
under section 5123.19 of the Revised Code may provide the service. 10512

Sec. 5111.872. When the department of ~~mental retardation and~~ 10513
developmental disabilities allocates enrollment numbers to a 10514
county board of mental retardation and developmental disabilities 10515

for home and community-based services specified in division (B)(1) 10516
of section 5111.87 of the Revised Code and provided under any of 10517
the components of the medicaid program that the department 10518
administers under section 5111.871 of the Revised Code, the 10519
department shall consider all of the following: 10520

(A) The number of individuals with mental retardation or 10521
other developmental disability who are on a waiting list the 10522
county board establishes under division (C) of section 5126.042 of 10523
the Revised Code for those services and are given priority on the 10524
waiting list pursuant to division (D) or (E) of that section; 10525

(B) The implementation component required by division (A)(3) 10526
of section 5126.054 of the Revised Code of the county board's plan 10527
approved under section 5123.046 of the Revised Code; 10528

(C) Anything else the department considers necessary to 10529
enable county boards to provide those services to individuals in 10530
accordance with the priority requirements of divisions (D) and (E) 10531
of section 5126.042 of the Revised Code. 10532

Sec. 5111.873. (A) Not later than the effective date of the 10533
first of any medicaid waivers the United States secretary of 10534
health and human services grants pursuant to a request made under 10535
section 5111.87 of the Revised Code, the director of job and 10536
family services shall adopt rules in accordance with Chapter 119. 10537
of the Revised Code establishing statewide fee schedules for home 10538
and community-based services specified in division (B)(1) of 10539
section 5111.87 of the Revised Code and provided under the 10540
components of the medicaid program that the department of ~~mental~~ 10541
~~retardation~~ and developmental disabilities administers under 10542
section 5111.871 of the Revised Code. The rules shall provide for 10543
all of the following: 10544

(1) The department of ~~mental retardation~~ and developmental 10545
disabilities arranging for the initial and ongoing collection of 10546

cost information from a comprehensive, statistically valid sample 10547
of persons and government entities providing the services at the 10548
time the information is obtained; 10549

(2) The collection of consumer-specific information through 10550
an assessment instrument the department of ~~mental retardation and~~ 10551
developmental disabilities shall provide to the department of job 10552
and family services; 10553

(3) With the information collected pursuant to divisions 10554
(A)(1) and (2) of this section, an analysis of that information, 10555
and other information the director determines relevant, methods 10556
and standards for calculating the fee schedules that do all of the 10557
following: 10558

(a) Assure that the fees are consistent with efficiency, 10559
economy, and quality of care; 10560

(b) Consider the intensity of consumer resource need; 10561

(c) Recognize variations in different geographic areas 10562
regarding the resources necessary to assure the health and welfare 10563
of consumers; 10564

(d) Recognize variations in environmental supports available 10565
to consumers. 10566

(B) As part of the process of adopting rules under this 10567
section, the director shall consult with the director of ~~mental~~ 10568
~~retardation and~~ developmental disabilities, representatives of 10569
county boards of mental retardation and developmental 10570
disabilities, persons who provide the home and community-based 10571
services, and other persons and government entities the director 10572
identifies. 10573

(C) The directors of job and family services and ~~mental~~ 10574
~~retardation and~~ developmental disabilities shall review the rules 10575
adopted under this section at times they determine to ensure that 10576

the methods and standards established by the rules for calculating 10577
the fee schedules continue to do everything that division (A)(3) 10578
of this section requires. 10579

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 10580
of the Revised Code: 10581

"Home and community-based services" has the same meaning as 10582
in section 5123.01 of the Revised Code. 10583

"ICF/MR services" means intermediate care facility for the 10584
mentally retarded services covered by the medicaid program that an 10585
intermediate care facility for the mentally retarded provides to a 10586
resident of the facility who is a medicaid recipient eligible for 10587
medicaid-covered intermediate care facility for the mentally 10588
retarded services. 10589

"Intermediate care facility for the mentally retarded" means 10590
an intermediate care facility for the mentally retarded that is 10591
certified as in compliance with applicable standards for the 10592
medicaid program by the director of health in accordance with 10593
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 10594
U.S.C. 1396, as amended, and licensed as a residential facility 10595
under section 5123.19 of the Revised Code. 10596

"Residential facility" has the same meaning as in section 10597
5123.19 of the Revised Code. 10598

(B) For the purpose of increasing the number of slots 10599
available for home and community-based services and subject to 10600
sections 5111.877 and 5111.878 of the Revised Code, the operator 10601
of an intermediate care facility for the mentally retarded may 10602
convert all of the beds in the facility from providing ICF/MR 10603
services to providing home and community-based services if all of 10604
the following requirements are met: 10605

(1) The operator provides the directors of health, job and 10606

family services, and ~~mental retardation and~~ developmental 10607
disabilities at least ninety days' notice of the operator's intent 10608
to relinquish the facility's certification as an intermediate care 10609
facility for the mentally retarded and to begin providing home and 10610
community-based services. 10611

(2) The operator complies with the requirements of sections 10612
5111.65 to 5111.688 of the Revised Code regarding a voluntary 10613
termination as defined in section 5111.65 of the Revised Code if 10614
those requirements are applicable. 10615

(3) The operator notifies each of the facility's residents 10616
that the facility is to cease providing ICF/MR services and inform 10617
each resident that the resident may do either of the following: 10618

(a) Continue to receive ICF/MR services by transferring to 10619
another facility that is an intermediate care facility for the 10620
mentally retarded willing and able to accept the resident if the 10621
resident continues to qualify for ICF/MR services; 10622

(b) Begin to receive home and community-based services 10623
instead of ICF/MR services from any provider of home and 10624
community-based services that is willing and able to provide the 10625
services to the resident if the resident is eligible for the 10626
services and a slot for the services is available to the resident. 10627

(4) The operator meets the requirements for providing home 10628
and community-based services, including the following: 10629

(a) Such requirements applicable to a residential facility if 10630
the operator maintains the facility's license as a residential 10631
facility; 10632

(b) Such requirements applicable to a facility that is not 10633
licensed as a residential facility if the operator surrenders the 10634
facility's residential facility license under section 5123.19 of 10635
the Revised Code. 10636

(5) The director of ~~mental retardation and~~ developmental disabilities approves the conversion. 10637
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(C) The notice to the director of ~~mental retardation and~~ developmental disabilities under division (B)(1) of this section shall specify whether the operator wishes to surrender the facility's license as a residential facility under section 5123.19 of the Revised Code. 10639
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(D) If the director of ~~mental retardation and~~ developmental disabilities approves a conversion under division (B) of this section, the director of health shall terminate the certification of the intermediate care facility for the mentally retarded to be converted. The director of health shall notify the director of job and family services of the termination. On receipt of the director of health's notice, the director of job and family services shall terminate the operator's medicaid provider agreement that authorizes the operator to provide ICF/MR services at the facility. The operator is not entitled to notice or a hearing under Chapter 119. of the Revised Code before the director of job and family services terminates the medicaid provider agreement. 10644
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Sec. 5111.875. (A) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 and 5111.878 of the Revised Code, a person who acquires, through a request for proposals issued by the director of ~~mental retardation and~~ developmental disabilities, a residential facility that is an intermediate care facility for the mentally retarded and for which the license as a residential facility was previously surrendered or revoked may convert some or all of the facility's beds from providing ICF/MR services to providing home and community-based services if all of the following requirements are met: 10657
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(1) The person provides the directors of health, job and family services, and ~~mental retardation and~~ developmental disabilities at least ninety days' notice of the person's intent to make the conversion.

(2) The person complies with the requirements of sections 5111.65 to 5111.688 of the Revised Code regarding a voluntary termination as defined in section 5111.65 of the Revised Code if those requirements are applicable.

(3) If the person intends to convert all of the facility's beds, the person notifies each of the facility's residents that the facility is to cease providing ICF/MR services and informs each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services by transferring to another facility that is an intermediate care facility for the mentally retarded willing and able to accept the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) If the person intends to convert some but not all of the facility's beds, the person notifies each of the facility's residents that the facility is to convert some of its beds from providing ICF/MR services to providing home and community-based services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services from any provider of ICF/MR services that is willing and able to provide the services to the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services 10699
instead of ICF/MR services from any provider of home and 10700
community-based services that is willing and able to provide the 10701
services to the resident if the resident is eligible for the 10702
services and a slot for the services is available to the resident. 10703

(5) The person meets the requirements for providing home and 10704
community-based services at a residential facility. 10705

(B) The notice provided to the directors under division 10706
(A)(1) of this section shall specify whether some or all of the 10707
facility's beds are to be converted. If some but not all of the 10708
beds are to be converted, the notice shall specify how many of the 10709
facility's beds are to be converted and how many of the beds are 10710
to continue to provide ICF/MR services. 10711

(C) On receipt of a notice under division (A)(1) of this 10712
section, the director of health shall do the following: 10713

(1) Terminate the certification of the intermediate care 10714
facility for the mentally retarded if the notice specifies that 10715
all of the facility's beds are to be converted; 10716

(2) Reduce the facility's certified capacity by the number of 10717
beds being converted if the notice specifies that some but not all 10718
of the beds are to be converted. 10719

(D) The director of health shall notify the director of job 10720
and family services of the termination or reduction under division 10721
(C) of this section. On receipt of the director of health's 10722
notice, the director of job and family services shall do the 10723
following: 10724

(1) Terminate the person's medicaid provider agreement that 10725
authorizes the person to provide ICF/MR services at the facility 10726
if the facility's certification was terminated; 10727

(2) Amend the person's medicaid provider agreement to reflect 10728

the facility's reduced certified capacity if the facility's 10729
certified capacity is reduced. 10730

The person is not entitled to notice or a hearing under 10731
Chapter 119. of the Revised Code before the director of job and 10732
family services terminates or amends the medicaid provider 10733
agreement. 10734

Sec. 5111.876. Subject to section 5111.877 of the Revised 10735
Code, the director of ~~mental retardation and~~ developmental 10736
disabilities may request that the director of job and family 10737
services seek the approval of the United States secretary of 10738
health and human services to increase the number of slots 10739
available for home and community-based services by a number not 10740
exceeding the number of beds that were part of the licensed 10741
capacity of a residential facility that had its license revoked or 10742
surrendered under section 5123.19 of the Revised Code if the 10743
residential facility was an intermediate care facility for the 10744
mentally retarded at the time of the license revocation or 10745
surrender. The revocation or surrender may have occurred before, 10746
or may occur on or after, ~~the effective date of this section~~ June 10747
24, 2008. The request may include beds the director removed from 10748
such a residential facility's licensed capacity before 10749
transferring ownership or operation of the residential facility 10750
pursuant to a request for proposals. 10751

Sec. 5111.8710. The directors of job and family services and 10752
~~mental retardation and~~ developmental disabilities may adopt rules 10753
in accordance with Chapter 119. of the Revised Code as necessary 10754
to implement sections 5111.874 to 5111.8710 of the Revised Code. 10755

Sec. 5111.915. (A) The department of job and family services 10756
shall enter into an agreement with the department of 10757
administrative services for the department of administrative 10758

services to contract through competitive selection pursuant to 10759
section 125.07 of the Revised Code with a vendor to perform an 10760
assessment of the data collection and data warehouse functions of 10761
the medicaid data warehouse system, including the ability to link 10762
the data sets of all agencies serving medicaid recipients. 10763

The assessment of the data system shall include functions 10764
related to fraud and abuse detection, program management and 10765
budgeting, and performance measurement capabilities of all 10766
agencies serving medicaid recipients, including the departments of 10767
aging, alcohol and drug addiction services, health, job and family 10768
services, mental health, and ~~mental retardation and~~ developmental 10769
disabilities. 10770

The department of administrative services shall enter into 10771
this contract within thirty days after ~~the effective date of this~~ 10772
~~section~~ September 29, 2005. The contract shall require the vendor 10773
to complete the assessment within ninety days after ~~the effective~~ 10774
~~date of this section~~ September 29, 2005. 10775

A qualified vendor with whom the department of administrative 10776
services contracts to assess the data system shall also assist the 10777
medicaid agencies in the definition of the requirements for an 10778
enhanced data system or a new data system and assist the 10779
department of administrative services in the preparation of a 10780
request for proposal to enhance or develop a data system. 10781

(B) Based on the assessment performed pursuant to division 10782
(A) of this section, the department of administrative services 10783
shall seek a qualified vendor through competitive selection 10784
pursuant to section 125.07 of the Revised Code to develop or 10785
enhance a data collection and data warehouse system for the 10786
department of job and family services and all agencies serving 10787
medicaid recipients. 10788

Within ninety days after ~~the effective date of this section~~ 10789

September 29, 2005, the department of job and family services 10790
shall seek enhanced federal funding for ninety per cent of the 10791
funds required to establish or enhance the data system. The 10792
department of administrative services shall not award a contract 10793
for establishing or enhancing the data system until the department 10794
of job and family services receives approval from the secretary of 10795
the United States department of health and human services for the 10796
ninety per cent federal match. 10797

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the 10798
Revised Code: 10799

(A) "Intermediate care facility for the mentally retarded" 10800
has the same meaning as in section 5111.20 of the Revised Code, 10801
except that it does not include any such facility operated by the 10802
department of ~~mental retardation and~~ developmental disabilities. 10803

(B) "Medicaid" has the same meaning as in section 5111.01 of 10804
the Revised Code. 10805

Sec. 5112.32. For the purpose of the franchise permit fee 10806
imposed under section 5112.31 of the Revised Code, the department 10807
of ~~mental retardation and~~ developmental disabilities shall: 10808

(A) Not later than August 1, 1993, report to the department 10809
of job and family services the number of beds in each intermediate 10810
care facility for the mentally retarded certified on July 1, 1993, 10811
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 10812
42 U.S.C.A. 301, as amended; 10813

(B) Not later than June 1, 1994, and the first day of each 10814
June thereafter, report to the department of job and family 10815
services the number of beds in each such facility certified on the 10816
preceding first day of May under that title. 10817

Sec. 5112.37. There is hereby created in the state treasury 10818

the home and community-based services for the mentally retarded 10819
and developmentally disabled fund. Ninety-four and twenty-eight 10820
hundredths per cent of all installment payments and penalties paid 10821
by an intermediate care facility for the mentally retarded under 10822
sections 5112.33 and 5112.34 of the Revised Code shall be 10823
deposited into the fund. The department of job and family services 10824
shall distribute the money in the fund in accordance with rules 10825
adopted under section 5112.39 of the Revised Code. The departments 10826
of job and family services and ~~mental retardation and~~ 10827
developmental disabilities shall use the money for the medicaid 10828
program established under Chapter 5111. of the Revised Code and 10829
home and community-based services to mentally retarded and 10830
developmentally disabled persons. 10831

Sec. 5112.371. There is hereby created in the state treasury 10832
the children with intensive behavioral needs programs fund. Five 10833
and seventy-two hundredths per cent of all installment payments 10834
and penalties paid by an intermediate care facility for the 10835
mentally retarded under sections 5112.33 and 5112.34 of the 10836
Revised Code shall be deposited in the fund. The money in the fund 10837
shall be used for the programs the director of ~~mental retardation~~ 10838
~~and~~ developmental disabilities establishes under section 5123.0417 10839
of the Revised Code. 10840

Sec. 5119.16. As used in this section, "free clinic" has the 10841
same meaning as in section 2305.2341 of the Revised Code. 10842

(A) The department of mental health is hereby designated to 10843
provide certain goods and services for the department of mental 10844
health, the department of ~~mental retardation and~~ developmental 10845
disabilities, the department of rehabilitation and correction, the 10846
department of youth services, and other state, county, or 10847
municipal agencies requesting such goods and services when the 10848
department of mental health determines that it is in the public 10849

interest, and considers it advisable, to provide these goods and 10850
services. The department of mental health also may provide goods 10851
and services to agencies operated by the United States government 10852
and to public or private nonprofit agencies, other than free 10853
clinics, that are funded in whole or in part by the state if the 10854
public or private nonprofit agencies are designated for 10855
participation in this program by the director of mental health for 10856
community mental health agencies, the director of ~~mental~~ 10857
~~retardation and~~ developmental disabilities for community mental 10858
retardation and developmental disabilities agencies, the director 10859
of rehabilitation and correction for community rehabilitation and 10860
correction agencies, or the director of youth services for 10861
community youth services agencies. 10862

Designated community agencies shall receive goods and 10863
services through the department of mental health only in those 10864
cases where the designating state agency certifies that providing 10865
such goods and services to the agency will conserve public 10866
resources to the benefit of the public and where the provision of 10867
such goods and services is considered feasible by the department 10868
of mental health. 10869

(B) The department of mental health may permit free clinics 10870
to purchase certain goods and services to the extent the purchases 10871
fall within the exemption to the Robinson-Patman Act, 15 U.S.C. 13 10872
et seq., applicable to ~~non-profit~~ nonprofit institutions, in 15 10873
U.S.C. 13c, as amended. 10874

(C) The goods and services to be provided by the department 10875
of mental health under divisions (A) and (B) of this section may 10876
include: 10877

(1) Procurement, storage, processing, and distribution of 10878
food and professional consultation on food operations; 10879

(2) Procurement, storage, and distribution of medical and 10880

laboratory supplies, dental supplies, medical records, forms, 10881
optical supplies, and sundries, subject to section 5120.135 of the 10882
Revised Code; 10883

(3) Procurement, storage, repackaging, distribution, and 10884
dispensing of drugs, the provision of professional pharmacy 10885
consultation, and drug information services; 10886

(4) Other goods and services as may be agreed to. 10887

(D) The department of mental health shall provide the goods 10888
and services designated in division (C) of this section to its 10889
institutions and to state-operated community-based mental health 10890
services. 10891

(E) After consultation with and advice from the director of 10892
~~mental retardation and~~ developmental disabilities, the director of 10893
rehabilitation and correction, and the director of youth services, 10894
the department of mental health shall provide the goods and 10895
services designated in division (C) of this section to the 10896
department of ~~mental retardation and~~ developmental disabilities, 10897
the department of rehabilitation and correction, and the 10898
department of youth services. 10899

(F) The cost of administration of this section shall be 10900
determined by the department of mental health and paid by the 10901
agencies or free clinics receiving the goods and services to the 10902
department for deposit in the state treasury to the credit of the 10903
mental health fund, which is hereby created. The fund shall be 10904
used to pay the cost of administration of this section to the 10905
department. 10906

(G) If the goods or services designated in division (C) of 10907
this section are not provided in a satisfactory manner by the 10908
department of mental health to the agencies described in division 10909
(A) of this section, the director of ~~mental retardation and~~ 10910
developmental disabilities, the director of rehabilitation and 10911

correction, the director of youth services, or the managing 10912
officer of a department of mental health institution shall attempt 10913
to resolve unsatisfactory service with the director of mental 10914
health. If, after such attempt, the provision of goods or services 10915
continues to be unsatisfactory, the director or officer shall 10916
notify the director of mental health. If within thirty days of 10917
such notice the department of mental health does not provide the 10918
specified goods and services in a satisfactory manner, the 10919
director of ~~mental retardation~~ and developmental disabilities, the 10920
director of rehabilitation and correction, the director of youth 10921
services, or the managing officer of the department of mental 10922
health institution shall notify the director of mental health of 10923
the director's or managing officer's intent to cease purchasing 10924
goods and services from the department. Following a sixty-day 10925
cancellation period from the date of such notice, the department 10926
of ~~mental retardation~~ developmental disabilities, department of 10927
rehabilitation and correction, department of youth services, or 10928
the department of mental health institution may obtain the goods 10929
and services from a source other than the department of mental 10930
health, if the department certifies to the department of 10931
administrative services that the requirements of this division 10932
have been met. 10933

(H) Whenever a state agency fails to make a payment for goods 10934
and services provided under this section within thirty-one days 10935
after the date the payment was due, the office of budget and 10936
management may transfer moneys from the state agency to the 10937
department of mental health. The amount transferred shall not 10938
exceed the amount of overdue payments. Prior to making a transfer 10939
under this division, the office of budget and management shall 10940
apply any credits the state agency has accumulated in payments for 10941
goods and services provided under this section. 10942

(I) Purchases of goods and services under this section are 10943

not subject to section 307.86 of the Revised Code. 10944

Sec. 5119.221. (A) Upon petition by the director of mental 10945
health, the court of common pleas or the probate court may appoint 10946
a receiver to take possession of and operate a residential 10947
facility licensed pursuant to section 5119.22 of the Revised Code, 10948
when conditions existing at the residential facility present a 10949
substantial risk of physical or mental harm to residents and no 10950
other remedies at law are adequate to protect the health, safety, 10951
and welfare of the residents. 10952

Petitions filed pursuant to this section shall include: 10953

(1) A description of the specific conditions existing at the 10954
residential facility which present a substantial risk of physical 10955
or mental harm to residents; 10956

(2) A statement of the absence of other adequate remedies at 10957
law; 10958

(3) The number of individuals residing at the facility; 10959

(4) A statement that the facts have been brought to the 10960
attention of the owner or licensee and that conditions have not 10961
been remedied within a reasonable period of time or that the 10962
conditions, though remedied periodically, habitually exist at the 10963
residential facility as a pattern or practice; and 10964

(5) The name and address of the person holding the license 10965
for the residential facility. 10966

(B) A court in which a petition is filed pursuant to this 10967
section shall notify the person holding the license for the 10968
facility of the filing. The department shall send notice of the 10969
filing to the following, as appropriate: the legal rights service 10970
created pursuant to section 5123.60 of the Revised Code; facility 10971
owner; facility operator; board of alcohol, drug addiction, and 10972
mental health services; board of health; department of ~~mental~~ 10973

~~retardation and~~ developmental disabilities; department of job and 10974
family services; facility residents; and residents' families and 10975
guardians. The court shall provide a hearing on the petition 10976
within five court days of the time it was filed, except that the 10977
court may appoint a receiver prior to that time if it determines 10978
that the circumstances necessitate such action. 10979

Following a hearing on the petition, and upon a determination 10980
that the appointment of a receiver is warranted, the court shall 10981
appoint a receiver and notify the department of mental health and 10982
appropriate persons of this action. 10983

In setting forth the powers of the receiver, the court may 10984
generally authorize the receiver to do all that is prudent and 10985
necessary to safely and efficiently operate the residential 10986
facility within the requirements of state and federal law, but 10987
shall require the receiver to obtain court approval prior to 10988
making any single expenditure of more than five thousand dollars 10989
to correct deficiencies in the structure or furnishings of a 10990
facility. The court shall closely review the conduct of the 10991
receiver and shall require regular and detailed reports. 10992

(C) A receivership established pursuant to this section shall 10993
be terminated, following notification of the appropriate parties 10994
and a hearing, if the court determines either of the following: 10995

(1) The residential facility has been closed and the former 10996
residents have been relocated to an appropriate facility; 10997

(2) Circumstances no longer exist at the residential facility 10998
which present a substantial risk of physical or mental harm to 10999
residents, and there is no deficiency in the residential facility 11000
that is likely to create a future risk of harm. 11001

Notwithstanding division (C)(2) of this section, the court 11002
shall not terminate a receivership for a residential facility that 11003
has previously operated under another receivership unless the 11004

responsibility for the operation of the facility is transferred to 11005
an operator approved by the court and the department of mental 11006
health. 11007

(D) Except for the department of mental health or appropriate 11008
board of alcohol, drug addiction, and mental health services, no 11009
party or person interested in an action shall be appointed a 11010
receiver pursuant to this section. 11011

To assist the court in identifying persons qualified to be 11012
named as receivers, the director of the department of mental 11013
health shall maintain a list of the names of such persons. The 11014
department of mental health, the department of job and family 11015
services, and the department of health shall provide technical 11016
assistance to any receiver appointed pursuant to this section. 11017

Before entering upon the duties of receiver, the receiver 11018
must be sworn to perform the duties faithfully, and, with surety 11019
approved by the court, judge, or clerk, execute a bond to such 11020
person, and in such sum as the court or judge directs, to the 11021
effect that such receiver will faithfully discharge the duties of 11022
receiver in the action, and obey the orders of the court therein. 11023

(1) Under the control of the appointing court, a receiver may 11024
do the following: 11025

(a) Bring and defend actions in the appointee's name as 11026
receiver; 11027

(b) Take and keep possession of property. 11028

(2) The court shall authorize the receiver to do the 11029
following: 11030

(a) Collect payment for all goods and services provided to 11031
the residents or others during the period of the receivership at 11032
the same rate as was charged by the licensee at the time the 11033
petition for receivership was filed, unless a different rate is 11034

set by the court; 11035

(b) Honor all leases, mortgages, and secured transactions 11036
governing all buildings, goods, and fixtures of which the receiver 11037
has taken possession, but, in the case of a rental agreement only 11038
to the extent of payments that are for the use of the property 11039
during the period of the receivership, or, in the case of a 11040
purchase agreement, only to the extent that payments come due 11041
during the period of the receivership; 11042

(c) If transfer of residents is necessary, provide for the 11043
orderly transfer of residents by: 11044

(i) Cooperating with all appropriate state and local agencies 11045
in carrying out the transfer of residents to alternative community 11046
placements; 11047

(ii) Providing for the transportation of residents' 11048
belongings and records; 11049

(iii) Helping to locate alternative placements and develop 11050
plans for transfer; 11051

(iv) Encouraging residents or guardians to participate in 11052
transfer planning except when an emergency exists and immediate 11053
transfer is necessary. 11054

(d) Make periodic reports on the status of the residential 11055
facility to the court; the appropriate state agencies; and the 11056
board of alcohol, drug addiction, and mental health services. Each 11057
report shall be made available to residents, their guardians, and 11058
families. 11059

(e) Compromise demands or claims; and 11060

(f) Generally do such acts respecting the residential 11061
facility as the court authorizes. 11062

Notwithstanding any other provision of law, contracts which 11063
are necessary to carry out the powers and duties of the receiver 11064

need not be competitively bid. 11065

Sec. 5119.51. Pursuant to Article X of the compact set forth 11066
in section 5119.50 of the Revised Code, the director of mental 11067
health and the director of ~~mental retardation and~~ developmental 11068
disabilities each shall designate an officer who shall be the 11069
compact administrator for ~~his~~ the department and who, acting 11070
jointly with like officers of other party states, shall adopt 11071
rules to carry out more effectively the terms of the compact. The 11072
compact administrators of each department shall serve subject to 11073
the pleasure of the governor and shall cooperate with all 11074
departments, agencies, and officers of and in the government of 11075
this state and its subdivisions in facilitating the proper 11076
administration of the compact or of any supplementary agreements 11077
entered into by this state thereunder. 11078

Sec. 5120.135. (A) As used in this section, "laboratory 11079
services" includes the performance of medical laboratory analysis; 11080
professional laboratory and pathologist consultation; the 11081
procurement, storage, and distribution of laboratory supplies; and 11082
the performance of phlebotomy services. 11083

(B) The department of rehabilitation and correction shall 11084
provide laboratory services to the departments of mental health, 11085
~~mental retardation and~~ developmental disabilities, youth services, 11086
and rehabilitation and correction. The department of 11087
rehabilitation and correction may also provide laboratory services 11088
to other state, county, or municipal agencies and to private 11089
persons that request laboratory services if the department of 11090
rehabilitation and correction determines that the provision of 11091
laboratory services is in the public interest and considers it 11092
advisable to provide such services. The department of 11093
rehabilitation and correction may also provide laboratory services 11094
to agencies operated by the United States government and to public 11095

and private entities funded in whole or in part by the state if 11096
the director of rehabilitation and correction designates them as 11097
eligible to receive such services. 11098

The department of rehabilitation and correction shall provide 11099
laboratory services from a laboratory that complies with the 11100
standards for certification set by the United States department of 11101
health and human services under the "Clinical Laboratory 11102
Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. 11103
In addition, the laboratory shall maintain accreditation or 11104
certification with an appropriate accrediting or certifying 11105
organization as considered necessary by the recipients of its 11106
laboratory services and as authorized by the director of 11107
rehabilitation and correction. 11108

(C) The cost of administering this section shall be 11109
determined by the department of rehabilitation and correction and 11110
shall be paid by entities that receive laboratory services to the 11111
department for deposit in the state treasury to the credit of the 11112
laboratory services fund, which is hereby created. The fund shall 11113
be used to pay the costs the department incurs in administering 11114
this section. 11115

(D) If the department of rehabilitation and correction does 11116
not provide laboratory services under this section in a 11117
satisfactory manner to the department of ~~mental retardation and~~ 11118
developmental disabilities, youth services, or mental health, the 11119
director of ~~mental retardation and~~ developmental disabilities, 11120
youth services, or mental health shall attempt to resolve the 11121
matter of the unsatisfactory provision of services with the 11122
director of rehabilitation and correction. If, after this attempt, 11123
the provision of laboratory services continues to be 11124
unsatisfactory, the director of ~~mental retardation and~~ 11125
developmental disabilities, youth services, or mental health shall 11126
notify the director of rehabilitation and correction regarding the 11127

continued unsatisfactory provision of laboratory services. If, 11128
within thirty days after the director receives this notice, the 11129
department of rehabilitation and correction does not provide the 11130
specified laboratory services in a satisfactory manner, the 11131
director of ~~mental retardation and~~ developmental disabilities, 11132
youth services, or mental health shall notify the director of 11133
rehabilitation and correction of the notifying director's intent 11134
to cease obtaining laboratory services from the department of 11135
rehabilitation and correction. Following the end of a cancellation 11136
period of sixty days that begins on the date of the notice, the 11137
department that sent the notice may obtain laboratory services 11138
from a provider other than the department of rehabilitation and 11139
correction, if the department that sent the notice certifies to 11140
the department of administrative services that the requirements of 11141
this division have been met. 11142

(E) Whenever a state agency fails to make a payment for 11143
laboratory services provided to it by the department of 11144
rehabilitation and correction under this section within thirty-one 11145
days after the date the payment was due, the office of budget and 11146
management may transfer moneys from that state agency to the 11147
department of rehabilitation and correction for deposit to the 11148
credit of the laboratory services fund. The amount transferred 11149
shall not exceed the amount of the overdue payments. Prior to 11150
making a transfer under this division, the office shall apply any 11151
credits the state agency has accumulated in payment for laboratory 11152
services provided under this section. 11153

Sec. 5121.01. As used in sections 5121.01 to 5121.21 of the 11154
Revised Code: 11155

(A) "Resident" means a person admitted to an institution or 11156
other facility pursuant to Chapter 5123. of the Revised Code who 11157
is under observation or receiving habilitation and care. 11158

(B) "Applicable cost" means the rate for support applicable 11159
to a resident as specified in this section. 11160

The cost for support of residents in institutions under the 11161
jurisdiction of the department of ~~mental retardation and~~ 11162
developmental disabilities, and of residents in private facilities 11163
or homes whose care or treatment is being paid for by the 11164
department, shall be based on the average per capita cost of the 11165
care and treatment of the residents. The cost of services for 11166
residents shall be computed using the projected average daily per 11167
capita cost at the institution, or at the discretion of the 11168
department, the subunit thereof in which services are provided. 11169
Such costs shall be computed at least annually for the next 11170
prospective period using generally accepted governmental 11171
accounting principles. The cost of services for residents that are 11172
being cared for and maintained in a private facility or home under 11173
the supervision of the department and for which a purchase of 11174
services contract is being paid to the private facility or home by 11175
the department shall not be more than the per diem cost of the 11176
contract. The cost of services for a resident receiving 11177
pre-admission care, after-care, day-care, or routine consultation 11178
and treatment services in a community service unit under the 11179
jurisdiction of the department shall be computed on the basis of 11180
the average cost of such services at the institution at which they 11181
are provided. 11182

The department shall annually determine the ability to pay of 11183
a resident or the resident's liable relatives and the amount that 11184
such person shall pay in accordance with section 5121.04 of the 11185
Revised Code. 11186

Collections of support payments shall be made by the 11187
department and, subject to meeting prior requirements for payment 11188
and crediting of such collections and other available receipts, in 11189
accordance with the bond proceedings applicable to obligations 11190

issued pursuant to section 154.20 of the Revised Code, such 11191
collections and other available receipts designated by the 11192
director of ~~mental retardation and~~ developmental disabilities for 11193
deposit in the special accounts, together with insurance contract 11194
payments provided for in division (B)(8) of section 5121.04 of the 11195
Revised Code, shall be remitted to the treasurer of state for 11196
deposit in the state treasury to the credit of the ~~mental~~ 11197
~~retardation~~ developmental disabilities operating fund, which is 11198
hereby created, to be used for the general purposes of the 11199
department. The department shall make refunds of overpayment of 11200
support charges from the ~~mental retardation~~ developmental 11201
disabilities operating fund. 11202

Sec. 5121.02. All individuals admitted to a state institution 11203
operated by the department of ~~mental retardation and~~ developmental 11204
disabilities under section 5123.03 of the Revised Code shall be 11205
maintained at the expense of the state. Their traveling and 11206
incidental expenses in conveying them to the state institution 11207
shall be paid by the county of commitment. Upon admission, the 11208
individuals shall be neatly and comfortably clothed. Thereafter, 11209
the expense of necessary clothing shall be borne by the 11210
responsible relatives or guardian if they are financially able. If 11211
not furnished, the state shall bear the expense. Any required 11212
traveling expense after admission to the state institution shall 11213
be borne by the state if the responsible relatives or guardian are 11214
unable to do so. 11215

Sec. 5121.03. When any person is committed to an institution 11216
under the jurisdiction of the department of ~~mental retardation and~~ 11217
developmental disabilities pursuant to judicial proceedings, the 11218
judge ordering such commitment shall: 11219

(A) Make a reliable report on the financial condition of such 11220
person and of each of the relatives of the person who are liable 11221

for the person's support, as provided in section 5121.06 of the 11222
Revised Code and rules and procedures adopted by the director of 11223
~~mental retardation and~~ developmental disabilities; 11224

(B) Certify to the managing officer of such institution, and 11225
the managing officer shall thereupon enter upon the managing 11226
officer's records the name and address of any guardian appointed 11227
and of any relative liable for such person's support under section 11228
5121.06 of the Revised Code. 11229

Sec. 5121.04. (A) The department of ~~mental retardation and~~ 11230
developmental disabilities shall investigate the financial 11231
condition of the residents in institutions, residents whose care 11232
or treatment is being paid for in a private facility or home under 11233
the control of the department, and of the relatives named in 11234
section 5121.06 of the Revised Code as liable for the support of 11235
such residents, in order to determine the ability of any resident 11236
or liable relatives to pay for the support of the resident and to 11237
provide suitable clothing as required by the superintendent of the 11238
institution. 11239

(B) The department shall follow the provisions of this 11240
division in determining the ability to pay of a resident or the 11241
resident's liable relatives and the amount to be charged such 11242
resident or liable relatives. 11243

(1) Subject to divisions (B)(10) and (11) of this section, a 11244
resident without dependents shall be liable for the full 11245
applicable cost. A resident without dependents who has a gross 11246
annual income equal to or exceeding the sum of the full applicable 11247
cost, plus fifty dollars per month, regardless of the source of 11248
such income, shall pay currently the full amount of the applicable 11249
cost; if the resident's gross annual income is less than such sum, 11250
not more than fifty dollars per month shall be kept for personal 11251
use by or on behalf of the resident, except as permitted in the 11252

state plan for providing medical assistance under Title XIX of the 11253
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 11254
amended, and the balance shall be paid currently on the resident's 11255
support. Subject to divisions (B)(10) and (11) of this section, 11256
the estate of a resident without dependents shall pay currently 11257
any remaining difference between the applicable cost and the 11258
amounts prescribed in this section, or shall execute an agreement 11259
with the department for payment to be made at some future date 11260
under terms suitable to the department. However, no security 11261
interest, mortgage, or lien shall be taken, granted, or charged 11262
against any principal residence of a resident without dependents 11263
under an agreement or otherwise to secure support payments, and no 11264
foreclosure actions shall be taken on security interests, 11265
mortgages, or liens taken, granted, or charged against principal 11266
residences of residents prior to October 7, 1977. 11267

(2) The ability to pay of a resident with dependents, or of a 11268
liable relative of a resident either with or without dependents, 11269
shall be determined in accordance with the resident's or liable 11270
relative's income or other assets, the needs of others who are 11271
dependent on such income and other assets for support, and, if 11272
applicable, divisions (B)(10) and (11) of this section. 11273

For the first thirty days of care and treatment of each 11274
admission, but in no event for more than thirty days in any 11275
calendar year, the resident with dependents or the liable relative 11276
of a resident either with or without dependents shall be charged 11277
an amount equal to the percentage of the average applicable cost 11278
determined in accordance with the schedule of adjusted gross 11279
annual income contained after this paragraph. After such first 11280
thirty days of care and treatment, such resident or such liable 11281
relative shall be charged an amount equal to the percentage of a 11282
base support rate of four dollars per day for residents, as 11283
determined in accordance with the schedule of gross annual income 11284

contained after this paragraph, or in accordance with division		11285
(B)(5) of this section. Beginning January 1, 1978, the department		11286
shall increase the base rate when the consumer price index average		11287
is more than 4.0 for the preceding calendar year by not more than		11288
the average for such calendar year.		11289
Adjusted Gross Annual		11290
Income of Resident		11291
or Liable Relative (FN a)	Number of Dependents (FN b)	11292
	8 or	11293
	1 2 3 4 5 6 7 more	11294
	Rate of Support (In Percentages)	11295
\$15,000 or less	-- -- -- -- -- -- -- --	11296
15,001 to 17,500	20 -- -- -- -- -- --	11297
17,501 to 20,000	25 20 -- -- -- -- --	11298
20,001 to 21,000	30 25 20 -- -- -- --	11299
21,001 to 22,000	35 30 25 20 -- -- --	11300
22,001 to 23,000	40 35 30 25 20 -- --	11301
23,001 to 24,000	45 40 35 30 25 20 --	11302
24,001 to 25,000	50 45 40 35 30 25 20	11303
25,001 to 26,000	55 50 45 40 35 30 25 20	11304
26,001 to 27,000	60 55 50 45 40 35 30 25	11305
27,001 to 28,000	70 60 55 50 45 40 35 30	11306
28,001 to 30,000	80 70 60 55 50 45 40 35	11307
30,001 to 40,000	90 80 70 60 55 50 45 40	11308
40,001 and over	100 90 80 70 60 55 50 45	11309

Footnote a. The resident or relative shall furnish a copy of the resident's or relative's federal income tax return as evidence of gross annual income.

Footnote b. The number of dependents includes the liable relative but excludes a resident in an institution. "Dependent" includes any person who receives more than half the person's support from the resident or the resident's liable relative.

(3) A resident or liable relative having medical, funeral, or related expenses in excess of four per cent of the adjusted gross annual income, which expenses were not covered by insurance, may adjust such gross annual income by reducing the adjusted gross annual income by the full amount of such expenses. Proof of such expenses satisfactory to the department must be furnished.

(4) Additional dependencies may be claimed if:

(a) The liable relative is blind;

(b) The liable relative is over sixty-five;

(c) A child is a college student with expenses in excess of fifty dollars per month;

(d) The services of a housekeeper, costing in excess of fifty dollars per month, are required if the person who normally keeps house for minor children is the resident.

(5) If with respect to any resident with dependents there is chargeable under division (B)(2) of this section less than fifty per cent of the applicable cost or, if the base support rate was used, less than fifty per cent of the amount determined by use of the base support rate, and if with respect to such resident there is a liable relative who has an estate having a value in excess of fifteen thousand dollars or if such resident has a dependent and an estate having a value in excess of fifteen thousand dollars, there shall be paid with respect to such resident a total of fifty per cent of the applicable cost or the base support rate amount, as the case may be, on a current basis or there shall be executed with respect to such resident an agreement with the department for payment to be made at some future date under terms suitable to the department.

(6) When a person has been a resident for fifteen years and the support charges for which a relative is liable have been paid for the fifteen-year period, the liable relative shall be relieved

of any further support charges. 11348

(7) The department shall accept voluntary payments from 11349
residents or liable relatives whose incomes are below the minimum 11350
shown in the schedule set forth in this division. The department 11351
also shall accept voluntary payments in excess of required amounts 11352
from both liable and nonliable relatives. 11353

(8) If a resident is covered by an insurance policy, or other 11354
contract that provides for payment of expenses for care and 11355
treatment for mental retardation or other developmental disability 11356
at or from an institution or facility (including a community 11357
service unit under the jurisdiction of the department), the other 11358
provisions of this section, except divisions (B)(8), (10), and 11359
(11) of this section, and of section 5121.01 of the Revised Code 11360
shall be suspended to the extent that such insurance policy or 11361
other contract is in force, and such resident shall be charged the 11362
full amount of the applicable cost. Any insurance carrier or other 11363
third party payor providing coverage for such care and treatment 11364
shall pay for this support obligation in an amount equal to the 11365
lesser of either the applicable cost or the benefits provided 11366
under the policy or other contract. Whether or not an insured, 11367
owner of, or other person having an interest in such policy or 11368
other contract is liable for support payments under other 11369
provisions of this chapter, the insured, policy owner, or other 11370
person shall assign payment directly to the department of all 11371
assignable benefits under the policy or other contract and shall 11372
pay over to the department, within ten days of receipt, all 11373
insurance or other benefits received as reimbursement or payment 11374
for expenses incurred by the resident or for any other reason. If 11375
the insured, policy owner, or other person refuses to assign such 11376
payment to the department or refuses to pay such received 11377
reimbursements or payments over to the department within ten days 11378
of receipt, the insured's, policy owners', or other person's total 11379

liability for the services equals the applicable statutory 11380
liability for payment for the services as determined under other 11381
provisions of this chapter, plus the amounts payable under the 11382
terms of the policy or other contract. In no event shall this 11383
total liability exceed the full amount of the applicable cost. 11384
Upon its request, the department is entitled to a court order that 11385
compels the insured, owner of, or other person having an interest 11386
in the policy or other contract to comply with the assignment 11387
requirements of this division or that itself serves as a legally 11388
sufficient assignment in compliance with such requirements. 11389
Notwithstanding section 5123.89 of the Revised Code and any other 11390
law relating to confidentiality of records, the managing officer 11391
of the institution or facility where a person is or has been a 11392
resident shall disclose pertinent medical information concerning 11393
the resident to the insurance carrier or other third party payor 11394
in question, in order to effect collection from the carrier or 11395
payor of the state's claim for care and treatment under this 11396
division. For such disclosure, the managing officer is not subject 11397
to any civil or criminal liability. 11398

(9) The rate to be charged for pre-admission care, 11399
after-care, day-care, or routine consultation and treatment 11400
services shall be based upon the ability of the resident or the 11401
resident's liable relatives to pay. When it is determined by the 11402
department that a charge shall be made, such charge shall be 11403
computed as provided in divisions (B)(1) and (2) of this section. 11404

(10) If a resident with or without dependents is the 11405
beneficiary of a trust created pursuant to section 5815.28 of the 11406
Revised Code, then, notwithstanding any contrary provision of this 11407
chapter or of a rule adopted pursuant to this chapter, divisions 11408
(C) and (D) of that section shall apply in determining the assets 11409
or resources of the resident, the resident's estate, the settlor, 11410
or the settlor's estate and to claims arising under this chapter 11411

against the resident, the resident's estate, the settlor, or the settlor's estate. 11412
11413

(11) If the department waives the liability of an individual 11414
and the individual's liable relatives pursuant to section 5123.194 11415
of the Revised Code, the liability of the individual and relative 11416
ceases in accordance with the waiver's terms. 11417

(C) The department may enter into agreements with a resident 11418
or a liable relative for support payments to be made in the 11419
future. However, no security interest, mortgage, or lien shall be 11420
taken, granted, or charged against any principal family residence 11421
of a resident with dependents or a liable relative under an 11422
agreement or otherwise to secure support payments, and no 11423
foreclosure actions shall be taken on security interests, 11424
mortgages or liens taken, granted, or charged against principal 11425
residences of residents or liable relatives prior to October 7, 11426
1977. 11427

(D) The department shall make all investigations and 11428
determinations required by this section within ninety days after a 11429
resident is admitted to an institution under the department's 11430
control and immediately shall notify by mail the persons liable of 11431
the amount to be charged. 11432

(E) All actions to enforce the collection of payments agreed 11433
upon or charged by the department shall be commenced within six 11434
years after the date of default of an agreement to pay support 11435
charges or the date such payment becomes delinquent. If a payment 11436
is made pursuant to an agreement which is in default, a new 11437
six-year period for actions to enforce the collection of payments 11438
under such agreement shall be computed from the date of such 11439
payment. For purposes of this division an agreement is in default 11440
or a payment is delinquent if a payment is not made within thirty 11441
days after it is incurred or a payment, pursuant to an agreement, 11442
is not made within thirty days after the date specified for such 11443

payment. In all actions to enforce the collection of payment for 11444
the liability for support, every court of record shall receive 11445
into evidence the proof of claim made by the state together with 11446
all debts and credits, and it shall be prima-facie evidence of the 11447
facts contained in it. 11448

Sec. 5121.05. The department of ~~mental retardation and~~ 11449
developmental disabilities may subpoena witnesses, take testimony 11450
under oath, and examine any public records relating to the income 11451
and other assets of a resident or liable relative. All 11452
information, conclusions, and recommendations shall be submitted 11453
to the department by the investigating agent of the department. 11454
The department shall determine the amount of support to be paid, 11455
by whom, and whether clothing shall be furnished by the relatives 11456
or guardian. 11457

Sec. 5121.051. All outstanding liability of relatives for the 11458
support of any patient or resident in a benevolent institution 11459
under the control of the department of mental health or the 11460
department of ~~mental retardation and~~ developmental disabilities 11461
accrued prior to January 1, 1956, including the liability of the 11462
patient ~~himself~~ personally, is hereby ~~cancelled~~ canceled, provided 11463
that this section does not abrogate any written agreements or 11464
security arrangement for the payment of support charges entered 11465
into between the state and any patient or liable relative prior to 11466
such date. 11467

Sec. 5121.06. (A) The following persons other than the 11468
resident or the resident's estate are liable relatives and all the 11469
following persons are jointly and severally liable for the support 11470
of a resident in an institution under the control of the 11471
department of ~~mental retardation and~~ developmental disabilities: 11472

(1) The resident or the resident's estate; 11473

(2) The resident's spouse;	11474
(3) The father or mother, or both, of a minor resident under the age of eighteen years.	11475 11476
(B) The department shall determine, pursuant to section 5121.04 of the Revised Code, the amount to be charged each resident and liable relative in the order named in this section, but shall not collect from any person more than one hundred per cent of the applicable cost.	11477 11478 11479 11480 11481
(C) An action to collect delinquent payments or to enforce agreements in default may be brought against any or all persons named in this section. To the extent parents of adult residents, pursuant to the language of this section previously in force, incurred charges for the support of such residents between the eighteenth birthday of such resident and July 1, 1975, their liability for such period may be cancelled <u> canceled</u> , compromised, or settled as provided in section 5121.07 of the Revised Code.	11482 11483 11484 11485 11486 11487 11488 11489
(D) Irrespective of the number of residents whose care might be chargeable against a liable relative, no individual liable relative nor group of liable relatives who are members of the same family unit shall be charged with the support of more than one resident during the same period of time, and different periods of time for which such liable relative has paid the charges for such different residents' care and support shall be added together for the purpose of completing the maximum fifteen-year period of liability of such liable relative under division (B)(6) of section 5121.04 of the Revised Code.	11490 11491 11492 11493 11494 11495 11496 11497 11498 11499
Sec. 5121.061. The authority of the department of mental retardation and developmental disabilities to modify support charges pursuant to section 5121.04 of the Revised Code shall not be exercised until the resident or liable relative has petitioned the department for modification as provided in section 5121.07 of	11500 11501 11502 11503 11504

the Revised Code and has offered to the department satisfactory 11505
proof of the resident's or liable relative's earnings and assets. 11506
The department may modify the charges if its investigation 11507
warrants such modification. 11508

Sec. 5121.07. Any person who has been charged with the 11509
payment of the support of a resident or for pre-admission care, 11510
after-care, day-care, or routine consultation and treatment 11511
services in a community service unit under the control of the 11512
department of ~~mental retardation and~~ developmental disabilities 11513
may petition the department for a release from, or modification 11514
of, such charge, and the department, after an investigation, may 11515
cancel or modify such former charge, or may cancel, compromise, or 11516
settle any accrued liability in an amount not exceeding five 11517
thousand dollars. Amounts in excess thereof may be canceled, 11518
compromised, or settled as provided in section 131.02 of the 11519
Revised Code. The department may for due cause increase the amount 11520
previously ordered paid. 11521

Sec. 5121.08. The managing officers of the institutions under 11522
the control of the department of ~~mental retardation and~~ 11523
developmental disabilities and the committing court, if requested, 11524
shall submit to the department such information as they may obtain 11525
concerning the financial condition of any resident or of relatives 11526
liable for the resident's support. 11527

Sec. 5121.09. In case the estate of any resident in an 11528
institution under the jurisdiction of the department of ~~mental~~ 11529
~~retardation and~~ developmental disabilities is sufficient for the 11530
resident's support, without hardship to any others who may be 11531
dependent thereon, and no guardian has been appointed for such 11532
estate, the agent of the department shall petition the probate 11533
court of the proper county to appoint a guardian. 11534

Sec. 5121.10. Upon the death of a resident or former resident 11535
of any institution under the jurisdiction of the department of 11536
~~mental retardation and~~ developmental disabilities, or upon the 11537
death of a person responsible under section 5121.06 of the Revised 11538
Code for the support of a resident, the department may waive the 11539
presentation of any claim for support against the estate of such 11540
decedent, when in its judgment an otherwise dependent person will 11541
be directly benefited by the estate. Claims against an estate for 11542
support of a resident are subject to section 5815.28 and Chapter 11543
2117. of the Revised Code, and shall be treated, and may be 11544
barred, the same as the claims of other creditors of the estate, 11545
pursuant to that section or chapter. 11546

The department may accept from a guardian or trustee of a 11547
resident a contract agreeing to pay to the state from the property 11548
of the guardian's or trustee's ward before or at the death of the 11549
ward a fixed annual amount for the support of the ward while the 11550
ward is a resident, with interest at four per cent per annum. A 11551
copy of the contract shall be filed in the probate court of the 11552
proper county and duly entered as a part of the records concerning 11553
the ward. 11554

Sec. 5121.11. The state shall bear the expense of the burial 11555
or cremation of an indigent resident who dies in a state 11556
institution operated by the department of ~~mental retardation and~~ 11557
developmental disabilities under section 5123.03 of the Revised 11558
Code or in a state correctional institution if the body is not 11559
claimed for interment or cremation at the expense of friends or 11560
relatives or is not delivered for anatomical purposes or for the 11561
study of embalming in accordance with section 1713.34 of the 11562
Revised Code. The managing officer of the institution shall 11563
provide at the grave of the person or, if the person's cremated 11564
remains are buried, at the grave of the person's cremated remains, 11565

a metal, stone, or concrete marker on which shall be inscribed the name and age of the person and the date of death.

Sec. 5121.12. The support and maintenance of residents confined in state institutions operated by the department of ~~mental retardation and~~ developmental disabilities under section 5123.03 of the Revised Code, including those transferred to them from state correctional institutions, and also including persons under indictment or conviction for crime, shall be collected and paid in accordance with sections 5121.01 to 5121.21 of the Revised Code.

Sec. 5123.01. As used in this chapter:

(A) "Chief medical officer" means the licensed physician appointed by the managing officer of an institution for the mentally retarded with the approval of the director of ~~mental retardation and~~ developmental disabilities to provide medical treatment for residents of the institution.

(B) "Chief program director" means a person with special training and experience in the diagnosis and management of the mentally retarded, certified according to division (C) of this section in at least one of the designated fields, and appointed by the managing officer of an institution for the mentally retarded with the approval of the director to provide habilitation and care for residents of the institution.

(C) "Comprehensive evaluation" means a study, including a sequence of observations and examinations, of a person leading to conclusions and recommendations formulated jointly, with dissenting opinions if any, by a group of persons with special training and experience in the diagnosis and management of persons with mental retardation or a developmental disability, which group shall include individuals who are professionally qualified in the

fields of medicine, psychology, and social work, together with 11596
such other specialists as the individual case may require. 11597

(D) "Education" means the process of formal training and 11598
instruction to facilitate the intellectual and emotional 11599
development of residents. 11600

(E) "Habilitation" means the process by which the staff of 11601
the institution assists the resident in acquiring and maintaining 11602
those life skills that enable the resident to cope more 11603
effectively with the demands of the resident's own person and of 11604
the resident's environment and in raising the level of the 11605
resident's physical, mental, social, and vocational efficiency. 11606
Habilitation includes but is not limited to programs of formal, 11607
structured education and training. 11608

(F) "Health officer" means any public health physician, 11609
public health nurse, or other person authorized or designated by a 11610
city or general health district. 11611

(G) "Home and community-based services" means medicaid-funded 11612
home and community-based services specified in division (B)(1) of 11613
section 5111.87 of the Revised Code provided under the medicaid 11614
waiver components the department of ~~mental retardation and~~ 11615
developmental disabilities administers pursuant to section 11616
5111.871 of the Revised Code. 11617

(H) "Indigent person" means a person who is unable, without 11618
substantial financial hardship, to provide for the payment of an 11619
attorney and for other necessary expenses of legal representation, 11620
including expert testimony. 11621

(I) "Institution" means a public or private facility, or a 11622
part of a public or private facility, that is licensed by the 11623
appropriate state department and is equipped to provide 11624
residential habilitation, care, and treatment for the mentally 11625
retarded. 11626

(J) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties.

(K) "Managing officer" means a person who is appointed by the director of ~~mental retardation~~ and developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department.

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

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

(N) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.

(O) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant

habilitation in an institution. 11658

(P) "A person who is at least moderately mentally retarded" 11659
means a person who is found, following a comprehensive evaluation, 11660
to be impaired in adaptive behavior to a moderate degree and to be 11661
functioning at the moderate level of intellectual functioning in 11662
accordance with standard measurements as recorded in the most 11663
current revision of the manual of terminology and classification 11664
in mental retardation published by the American association on 11665
mental retardation. 11666

(Q) As used in this division, "substantial functional 11667
limitation," "developmental delay," and "established risk" have 11668
the meanings established pursuant to section 5123.011 of the 11669
Revised Code. 11670

"Developmental disability" means a severe, chronic disability 11671
that is characterized by all of the following: 11672

(1) It is attributable to a mental or physical impairment or 11673
a combination of mental and physical impairments, other than a 11674
mental or physical impairment solely caused by mental illness as 11675
defined in division (A) of section 5122.01 of the Revised Code. 11676

(2) It is manifested before age twenty-two. 11677

(3) It is likely to continue indefinitely. 11678

(4) It results in one of the following: 11679

(a) In the case of a person under three years of age, at 11680
least one developmental delay or an established risk; 11681

(b) In the case of a person at least three years of age but 11682
under six years of age, at least two developmental delays or an 11683
established risk; 11684

(c) In the case of a person six years of age or older, a 11685
substantial functional limitation in at least three of the 11686
following areas of major life activity, as appropriate for the 11687

person's age: self-care, receptive and expressive language, 11688
learning, mobility, self-direction, capacity for independent 11689
living, and, if the person is at least sixteen years of age, 11690
capacity for economic self-sufficiency. 11691

(5) It causes the person to need a combination and sequence 11692
of special, interdisciplinary, or other type of care, treatment, 11693
or provision of services for an extended period of time that is 11694
individually planned and coordinated for the person. 11695

(R) "Developmentally disabled person" means a person with a 11696
developmental disability. 11697

(S) "State institution" means an institution that is 11698
tax-supported and under the jurisdiction of the department. 11699

(T) "Residence" and "legal residence" have the same meaning 11700
as "legal settlement," which is acquired by residing in Ohio for a 11701
period of one year without receiving general assistance prior to 11702
July 17, 1995, under former Chapter 5113. of the Revised Code, 11703
financial assistance under Chapter 5115. of the Revised Code, or 11704
assistance from a private agency that maintains records of 11705
assistance given. A person having a legal settlement in the state 11706
shall be considered as having legal settlement in the assistance 11707
area in which the person resides. No adult person coming into this 11708
state and having a spouse or minor children residing in another 11709
state shall obtain a legal settlement in this state as long as the 11710
spouse or minor children are receiving public assistance, care, or 11711
support at the expense of the other state or its subdivisions. For 11712
the purpose of determining the legal settlement of a person who is 11713
living in a public or private institution or in a home subject to 11714
licensing by the department of job and family services, the 11715
department of mental health, or the department of ~~mental~~ 11716
~~retardation~~ and developmental disabilities, the residence of the 11717
person shall be considered as though the person were residing in 11718
the county in which the person was living prior to the person's 11719

entrance into the institution or home. Settlement once acquired 11720
shall continue until a person has been continuously absent from 11721
Ohio for a period of one year or has acquired a legal residence in 11722
another state. A woman who marries a man with legal settlement in 11723
any county immediately acquires the settlement of her husband. The 11724
legal settlement of a minor is that of the parents, surviving 11725
parent, sole parent, parent who is designated the residential 11726
parent and legal custodian by a court, other adult having 11727
permanent custody awarded by a court, or guardian of the person of 11728
the minor, provided that: 11729

(1) A minor female who marries shall be considered to have 11730
the legal settlement of her husband and, in the case of death of 11731
her husband or divorce, she shall not thereby lose her legal 11732
settlement obtained by the marriage. 11733

(2) A minor male who marries, establishes a home, and who has 11734
resided in this state for one year without receiving general 11735
assistance prior to July 17, 1995, under former Chapter 5113. of 11736
the Revised Code, financial assistance under Chapter 5115. of the 11737
Revised Code, or assistance from a private agency that maintains 11738
records of assistance given shall be considered to have obtained a 11739
legal settlement in this state. 11740

(3) The legal settlement of a child under eighteen years of 11741
age who is in the care or custody of a public or private child 11742
caring agency shall not change if the legal settlement of the 11743
parent changes until after the child has been in the home of the 11744
parent for a period of one year. 11745

No person, adult or minor, may establish a legal settlement 11746
in this state for the purpose of gaining admission to any state 11747
institution. 11748

(U)(1) "Resident" means, subject to division (R)(2) of this 11749
section, a person who is admitted either voluntarily or 11750

involuntarily to an institution or other facility pursuant to 11751
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 11752
Code subsequent to a finding of not guilty by reason of insanity 11753
or incompetence to stand trial or under this chapter who is under 11754
observation or receiving habilitation and care in an institution. 11755

(2) "Resident" does not include a person admitted to an 11756
institution or other facility under section 2945.39, 2945.40, 11757
2945.401, or 2945.402 of the Revised Code to the extent that the 11758
reference in this chapter to resident, or the context in which the 11759
reference occurs, is in conflict with any provision of sections 11760
2945.37 to 2945.402 of the Revised Code. 11761

(V) "Respondent" means the person whose detention, 11762
commitment, or continued commitment is being sought in any 11763
proceeding under this chapter. 11764

(W) "Working day" and "court day" mean Monday, Tuesday, 11765
Wednesday, Thursday, and Friday, except when such day is a legal 11766
holiday. 11767

(X) "Prosecutor" means the prosecuting attorney, village 11768
solicitor, city director of law, or similar chief legal officer 11769
who prosecuted a criminal case in which a person was found not 11770
guilty by reason of insanity, who would have had the authority to 11771
prosecute a criminal case against a person if the person had not 11772
been found incompetent to stand trial, or who prosecuted a case in 11773
which a person was found guilty. 11774

(Y) "Court" means the probate division of the court of common 11775
pleas. 11776

(Z) "Supported living" has the same meaning as in section 11777
5126.01 of the Revised Code. 11778

Sec. 5123.011. The director of ~~mental retardation and~~ 11779
developmental disabilities shall adopt rules in accordance with 11780

Chapter 119. of the Revised Code that establish definitions of 11781
"substantial functional limitation," "developmental delay," 11782
"established risk," "biological risk," and "environmental risk." 11783

Sec. 5123.012. (A) As used in this section: 11784

(1) "Biological risk" and "environmental risk" have the 11785
meanings established pursuant to section 5123.011 of the Revised 11786
Code. 11787

(2) "Preschool child with a disability" has the same meaning 11788
as in section 3323.01 of the Revised Code. 11789

(B) Except as provided in division (C) of this section, the 11790
department of ~~mental retardation and~~ developmental disabilities 11791
shall make eligibility determinations in accordance with the 11792
definition of "developmental disability" in section 5123.01 of the 11793
Revised Code. The department may adopt rules in accordance with 11794
Chapter 119. of the Revised Code establishing eligibility for 11795
programs and services for either of the following: 11796

(1) Individuals under age six who have a biological risk or 11797
environmental risk of a developmental delay; 11798

(2) Any preschool child with a disability eligible for 11799
services under section 3323.02 of the Revised Code whose 11800
disability is not attributable solely to mental illness as defined 11801
in section 5122.01 of the Revised Code. 11802

(C)(1) The department shall make determinations of 11803
eligibility for protective services in accordance with sections 11804
5123.55 to 5123.59 of the Revised Code. 11805

(2) Determinations of whether a mentally retarded person is 11806
subject to institutionalization by court order shall be made in 11807
accordance with sections 5123.71 to 5123.76 of the Revised Code 11808
and shall be based on the definition of "mentally retarded person 11809
subject to institutionalization by court order" in section 5123.01 11810

of the Revised Code. 11811

(3) All persons who were eligible for services and enrolled 11812
in programs offered by the department of ~~mental retardation and~~ 11813
developmental disabilities pursuant to this chapter on July 1, 11814
1991, shall continue to be eligible for those services and to be 11815
enrolled in those programs as long as they are in need of 11816
services. 11817

Sec. 5123.013. Whenever the department or director of mental 11818
retardation and developmental disabilities is referred to or 11819
designated in any statute, rule, contract, grant, or other 11820
document, the reference or designation shall be deemed to refer to 11821
the department or director of developmental disabilities, as the 11822
case may be. 11823

Sec. 5123.02. The department of ~~mental retardation and~~ 11824
developmental disabilities shall do the following: 11825

(A) Promote comprehensive statewide programs and services for 11826
persons with mental retardation or a developmental disability and 11827
their families wherever they reside in the state. These programs 11828
shall include public education, prevention, diagnosis, treatment, 11829
training, and care. 11830

(B) Provide administrative leadership for statewide services 11831
which include residential facilities, evaluation centers, and 11832
community classes which are wholly or in part financed by the 11833
department of ~~mental retardation and~~ developmental disabilities as 11834
provided by section 5123.26 of the Revised Code; 11835

(C) Develop and maintain, to the extent feasible, data on all 11836
services and programs for persons with mental retardation or a 11837
developmental disability, that are provided by governmental and 11838
private agencies; 11839

(D) Make periodic determinations of the number of persons 11840

with mental retardation or a developmental disability requiring 11841
services in the state; 11842

(E) Provide leadership to local authorities in planning and 11843
developing community-wide services for persons with mental 11844
retardation or a developmental disability and their families; 11845

(F) Promote programs of professional training and research in 11846
cooperation with other state departments, agencies, and 11847
institutions of higher learning. 11848

Sec. 5123.021. (A) As used in this section, "mentally 11849
retarded individual" and "specialized services" have the same 11850
meanings as in section 5111.202 of the Revised Code. 11851

(B)(1) Except as provided in division (B)(2) of this section 11852
and rules adopted under division (E)(3) of this section, for 11853
purposes of section 5111.202 of the Revised Code, the department 11854
of ~~mental retardation and~~ developmental disabilities shall 11855
determine in accordance with section 1919(e)(7) of the "Social 11856
Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, 11857
and regulations adopted under section 1919(f)(8)(A) of that act 11858
whether, because of the individual's physical and mental 11859
condition, a mentally retarded individual seeking admission to a 11860
nursing facility requires the level of services provided by a 11861
nursing facility and, if the individual requires that level of 11862
services, whether the individual requires specialized services for 11863
mental retardation. 11864

(2) A determination under this division is not required for 11865
any of the following: 11866

(a) An individual seeking readmission to a nursing facility 11867
after having been transferred from a nursing facility to a 11868
hospital for care; 11869

(b) An individual who meets all of the following conditions: 11870

(i) The individual is admitted to the nursing facility 11871
directly from a hospital after receiving inpatient care at the 11872
hospital; 11873

(ii) The individual requires nursing facility services for 11874
the condition for which the individual received care in the 11875
hospital; 11876

(iii) The individual's attending physician has certified, 11877
before admission to the nursing facility, that the individual is 11878
likely to require less than thirty days of nursing facility 11879
services. 11880

(c) An individual transferred from one nursing facility to 11881
another nursing facility, with or without an intervening hospital 11882
stay. 11883

(C) Except as provided in rules adopted under division (F)(3) 11884
of this section, the department of ~~mental retardation and~~ 11885
developmental disabilities shall review and determine, for each 11886
resident of a nursing facility who is mentally retarded, whether 11887
the resident, because of the resident's physical and mental 11888
condition, requires the level of services provided by a nursing 11889
facility and whether the resident requires specialized services 11890
for mental retardation. The review and determination shall be 11891
conducted in accordance with section 1919(e)(7) of the "Social 11892
Security Act" and the regulations adopted under section 11893
1919(f)(8)(A) of the act. The review and determination shall be 11894
completed promptly after a nursing facility has notified the 11895
department that there has been a significant change in the 11896
resident's mental or physical condition. 11897

(D)(1) In the case of a nursing facility resident who has 11898
continuously resided in a nursing facility for at least thirty 11899
months before the date of a review and determination under 11900
division (C) of this section, if the resident is determined not to 11901

require the level of services provided by a nursing facility, but 11902
is determined to require specialized services for mental 11903
retardation, the department, in consultation with the resident's 11904
family or legal representative and care givers, shall do all of 11905
the following: 11906

(a) Inform the resident of the institutional and 11907
noninstitutional alternatives covered under the state plan for 11908
medical assistance; 11909

(b) Offer the resident the choice of remaining in the nursing 11910
facility or receiving covered services in an alternative 11911
institutional or noninstitutional setting; 11912

(c) Clarify the effect on eligibility for services under the 11913
state plan for medical assistance if the resident chooses to leave 11914
the facility, including its effect on readmission to the facility; 11915

(d) Provide for or arrange for the provision of specialized 11916
services for the resident's mental retardation in the setting 11917
chosen by the resident. 11918

(2) In the case of a nursing facility resident who has 11919
continuously resided in a nursing facility for less than thirty 11920
months before the date of the review and determination under 11921
division (C) of this section, if the resident is determined not to 11922
require the level of services provided by a nursing facility, but 11923
is determined to require specialized services for mental 11924
retardation, or if the resident is determined to require neither 11925
the level of services provided by a nursing facility nor 11926
specialized services for mental retardation, the department shall 11927
act in accordance with its alternative disposition plan approved 11928
by the United States department of health and human services under 11929
section 1919(e)(7)(E) of the "Social Security Act." 11930

(3) In the case of an individual who is determined under 11931
division (B) or (C) of this section to require both the level of 11932

services provided by a nursing facility and specialized services 11933
for mental retardation, the department of ~~mental retardation and~~ 11934
developmental disabilities shall provide or arrange for the 11935
provision of the specialized services needed by the individual or 11936
resident while residing in a nursing facility. 11937

(E) The department of ~~mental retardation and~~ developmental 11938
disabilities shall adopt rules in accordance with Chapter 119. of 11939
the Revised Code that do all of the following: 11940

(1) Establish criteria to be used in making the 11941
determinations required by divisions (B) and (C) of this section. 11942
The criteria shall not exceed the criteria established by 11943
regulations adopted by the United States department of health and 11944
human services under section 1919(f)(8)(A) of the "Social Security 11945
Act." 11946

(2) Specify information to be provided by the individual or 11947
nursing facility resident being assessed; 11948

(3) Specify any circumstances, in addition to circumstances 11949
listed in division (B) of this section, under which determinations 11950
under divisions (B) and (C) of this section are not required to be 11951
made. 11952

Sec. 5123.03. (A) The department of ~~mental retardation and~~ 11953
developmental disabilities shall do all of the following: 11954

(1) Maintain, operate, manage, and govern all state 11955
institutions for the care, treatment, and training of the mentally 11956
retarded; 11957

(2) Designate all such institutions by appropriate names; 11958

(3) Provide and designate facilities for the custody, care, 11959
and special treatment of persons of the following classes: 11960

(a) Dangerous persons in state institutions for the mentally 11961
retarded who represent a serious threat to the safety of the other 11962

patients of the institution;	11963
(b) Persons charged with crimes who are found incompetent to stand trial or not guilty by reason of insanity and who are also mentally retarded persons subject to institutionalization by court order.	11964 11965 11966 11967
(4) Have control of all institutions maintained in part by the state for the care, treatment, and training of the mentally retarded;	11968 11969 11970
(5) Administer the laws relative to persons in such institutions in an efficient, economical, and humane manner;	11971 11972
(6) Ascertain by actual examinations and inquiry whether institutionalizations are made according to law.	11973 11974
(B) The department may do any of the following:	11975
(1) Subject to section 5139.08 of the Revised Code, receive from the department of youth services for observation, diagnosis, care, habilitation, or placement any children in the custody of the department of youth services;	11976 11977 11978 11979
(2) Receive for observation any minor from a public institution other than an institution under the jurisdiction of the department of mental retardation and developmental disabilities, from a private charitable institution, or from a person having legal custody of such a minor, upon such terms as are proper;	11980 11981 11982 11983 11984 11985
(3) Receive from the department of mental health any patient in the custody of the department who is transferred to the department of mental retardation and developmental disabilities upon such terms and conditions as may be agreed upon by the two departments.	11986 11987 11988 11989 11990
(e) (C) In addition to the powers and duties expressly conferred by this section, the department may take any other	11991 11992

action necessary for the full and efficient executive, 11993
administrative, and fiscal supervision of the state institutions 11994
described in this section. 11995

Sec. 5123.031. The director of ~~mental retardation and~~ 11996
developmental disabilities may require the performance of duties 11997
by the officers of the institutions under the jurisdiction of the 11998
department of ~~mental retardation and~~ developmental disabilities so 11999
as fully to meet the requirements, intents, and purposes of this 12000
chapter. In case of an apparent conflict between the powers 12001
conferred upon any managing officer and those conferred by this 12002
chapter upon the department, the presumption shall be conclusive 12003
in favor of the department. 12004

The director shall adopt rules for the nonpartisan management 12005
of the institutions under the jurisdiction of the department. An 12006
officer or employee of the department or any officer or employee 12007
of any institution under its control who, by solicitation or 12008
otherwise, exerts ~~his~~ the officer's or employee's influence 12009
directly or indirectly to induce any other officer or employee of 12010
the department or any of its institutions to adopt ~~his~~ the 12011
officer's or employee's political views or to favor any particular 12012
person, issue, or candidate for office shall be removed from ~~his~~ 12013
the officer's or employee's office or position, by the department 12014
in case of an officer or employee, and by the governor in case of 12015
the director. 12016

The managing officer of any institution under the 12017
jurisdiction of the department shall submit reports to the 12018
director relating to the admission, examination, comprehensive 12019
evaluation, diagnosis, release, or discharge of any resident. 12020

The director, or a person designated by ~~him~~ the director, 12021
shall visit each institution regularly to review the admission 12022
procedures of all new residents and to investigate complaints made 12023

by any resident or by any person on behalf of a resident. 12024

The director shall prescribe the forms of affidavits, 12025
applications, comprehensive evaluations, orders of 12026
institutionalization and release, and all other forms that are 12027
required in the institutionalization, admission, and release of 12028
all persons with respect to institutions under the jurisdiction of 12029
the department, and of reports and records provided for under this 12030
chapter. 12031

Sec. 5123.032. (A) As used in this section, "developmental 12032
center" means any institution or facility of the department of 12033
~~mental retardation and~~ developmental disabilities that, on or 12034
~~after the effective date of this section~~ January 30, 2004, is 12035
named, designated, or referred to as a developmental center. 12036

(B) Notwithstanding any other provision of law, on and after 12037
~~the effective date of this section~~ January 30, 2004, any closure 12038
of a developmental center shall be subject to, and in accordance 12039
with, this section. Notwithstanding any other provision of law, if 12040
the governor announced on or after January 1, 2003, and prior to 12041
~~the effective date of this section~~ January 30, 2004, the intended 12042
closure of a developmental center and if the closure identified in 12043
the announcement has not occurred prior to ~~the effective date of~~ 12044
~~this section~~ January 30, 2004, the closure identified in the 12045
announcement shall be subject to the criteria set forth in this 12046
section as if the announcement had been made on or after ~~the~~ 12047
~~effective date of this section~~ January 30, 2004, except for the 12048
time at which the notice to the general assembly must be provided 12049
as identified in division (C) of this section. 12050

(C) Notwithstanding any other provision of law, on and after 12051
~~the effective date of this section~~ January 30, 2004, at least ten 12052
days prior to making any official, public announcement that the 12053
governor intends to close one or more developmental centers, the 12054

governor shall notify the general assembly in writing that the 12055
governor intends to close one or more developmental centers. 12056
Notwithstanding any other provision of law, if the governor 12057
announced on or after January 1, 2003, and prior to ~~the effective~~ 12058
~~date of this section~~ January 30, 2004, the intended closure of a 12059
developmental center and if the closure identified in the 12060
announcement has not occurred prior to ~~the effective date of this~~ 12061
~~section~~ January 30, 2004, not later than ten days after ~~the~~ 12062
~~effective date of this section~~ January 30, 2004, the governor 12063
shall notify the general assembly in writing of the prior 12064
announcement and that the governor intends to close the center 12065
identified in the prior announcement, and the notification to the 12066
general assembly shall constitute, for purposes of this section, 12067
the governor's official, public announcement that the governor 12068
intends to close that center. 12069

The notice required by this division shall identify by name 12070
each developmental center that the governor intends to close or, 12071
if the governor has not determined any specific developmental 12072
center to close, shall state the governor's general intent to 12073
close one or more developmental centers. When the governor 12074
notifies the general assembly as required by this division, the 12075
legislative service commission promptly shall conduct an 12076
independent study of the developmental centers of the department 12077
of ~~mental retardation and~~ developmental disabilities and of the 12078
department's operation of the centers, and the study shall address 12079
relevant criteria and factors, including, but not limited to, all 12080
of the following: 12081

(1) The manner in which the closure of developmental centers 12082
in general would affect the safety, health, well-being, and 12083
lifestyle of the centers' residents and their family members and 12084
would affect public safety and, if the governor's notice 12085
identifies by name one or more developmental centers that the 12086

governor intends to close, the manner in which the closure of each	12087
center so identified would affect the safety, health, well-being,	12088
and lifestyle of the center's residents and their family members	12089
and would affect public safety;	12090
(2) The availability of alternate facilities;	12091
(3) The cost effectiveness of the facilities identified for	12092
closure;	12093
(4) A comparison of the cost of residing at a facility	12094
identified for closure and the cost of new living arrangements;	12095
(5) The geographic factors associated with each facility and	12096
its proximity to other similar facilities;	12097
(6) The impact of collective bargaining on facility	12098
operations;	12099
(7) The utilization and maximization of resources;	12100
(8) Continuity of the staff and ability to serve the facility	12101
population;	12102
(9) Continuing costs following closure of a facility;	12103
(10) The impact of the closure on the local economy;	12104
(11) Alternatives and opportunities for consolidation with	12105
other facilities;	12106
(12) How the closing of a facility identified for closure	12107
relates to the department's plans for the future of developmental	12108
centers in this state;	12109
(13) The effect of the closure of developmental centers in	12110
general upon the state's fiscal resources and fiscal status and,	12111
if the governor's notice identifies by name one or more	12112
developmental centers that the governor intends to close, the	12113
effect of the closure of each center so identified upon the	12114
state's fiscal resources and fiscal status.	12115

(D) The legislative service commission shall complete the study required by division (C) of this section, and prepare a report that contains its findings, not later than sixty days after the governor makes the official, public announcement that the governor intends to close one or more developmental centers as described in division (C) of this section. The commission shall provide a copy of the report to each member of the general assembly who requests a copy of the report.

Not later than the date on which the legislative service commission is required to complete the report under this division, ~~the mental retardation and~~ developmental disabilities developmental center closure commission is hereby created as described in division (E) of this section. The officials with the duties to appoint members of the closure commission, as described in division (E) of this section, shall appoint the specified members of the closure commission, and, as soon as possible after the appointments, the closure commission shall meet for the purposes described in that division. Upon completion of the report and the creation of the closure commission under this division, the legislative service commission promptly shall provide a copy of the report to the closure commission and shall present the report as described in division (E) of this section.

(E)(1) A ~~mental retardation and~~ developmental disabilities developmental center closure commission shall be created at the time and in the manner specified in division (D) of this section. The closure commission consists of six members. One member shall be the director of ~~the department of mental retardation and~~ developmental disabilities. One member shall be the director of ~~the department of~~ health. One member shall be a private executive with expertise in facility utilization, in economics, or in both facility utilization and economics, jointly appointed by the speaker of the house of representatives and the president of the

senate. The member appointed for expertise in facility utilization, economics, or both may not be a member of the general assembly and may not have a developmental center identified for closure by the governor in the county in which the member resides. One member shall be a member of the board of the Ohio civil service employees' association, jointly appointed by the speaker of the house of representatives and the president of the senate. One member shall be either a family member of a resident of a developmental center or a representative of a mental retardation and developmental disabilities advocacy group, jointly appointed by the speaker of the house of representatives and the president of the senate. The member appointed who is a family member of a developmental center resident or a representative of an advocacy group may not be a member of the general assembly. One member shall be a member of the law enforcement community, appointed by the governor. The officials with the duties to appoint members of the closure commission shall make the appointments, and the closure commission shall meet, within the time periods specified in division (D) of this section. The members of the closure commission shall serve without compensation. At the closure commission's first meeting, the members shall organize and appoint a chairperson and vice-chairperson.

The closure commission shall meet as often as is necessary for the purpose of making the recommendations to the governor that are described in this division. The closure commission's meetings shall be open to the public, and the closure commission shall accept public testimony. The legislative service commission shall appear before the closure commission and present the report the legislative service commission prepared under division (D) of this section. The closure commission shall meet for the purpose of making recommendations to the governor, which recommendations may include all of the following:

(a) Whether any developmental center should be closed;	12180
(b) If the recommendation described in division (E)(1)(a) of this section is that one or more developmental centers should be closed, which center or centers should be closed;	12181 12182 12183
(c) If the governor's notice described in division (C) of this section identifies by name one or more developmental centers that the governor intends to close, whether the center or centers so identified should be closed.	12184 12185 12186 12187
(2) The mental retardation and developmental disabilities developmental center closure commission, not later than sixty days after it receives the report of the legislative service commission under division (D) of this section, shall prepare a report containing its recommendations to the governor. The closure commission shall send a copy of the report to the governor and to each member of the general assembly who requests a copy of the report. Upon receipt of the closure commission's report, the governor shall review and consider the commission's recommendation. The governor shall do one of the following:	12188 12189 12190 12191 12192 12193 12194 12195 12196 12197
(a) Follow the recommendation of the commission;	12198
(b) Close no developmental center;	12199
(c) Take other action that the governor determines is necessary for the purpose of expenditure reductions or budget cuts and state the reasons for the action.	12200 12201 12202
The governor's decision is final. Upon the governor's making of the decision, the closure commission shall cease to exist. Another closure commission shall be created under this section each time the governor subsequently makes an official, public announcement that the governor intends to close one or more developmental centers.	12203 12204 12205 12206 12207 12208
Sec. 5123.033. The program fee fund is hereby created in the	12209

state treasury. All fees collected pursuant to sections 5123.161, 12210
5123.164, 5123.19, and 5126.25 of the Revised Code shall be 12211
credited to the fund. Money credited to the fund shall be used 12212
solely for the department of ~~mental retardation and~~ developmental 12213
disabilities' duties under sections 5123.16 to 5123.169, 5123.19, 12214
and 5126.25 of the Revised Code and to provide continuing 12215
education and professional training to employees of county boards 12216
of mental retardation and developmental disabilities for the 12217
purpose of section 5126.25 of the Revised Code and other providers 12218
of services to individuals with mental retardation or a 12219
developmental disability. If the money credited to the fund is 12220
inadequate to pay all of the department's costs in performing 12221
those duties and providing the continuing education and 12222
professional training, the department may use other available 12223
funds appropriated to the department to pay the remaining costs of 12224
performing those duties and providing the continuing education and 12225
professional training. 12226

Sec. 5123.04. (A) The director of ~~mental retardation and~~ 12227
developmental disabilities is the executive head of the department 12228
of ~~mental retardation and~~ developmental disabilities. All duties 12229
conferred on the department and its institutions by law or by 12230
order of the director shall be performed under such rules as the 12231
director prescribes, and shall be under the director's control. 12232
The director shall establish bylaws for the government of all 12233
institutions under the jurisdiction of the department. Except as 12234
otherwise is provided as to appointments by chiefs of divisions, 12235
the director shall appoint such employees as are necessary for the 12236
efficient conduct of the department, and shall prescribe their 12237
titles and duties. If the director is not a licensed physician, 12238
decisions relating to medical diagnosis and treatment shall be the 12239
responsibility of a licensed physician appointed by the director. 12240

(B) The director shall adopt rules for the proper execution 12241

of the powers and duties of the department. 12242

(C) The director shall adopt rules establishing standards 12243
that mental retardation programs and facilities shall follow when 12244
performing evaluations of the mental condition of defendants 12245
ordered by the court under section 2919.271 or 2945.371 of the 12246
Revised Code, and for the treatment of defendants who have been 12247
found incompetent to stand trial under section 2945.38 of the 12248
Revised Code, and certify the compliance of such programs and 12249
facilities with the standards. 12250

(D) On behalf of the department, the director has the 12251
authority to, and responsibility for, entering into contracts and 12252
other agreements. 12253

(E) The director shall adopt rules in accordance with Chapter 12254
119. of the Revised Code that do all of the following: 12255

(1) Specify the supplemental services that may be provided 12256
through a trust authorized by section 1339.51 of the Revised Code; 12257

(2) Establish standards for the maintenance and distribution 12258
to a beneficiary of assets of a trust authorized by section 12259
1339.51 of the Revised Code. 12260

(F) The director shall provide monitoring of county boards of 12261
mental retardation and developmental disabilities. 12262

Sec. 5123.042. (A) The director of ~~mental retardation and~~ 12263
developmental disabilities shall adopt rules in accordance with 12264
Chapter 119. of the Revised Code establishing the following: 12265

(1) Uniform standards under which: 12266

(a) A person or agency shall submit plans to the county board 12267
of mental retardation and developmental disabilities for the 12268
development of residential services for individuals with mental 12269
retardation or a developmental disability within the county; 12270

(b) The county board must review the plans and recommend providers for the services. 12271
12272

(2) The eligibility criteria for selecting persons and agencies to provide residential services, which shall take into consideration the recommendations of the county board. 12273
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12275

(B) The county board, in accordance with its comprehensive service plan, shall review all proposals for the development of residential services that are submitted to it and shall, if the proposals are acceptable to the county board, recommend providers for the development of residential services within the county. The department shall approve proposals for the development of residential services within counties based upon the availability of funds and in accordance with rules adopted under division (A)(2) of this section. 12276
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No county board shall recommend providers for the development of residential services if the county board is an applicant to provide services. In cases of possible conflict of interest, the director shall appoint a committee that shall, in accordance with the approved county comprehensive service plan, review and recommend to the director providers for the services. 12285
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If a county board fails to establish an approved comprehensive service plan, the director may establish residential services development goals for the county board based on documented need as determined by the department. If a county board fails to develop or implement such a plan in accordance with the rules adopted under this section, the department may, without the involvement of the county board, review and select providers for the development of residential services in the county. 12291
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Sec. 5123.043. (A) The director of ~~mental retardation and~~ developmental disabilities shall adopt rules establishing procedures for administrative resolution of complaints filed under 12299
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division (B) of this section and section 5126.06 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) Except as provided in division (C) of this section, any person or county board of mental retardation and developmental disabilities that has a complaint involving any of the programs, services, policies, or administrative practices of the department of ~~mental retardation and~~ developmental disabilities or any of the entities under contract with the department, may file a complaint with the department. Prior to commencing a civil action regarding the complaint, a person or county board shall attempt to have the complaint resolved through the administrative resolution process established in the rules adopted under this section. After exhausting the administrative resolution process, the person or county board may commence a civil action if the complaint is not settled to the person's or county board's satisfaction.

(C) An employee of the department may not file under this section a complaint related to the terms and conditions of employment for the employee.

Sec. 5123.044. The department of ~~mental retardation and~~ developmental disabilities shall determine whether county boards of mental retardation and developmental disabilities are in compliance with section 5126.046 of the Revised Code. The department shall provide assistance to an individual with mental retardation or other developmental disability who requests assistance with the individual's right under section 5126.046 of the Revised Code to choose a provider of habilitation, vocational, community employment, residential, or supported living services if the department is notified of a county board's alleged violation of the individual's right to choose such a provider.

Sec. 5123.046. The department of ~~mental retardation and~~ 12332
developmental disabilities shall review each component of the 12333
three-calendar-year plan it receives from a county board of mental 12334
retardation and developmental disabilities under section 5126.054 12335
of the Revised Code and, in consultation with the department of 12336
job and family services and office of budget and management, 12337
approve each component that includes all the information and 12338
conditions specified in that section. The third component of the 12339
plan shall be approved or disapproved not later than forty-five 12340
days after the third component is submitted to the department. If 12341
the department approves all three components of the plan, the plan 12342
is approved. Otherwise, the plan is disapproved. If the plan is 12343
disapproved, the department shall take action against the county 12344
board under division (B) of section 5126.056 of the Revised Code. 12345

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In approving plans under this section, the department shall 12347
ensure that the aggregate of all plans provide for the increased 12348
enrollment into home and community-based services during each 12349
state fiscal year of at least five hundred individuals who did not 12350
receive residential services, supported living, or home and 12351
community-based services the prior state fiscal year if the 12352
department has enough additional enrollment available for this 12353
purpose. 12354

The department shall establish protocols that the department 12355
shall use to determine whether a county board is complying with 12356
the programmatic and financial accountability mechanisms and 12357
achieving outcomes specified in its approved plan. If the 12358
department determines that a county board is not in compliance 12359
with the mechanisms or achieving the outcomes specified in its 12360
approved plan, the department may take action under division (F) 12361
of section 5126.055 of the Revised Code. 12362

Sec. 5123.047. The department of ~~mental retardation and~~ 12363
developmental disabilities shall pay the nonfederal share of 12364
medicaid expenditures for medicaid case management services and 12365
home and community-based services for which no county board of 12366
mental retardation and developmental disabilities is required by 12367
section 5126.059 or 5126.0510 of the Revised Code to pay. 12368

Sec. 5123.048. The director of ~~mental retardation and~~ 12369
developmental disabilities may enter into an agreement with a 12370
county board of mental retardation and developmental disabilities 12371
under which the department of ~~mental retardation and~~ developmental 12372
disabilities is to pay the nonfederal share of medicaid 12373
expenditures for one or more of the home and community-based 12374
services that the county board would, if not for the agreement, be 12375
required by section 5126.0510 of the Revised Code to pay. The 12376
agreement shall specify which home and community-based services 12377
the agreement covers. The department shall pay the nonfederal 12378
share of medicaid expenditures for the home and community-based 12379
services that the agreement covers as long as the agreement is in 12380
effect. 12381

Sec. 5123.049. The director of ~~mental retardation and~~ 12382
developmental disabilities shall adopt rules in accordance with 12383
Chapter 119. of the Revised Code governing the authorization and 12384
payment of home and community-based services and medicaid case 12385
management services. The rules shall provide for private providers 12386
of the services to receive one hundred per cent of the medicaid 12387
allowable payment amount and for government providers of the 12388
services to receive the federal share of the medicaid allowable 12389
payment, less the amount withheld as a fee under section 5123.0412 12390
of the Revised Code and any amount that may be required by rules 12391
adopted under section 5123.0413 of the Revised Code to be 12392

deposited into the state ~~MR/DD~~ developmental disabilities risk 12393
fund. The rules shall establish the process by which county boards 12394
of mental retardation and developmental disabilities shall certify 12395
and provide the nonfederal share of medicaid expenditures that the 12396
county board is required by sections 5126.059 and 5126.0510 of the 12397
Revised Code to pay. The process shall require a county board to 12398
certify that the county board has funding available at one time 12399
for two months costs for those expenditures. The process may 12400
permit a county board to certify that the county board has funding 12401
available at one time for more than two months costs for those 12402
expenditures. 12403

Sec. 5123.0410. An individual with mental retardation or 12404
other developmental disability who moves from one county in this 12405
state to another county in this state shall receive home and 12406
community-based services in the new county that are comparable in 12407
scope to the home and community-based services the individual 12408
receives in the prior county at the time the individual moves. If 12409
the county board serving the county to which the individual moves 12410
determines under section 5126.041 of the Revised Code that the 12411
individual is eligible for county board services, the county board 12412
shall ensure that the individual receives the comparable services. 12413
If the county board determines that the individual is not eligible 12414
for county board services, the department of ~~mental retardation~~ 12415
~~and~~ developmental disabilities shall ensure that the individual 12416
receives the comparable services. 12417

If the home and community-based services that the individual 12418
receives at the time the individual moves include supported living 12419
or residential services, the department shall reduce the amount 12420
the department allocates to the county board serving the county 12421
the individual left for those supported living or residential 12422
services by an amount that equals the payment the department 12423
authorizes or projects, or both, for those supported living or 12424

residential services from the last day the individual resides in 12425
the county to the last day of the state fiscal year in which the 12426
individual moves. The department shall increase the amount the 12427
department allocates to the county board serving the county the 12428
individual moves to by the same amount. The department shall make 12429
the reduction and increase effective the day the department 12430
determines the individual has residence in the new county. The 12431
department shall determine the amount that is to be reduced and 12432
increased in accordance with the department's rules for 12433
authorizing payments for home and community-based services 12434
established adopted under section 5123.049 of the Revised Code. 12435
The department shall annualize the reduction and increase for the 12436
subsequent state fiscal year as necessary. 12437

Sec. 5123.0411. The department of ~~mental retardation and~~ 12438
developmental disabilities may bring a mandamus action against a 12439
county board of mental retardation and developmental disabilities 12440
that fails to pay the nonfederal share of medicaid expenditures 12441
that the county board is required by sections 5126.059 and 12442
5126.0510 of the Revised Code to pay. The department may bring the 12443
mandamus action in the court of common pleas of the county served 12444
by the county board or in the Franklin county court of common 12445
pleas. 12446

Sec. 5123.0412. (A) The department of ~~mental retardation and~~ 12447
developmental disabilities shall charge each county board of 12448
mental retardation and developmental disabilities an annual fee 12449
equal to one and one-half per cent of the total value of all 12450
medicaid paid claims for home and community-based services 12451
provided during the year to an individual eligible for services 12452
from the county board. No county board shall pass the cost of a 12453
fee charged to the county board under this section on to another 12454
provider of these services. 12455

(B) The fees collected under this section shall be deposited 12456
into the ~~ODMR/DD~~ ODDD administration and oversight fund and the 12457
ODJFS administration and oversight fund, both of which are hereby 12458
created in the state treasury. The portion of the fees to be 12459
deposited into the ~~ODMR/DD~~ ODDD administration and oversight fund 12460
and the portion of the fees to be deposited into the ODJFS 12461
administration and oversight fund shall be the portion specified 12462
in an interagency agreement entered into under division (C) of 12463
this section. The department of ~~mental retardation and~~ 12464
developmental disabilities shall use the money in the ~~ODMR/DD~~ ODDD 12465
administration and oversight fund and the department of job and 12466
family services shall use the money in the ODJFS administration 12467
and oversight fund for both of the following purposes: 12468

(1) The administrative and oversight costs of medicaid case 12469
management services and home and community-based services. The 12470
administrative and oversight costs shall include costs for staff, 12471
systems, and other resources the departments need and dedicate 12472
solely to the following duties associated with the services: 12473

- (a) Eligibility determinations; 12474
- (b) Training; 12475
- (c) Fiscal management; 12476
- (d) Claims processing; 12477
- (e) Quality assurance oversight; 12478
- (f) Other duties the departments identify. 12479

(2) Providing technical support to county boards' local 12480
administrative authority under section 5126.055 of the Revised 12481
Code for the services. 12482

(C) The departments of ~~mental retardation and~~ developmental 12483
disabilities and job and family services shall enter into an 12484
interagency agreement to do both of the following: 12485

(1) Specify which portion of the fees collected under this section is to be deposited into the ~~ODMR/DD~~ ODDD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;

(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ~~ODMR/DD~~ ODDD administration and oversight fund and the ODJFS administration and oversight fund.

(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ~~ODMR/DD~~ ODDD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.

Sec. 5123.0413. (A) The department of ~~mental retardation and~~ developmental disabilities, in consultation with the department of job and family services, office of budget and management, and county boards of mental retardation and developmental disabilities, shall adopt rules in accordance with Chapter 119. of the Revised Code no later than January 1, 2002, establishing a method of paying for extraordinary costs, including extraordinary costs for services to individuals with mental retardation or other developmental disability, and ensure the availability of adequate funds in the event a county property tax levy for services for individuals with mental retardation or other developmental disability fails. The rules may provide for using and managing either or both of the following:

(1) A state ~~MR/DD~~ developmental disabilities risk fund, which is hereby created in the state treasury;

(2) A state insurance against ~~MR/DD~~ developmental disabilities risk fund, which is hereby created in the state treasury.

(B) Beginning January 1, 2002, the department of job and family services may not request approval from the United States secretary of health and human services to increase the number of slots for home and community-based services until the rules required by division (A) of this section are in effect.

Sec. 5123.0414. (A) When the director of ~~mental retardation~~ and developmental disabilities, under section 119.07 of the Revised Code, sends a party a notice by registered mail, return receipt requested, that the director intends to take action against the party authorized by section 5123.082, 5123.166, 5123.168, 5123.19, 5123.45, 5123.51, or 5126.25 of the Revised Code and the notice is returned to the director with an endorsement indicating that the notice was refused or unclaimed, the director shall resend the notice by ordinary mail to the party.

(B) If the original notice was refused, the notice shall be deemed received as of the date the director resends the notice.

(C) If the original notice was unclaimed, the notice shall be deemed received as of the date the director resends the notice unless, not later than thirty days after the date the director sent the original notice, the resent notice is returned to the director for failure of delivery.

If the notice concerns taking action under section 5123.51 of the Revised Code and the resent notice is returned to the director for failure of delivery not later than thirty days after the date the director sent the original notice, the director shall cause the notice to be published in a newspaper of general circulation in the county of the party's last known residence or business and shall mail a dated copy of the published notice to the party at the last known address. The notice shall be deemed received as of the date of the publication.

If the notice concerns taking action under section 5123.082, 12548
5123.166, 5123.168, 5123.19, 5123.45, or 5126.25 of the Revised 12549
Code and the resent notice is returned to the director for failure 12550
of delivery not later than thirty days after the date the director 12551
sent the original notice, the director shall resend the notice to 12552
the party a second time. The notice shall be deemed received as of 12553
the date the director resends the notice the second time. 12554

Sec. 5123.0415. As used in this section, "license" means a 12555
license, certificate, or evidence of registration. 12556

Each person and government entity that applies for or holds a 12557
valid license issued under section 5123.082, 5123.161, 5123.19, 12558
5123.45, 5126.25, or 5126.252 of the Revised Code shall notify the 12559
director of ~~mental retardation and~~ developmental disabilities of 12560
any change in the person or government entity's address. 12561

Sec. 5123.0416. (A) Subject to the availability of funds 12562
appropriated to the department of ~~mental retardation and~~ 12563
developmental disabilities for medicaid waiver state match, the 12564
department shall expend, in fiscal year 2009 and each fiscal year 12565
thereafter, not less than the amount appropriated in appropriation 12566
item 322-416, medicaid waiver - state match, in fiscal year 2008 12567
to do both of the following: 12568

(1) Pay the nonfederal share of medicaid expenditures for 12569
home and community-based services that section 5123.047 of the 12570
Revised Code requires the department to pay; 12571

(2) Assist county boards of mental retardation and 12572
developmental disabilities in paying the nonfederal share of 12573
medicaid expenditures for home and community-based services that 12574
section 5126.0510 of the Revised Code requires county boards to 12575
pay. 12576

(B) The department shall make the expenditures required by 12577

division (A)(2) of this section in the form of allocations to 12578
county boards or by other means. If the department makes the 12579
expenditures in the form of allocations, the process for making 12580
the allocations shall conform to a process the department shall 12581
establish after consulting with representatives of county boards. 12582

Sec. 5123.0417. (A) Using funds available under section 12583
5112.371 of the Revised Code, the director of ~~mental retardation~~ 12584
~~and~~ developmental disabilities shall establish one or more 12585
programs for individuals under twenty-one years of age who have 12586
intensive behavioral needs, including such individuals with a 12587
primary diagnosis of autism spectrum disorder. The programs may 12588
include one or more medicaid waiver components that the director 12589
administers pursuant to section 5111.871 of the Revised Code. The 12590
programs may do one or more of the following: 12591

(1) Establish models that incorporate elements common to 12592
effective intervention programs and evidence-based practices in 12593
services for children with intensive behavioral needs; 12594

(2) Design a template for individualized education plans and 12595
individual service plans that provide consistent intervention 12596
programs and evidence-based practices for the care and treatment 12597
of children with intensive behavioral needs; 12598

(3) Disseminate best practice guidelines for use by families 12599
of children with intensive behavioral needs and professionals 12600
working with such families; 12601

(4) Develop a transition planning model for effectively 12602
mainstreaming school-age children with intensive behavioral needs 12603
to their public school district; 12604

(5) Contribute to the field of early and effective 12605
identification and intervention programs for children with 12606
intensive behavioral needs by providing financial support for 12607

scholarly research and publication of clinical findings. 12608

(B) The director of ~~mental retardation and~~ developmental 12609
disabilities shall collaborate with the director of job and family 12610
services and consult with the executive director of the Ohio 12611
center for autism and low incidence and university-based programs 12612
that specialize in services for individuals with developmental 12613
disabilities when establishing programs under this section. 12614

Sec. 5123.05. The department of ~~mental retardation and~~ 12615
developmental disabilities may conduct audits of the services and 12616
programs that either receive funds through the department or are 12617
subject to regulation by the department. Audits shall be conducted 12618
in accordance with procedures prescribed by the department. 12619
Records created or received by the department in connection with 12620
an audit are not public records under section 149.43 of the 12621
Revised Code until a report of the audit is released by the 12622
department. 12623

Sec. 5123.051. (A) If the department of ~~mental retardation~~ 12624
~~and~~ developmental disabilities determines pursuant to an audit 12625
conducted under section 5123.05 of the Revised Code or a 12626
reconciliation conducted under section 5123.18 of the Revised Code 12627
that money is owed the state by a provider of a service or 12628
program, the department may enter into a payment agreement with 12629
the provider. The agreement shall include the following: 12630

(1) A schedule of installment payments whereby the money owed 12631
the state is to be paid in full within a period not to exceed one 12632
year; 12633

(2) A provision that the provider may pay the entire balance 12634
owed at any time during the term of the agreement; 12635

(3) A provision that if any installment is not paid in full 12636
within forty-five days after it is due, the entire balance owed is 12637

immediately due and payable; 12638

(4) Any other terms and conditions that are agreed to by the 12639
department and the provider. 12640

(B) The department may include a provision in a payment 12641
agreement that requires the provider to pay interest on the money 12642
owed the state. The department, in its discretion, shall determine 12643
whether to require the payment of interest and, if it so requires, 12644
the rate of interest. Neither the obligation to pay interest nor 12645
the rate of interest is subject to negotiation between the 12646
department and the provider. 12647

(C) If the provider fails to pay any installment in full 12648
within forty-five days after its due date, the department shall 12649
certify the entire balance owed to the attorney general for 12650
collection under section 131.02 of the Revised Code. The 12651
department may withhold funds from payments made to a provider 12652
under section 5123.18 of the Revised Code to satisfy a judgment 12653
secured by the attorney general. 12654

(D) The purchase of service fund is hereby created. Money 12655
credited to the fund shall be used solely for purposes of section 12656
5123.05 of the Revised Code. 12657

Sec. 5123.06. The director of ~~mental retardation and~~ 12658
developmental disabilities may establish divisions in the 12659
department of ~~mental retardation and~~ developmental disabilities 12660
and prescribe their powers and duties. 12661

Each division shall consist of a deputy director and the 12662
officers and employees, including those in institutions, necessary 12663
for the performance of the functions assigned to it. The director 12664
shall supervise the work of each division and be responsible for 12665
the determination of general policies in the exercise of powers 12666
vested in the department and powers assigned to each division. The 12667

deputy director of each division shall be responsible to the 12668
director for the organization, direction, and supervision of the 12669
work of the division and the exercise of the powers and the 12670
performance of the duties of the department assigned to the 12671
division, and, with the approval of the director, may establish 12672
bureaus or other administrative units in the division. 12673

Appointment to the position of deputy director of a division 12674
may be made from persons holding positions in the classified 12675
service in the department. 12676

The deputy director of each division shall be a person who 12677
has had special training and experience in the type of work with 12678
the performance of which the division is charged. 12679

Each deputy director of a division, under the director, shall 12680
have entire executive charge of the division to which the deputy 12681
director is appointed. Subject to sections 124.01 to 124.64 of the 12682
Revised Code, and civil service rules, the deputy director of a 12683
division shall, with the approval of the director, select and 12684
appoint the necessary employees in the deputy director's division 12685
and may remove those employees for cause. 12686

Sec. 5123.07. There may be created in the department of 12687
~~mental retardation and~~ developmental disabilities a bureau of 12688
research. The bureau shall: 12689

(A) Plan, direct, and coordinate all research programs 12690
conducted by the department; 12691

(B) Provide continuing evaluation of research programs; 12692

(C) Direct and coordinate scientific investigations and 12693
studies as undertaken under this section. 12694

The department shall institute and encourage scientific 12695
investigation by the staffs of the various institutions under its 12696
control and supervision, and publish bulletins and reports of the 12697

scientific and clinical work done in such institutions. Scientific 12698
investigation in the department shall be undertaken and continued 12699
only with the approval of the director of ~~mental retardation and~~ 12700
developmental disabilities. 12701

Sec. 5123.08. An appointing officer may appoint a person who 12702
holds a certified position in the classified service within the 12703
department of ~~mental retardation and~~ developmental disabilities to 12704
a position in the unclassified service within the department. A 12705
person appointed pursuant to this section to a position in the 12706
unclassified service shall retain the right to resume the position 12707
and status held by the person in the classified service 12708
immediately prior to the person's appointment to the position in 12709
the unclassified service, regardless of the number of positions 12710
the person held in the unclassified service. An employee's right 12711
to resume a position in the classified service may only be 12712
exercised when an appointing authority demotes the employee to a 12713
pay range lower than the employee's current pay range or revokes 12714
the employee's appointment to the unclassified service. An 12715
employee forfeits the right to resume a position in the classified 12716
service when the employee is removed from the position in the 12717
unclassified service due to incompetence, inefficiency, 12718
dishonesty, drunkenness, immoral conduct, insubordination, 12719
discourteous treatment of the public, neglect of duty, violation 12720
of this chapter or Chapter 124. of the Revised Code, the rules of 12721
the director of ~~mental retardation and~~ developmental disabilities 12722
or the director of administrative services, any other failure of 12723
good behavior, any other acts of misfeasance, malfeasance, or 12724
nonfeasance in office, or conviction of a felony. An employee also 12725
forfeits the right to resume a position in the classified service 12726
upon transfer to a different agency. 12727

Reinstatement to a position in the classified service shall 12728
be to a position substantially equal to that position in the 12729

classified service held previously, as certified by the director 12730
of administrative services. If the position the person previously 12731
held in the classified service has been placed in the unclassified 12732
service or is otherwise unavailable, the person shall be appointed 12733
to a position in the classified service within the department that 12734
the director of administrative services certifies is comparable in 12735
compensation to the position the person previously held in the 12736
classified service. Service in the position in the unclassified 12737
service shall be counted as service in the position in the 12738
classified service held by the person immediately prior to the 12739
person's appointment to the position in the unclassified service. 12740
When a person is reinstated to a position in the classified 12741
service as provided in this section, the person is entitled to all 12742
rights, status, and benefits accruing to the position in the 12743
classified service during the time of the person's service in the 12744
position in the unclassified service. 12745

Sec. 5123.081. (A) As used in this section: 12746

(1) "Applicant" means a person who is under final 12747
consideration for appointment to or employment with the department 12748
of ~~mental retardation and~~ developmental disabilities, including, 12749
but not limited to, a person who is being transferred to the 12750
department and an employee who is being recalled or reemployed 12751
after a layoff. 12752

(2) "Criminal records check" has the same meaning as in 12753
section 109.572 of the Revised Code. 12754

(3) "Minor drug possession offense" has the same meaning as 12755
in section 2925.01 of the Revised Code. 12756

(B) The director of ~~mental retardation and~~ developmental 12757
disabilities shall request the superintendent of the bureau of 12758
criminal identification and investigation to conduct a criminal 12759
records check with respect to each applicant, except that the 12760

director is not required to request a criminal records check for 12761
an employee of the department who is being considered for a 12762
different position or is returning after a leave of absence or 12763
seasonal break in employment, as long as the director has no 12764
reason to believe that the employee has committed any of the 12765
offenses listed or described in division (E) of this section. 12766

If the applicant does not present proof that the applicant 12767
has been a resident of this state for the five-year period 12768
immediately prior to the date upon which the criminal records 12769
check is requested, the director shall request that the 12770
superintendent of the bureau obtain information from the federal 12771
bureau of investigation as a part of the criminal records check 12772
for the applicant. If the applicant presents proof that the 12773
applicant has been a resident of this state for that five-year 12774
period, the director may request that the superintendent of the 12775
bureau include information from the federal bureau of 12776
investigation in the criminal records check. For purposes of this 12777
division, an applicant may provide proof of residency in this 12778
state by presenting, with a notarized statement asserting that the 12779
applicant has been a resident of this state for that five-year 12780
period, a valid driver's license, notification of registration as 12781
an elector, a copy of an officially filed federal or state tax 12782
form identifying the applicant's permanent residence, or any other 12783
document the director considers acceptable. 12784

(C) The director shall provide to each applicant a copy of 12785
the form prescribed pursuant to division (C)(1) of section 109.572 12786
of the Revised Code, provide to each applicant a standard 12787
impression sheet to obtain fingerprint impressions prescribed 12788
pursuant to division (C)(2) of section 109.572 of the Revised 12789
Code, obtain the completed form and impression sheet from each 12790
applicant, and forward the completed form and impression sheet to 12791
the superintendent of the bureau of criminal identification and 12792

investigation at the time the criminal records check is requested. 12793

Any applicant who receives pursuant to this division a copy 12794
of the form prescribed pursuant to division (C)(1) of section 12795
109.572 of the Revised Code and a copy of an impression sheet 12796
prescribed pursuant to division (C)(2) of that section and who is 12797
requested to complete the form and provide a set of fingerprint 12798
impressions shall complete the form or provide all the information 12799
necessary to complete the form and shall provide the material with 12800
the impressions of the applicant's fingerprints. If an applicant, 12801
upon request, fails to provide the information necessary to 12802
complete the form or fails to provide impressions of the 12803
applicant's fingerprints, the director shall not employ the 12804
applicant. 12805

(D) The director may request any other state or federal 12806
agency to supply the director with a written report regarding the 12807
criminal record of each applicant. With regard to an applicant who 12808
becomes a department employee, if the employee holds an 12809
occupational or professional license or other credentials, the 12810
director may request that the state or federal agency that 12811
regulates the employee's occupation or profession supply the 12812
director with a written report of any information pertaining to 12813
the employee's criminal record that the agency obtains in the 12814
course of conducting an investigation or in the process of 12815
renewing the employee's license or other credentials. 12816

(E) Except as provided in division (K)(2) of this section and 12817
in rules adopted by the director in accordance with division (M) 12818
of this section, the director shall not employ a person to fill a 12819
position with the department who has been convicted of or pleaded 12820
guilty to any of the following: 12821

(1) A violation of section 2903.01, 2903.02, 2903.03, 12822
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 12823
2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 12824

2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 12825
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 12826
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 12827
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 12828
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of 12829
section 2905.04 of the Revised Code as it existed prior to July 1, 12830
1996, a violation of section 2919.23 of the Revised Code that 12831
would have been a violation of section 2905.04 of the Revised Code 12832
as it existed prior to July 1, 1996, had the violation occurred 12833
prior to that date, a violation of section 2925.11 of the Revised 12834
Code that is not a minor drug possession offense, or felonious 12835
sexual penetration in violation of former section 2907.12 of the 12836
Revised Code; 12837

(2) A felony contained in the Revised Code that is not listed 12838
in this division, if the felony bears a direct and substantial 12839
relationship to the duties and responsibilities of the position 12840
being filled; 12841

(3) Any offense contained in the Revised Code constituting a 12842
misdemeanor of the first degree on the first offense and a felony 12843
on a subsequent offense, if the offense bears a direct and 12844
substantial relationship to the position being filled and the 12845
nature of the services being provided by the department; 12846

(4) A violation of an existing or former municipal ordinance 12847
or law of this state, any other state, or the United States, if 12848
the offense is substantially equivalent to any of the offenses 12849
listed or described in division (E)(1), (2), or (3) of this 12850
section. 12851

(F) Prior to employing an applicant, the director shall 12852
require the applicant to submit a statement with the applicant's 12853
signature attesting that the applicant has not been convicted of 12854
or pleaded guilty to any of the offenses listed or described in 12855
division (E) of this section. The director also shall require the 12856

applicant to sign an agreement under which the applicant agrees to 12857
notify the director within fourteen calendar days if, while 12858
employed with the department, the applicant is ever formally 12859
charged with, convicted of, or pleads guilty to any of the 12860
offenses listed or described in division (E) of this section. The 12861
agreement shall inform the applicant that failure to report formal 12862
charges, a conviction, or a guilty plea may result in being 12863
dismissed from employment. 12864

(G) The director shall pay to the bureau of criminal 12865
identification and investigation the fee prescribed pursuant to 12866
division (C)(3) of section 109.572 of the Revised Code for each 12867
criminal records check requested and conducted pursuant to this 12868
section. 12869

(H)(1) Any report obtained pursuant to this section is not a 12870
public record for purposes of section 149.43 of the Revised Code 12871
and shall not be made available to any person, other than the 12872
applicant who is the subject of the records check or criminal 12873
records check or the applicant's representative, the department or 12874
its representative, a county board of mental retardation and 12875
developmental disabilities, and any court, hearing officer, or 12876
other necessary individual involved in a case dealing with the 12877
denial of employment to the applicant or the denial, suspension, 12878
or revocation of a certificate or evidence of registration under 12879
section 5123.082 of the Revised Code. 12880

(2) An individual for whom the director has obtained reports 12881
under this section may submit a written request to the director to 12882
have copies of the reports sent to any state agency, entity of 12883
local government, or private entity. The individual shall specify 12884
in the request the agencies or entities to which the copies are to 12885
be sent. On receiving the request, the director shall send copies 12886
of the reports to the agencies or entities specified. 12887

The director may request that a state agency, entity of local 12888

government, or private entity send copies to the director of any 12889
report regarding a records check or criminal records check that 12890
the agency or entity possesses, if the director obtains the 12891
written consent of the individual who is the subject of the 12892
report. 12893

(I) The director shall request the registrar of motor 12894
vehicles to supply the director with a certified abstract 12895
regarding the record of convictions for violations of motor 12896
vehicle laws of each applicant who will be required by the 12897
applicant's employment to transport individuals with mental 12898
retardation or a developmental disability or to operate the 12899
department's vehicles for any other purpose. For each abstract 12900
provided under this section, the director shall pay the amount 12901
specified in section 4509.05 of the Revised Code. 12902

(J) The director shall provide each applicant with a copy of 12903
any report or abstract obtained about the applicant under this 12904
section. 12905

(K)(1) The director shall inform each person, at the time of 12906
the person's initial application for employment, that the person 12907
is required to provide a set of impressions of the person's 12908
fingerprints and that a criminal records check is required to be 12909
conducted and satisfactorily completed in accordance with section 12910
109.572 of the Revised Code if the person comes under final 12911
consideration for employment as a precondition to employment in a 12912
position. 12913

(2) The director may employ an applicant pending receipt of 12914
reports requested under this section. The director shall terminate 12915
employment of any such applicant if it is determined from the 12916
reports that the applicant failed to inform the director that the 12917
applicant had been convicted of or pleaded guilty to any of the 12918
offenses listed or described in division (E) of this section. 12919

(L) The director may charge an applicant a fee for costs the director incurs in obtaining reports, abstracts, or fingerprint impressions under this section. A fee charged under this division shall not exceed the amount of the fees the director pays under divisions (G) and (I) of this section. If a fee is charged under this division, the director shall notify the applicant of the amount of the fee at the time of the applicant's initial application for employment and that, unless the fee is paid, the director will not consider the applicant for employment.

(M) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which the director may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (E) of this section but who meets standards in regard to rehabilitation set by the director.

Sec. 5123.082. (A) The director of ~~mental retardation and~~ developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code:

(1) Designating positions of employment for which the director determines that certification or evidence of registration is required as a condition of employment in the department of ~~mental retardation and~~ developmental disabilities, entities that contract with the department or county boards of mental retardation and developmental disabilities to operate programs or provide services to persons with mental retardation and developmental disabilities, or other positions of employment in programs that serve those persons. The rules shall designate the position of investigative agent, as defined in section 5126.20 of the Revised Code, as a position for which certification is required.

(2) Establishing levels of certification or registration for

each position for which certification or registration is required; 12951

(3) Establishing for each level of each position the 12952
requirements that must be met to obtain certification or 12953
registration, including standards regarding education, specialized 12954
training, and experience. The standards shall take into account 12955
the nature and needs of persons with mental retardation or a 12956
developmental disability and the specialized techniques needed to 12957
serve them. The requirements for an investigative agent shall be 12958
the same as the certification requirements for an investigative 12959
agent under section 5126.25 of the Revised Code. 12960

(4) Establishing renewal schedules and renewal requirements 12961
for certification and registration, including standards regarding 12962
education, specialized training, and experience. The renewal 12963
requirements for an investigative agent shall be the same as the 12964
renewal requirements for an investigative agent under section 12965
5126.25 of the Revised Code. 12966

(5) Establishing procedures for denial, suspension, and 12967
revocation of a certificate or evidence of registration, including 12968
appeal procedures; 12969

(6) Establishing other requirements needed to carry out this 12970
section. 12971

(B) The director shall issue, renew, deny, suspend, or revoke 12972
a certificate or evidence of registration in accordance with rules 12973
adopted under this section. The director shall deny, suspend, or 12974
revoke a certificate or evidence of registration if the director 12975
finds, pursuant to an adjudication conducted in accordance with 12976
Chapter 119. of the Revised Code, that an applicant for or holder 12977
of a certificate or evidence of registration is guilty of 12978
intemperate, immoral, or other conduct unbecoming to the 12979
applicant's or holder's position, or is guilty of incompetence or 12980
negligence within the scope of the applicant's or holder's duties. 12981

The director shall deny or revoke a certificate or evidence of registration after the director finds, pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code, that the applicant for or holder of the certificate or evidence of registration has been convicted of or pleaded guilty to any of the offenses listed or described in division (E) of section 5126.28 of the Revised Code, unless the individual meets standards for rehabilitation that the director establishes in the rules adopted under that section. Evidence supporting such allegations must be presented to the director in writing, and the director shall provide prompt notice of the allegations to the person who is the subject of the allegations. A denial, suspension, or revocation may be appealed in accordance with the procedures established in rules adopted under this section.

(C) A person holding a valid certificate or evidence of registration under this section on the effective date of any rules adopted under this section that increase the certification or registration standards shall have the period that the rules prescribe, but not less than one year after the effective date of the rules, to meet the new standards.

(D) No person shall be employed in a position for which certification or registration is required under rules adopted under this section, unless the person holds a valid certificate or evidence of registration for the position.

Sec. 5123.083. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the director of ~~mental retardation~~ and developmental disabilities shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate or evidence of registration issued pursuant to this chapter.

Sec. 5123.09. Subject to the rules of the department of 13013
~~mental retardation and~~ developmental disabilities, each 13014
institution under the jurisdiction of the department shall be 13015
under the control of a managing officer to be known as a 13016
superintendent or by other appropriate title. The managing officer 13017
shall be appointed by the director of ~~mental retardation and~~ 13018
developmental disabilities and shall be in the unclassified 13019
service and serve at the pleasure of the director. Each managing 13020
officer shall be of good moral character and have skill, ability, 13021
and experience in the managing officer's profession. Appointment 13022
to the position of managing officer of an institution may be made 13023
from persons holding positions in the classified service in the 13024
department. 13025

The managing officer, under the director, shall have entire 13026
executive charge of the institution for which the managing officer 13027
is appointed, except as provided in section 5119.16 of the Revised 13028
Code. Subject to civil service rules and rules adopted by the 13029
department, the managing officer shall appoint the necessary 13030
employees, and the managing officer or the director may remove 13031
those employees for cause. A report of all appointments, 13032
resignations, and discharges shall be filed with the appropriate 13033
division at the close of each month. 13034

After conference with the managing officer of each 13035
institution, the director shall determine the number of employees 13036
to be appointed to the various institutions and clinics. 13037

Sec. 5123.091. The director of ~~mental retardation and~~ 13038
developmental disabilities may, by rule and with the approval of 13039
the governor, change the purpose for which any institution under 13040
the control of the department is being used. The director may 13041
designate a new or another use for the institution, provided the 13042
change of use and new designation has for its objective 13043

improvement in the classification, segregation, care, education, 13044
cure, or rehabilitation of the persons admitted. 13045

Sec. 5123.092. (A) There is hereby established at each 13046
institution and branch institution under the control of the 13047
department of ~~mental retardation and~~ developmental disabilities a 13048
citizen's advisory council consisting of thirteen members. At 13049
least seven of the members shall be persons who are not providers 13050
of mental retardation services. Each council shall include parents 13051
or other relatives of residents of institutions under the control 13052
of the department, community leaders, professional persons in 13053
relevant fields, and persons who have an interest in or knowledge 13054
of mental retardation. The managing officer of the institution 13055
shall be a nonvoting member of the council. 13056

(B) The director of ~~mental retardation and~~ developmental 13057
disabilities shall be the appointing authority for the voting 13058
members of each citizen's advisory council. Each time the term of 13059
a voting member expires, the remaining members of the council 13060
shall recommend to the director one or more persons to serve on 13061
the council. The director may accept a nominee of the council or 13062
reject the nominee or nominees. If the director rejects the 13063
nominee or nominees, the remaining members of the advisory council 13064
shall further recommend to the director one or more other persons 13065
to serve on the advisory council. This procedure shall continue 13066
until a member is appointed to the advisory council. 13067

Each advisory council shall elect from its appointed members 13068
a chairperson, vice-chairperson, and a secretary to serve for 13069
terms of one year. Advisory council officers shall not serve for 13070
more than two consecutive terms in the same office. A majority of 13071
the advisory council members constitutes a quorum. 13072

(C) Terms of office shall be for three years, each term 13073
ending on the same day of the same month of the year as did the 13074

term which it succeeds. No member shall serve more than two 13075
consecutive terms, except that any former member may be appointed 13076
if one year or longer has elapsed since the member served two 13077
consecutive terms. Each member shall hold office from the date of 13078
appointment until the end of the term for which the member was 13079
appointed. Any vacancy shall be filled in the same manner in which 13080
the original appointment was made, and the appointee to a vacancy 13081
in an unexpired term shall serve the balance of the term of the 13082
original appointee. Any member shall continue in office subsequent 13083
to the expiration date of the member's term until the member's 13084
successor takes office, or until a period of sixty days has 13085
elapsed, whichever occurs first. 13086

(D) Members shall be expected to attend all meetings of the 13087
advisory council. Unexcused absence from two successive regularly 13088
scheduled meetings shall be considered prima-facie evidence of 13089
intent not to continue as a member. The chairperson of the board 13090
shall, after a member has been absent for two successive regularly 13091
scheduled meetings, direct a letter to the member asking if the 13092
member wishes to remain in membership. If an affirmative reply is 13093
received, the member shall be retained as a member except that, 13094
if, after having expressed a desire to remain a member, the member 13095
then misses a third successive regularly scheduled meeting without 13096
being excused, the chairperson shall terminate the member's 13097
membership. 13098

(E) A citizen's advisory council shall meet six times 13099
annually, or more frequently if three council members request the 13100
chairperson to call a meeting. The council shall keep minutes of 13101
each meeting and shall submit them to the managing officer of the 13102
institution with which the council is associated, the department 13103
of ~~mental retardation and~~ developmental disabilities, and the 13104
legal rights service. 13105

(F) Members of citizen's advisory councils shall receive no 13106

compensation for their services, except that they shall be 13107
reimbursed for their actual and necessary expenses incurred in the 13108
performance of their official duties by the institution with which 13109
they are associated from funds allocated to it, provided that 13110
reimbursement for those expenses shall not exceed limits imposed 13111
upon the department of ~~mental retardation and~~ developmental 13112
disabilities by administrative rules regulating travel within this 13113
state. 13114

(G) The councils shall have reasonable access to all patient 13115
treatment and living areas and records of the institution, except 13116
those records of a strictly personal or confidential nature. The 13117
councils shall have access to a patient's personal records with 13118
the consent of the patient or the patient's legal guardian or, if 13119
the patient is a minor, with the consent of the parent or legal 13120
guardian of the patient. 13121

(H) As used in this section, "branch institution" means a 13122
facility that is located apart from an institution and is under 13123
the control of the managing officer of the institution. 13124

Sec. 5123.093. The citizen's advisory councils established 13125
under section 5123.092 of the Revised Code shall: 13126

(A) Transmit verbal or written information from any person or 13127
organization associated with the institution or within the 13128
community, that an advisory council considers important, to the 13129
joint council on ~~mental retardation and~~ developmental disabilities 13130
created by section 101.37 of the Revised Code and the director of 13131
~~mental retardation and~~ developmental disabilities; 13132

(B) Review the records of all applicants to any unclassified 13133
position at the institution, except for resident physician 13134
positions filled under section 5123.11 of the Revised Code; 13135

(C) Review and evaluate institutional employee training and 13136

continuing education programs; 13137

(D) On or before the thirty-first day of January of each 13138
year, submit a written report to the joint council on ~~mental~~ 13139
~~retardation and~~ developmental disabilities and the director of 13140
~~mental retardation and~~ developmental disabilities regarding 13141
matters affecting the institution including, but not limited to, 13142
allegations of dehumanizing practices and violations of individual 13143
or legal rights; 13144

(E) Review institutional budgets, programs, services, and 13145
planning; 13146

(F) Develop and maintain relationships within the community 13147
with community mental retardation and developmental disabilities 13148
organizations; 13149

(G) Participate in the formulation of the institution's 13150
objectives, administrative procedures, program philosophy, and 13151
long range goals; 13152

(H) Bring any matter that an advisory council considers 13153
important to the attention of the joint council on ~~mental~~ 13154
~~retardation and~~ developmental disabilities and the director of 13155
~~mental retardation and~~ developmental disabilities; 13156

(I) Recommend to the director of ~~mental retardation and~~ 13157
developmental disabilities persons for appointment to citizen's 13158
advisory councils; 13159

(J) Adopt any rules or procedures necessary to carry out this 13160
section. 13161

The chairperson of the advisory council or the chairperson's 13162
designee shall be notified within twenty-four hours of any alleged 13163
incident of abuse to a resident or staff member by anyone. 13164
Incidents of resident or staff abuse shall include, but not be 13165
limited to, sudden deaths, accidents, suicides, attempted 13166

suicides, injury caused by other persons, alleged criminal acts, 13167
errors in prescribing or administering medication, theft from 13168
clients, fires, epidemic disease, administering unprescribed 13169
drugs, unauthorized use of restraint, withholding of information 13170
concerning alleged abuse, neglect, or any deprivation of rights as 13171
defined in Chapter 5122. or 5123. of the Revised Code. 13172

Sec. 5123.10. The department of ~~mental retardation and~~ 13173
developmental disabilities shall require any of its employees and 13174
each officer and employee of every institution under its control 13175
who may be charged with custody or control of any money or 13176
property belonging to the state or who is required to give bond to 13177
give a surety company bond, properly conditioned, in a sum to be 13178
fixed by the department which, when approved by the department, 13179
shall be filed in the office of the secretary of state. The cost 13180
of such bonds, when approved by the department, shall be paid from 13181
funds available for the department. The bonds required or 13182
authorized by this section may, in the discretion of the director 13183
of ~~mental retardation and~~ developmental disabilities, be 13184
individual, schedule, or blanket bonds. 13185

Sec. 5123.11. (A) The director of ~~mental retardation and~~ 13186
developmental disabilities may enter into an agreement with the 13187
boards of trustees or boards of directors of two or more 13188
universities in which there is a college of medicine or college of 13189
osteopathic medicine, or of two or more colleges of medicine or 13190
colleges of osteopathic medicine, or any combination of those 13191
universities and colleges, to establish, manage, and conduct 13192
residency medical training programs. The agreement may also 13193
provide for clinical clerkships for medical students. The director 13194
shall also enter into an agreement with the boards of trustees or 13195
boards of directors of one or more universities in which there is 13196
a school of professional psychology to establish, manage, and 13197

conduct residency psychological training programs. 13198

(B) The department shall pay all costs incurred by a 13199
university or college that relate directly to the training of 13200
resident physicians or psychologists in programs developed under 13201
this section. The director of ~~mental retardation and~~ developmental 13202
disabilities shall ensure that any procedures and limitations 13203
imposed for the purpose of reimbursing universities or colleges, 13204
or for direct payment of residents' salaries, are incorporated 13205
into agreements between the department and the universities or 13206
colleges. Any agreement shall provide that residency training for 13207
a physician shall not exceed four calendar years. 13208

Sec. 5123.12. The director of ~~mental retardation and~~ 13209
developmental disabilities may enter into an agreement with boards 13210
of trustees or boards of directors of one or more universities, 13211
colleges, or schools to establish, manage, and conduct residency 13212
training programs for students enrolled in courses of studies for 13213
occupations or professions which may be determined by the director 13214
to be needed by the department to provide adequate care and 13215
treatment for the residents of any institution administered by the 13216
director. 13217

Sec. 5123.122. Notwithstanding section 5121.04 of the Revised 13218
Code and except as provided in section 5123.194 of the Revised 13219
Code, the liable relative of a mentally retarded or 13220
developmentally disabled person who is a minor receiving 13221
residential services pursuant to a contract entered into with the 13222
department of ~~mental retardation and~~ developmental disabilities 13223
under section 5123.18 of the Revised Code shall be charged for the 13224
minor's support the percentage of a base support rate determined 13225
in accordance with division (B)(2) of section 5121.04 of the 13226
Revised Code. 13227

Sec. 5123.13. (A) As used in this section, "felony" has the 13228
same meaning as in section 109.511 of the Revised Code. 13229

(B)(1) Subject to division (C) of this section, upon the 13230
recommendation of the director of ~~mental retardation and~~ 13231
developmental disabilities, the managing officer of an institution 13232
under the jurisdiction of the department of ~~mental retardation and~~ 13233
developmental disabilities may designate one or more employees to 13234
be special police officers of the department. The special police 13235
officers shall take an oath of office, wear the badge of office, 13236
and give bond for the proper and faithful discharge of their 13237
duties in an amount that the director requires. 13238

(2) In accordance with section 109.77 of the Revised Code, 13239
the special police officers shall be required to complete 13240
successfully a peace officer basic training program approved by 13241
the Ohio peace officer training commission and to be certified by 13242
the commission. The cost of the training shall be paid by the 13243
department of ~~mental retardation and~~ developmental disabilities. 13244

(3) Special police officers, on the premises of institutions 13245
under the jurisdiction of the department of ~~mental retardation and~~ 13246
developmental disabilities and subject to the rules of the 13247
department, shall protect the property of the institutions and the 13248
persons and property of patients in the institutions, suppress 13249
riots, disturbances, and breaches of the peace, and enforce the 13250
laws of the state and the rules of the department for the 13251
preservation of good order. They may arrest any person without a 13252
warrant and detain the person until a warrant can be obtained 13253
under the circumstances described in division (F) of section 13254
2935.03 of the Revised Code. 13255

(C)(1) The managing officer of an institution under the 13256
jurisdiction of the department of ~~mental retardation and~~ 13257
developmental disabilities shall not designate an employee as a 13258

special police officer of the department pursuant to division 13259
(B)(1) of this section on a permanent basis, on a temporary basis, 13260
for a probationary term, or on other than a permanent basis if the 13261
employee previously has been convicted of or has pleaded guilty to 13262
a felony. 13263

(2)(a) The managing officer of an institution under the 13264
jurisdiction of the department of ~~mental retardation and~~ 13265
developmental disabilities shall terminate the employment as a 13266
special police officer of the department of an employee designated 13267
as a special police officer under division (B)(1) of this section 13268
if that employee does either of the following: 13269

(i) Pleads guilty to a felony; 13270

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 13271
plea agreement as provided in division (D) of section 2929.43 of 13272
the Revised Code in which the employee agrees to surrender the 13273
certificate awarded to that employee under section 109.77 of the 13274
Revised Code. 13275

(b) The managing officer shall suspend from employment as a 13276
special police officer of the department an employee designated as 13277
a special police officer under division (B)(1) of this section if 13278
that employee is convicted, after trial, of a felony. If the 13279
special police officer files an appeal from that conviction and 13280
the conviction is upheld by the highest court to which the appeal 13281
is taken or if the special police officer does not file a timely 13282
appeal, the managing officer shall terminate the employment of 13283
that special police officer. If the special police officer files 13284
an appeal that results in that special police officer's acquittal 13285
of the felony or conviction of a misdemeanor, or in the dismissal 13286
of the felony charge against that special police officer, the 13287
managing officer shall reinstate that special police officer. A 13288
special police officer of the department who is reinstated under 13289
division (C)(2)(b) of this section shall not receive any back pay 13290

unless that special police officer's conviction of the felony was 13291
reversed on appeal, or the felony charge was dismissed, because 13292
the court found insufficient evidence to convict the special 13293
police officer of the felony. 13294

(3) Division (C) of this section does not apply regarding an 13295
offense that was committed prior to January 1, 1997. 13296

(4) The suspension from employment, or the termination of the 13297
employment, of a special police officer under division (C)(2) of 13298
this section shall be in accordance with Chapter 119. of the 13299
Revised Code. 13300

Sec. 5123.14. The department of ~~mental retardation and~~ 13301
developmental disabilities may make such investigations as are 13302
necessary in the performance of its duties and to that end the 13303
director of ~~mental retardation and~~ developmental disabilities 13304
shall have the same power as a judge of a county court to 13305
administer oaths and to enforce the attendance and testimony of 13306
witnesses and the production of books or papers. 13307

The department shall keep a record of such investigations 13308
stating the time, place, charges or subject, witnesses summoned 13309
and examined, and its conclusions. 13310

In matters involving the conduct of an officer, a 13311
stenographic report of the evidence shall be taken and a copy of 13312
such report, with all documents introduced, kept on file at the 13313
office of the department. 13314

The fees of witnesses for attendance and travel shall be the 13315
same as in the court of common pleas, but no officer or employee 13316
of the institution under investigation is entitled to such fees. 13317

Any judge of the probate court or of the court of common 13318
pleas, upon application of the department, may compel the 13319
attendance of witnesses, the production of books or papers, and 13320

the giving of testimony before the department, by a judgment for 13321
contempt or otherwise, in the same manner as in cases before said 13322
courts. 13323

Sec. 5123.15. The department of ~~mental retardation and~~ 13324
developmental disabilities may appoint and commission any 13325
competent agency or person, to serve without compensation, as a 13326
special agent, investigator, or representative to perform a 13327
designated duty for and in behalf of the department. Specific 13328
credentials shall be given by the department to each person so 13329
designated, and each credential shall state the: 13330

(A) Name; 13331

(B) Agency with which such person is connected; 13332

(C) Purpose of appointment; 13333

(D) Date of expiration of appointment; 13334

(E) Such information as the department considers proper. 13335

Sec. 5123.16. (A) As used in sections 5123.16 to 5123.169 of 13336
the Revised Code: 13337

(1) "Provider" means a person or government entity certified 13338
by the director of ~~mental retardation and~~ developmental 13339
disabilities to provide supported living. 13340

(2) "Related party" means any of the following: 13341

(a) In the case of a provider who is an individual, any of 13342
the following: 13343

(i) The spouse of the provider; 13344

(ii) A parent or stepparent of the provider or provider's 13345
spouse; 13346

(iii) A child of the provider or provider's spouse; 13347

(iv) A sibling, half sibling, or stepsibling of the provider	13348
or provider's spouse;	13349
(v) A grandparent of the provider or provider's spouse;	13350
(vi) A grandchild of the provider or provider's spouse;	13351
(vii) An employee or employer of the provider or provider's	13352
spouse.	13353
(b) In the case of a provider that is a person other than an	13354
individual, any of the following:	13355
(i) An employee of the person;	13356
(ii) An officer of the provider, including the chief	13357
executive officer, president, vice-president, secretary, and	13358
treasurer;	13359
(iii) A member of the provider's board of directors or	13360
trustees;	13361
(iv) A person owning a financial interest of five per cent or	13362
more in the provider;	13363
(v) A corporation that has a subsidiary relationship with the	13364
provider;	13365
(vi) A person or government entity that has control over the	13366
provider's day-to-day operation;	13367
(vii) A person over which the provider has control of the	13368
day-to-day operation.	13369
(c) In the case of a provider that is a government entity,	13370
any of the following:	13371
(i) An employee of the provider;	13372
(ii) An officer of the provider;	13373
(iii) A member of the provider's governing board;	13374
(iv) A government entity that has control over the provider's	13375

day-to-day operation; 13376

(v) A person or government entity over which the provider has control of the day-to-day operation. 13377
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(B) No person or government entity may provide supported living without a valid supported living certificate issued by the director of ~~mental retardation and~~ developmental disabilities. 13379
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(C) A county board of mental retardation and developmental disabilities may provide supported living only to the extent permitted by rules adopted under section 5123.169 of the Revised Code. 13382
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Sec. 5123.161. A person or government entity that seeks to provide supported living shall apply to the director of ~~mental retardation and~~ developmental disabilities for a supported living certificate. 13386
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Except as provided in section 5123.166 of the Revised Code, the director shall issue the applicant a supported living certificate if the applicant follows the application process established in rules adopted under section 5123.169 of the Revised Code, meets the applicable certification standards established in those rules, and pays the certification fee established in those rules. 13390
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Sec. 5123.162. The director of ~~mental retardation and~~ developmental disabilities may conduct surveys of persons and government entities that seek a supported living certificate to determine whether the persons and government entities meet the certification standards. The director may also conduct surveys of providers to determine whether the providers continue to meet the certification standards. The director shall conduct the surveys in accordance with rules adopted under section 5123.169 of the Revised Code. 13397
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The records of surveys conducted under this section are 13406
public records for the purpose of section 149.43 of the Revised 13407
Code and shall be made available on the request of any person or 13408
government entity. 13409

Sec. 5123.163. A supported living certificate is valid for a 13410
period of time established in rules adopted under section 5123.169 13411
of the Revised Code, unless any of the following occur before the 13412
end of that period of time: 13413

(A) The director of ~~mental retardation and~~ developmental 13414
disabilities issues an order requiring that action be taken 13415
against the certificate holder under section 5123.166 of the 13416
Revised Code. 13417

(B) The director issues an order terminating the certificate 13418
under section 5123.168 of the Revised Code. 13419

(C) The certificate holder voluntarily surrenders the 13420
certificate to the director. 13421

Sec. 5123.164. Except as provided in section 5123.166 of the 13422
Revised Code, the director of ~~mental retardation and~~ developmental 13423
disabilities shall renew a supported living certificate if the 13424
certificate holder follows the renewal process established in 13425
rules adopted under section 5123.169 of the Revised Code, 13426
continues to meet the applicable certification standards 13427
established in those rules, and pays the renewal fee established 13428
in those rules. 13429

Sec. 5123.166. (A) If good cause exists as specified in 13430
division (B) of this section and determined in accordance with 13431
procedures established in rules adopted under section 5123.169 of 13432
the Revised Code, the director of ~~mental retardation and~~ 13433
developmental disabilities may issue an adjudication order 13434

requiring that one of the following actions be taken against a	13435
person or government entity seeking or holding a supported living	13436
certificate:	13437
(1) Refusal to issue or renew a supported living certificate;	13438
(2) Revocation of a supported living certificate;	13439
(3) Suspension of a supported living certificate holder's	13440
authority to do either or both of the following:	13441
(a) Continue to provide supported living to one or more	13442
individuals from one or more counties who receive supported living	13443
from the certificate holder at the time the director takes the	13444
action;	13445
(b) Begin to provide supported living to one or more	13446
individuals from one or more counties who do not receive supported	13447
living from the certificate holder at the time the director takes	13448
the action.	13449
(B) The following constitute good cause for taking action	13450
under division (A) of this section against a person or government	13451
entity seeking or holding a supported living certificate:	13452
(1) The person or government entity's failure to meet or	13453
continue to meet the applicable certification standards	13454
established in rules adopted under section 5123.169 of the Revised	13455
Code;	13456
(2) The person or government entity violates section 5123.165	13457
of the Revised Code;	13458
(3) The person or government entity's failure to satisfy the	13459
requirements of section 5123.52, 5126.28, or 5126.281 of the	13460
Revised Code;	13461
(4) Misfeasance;	13462
(5) Malfeasance;	13463

(6) Nonfeasance;	13464
(7) Confirmed abuse or neglect;	13465
(8) Financial irresponsibility;	13466
(9) Other conduct the director determines is or would be injurious to individuals who receive or would receive supported living from the person or government entity.	13467 13468 13469
(C) Except as provided in division (D) of this section, the director shall issue an adjudication order under division (A) of this section in accordance with Chapter 119. of the Revised Code.	13470 13471 13472
(D)(1) The director may issue an order requiring that action specified in division (A)(3) of this section be taken before a provider is provided notice and an opportunity for a hearing if all of the following are the case:	13473 13474 13475 13476
(a) The director determines such action is warranted by the provider's failure to continue to meet the applicable certification standards;	13477 13478 13479
(b) The director determines that the failure either represents a pattern of serious noncompliance or creates a substantial risk to the health or safety of an individual who receives or would receive supported living from the provider;	13480 13481 13482 13483
(c) If the order will suspend the provider's authority to continue to provide supported living to an individual who receives supported living from the provider at the time the director issues the order, both of the following are the case:	13484 13485 13486 13487
(i) The director makes the individual, or the individual's guardian, aware of the director's determination under division (D)(1)(b) of this section and the individual or guardian does not select another provider.	13488 13489 13490 13491
(ii) A county board of mental retardation and developmental disabilities has filed a complaint with a probate court under	13492 13493

section 5123.33 of the Revised Code that includes facts describing 13494
the nature of abuse or neglect that the individual has suffered 13495
due to the provider's actions that are the basis for the director 13496
making the determination under division (D)(1)(b) of this section 13497
and the probate court does not issue an order authorizing the 13498
county board to arrange services for the individual pursuant to an 13499
individualized service plan developed for the individual under 13500
section 5123.31 of the Revised Code. 13501

(2) If the director issues an order under division (D)(1) of 13502
this section, sections 119.091 to 119.13 of the Revised Code and 13503
all of the following apply: 13504

(a) The director shall send the provider notice of the order 13505
by registered mail, return receipt requested, not later than 13506
twenty-four hours after issuing the order and shall include in the 13507
notice the reasons for the order, the citation to the law or rule 13508
directly involved, and a statement that the provider will be 13509
afforded a hearing if the provider requests it within ten days of 13510
the time of receiving the notice. 13511

(b) If the provider requests a hearing within the required 13512
time and the provider has provided the director the provider's 13513
current address, the director shall immediately set, and notify 13514
the provider of, the date, time, and place for the hearing. 13515

(c) The date of the hearing shall be not later than thirty 13516
days after the director receives the provider's timely request for 13517
the hearing. 13518

(d) The hearing shall be conducted in accordance with section 13519
119.09 of the Revised Code, except for all of the following: 13520

(i) The hearing shall continue uninterrupted until its close, 13521
except for weekends, legal holidays, and other interruptions the 13522
provider and director agree to. 13523

(ii) If the director appoints a referee or examiner to 13524

conduct the hearing, the referee or examiner, not later than ten 13525
days after the date the referee or examiner receives a transcript 13526
of the testimony and evidence presented at the hearing or, if the 13527
referee or examiner does not receive the transcript or no such 13528
transcript is made, the date that the referee or examiner closes 13529
the record of the hearing, shall submit to the director a written 13530
report setting forth the referee or examiner's findings of fact 13531
and conclusions of law and a recommendation of the action the 13532
director should take. 13533

(iii) The provider may, not later than five days after the 13534
date the director, in accordance with section 119.09 of the 13535
Revised Code, sends the provider or the provider's attorney or 13536
other representative of record a copy of the referee or examiner's 13537
report and recommendation, file with the director written 13538
objections to the report and recommendation. 13539

(iv) The director shall approve, modify, or disapprove the 13540
referee or examiner's report and recommendation not earlier than 13541
six days, and not later than fifteen days, after the date the 13542
director, in accordance with section 119.09 of the Revised Code, 13543
sends a copy of the report and recommendation to the provider or 13544
the provider's attorney or other representative of record. 13545

(3) The director may lift an order issued under division 13546
(D)(1) of this section even though a hearing regarding the order 13547
is occurring or pending if the director determines that the 13548
provider has taken action eliminating the good cause for issuing 13549
the order. The hearing shall proceed unless the provider withdraws 13550
the request for the hearing in a written letter to the director. 13551

(4) The director shall lift an order issued under division 13552
(D)(1) of this section if both of the following are the case: 13553

(a) The provider provides the director a plan of compliance 13554
the director determines is acceptable. 13555

(b) The director determines that the provider has implemented 13556
the plan of compliance correctly. 13557

Sec. 5123.167. If the director of ~~mental retardation and~~ 13558
developmental disabilities issues an adjudication order under 13559
section 5123.166 of the Revised Code refusing to issue a supported 13560
living certificate to a person or government entity or to renew a 13561
person or government entity's supported living certificate, 13562
neither the person or government entity nor a related party of the 13563
person or government entity may apply for another supported living 13564
certificate earlier than the date that is one year after the date 13565
the order is issued. If the director issues an adjudication order 13566
under that section revoking a person or government entity's 13567
supported living certificate, neither the person or government 13568
entity nor a related party of the person or government entity may 13569
apply for another supported living certificate earlier than the 13570
date that is five years after the date the order is issued. 13571

Sec. 5123.168. The director of ~~mental retardation and~~ 13572
developmental disabilities may issue an adjudication order in 13573
accordance with Chapter 119. of the Revised Code to terminate a 13574
supported living certificate if the certificate holder has not 13575
billed for supported living for twelve consecutive months. 13576

Sec. 5123.169. The director of ~~mental retardation and~~ 13577
developmental disabilities shall adopt rules under Chapter 119. of 13578
the Revised Code establishing all of the following: 13579

(A) The extent to which a county board of mental retardation 13580
and developmental disabilities may provide supported living; 13581

(B) The application process for obtaining a supported living 13582
certificate under section 5123.161 of the Revised Code; 13583

(C) The certification standards a person or government entity 13584

must meet to obtain a supported living certificate to provide 13585
supported living; 13586

(D) The certification fee for a supported living certificate, 13587
which shall be deposited into the program fee fund created under 13588
section 5123.033 of the Revised Code; 13589

(E) The period of time a supported living certificate is 13590
valid; 13591

(F) The process for renewing a supported living certificate 13592
under section 5123.164 of the Revised Code; 13593

(G) The renewal fee for a supported living certificate, which 13594
shall be deposited into the program fee fund created under section 13595
5123.033 of the Revised Code; 13596

(H) Procedures for conducting surveys under section 5123.162 13597
of the Revised Code; 13598

(I) Procedures for determining whether there is good cause to 13599
take action under section 5123.166 of the Revised Code against a 13600
person or government entity seeking or holding a supported living 13601
certificate. 13602

Sec. 5123.17. The department of ~~mental retardation and~~ 13603
developmental disabilities may provide for the custody, 13604
supervision, control, treatment, and training of persons with 13605
mental retardation or a developmental disability elsewhere than 13606
within the enclosure of an institution under its jurisdiction, if 13607
the department so determines with respect to any individual or 13608
group of individuals. In all such cases, the department shall 13609
ensure adequate and proper supervision for the protection of those 13610
persons and of the public. 13611

Sec. 5123.171. As used in this section, "respite care" means 13612
appropriate, short-term, temporary care provided to a mentally 13613

retarded or developmentally disabled person to sustain the family 13614
structure or to meet planned or emergency needs of the family. 13615

The department of ~~mental retardation and~~ developmental 13616
disabilities shall provide respite care services to persons with 13617
mental retardation or a developmental disability for the purpose 13618
of promoting self-sufficiency and normalization, preventing or 13619
reducing inappropriate institutional care, and furthering the 13620
unity of the family by enabling the family to meet the special 13621
needs of a mentally retarded or developmentally disabled person. 13622

In order to be eligible for respite care services under this 13623
section, the mentally retarded or developmentally disabled person 13624
must be in need of habilitation services as defined in section 13625
5126.01 of the Revised Code. 13626

Respite care may be provided in a facility licensed under 13627
section 5123.19 of the Revised Code or certified as an 13628
intermediate care facility for the mentally retarded under Title 13629
XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 13630
301, as amended, or certified as a respite care home under section 13631
5126.05 of the Revised Code. 13632

The department shall develop a system for locating vacant 13633
beds that are available for respite care and for making 13634
information on vacant beds available to users of respite care 13635
services. Facilities certified as intermediate care facilities for 13636
the mentally retarded and facilities holding contracts with the 13637
department for the provision of residential services under section 13638
5123.18 of the Revised Code shall report vacant beds to the 13639
department but shall not be required to accept respite care 13640
clients. 13641

The director of ~~mental retardation and~~ developmental 13642
disabilities shall adopt, and may amend or rescind, rules in 13643
accordance with Chapter 119. of the Revised Code for both of the 13644

following: 13645

(A) Certification by county boards of mental retardation and 13646
developmental disabilities of respite care homes; 13647

(B) Provision of respite care services authorized by this 13648
section. Rules adopted under this division shall establish all of 13649
the following: 13650

(1) A formula for distributing funds appropriated for respite 13651
care services; 13652

(2) Standards for supervision, training and quality control 13653
in the provision of respite care services; 13654

(3) Eligibility criteria for emergency respite care services. 13655

Sec. 5123.172. (A) As used in this section: 13656

(1) "Provider" means any person or government agency that 13657
owns, operates, manages, or is employed or under contract to 13658
operate a residential facility licensed under section 5123.19 of 13659
the Revised Code. 13660

(2) "Related to a provider" means that a person or government 13661
agency is affiliated with a provider, has control over the 13662
provider or is controlled by the provider, or is a member of the 13663
provider's family. 13664

(3) "Member of the provider's family" means the provider's 13665
spouse, natural or adoptive parent, stepparent, natural or 13666
adoptive child, stepchild, sibling, stepsister, stepbrother, 13667
half-brother, half-sister, daughter-in-law, son-in-law, 13668
brother-in-law, sister-in-law, grandparent, or grandchild. 13669

(B) Prior to entering into a contract with the department of 13670
~~mental retardation and~~ developmental disabilities under section 13671
5123.18 of the Revised Code and as required thereafter, every 13672
provider holding or negotiating a contract with the department 13673

shall report upon the request of the department, in the form and 13674
on the schedule established in rules adopted by the department in 13675
accordance with Chapter 119. of the Revised Code, the following 13676
information: 13677

(1) The name and address of every person holding a financial 13678
interest of five per cent or more in the management or operation 13679
of the residential facility; 13680

(2) The names and addresses of members of the board of 13681
trustees or directors of the residential facility or of the 13682
management contractor; 13683

(3) Every contract or business transaction between the 13684
provider and any person or government agency related to the 13685
provider if such contract or transaction would affect rates of 13686
payment under section 5123.18 of the Revised Code. 13687

(C) The department shall make reports filed under division 13688
(B) of this section available to the appropriate county board of 13689
mental retardation and developmental disabilities and any other 13690
appropriate public agencies. 13691

(D) Any provider who fails to comply with reporting 13692
requirements of this section shall be subject to a civil penalty 13693
not to exceed one thousand dollars for each violation and to 13694
possible license revocation. 13695

Sec. 5123.18. (A) As used in this section: 13696

(1) "Contractor" means a person or government agency that 13697
enters into a contract with the department of ~~mental retardation~~ 13698
~~and~~ developmental disabilities under this section. 13699

(2) "Government agency" means a state agency as defined in 13700
section 117.01 of the Revised Code or a similar agency of a 13701
political subdivision of the state. 13702

(3) "Residential services" means the services necessary for 13703

an individual with mental retardation or a developmental 13704
disability to live in the community, including room and board, 13705
clothing, transportation, personal care, habilitation, 13706
supervision, and any other services the department considers 13707
necessary for the individual to live in the community. 13708

(B)(1) The department of ~~mental retardation and~~ developmental 13709
disabilities may enter into a contract with a person or government 13710
agency to provide residential services to individuals with mental 13711
retardation or developmental disabilities in need of residential 13712
services. Contracts for residential services shall be of the 13713
following types: 13714

(a) Companion home contracts - contracts under which the 13715
contractor is an individual, the individual is the primary 13716
caregiver, and the individual owns or leases and resides in the 13717
home in which the services are provided. 13718

(b) Agency-operated companion home contracts - contracts 13719
under which the contractor subcontracts, for purposes of 13720
coordinating the provision of residential services, with one or 13721
more individuals who are primary caregivers and own or lease and 13722
reside in the homes in which the services are provided. 13723

(c) Community home contracts - contracts for residential 13724
services under which the contractor owns or operates a home that 13725
is used solely to provide residential services. 13726

(d) Combined agency-operated companion home and community 13727
home contracts. 13728

(2) A companion home contract shall cover not more than one 13729
home. An agency-operated companion home contract or a community 13730
home contract may cover more than one home. 13731

(C) Contracts shall be in writing and shall provide for 13732
payment to be made to the contractor at the times agreed to by the 13733
department and the contractor. Each contract shall specify the 13734

period during which it is valid, the amount to be paid for 13735
residential services, and the number of individuals for whom 13736
payment will be made. Contracts may be renewed. 13737

(D) To be eligible to enter into a contract with the 13738
department under this section, the person or government agency and 13739
the home in which the residential services are provided must meet 13740
all applicable standards for licensing or certification by the 13741
appropriate government agency. In addition, if the residential 13742
facility is operated as a nonprofit entity, the members of the 13743
board of trustees or board of directors of the facility must not 13744
have a financial interest in or receive financial benefit from the 13745
facility, other than reimbursement for actual expenses incurred in 13746
attending board meetings. 13747

(E)(1) The department shall determine the payment amount 13748
assigned to an initial contract. To the extent that the department 13749
determines sufficient funds are available, the payment amount 13750
assigned to an initial contract shall be equal to the average 13751
amount assigned to contracts for other homes that are of the same 13752
type and size and serve individuals with similar needs, except 13753
that if an initial contract is the result of a change of 13754
contractor or ownership, the payment amount assigned to the 13755
contract shall be the lesser of the amount assigned to the 13756
previous contract or the contract's total adjusted predicted 13757
funding need calculated under division (I) of this section. 13758

(2) A renewed contract shall be assigned a payment amount in 13759
accordance with division (K) of this section. 13760

(3) When a contractor relocates a home to another site at 13761
which residential services are provided to the same individuals, 13762
the payment amount assigned to the contract for the new home shall 13763
be the payment amount assigned to the contract at the previous 13764
location. 13765

(F)(1) Annually, a contractor shall complete an assessment of each individual to whom the contractor provides residential services to predict the individual's need for routine direct services staff. The department shall establish by rule adopted in accordance with Chapter 119. of the Revised Code the assessment instrument to be used by contractors to make assessments. Assessments shall be submitted to the department not later than the thirty-first day of January of each year.

A contractor shall submit a revised assessment for an individual if there is a substantial, long-term change in the nature of the individual's needs. A contractor shall submit revised assessments for all individuals receiving residential services if there is a change in the composition of the home's residents.

(2) Annually, a contractor shall submit a cost report to the department specifying the costs incurred in providing residential services during the immediately preceding calendar year. Only costs actually incurred by a contractor shall be reported on a cost report. Cost reports shall be prepared according to a uniform chart of accounts approved by the department and shall be submitted on forms prescribed by the department.

(3) The department shall not renew the contract held by a contractor who fails to submit the assessments or cost reports required under this division.

(4) The department shall adopt rules as necessary regarding the submission of assessments and cost reports under this division. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(G) Prior to renewing a contract entered into under this section, the department shall compute the contract's total predicted funding need and total adjusted predicted funding need.

The department shall also compute the contract's unmet funding need if the payment amount assigned to the contract is less than the total adjusted predicted funding need. The results of these calculations shall be used to determine the payment amount assigned to the renewed contract.

(H)(1) A contract's total predicted funding need is an amount equal to the sum of the predicted funding needs for the following cost categories:

- (a) Routine direct services staff;
- (b) Dietary, program supplies, and specialized staff;
- (c) Facility and general services;
- (d) Administration.

(2) Based on the assessments submitted by the contractor, the department shall compute the contract's predicted funding need for the routine direct services staff cost category by multiplying the number of direct services staff predicted to be necessary for the home by the sum of the following:

(a) Entry level wages paid during the immediately preceding cost reporting period to comparable staff employed by the county board of mental retardation and developmental disabilities of the county in which the home is located;

(b) Fringe benefits and payroll taxes as determined by the department using state civil service statistics from the same period as the cost reporting period.

(3) The department shall establish by rule adopted in accordance with Chapter 119. of the Revised Code the method to be used to compute the predicted funding need for the dietary, program supplies, and specialized staff cost category; the facility and general services cost category; and the administration cost category. The rules shall not establish a

maximum amount that may be attributed to the dietary, program 13827
supplies, and specialized staff cost category. The rules shall 13828
establish a process for determining the combined maximum amount 13829
that may be attributed to the facility and general services cost 13830
category and the administration cost category. 13831

(I)(1) A contract's total adjusted predicted funding need is 13832
the contract's total predicted funding need with adjustments made 13833
for the following: 13834

(a) Inflation, as provided under division (I)(2) of this 13835
section; 13836

(b) The predicted cost of complying with new requirements 13837
established under federal or state law that were not taken into 13838
consideration when the total predicted funding need was computed; 13839

(c) Changes in needs based on revised assessments submitted 13840
by the contractor. 13841

(2) In adjusting the total predicted funding need for 13842
inflation, the department shall use either the consumer price 13843
index compound annual inflation rate calculated by the United 13844
States department of labor for all items or another index or 13845
measurement of inflation designated in rules that the department 13846
shall adopt in accordance with Chapter 119. of the Revised Code. 13847

When a contract is being renewed for the first time, and the 13848
contract is to begin on the first day of July, the inflation 13849
adjustment applied to the contract's total predicted funding need 13850
shall be the estimated rate of inflation for the calendar year in 13851
which the contract is renewed. If the consumer price index is 13852
being used, the department shall base its estimate on the rate of 13853
inflation calculated for the three-month period ending the 13854
thirty-first day of March of that calendar year. If another index 13855
or measurement is being used, the department shall base its 13856
estimate on the most recent calculations of the rate of inflation 13857

available under the index or measurement. Each year thereafter, 13858
the inflation adjustment shall be estimated in the same manner, 13859
except that if the estimated rate of inflation for a year is 13860
different from the actual rate of inflation for that year, the 13861
difference shall be added to or subtracted from the rate of 13862
inflation estimated for the next succeeding year. 13863

If a contract begins at any time other than July first, the 13864
inflation adjustment applied to the contract's total predicted 13865
funding need shall be determined by a method comparable to that 13866
used for contracts beginning July first. The department shall 13867
adopt rules in accordance with Chapter 119. of the Revised Code 13868
establishing the method to be used. 13869

(J) A contract's unmet funding need is the difference between 13870
the payment amount assigned to the contract and the total adjusted 13871
predicted funding need, if the payment amount assigned is less 13872
than the total adjusted predicted funding need. 13873

(K) The payment amount to be assigned to a contract being 13874
renewed shall be determined by comparing the total adjusted 13875
predicted funding need with the payment amount assigned to the 13876
current contract. 13877

(1) If the payment amount assigned to the current contract 13878
equals or exceeds the total adjusted predicted funding need, the 13879
payment amount assigned to the renewed contract shall be the same 13880
as that assigned to the current contract, unless a reduction is 13881
made pursuant to division (L) of this section. 13882

(2) If the payment amount assigned to the current contract is 13883
less than the total adjusted predicted funding need, the payment 13884
amount assigned to the renewed contract shall be increased if the 13885
department determines that funds are available for such increases. 13886
The amount of a contract's increase shall be the same percentage 13887
of the available funds that the contract's unmet funding need is 13888

of the total of the unmet funding need for all contracts. 13889

(L) When renewing a contract provided for in division (B) of 13890
this section other than a companion home contract, the department 13891
may reduce the payment amount assigned to a renewed contract if 13892
the sum of the contractor's allowable reported costs and the 13893
maximum efficiency incentive is less than ninety-one and one-half 13894
per cent of the amount received pursuant to this section during 13895
the immediately preceding contract year. 13896

The department shall adopt rules in accordance with Chapter 13897
119. of the Revised Code establishing a formula to be used in 13898
computing the maximum efficiency incentive, which shall be at 13899
least four per cent of the weighted average payment amount to be 13900
made to all contractors during the contract year. The maximum 13901
efficiency incentive shall be computed annually. 13902

(M) The department may increase the payment amount assigned 13903
to a contract based on the contract's unmet funding need at times 13904
other than when the contract is renewed. The department may 13905
develop policies for determining priorities in making such 13906
increases. 13907

(N)(1) In addition to the contracts provided for in division 13908
(B) of this section, the department may enter into the following 13909
contracts: 13910

(a) A contract to pay the cost of beginning operation of a 13911
new home that is to be funded under a companion home contract, 13912
agency-operated companion home contract, community home contract, 13913
or combined agency-operated companion home and community home 13914
contract. 13915

(b) A contract to pay the cost associated with increasing the 13916
number of individuals served by a home funded under a companion 13917
home contract, agency-operated companion home contract, community 13918
home contract, or combined agency-operated companion home and 13919

community home contract. 13920

(2) The department shall adopt rules as necessary regarding 13921
contracts entered into under this division. The rules shall be 13922
adopted in accordance with Chapter 119. of the Revised Code. 13923

(O) Except for companion home contracts, the department shall 13924
conduct a reconciliation of the amount earned under a contract and 13925
the actual costs incurred by the contractor. An amount is 13926
considered to have been earned for delivering a service at the 13927
time the service is delivered. The department shall adopt rules in 13928
accordance with Chapter 119. of the Revised Code establishing 13929
procedures for conducting reconciliations. 13930

A reconciliation shall be based on the annual cost report 13931
submitted by the contractor. If a reconciliation reveals that a 13932
contractor owes money to the state, the amount owed shall be 13933
collected in accordance with section 5123.051 of the Revised Code. 13934

When conducting reconciliations, the department shall review 13935
all reported costs that may be affected by transactions required 13936
to be reported under division (B)(3) of section 5123.172 of the 13937
Revised Code. If the department determines that such transactions 13938
have increased the cost reported by a contractor, the department 13939
may disallow or adjust the cost allowable for payment. The 13940
department shall adopt rules in accordance with Chapter 119. of 13941
the Revised Code establishing standards for disallowances or 13942
adjustments. 13943

(P) The department may audit the contracts it enters into 13944
under this section. Audits may be conducted by the department or 13945
an entity with which the department contracts to perform the 13946
audits. The department shall adopt rules in accordance with 13947
Chapter 119. of the Revised Code establishing procedures for 13948
conducting audits. 13949

An audit may include the examination of a contractor's 13950

financial books and records, the costs incurred by a contractor in providing residential services, and any other relevant information specified by the department. An audit shall not be commenced more than four years after the expiration of the contract to be audited, except in cases where the department has reasonable cause to believe that a contractor has committed fraud.

If an audit reveals that a contractor owes money to the state, the amount owed, subject to an adjudication hearing under this division, shall be collected in accordance with section 5123.051 of the Revised Code. If an audit reveals that a reconciliation conducted under this section resulted in the contractor erroneously paying money to the state, the department shall refund the money to the contractor, or, in lieu of making a refund, the department may offset the erroneous payment against any money determined as a result of the audit to be owed by the contractor to the state. The department is not required to pay interest on any money refunded under this division.

In conducting audits or making determinations of amounts owed by a contractor and amounts to be refunded or offset, the department shall not be bound by the results of reconciliations conducted under this section, except with regard to cases involving claims that have been certified pursuant to section 5123.051 of the Revised Code to the attorney general for collection for which a full and final settlement has been reached or a final judgment has been made from which all rights of appeal have expired or been exhausted.

Not later than ninety days after an audit's completion, the department shall provide the contractor a copy of a report of the audit. The report shall state the findings of the audit, including the amount of any money the contractor is determined to owe the state.

(Q) The department shall adopt rules specifying the amount

that will be allowed under a reconciliation or audit for the cost 13983
incurred by a contractor for compensation of owners, 13984
administrators, and other personnel. The rules shall be adopted in 13985
accordance with Chapter 119. of the Revised Code. 13986

(R) Each contractor shall, for at least seven years, maintain 13987
fiscal records related to payments received pursuant to this 13988
section. 13989

(S) The department may enter into shared funding agreements 13990
with other government agencies to fund contracts entered into 13991
under this section. The amount of each agency's share of the cost 13992
shall be determined through negotiations with the department. The 13993
department's share shall not exceed the amount it would have paid 13994
without entering into the shared funding agreement, nor shall it 13995
be reduced by any amounts contributed by the other parties to the 13996
agreement. 13997

(T) Except as provided in section 5123.194 of the Revised 13998
Code, an individual who receives residential services pursuant to 13999
divisions (A) through (U) of this section and the individual's 14000
liable relatives or guardians shall pay support charges in 14001
accordance with Chapter 5121. of the Revised Code. 14002

(U) The department may make reimbursements or payments for 14003
any of the following pursuant to rules adopted under this 14004
division: 14005

(1) Unanticipated, nonrecurring costs associated with the 14006
health or habilitation of a person who resides in a home funded 14007
under a contract provided for in division (B) of this section; 14008

(2) The cost of staff development training for contractors if 14009
the director of ~~mental retardation and~~ developmental disabilities 14010
has given prior approval for the training; 14011

(3) Fixed costs that the department, pursuant to the rules, 14012
determines relate to the continued operation of a home funded 14013

under a contract provided for in division (B) of this section when 14014
a short term vacancy occurs and the contractor has diligently 14015
attempted to fill the vacancy. 14016

The department shall adopt rules in accordance with Chapter 14017
119. of the Revised Code establishing standards for use in 14018
determining which costs it may make payment or reimbursements for 14019
under this division. 14020

(V) In addition to the rules required or authorized to be 14021
adopted under this section, the department may adopt any other 14022
rules necessary to implement divisions (A) through (U) of this 14023
section. The rules shall be adopted in accordance with Chapter 14024
119. of the Revised Code. 14025

(W) The department may delegate to county boards of mental 14026
retardation and developmental disabilities its authority under 14027
this section to negotiate and enter into contracts or subcontracts 14028
for residential services. In the event that it elects to delegate 14029
its authority, the department shall adopt rules in accordance with 14030
Chapter 119. of the Revised Code for the boards' administration of 14031
the contracts or subcontracts. In administering the contracts or 14032
subcontracts, the boards shall be subject to all applicable 14033
provisions of Chapter 5126. of the Revised Code and shall not be 14034
subject to the provisions of divisions (A) to (V) of this section. 14035

Subject to the department's rules, a board may require the 14036
following to contribute to the cost of the residential services an 14037
individual receives pursuant to this division: the individual or 14038
the individual's estate, the individual's spouse, the individual's 14039
guardian, and, if the individual is under age eighteen, either or 14040
both of the individual's parents. Chapter 5121. of the Revised 14041
Code shall not apply to individuals or entities that are subject 14042
to making contributions under this division. In calculating 14043
contributions to be made under this division, a board, subject to 14044
the department's rules, may allow an amount to be kept for meeting 14045

the personal needs of the individual who receives residential 14046
services. 14047

Sec. 5123.181. The director of ~~mental retardation and~~ 14048
developmental disabilities and the director of job and family 14049
services shall, in concert with each other, eliminate all double 14050
billings and double payments for services on behalf of persons 14051
with mental retardation or another developmental disability in 14052
intermediate care facilities. The department of ~~mental retardation~~ 14053
~~and~~ developmental disabilities may enter into contracts with 14054
providers of services for the purpose of making payments to the 14055
providers for services rendered to eligible clients who are 14056
persons with mental retardation or a developmental disability over 14057
and above the services authorized and paid under Chapter 5111. of 14058
the Revised Code. Payments authorized under this section and 14059
section 5123.18 of the Revised Code shall not be subject to audit 14060
findings pursuant to Chapter 5111. of the Revised Code, unless an 14061
audit determines that payment was made to the provider for 14062
services that were not rendered in accordance with the provisions 14063
of the provider agreement entered into with the department of job 14064
and family services or the department of ~~mental retardation and~~ 14065
developmental disabilities pursuant to this section. 14066

Sec. 5123.19. (A) As used in this section and in sections 14067
5123.191, 5123.194, 5123.196, 5123.198, and 5123.20 of the Revised 14068
Code: 14069

(1)(a) "Residential facility" means a home or facility in 14070
which a mentally retarded or developmentally disabled person 14071
resides, except the home of a relative or legal guardian in which 14072
a mentally retarded or developmentally disabled person resides, a 14073
respite care home certified under section 5126.05 of the Revised 14074
Code, a county home or district home operated pursuant to Chapter 14075
5155. of the Revised Code, or a dwelling in which the only 14076

mentally retarded or developmentally disabled residents are in an 14077
independent living arrangement or are being provided supported 14078
living. 14079

(b) "Intermediate care facility for the mentally retarded" 14080
means a residential facility that is considered an intermediate 14081
care facility for the mentally retarded for the purposes of 14082
Chapter 5111. of the Revised Code. 14083

(2) "Political subdivision" means a municipal corporation, 14084
county, or township. 14085

(3) "Independent living arrangement" means an arrangement in 14086
which a mentally retarded or developmentally disabled person 14087
resides in an individualized setting chosen by the person or the 14088
person's guardian, which is not dedicated principally to the 14089
provision of residential services for mentally retarded or 14090
developmentally disabled persons, and for which no financial 14091
support is received for rendering such service from any 14092
governmental agency by a provider of residential services. 14093

(4) "Licensee" means the person or government agency that has 14094
applied for a license to operate a residential facility and to 14095
which the license was issued under this section. 14096

(5) "Related party" has the same meaning as in section 14097
5123.16 of the Revised Code except that "provider" as used in the 14098
definition of "related party" means a person or government entity 14099
that held or applied for a license to operate a residential 14100
facility, rather than a person or government entity certified to 14101
provide supported living. 14102

(B) Every person or government agency desiring to operate a 14103
residential facility shall apply for licensure of the facility to 14104
the director of ~~mental retardation and~~ developmental disabilities 14105
unless the residential facility is subject to section 3721.02, 14106
3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding 14107

Chapter 3721. of the Revised Code, a nursing home that is 14108
certified as an intermediate care facility for the mentally 14109
retarded under Title XIX of the "Social Security Act," 79 Stat. 14110
286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 14111
licensure of the portion of the home that is certified as an 14112
intermediate care facility for the mentally retarded. 14113

(C) Subject to section 5123.196 of the Revised Code, the 14114
director of ~~mental retardation~~ and developmental disabilities 14115
shall license the operation of residential facilities. An initial 14116
license shall be issued for a period that does not exceed one 14117
year, unless the director denies the license under division (D) of 14118
this section. A license shall be renewed for a period that does 14119
not exceed three years, unless the director refuses to renew the 14120
license under division (D) of this section. The director, when 14121
issuing or renewing a license, shall specify the period for which 14122
the license is being issued or renewed. A license remains valid 14123
for the length of the licensing period specified by the director, 14124
unless the license is terminated, revoked, or voluntarily 14125
surrendered. 14126

(D) If it is determined that an applicant or licensee is not 14127
in compliance with a provision of this chapter that applies to 14128
residential facilities or the rules adopted under such a 14129
provision, the director may deny issuance of a license, refuse to 14130
renew a license, terminate a license, revoke a license, issue an 14131
order for the suspension of admissions to a facility, issue an 14132
order for the placement of a monitor at a facility, issue an order 14133
for the immediate removal of residents, or take any other action 14134
the director considers necessary consistent with the director's 14135
authority under this chapter regarding residential facilities. In 14136
the director's selection and administration of the sanction to be 14137
imposed, all of the following apply: 14138

(1) The director may deny, refuse to renew, or revoke a 14139

license, if the director determines that the applicant or licensee 14140
has demonstrated a pattern of serious noncompliance or that a 14141
violation creates a substantial risk to the health and safety of 14142
residents of a residential facility. 14143

(2) The director may terminate a license if more than twelve 14144
consecutive months have elapsed since the residential facility was 14145
last occupied by a resident or a notice required by division (K) 14146
of this section is not given. 14147

(3) The director may issue an order for the suspension of 14148
admissions to a facility for any violation that may result in 14149
sanctions under division (D)(1) of this section and for any other 14150
violation specified in rules adopted under division (H)(2) of this 14151
section. If the suspension of admissions is imposed for a 14152
violation that may result in sanctions under division (D)(1) of 14153
this section, the director may impose the suspension before 14154
providing an opportunity for an adjudication under Chapter 119. of 14155
the Revised Code. The director shall lift an order for the 14156
suspension of admissions when the director determines that the 14157
violation that formed the basis for the order has been corrected. 14158

(4) The director may order the placement of a monitor at a 14159
residential facility for any violation specified in rules adopted 14160
under division (H)(2) of this section. The director shall lift the 14161
order when the director determines that the violation that formed 14162
the basis for the order has been corrected. 14163

(5) If the director determines that two or more residential 14164
facilities owned or operated by the same person or government 14165
entity are not being operated in compliance with a provision of 14166
this chapter that applies to residential facilities or the rules 14167
adopted under such a provision, and the director's findings are 14168
based on the same or a substantially similar action, practice, 14169
circumstance, or incident that creates a substantial risk to the 14170
health and safety of the residents, the director shall conduct a 14171

survey as soon as practicable at each residential facility owned 14172
or operated by that person or government entity. The director may 14173
take any action authorized by this section with respect to any 14174
facility found to be operating in violation of a provision of this 14175
chapter that applies to residential facilities or the rules 14176
adopted under such a provision. 14177

(6) When the director initiates license revocation 14178
proceedings, no opportunity for submitting a plan of correction 14179
shall be given. The director shall notify the licensee by letter 14180
of the initiation of the proceedings. The letter shall list the 14181
deficiencies of the residential facility and inform the licensee 14182
that no plan of correction will be accepted. The director shall 14183
also send a copy of the letter to the county board of mental 14184
retardation and developmental disabilities. The county board shall 14185
send a copy of the letter to each of the following: 14186

(a) Each resident who receives services from the licensee; 14187

(b) The guardian of each resident who receives services from 14188
the licensee if the resident has a guardian; 14189

(c) The parent or guardian of each resident who receives 14190
services from the licensee if the resident is a minor. 14191

(7) Pursuant to rules which shall be adopted in accordance 14192
with Chapter 119. of the Revised Code, the director may order the 14193
immediate removal of residents from a residential facility 14194
whenever conditions at the facility present an immediate danger of 14195
physical or psychological harm to the residents. 14196

(8) In determining whether a residential facility is being 14197
operated in compliance with a provision of this chapter that 14198
applies to residential facilities or the rules adopted under such 14199
a provision, or whether conditions at a residential facility 14200
present an immediate danger of physical or psychological harm to 14201
the residents, the director may rely on information obtained by a 14202

county board of mental retardation and developmental disabilities 14203
or other governmental agencies. 14204

(9) In proceedings initiated to deny, refuse to renew, or 14205
revoke licenses, the director may deny, refuse to renew, or revoke 14206
a license regardless of whether some or all of the deficiencies 14207
that prompted the proceedings have been corrected at the time of 14208
the hearing. 14209

(E) The director shall establish a program under which public 14210
notification may be made when the director has initiated license 14211
revocation proceedings or has issued an order for the suspension 14212
of admissions, placement of a monitor, or removal of residents. 14213
The director shall adopt rules in accordance with Chapter 119. of 14214
the Revised Code to implement this division. The rules shall 14215
establish the procedures by which the public notification will be 14216
made and specify the circumstances for which the notification must 14217
be made. The rules shall require that public notification be made 14218
if the director has taken action against the facility in the 14219
eighteen-month period immediately preceding the director's latest 14220
action against the facility and the latest action is being taken 14221
for the same or a substantially similar violation of a provision 14222
of this chapter that applies to residential facilities or the 14223
rules adopted under such a provision. The rules shall specify a 14224
method for removing or amending the public notification if the 14225
director's action is found to have been unjustified or the 14226
violation at the residential facility has been corrected. 14227

(F)(1) Except as provided in division (F)(2) of this section, 14228
appeals from proceedings initiated to impose a sanction under 14229
division (D) of this section shall be conducted in accordance with 14230
Chapter 119. of the Revised Code. 14231

(2) Appeals from proceedings initiated to order the 14232
suspension of admissions to a facility shall be conducted in 14233
accordance with Chapter 119. of the Revised Code, unless the order 14234

was issued before providing an opportunity for an adjudication, in 14235
which case all of the following apply: 14236

(a) The licensee may request a hearing not later than ten 14237
days after receiving the notice specified in section 119.07 of the 14238
Revised Code. 14239

(b) If a timely request for a hearing that includes the 14240
licensee's current address is made, the hearing shall commence not 14241
later than thirty days after the department receives the request. 14242

(c) After commencing, the hearing shall continue 14243
uninterrupted, except for Saturdays, Sundays, and legal holidays, 14244
unless other interruptions are agreed to by the licensee and the 14245
director. 14246

(d) If the hearing is conducted by a hearing examiner, the 14247
hearing examiner shall file a report and recommendations not later 14248
than ten days after the last of the following: 14249

(i) The close of the hearing; 14250

(ii) If a transcript of the proceedings is ordered, the 14251
hearing examiner receives the transcript; 14252

(iii) If post-hearing briefs are timely filed, the hearing 14253
examiner receives the briefs. 14254

(e) A copy of the written report and recommendation of the 14255
hearing examiner shall be sent, by certified mail, to the licensee 14256
and the licensee's attorney, if applicable, not later than five 14257
days after the report is filed. 14258

(f) Not later than five days after the hearing examiner files 14259
the report and recommendations, the licensee may file objections 14260
to the report and recommendations. 14261

(g) Not later than fifteen days after the hearing examiner 14262
files the report and recommendations, the director shall issue an 14263
order approving, modifying, or disapproving the report and 14264

recommendations. 14265

(h) Notwithstanding the pendency of the hearing, the director 14266
shall lift the order for the suspension of admissions when the 14267
director determines that the violation that formed the basis for 14268
the order has been corrected. 14269

(G) Neither a person or government agency whose application 14270
for a license to operate a residential facility is denied nor a 14271
related party of the person or government agency may apply for a 14272
license to operate a residential facility before the date that is 14273
one year after the date of the denial. Neither a licensee whose 14274
residential facility license is revoked nor a related party of the 14275
licensee may apply for a residential facility license before the 14276
date that is five years after the date of the revocation. 14277

(H) In accordance with Chapter 119. of the Revised Code, the 14278
director shall adopt and may amend and rescind rules for licensing 14279
and regulating the operation of residential facilities, including 14280
intermediate care facilities for the mentally retarded. The rules 14281
for intermediate care facilities for the mentally retarded may 14282
differ from those for other residential facilities. The rules 14283
shall establish and specify the following: 14284

(1) Procedures and criteria for issuing and renewing 14285
licenses, including procedures and criteria for determining the 14286
length of the licensing period that the director must specify for 14287
each license when it is issued or renewed; 14288

(2) Procedures and criteria for denying, refusing to renew, 14289
terminating, and revoking licenses and for ordering the suspension 14290
of admissions to a facility, placement of a monitor at a facility, 14291
and the immediate removal of residents from a facility; 14292

(3) Fees for issuing and renewing licenses, which shall be 14293
deposited into the program fee fund created under section 5123.033 14294
of the Revised Code; 14295

(4) Procedures for surveying residential facilities;	14296
(5) Requirements for the training of residential facility personnel;	14297 14298
(6) Classifications for the various types of residential facilities;	14299 14300
(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;	14301 14302 14303 14304
(8) The maximum number of persons who may be served in a particular type of residential facility;	14305 14306
(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;	14307 14308
(10) Other standards for the operation of residential facilities and the services provided at residential facilities;	14309 14310
(11) Procedures for waiving any provision of any rule adopted under this section.	14311 14312
(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.	14313 14314 14315 14316 14317 14318 14319 14320 14321
In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the	14322 14323 14324 14325

facility; and all persons acting on behalf of, under the control 14326
of, or in connection with the licensee. The licensee and all 14327
persons on behalf of, under the control of, or in connection with 14328
the licensee shall cooperate with the director or the director's 14329
designee in conducting the survey. 14330

Following each survey, unless the director initiates a 14331
license revocation proceeding, the director or the director's 14332
designee shall provide the licensee with a report listing any 14333
deficiencies, specifying a timetable within which the licensee 14334
shall submit a plan of correction describing how the deficiencies 14335
will be corrected, and, when appropriate, specifying a timetable 14336
within which the licensee must correct the deficiencies. After a 14337
plan of correction is submitted, the director or the director's 14338
designee shall approve or disapprove the plan. A copy of the 14339
report and any approved plan of correction shall be provided to 14340
any person who requests it. 14341

The director shall initiate disciplinary action against any 14342
department employee who notifies or causes the notification to any 14343
unauthorized person of an unannounced survey of a residential 14344
facility by an authorized representative of the department. 14345

(J) In addition to any other information which may be 14346
required of applicants for a license pursuant to this section, the 14347
director shall require each applicant to provide a copy of an 14348
approved plan for a proposed residential facility pursuant to 14349
section 5123.042 of the Revised Code. This division does not apply 14350
to renewal of a license. 14351

(K) A licensee shall notify the owner of the building in 14352
which the licensee's residential facility is located of any 14353
significant change in the identity of the licensee or management 14354
contractor before the effective date of the change if the licensee 14355
is not the owner of the building. 14356

Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(L) A county board of mental retardation and developmental disabilities, the legal rights service, and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(M) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are

losing their license. 14389

(N) Before issuing a license under this section to a 14390
residential facility that will accommodate at any time more than 14391
one mentally retarded or developmentally disabled individual, the 14392
director shall, by first class mail, notify the following: 14393

(1) If the facility will be located in a municipal 14394
corporation, the clerk of the legislative authority of the 14395
municipal corporation; 14396

(2) If the facility will be located in unincorporated 14397
territory, the clerk of the appropriate board of county 14398
commissioners and the fiscal officer of the appropriate board of 14399
township trustees. 14400

The director shall not issue the license for ten days after 14401
mailing the notice, excluding Saturdays, Sundays, and legal 14402
holidays, in order to give the notified local officials time in 14403
which to comment on the proposed issuance. 14404

Any legislative authority of a municipal corporation, board 14405
of county commissioners, or board of township trustees that 14406
receives notice under this division of the proposed issuance of a 14407
license for a residential facility may comment on it in writing to 14408
the director within ten days after the director mailed the notice, 14409
excluding Saturdays, Sundays, and legal holidays. If the director 14410
receives written comments from any notified officials within the 14411
specified time, the director shall make written findings 14412
concerning the comments and the director's decision on the 14413
issuance of the license. If the director does not receive written 14414
comments from any notified local officials within the specified 14415
time, the director shall continue the process for issuance of the 14416
license. 14417

(O) Any person may operate a licensed residential facility 14418
that provides room and board, personal care, habilitation 14419

services, and supervision in a family setting for at least six but 14420
not more than eight persons with mental retardation or a 14421
developmental disability as a permitted use in any residential 14422
district or zone, including any single-family residential district 14423
or zone, of any political subdivision. These residential 14424
facilities may be required to comply with area, height, yard, and 14425
architectural compatibility requirements that are uniformly 14426
imposed upon all single-family residences within the district or 14427
zone. 14428

(P) Any person may operate a licensed residential facility 14429
that provides room and board, personal care, habilitation 14430
services, and supervision in a family setting for at least nine 14431
but not more than sixteen persons with mental retardation or a 14432
developmental disability as a permitted use in any multiple-family 14433
residential district or zone of any political subdivision, except 14434
that a political subdivision that has enacted a zoning ordinance 14435
or resolution establishing planned unit development districts may 14436
exclude these residential facilities from those districts, and a 14437
political subdivision that has enacted a zoning ordinance or 14438
resolution may regulate these residential facilities in 14439
multiple-family residential districts or zones as a conditionally 14440
permitted use or special exception, in either case, under 14441
reasonable and specific standards and conditions set out in the 14442
zoning ordinance or resolution to: 14443

(1) Require the architectural design and site layout of the 14444
residential facility and the location, nature, and height of any 14445
walls, screens, and fences to be compatible with adjoining land 14446
uses and the residential character of the neighborhood; 14447

(2) Require compliance with yard, parking, and sign 14448
regulation; 14449

(3) Limit excessive concentration of these residential 14450
facilities. 14451

(Q) This section does not prohibit a political subdivision 14452
from applying to residential facilities nondiscriminatory 14453
regulations requiring compliance with health, fire, and safety 14454
regulations and building standards and regulations. 14455

(R) Divisions (O) and (P) of this section are not applicable 14456
to municipal corporations that had in effect on June 15, 1977, an 14457
ordinance specifically permitting in residential zones licensed 14458
residential facilities by means of permitted uses, conditional 14459
uses, or special exception, so long as such ordinance remains in 14460
effect without any substantive modification. 14461

(S)(1) The director may issue an interim license to operate a 14462
residential facility to an applicant for a license under this 14463
section if either of the following is the case: 14464

(a) The director determines that an emergency exists 14465
requiring immediate placement of persons in a residential 14466
facility, that insufficient licensed beds are available, and that 14467
the residential facility is likely to receive a permanent license 14468
under this section within thirty days after issuance of the 14469
interim license. 14470

(b) The director determines that the issuance of an interim 14471
license is necessary to meet a temporary need for a residential 14472
facility. 14473

(2) To be eligible to receive an interim license, an 14474
applicant must meet the same criteria that must be met to receive 14475
a permanent license under this section, except for any differing 14476
procedures and time frames that may apply to issuance of a 14477
permanent license. 14478

(3) An interim license shall be valid for thirty days and may 14479
be renewed by the director for a period not to exceed one hundred 14480
fifty days. 14481

(4) The director shall adopt rules in accordance with Chapter 14482

119. of the Revised Code as the director considers necessary to 14483
administer the issuance of interim licenses. 14484

(T) Notwithstanding rules adopted pursuant to this section 14485
establishing the maximum number of persons who may be served in a 14486
particular type of residential facility, a residential facility 14487
shall be permitted to serve the same number of persons being 14488
served by the facility on the effective date of the rules or the 14489
number of persons for which the facility is authorized pursuant to 14490
a current application for a certificate of need with a letter of 14491
support from the department of ~~mental retardation and~~ 14492
developmental disabilities and which is in the review process 14493
prior to April 4, 1986. 14494

(U) The director or the director's designee may enter at any 14495
time, for purposes of investigation, any home, facility, or other 14496
structure that has been reported to the director or that the 14497
director has reasonable cause to believe is being operated as a 14498
residential facility without a license issued under this section. 14499

The director may petition the court of common pleas of the 14500
county in which an unlicensed residential facility is located for 14501
an order enjoining the person or governmental agency operating the 14502
facility from continuing to operate without a license. The court 14503
may grant the injunction on a showing that the person or 14504
governmental agency named in the petition is operating a 14505
residential facility without a license. The court may grant the 14506
injunction, regardless of whether the residential facility meets 14507
the requirements for receiving a license under this section. 14508

Sec. 5123.191. (A) The court of common pleas or a judge 14509
thereof in the judge's county, or the probate court, may appoint a 14510
receiver to take possession of and operate a residential facility 14511
licensed by the department of ~~mental retardation and~~ developmental 14512
disabilities, in causes pending in such courts respectively, when 14513

conditions existing at the facility present a substantial risk of 14514
physical or mental harm to residents and no other remedies at law 14515
are adequate to protect the health, safety, and welfare of the 14516
residents. Conditions at the facility that may present such risk 14517
of harm include, but are not limited to, instances when any of the 14518
following occur: 14519

(1) The residential facility is in violation of state or 14520
federal law or regulations. 14521

(2) The facility has had its license revoked or procedures 14522
for revocation have been initiated, or the facility is closing or 14523
intends to cease operations. 14524

(3) Arrangements for relocating residents need to be made. 14525

(4) Insolvency of the operator, licensee, or landowner 14526
threatens the operation of the facility. 14527

(5) The facility or operator has demonstrated a pattern and 14528
practice of repeated violations of state or federal laws or 14529
regulations. 14530

(B) A court in which a petition is filed pursuant to this 14531
section shall notify the person holding the license for the 14532
facility and the department of ~~mental retardation and~~ 14533
developmental disabilities of the filing. The court shall order 14534
the department to notify the legal rights service, facility owner, 14535
facility operator, county board of mental retardation and 14536
developmental disabilities, facility residents, and residents' 14537
parents and guardians of the filing of the petition. 14538

The court shall provide a hearing on the petition within five 14539
court days of the time it was filed, except that the court may 14540
appoint a receiver prior to that time if it determines that the 14541
circumstances necessitate such action. Following a hearing on the 14542
petition, and upon a determination that the appointment of a 14543
receiver is warranted, the court shall appoint a receiver and 14544

notify the department of ~~mental retardation and~~ developmental 14545
disabilities and appropriate persons of this action. 14546

(C) A residential facility for which a receiver has been 14547
named is deemed to be in compliance with section 5123.19 and 14548
Chapter 3721. of the Revised Code for the duration of the 14549
receivership. 14550

(D) When the operating revenue of a residential facility in 14551
receivership is insufficient to meet its operating expenses, 14552
including the cost of bringing the facility into compliance with 14553
state or federal laws or regulations, the court may order the 14554
state to provide necessary funding, except as provided in division 14555
(K) of this section. The state shall provide such funding, subject 14556
to the approval of the controlling board. The court may also order 14557
the appropriate authorities to expedite all inspections necessary 14558
for the issuance of licenses or the certification of a facility, 14559
and order a facility to be closed if it determines that reasonable 14560
efforts cannot bring the facility into substantial compliance with 14561
the law. 14562

(E) In establishing a receivership, the court shall set forth 14563
the powers and duties of the receiver. The court may generally 14564
authorize the receiver to do all that is prudent and necessary to 14565
safely and efficiently operate the residential facility within the 14566
requirements of state and federal law, but shall require the 14567
receiver to obtain court approval prior to making any single 14568
expenditure of more than five thousand dollars to correct 14569
deficiencies in the structure or furnishings of a facility. The 14570
court shall closely review the conduct of the receiver it has 14571
appointed and shall require regular and detailed reports. The 14572
receivership shall be reviewed at least every sixty days. 14573

(F) A receivership established pursuant to this section shall 14574
be terminated, following notification of the appropriate parties 14575
and a hearing, if the court determines either of the following: 14576

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility. 14577
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(2) Circumstances no longer exist at the facility that present a substantial risk of physical or mental harm to residents, and there is no deficiency in the facility that is likely to create a future risk of harm. 14579
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Notwithstanding division (F)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of ~~mental retardation~~ and developmental disabilities. 14583
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(G) The department of ~~mental retardation~~ and developmental disabilities may, upon its own initiative or at the request of an owner, operator, or resident of a residential facility, or at the request of a resident's guardian or relative, a county board of mental retardation and developmental disabilities, or the legal rights service, petition the court to appoint a receiver to take possession of and operate a residential facility. When the department has been requested to file a petition by any of the parties listed above, it shall, within forty-eight hours of such request, either file such a petition or notify the requesting party of its decision not to file. If the department refuses to file, the requesting party may file a petition with the court requesting the appointment of a receiver to take possession of and operate a residential facility. 14589
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Petitions filed pursuant to this division shall include the following: 14603
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(1) A description of the specific conditions existing at the facility which present a substantial risk of physical or mental harm to residents; 14605
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(2) A statement of the absence of other adequate remedies at law; 14608
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(3) The number of individuals residing at the facility; 14610

(4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the facility as a pattern or practice; 14611
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(5) The name and address of the person holding the license for the facility and the address of the department of ~~mental retardation~~ and developmental disabilities. 14616
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The court may award to an operator appropriate costs and expenses, including reasonable attorney's fees, if it determines that a petitioner has initiated a proceeding in bad faith or merely for the purpose of harassing or embarrassing the operator. 14619
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(H) Except for the department of ~~mental retardation~~ and developmental disabilities or a county board of mental retardation and developmental disabilities, no party or person interested in an action shall be appointed a receiver pursuant to this section. 14623
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To assist the court in identifying persons qualified to be named as receivers, the director of ~~mental retardation~~ and developmental disabilities or the director's designee shall maintain a list of the names of such persons. The director shall, in accordance with Chapter 119. of the Revised Code, establish standards for evaluating persons desiring to be included on such a list. 14627
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(I) Before a receiver enters upon the duties of that person, the receiver must be sworn to perform the duties of receiver faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully 14634
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discharge the duties of receiver in the action, and obey the 14639
orders of the court therein. 14640

(J) Under the control of the appointing court, a receiver may 14641
bring and defend actions in the receiver's own name as receiver 14642
and take and keep possession of property. 14643

The court shall authorize the receiver to do the following: 14644

(1) Collect payment for all goods and services provided to 14645
the residents or others during the period of the receivership at 14646
the same rate as was charged by the licensee at the time the 14647
petition for receivership was filed, unless a different rate is 14648
set by the court; 14649

(2) Honor all leases, mortgages, and secured transactions 14650
governing all buildings, goods, and fixtures of which the receiver 14651
has taken possession and continues to use, subject to the 14652
following conditions: 14653

(a) In the case of a rental agreement, only to the extent of 14654
payments that are for the use of the property during the period of 14655
the receivership; 14656

(b) In the case of a purchase agreement only to the extent of 14657
payments that come due during the period of the receivership; 14658

(c) If the court determines that the cost of the lease, 14659
mortgage, or secured transaction was increased by a transaction 14660
required to be reported under division (B)(3) of section 5123.172 14661
of the Revised Code, only to the extent determined by the court to 14662
be the fair market value for use of the property during the period 14663
of the receivership. 14664

(3) If transfer of residents is necessary, provide for the 14665
orderly transfer of residents by doing the following: 14666

(a) Cooperating with all appropriate state and local agencies 14667
in carrying out the transfer of residents to alternative community 14668

placements;	14669
(b) Providing for the transportation of residents' belongings and records;	14670 14671
(c) Helping to locate alternative placements and develop discharge plans;	14672 14673
(d) Preparing residents for the trauma of discharge;	14674
(e) Permitting residents or guardians to participate in transfer or discharge planning except when an emergency exists and immediate transfer is necessary.	14675 14676 14677
(4) Make periodic reports on the status of the residential program to the appropriate state agency, county board of mental retardation and developmental disabilities, parents, guardians, and residents;	14678 14679 14680 14681
(5) Compromise demands or claims;	14682
(6) Generally do such acts respecting the residential facility as the court authorizes.	14683 14684
(K) Neither the receiver nor the department of mental retardation and developmental disabilities is liable for debts incurred by the owner or operator of a residential facility for which a receiver has been appointed.	14685 14686 14687 14688
(L) The department of mental retardation and developmental disabilities may contract for the operation of a residential facility in receivership. The department shall establish the conditions of a contract. A condition may be the same as, similar to, or different from a condition established by section 5123.18 of the Revised Code and the rules adopted under that section for a contract entered into under that section. Notwithstanding any other provision of law, contracts that are necessary to carry out the powers and duties of the receiver need not be competitively bid.	14689 14690 14691 14692 14693 14694 14695 14696 14697 14698

(M) The department of ~~mental retardation and~~ developmental 14699
disabilities, the department of job and family services, and the 14700
department of health shall provide technical assistance to any 14701
receiver appointed pursuant to this section. 14702

Sec. 5123.194. In the case of an individual who resides in a 14703
residential facility and is preparing to move into an independent 14704
living arrangement and the individual's liable relative, the 14705
department of ~~mental retardation and~~ developmental disabilities 14706
may waive the support collection requirements of sections 5121.04, 14707
5123.122, and 5123.18 of the Revised Code for the purpose of 14708
allowing income or resources to be used to acquire items necessary 14709
for independent living. The department shall adopt rules in 14710
accordance with section 111.15 of the Revised Code to implement 14711
this section, including rules that establish the method the 14712
department shall use to determine when an individual is preparing 14713
to move into an independent living arrangement. 14714

Sec. 5123.195. (A) Not later than sixty days after the end of 14715
calendar years 2003, 2004, and 2005, the director of ~~mental~~ 14716
~~retardation and~~ developmental disabilities shall submit a report 14717
to the president and minority leader of the senate and speaker and 14718
minority leader of the house of representatives regarding the 14719
implementation of section 5123.19 of the Revised Code since ~~the~~ 14720
~~effective date of this section~~ March 31, 2003. The director shall 14721
include in the report all of the following information: 14722

(1) A summary of any rules adopted under that section to 14723
implement the amendments to that section that go into effect on 14724
~~the effective date of this section~~ March 31, 2003;
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(2) The number of residential facility licenses issued, 14726
renewed, and denied under that section since the effective date of 14727
the amendments to section 5123.19 of the Revised Code that go into 14728

effect on ~~the effective date of this section~~ March 31, 2003 or, in 14729
the case of the reports due in 2005 and 2006, since the previous 14730
report was submitted; 14731

(3) The length of time for which residential facility 14732
licenses are issued and renewed under that section; 14733

(4) The sanctions imposed pursuant to division (D) of section 14734
5123.19 of the Revised Code and the kinds of violations that cause 14735
the sanctions; 14736

(5) Any other information the director determines is 14737
important to the implementation of the amendments to section 14738
5123.19 of the Revised Code that go into effect on ~~the effective~~ 14739
~~date of this section~~ March 31, 2003. 14740

(B) On submission of the report under division (A) of this 14741
section, the director shall inform each member of the general 14742
assembly that the report is available. 14743

Sec. 5123.196. (A) Except as provided in division (E) of this 14744
section, the director of ~~mental retardation and~~ developmental 14745
disabilities shall not issue a license under section 5123.19 of 14746
the Revised Code on or after July 1, 2003, if issuance will result 14747
in there being more beds in all residential facilities licensed 14748
under that section than is permitted under division (B) of this 14749
section. 14750

(B) The maximum number of beds for the purpose of division 14751
(A) of this section shall not exceed ten thousand eight hundred 14752
thirty-eight minus, except as provided in division (C) of this 14753
section, both of the following: 14754

(1) The number of such beds that cease to be residential 14755
facility beds on or after July 1, 2003, because a residential 14756
facility license is revoked, terminated, or not renewed for any 14757
reason or is surrendered in accordance with section 5123.19 of the 14758

Revised Code; 14759

(2) The number of such beds for which a licensee voluntarily 14760
converts to use for supported living on or after July 1, 2003. 14761

(C) The director is not required to reduce the maximum number 14762
of beds pursuant to division (B) of this section by a bed that 14763
ceases to be a residential facility bed if the director determines 14764
that the bed is needed to provide services to an individual with 14765
mental retardation or a developmental disability who resided in 14766
the residential facility in which the bed was located. 14767

(D) The director shall maintain an up-to-date written record 14768
of the maximum number of residential facility beds provided for by 14769
division (B) of this section. 14770

(E) The director may issue an interim license under division 14771
(S) of section 5123.19 of the Revised Code and issue, pursuant to 14772
rules adopted under division (H)(11) of that section, a waiver 14773
allowing a residential facility to admit more residents than the 14774
facility is licensed to admit regardless of whether the interim 14775
license or waiver will result in there being more beds in all 14776
residential facilities licensed under that section than is 14777
permitted under division (B) of this section. 14778

Sec. 5123.198. (A) As used in this section, "date of the 14779
commitment" means the date that an individual specified in 14780
division (B) of this section begins to reside in a state-operated 14781
intermediate care facility for the mentally retarded after being 14782
committed to the facility pursuant to sections 5123.71 to 5123.76 14783
of the Revised Code. 14784

(B) Except as provided in division (C) of this section, 14785
whenever a resident of a residential facility is committed to a 14786
state-operated intermediate care facility for the mentally 14787
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 14788

Code, the department of ~~mental retardation and~~ developmental 14789
disabilities, pursuant to an adjudication order issued in 14790
accordance with Chapter 119. of the Revised Code, shall reduce by 14791
one the number of residents for which the facility in which the 14792
resident resided is licensed. 14793

(C) The department shall not reduce under division (B) of 14794
this section the number of residents for which a residential 14795
facility is licensed if any of the following are the case: 14796

(1) The resident of the residential facility who is committed 14797
to a state-operated intermediate care facility for the mentally 14798
retarded resided in the residential facility because of the 14799
closure, on or after June 26, 2003, of another state-operated 14800
intermediate care facility for the mentally retarded; 14801

(2) The residential facility admits within ninety days of the 14802
date of the commitment an individual who resides on the date of 14803
the commitment in a state-operated intermediate care facility for 14804
the mentally retarded or another residential facility; 14805

(3) The department fails to do either of the following within 14806
ninety days of the date of the commitment: 14807

(a) Identify an individual to whom all of the following 14808
applies: 14809

(i) Resides on the date of the commitment in a state-operated 14810
intermediate care facility for the mentally retarded or another 14811
residential facility; 14812

(ii) Has indicated to the department an interest in 14813
relocating to the residential facility or has a parent or guardian 14814
who has indicated to the department an interest for the individual 14815
to relocate to the residential facility; 14816

(iii) The department determines the individual has needs that 14817
the residential facility can meet. 14818

(b) Provide the residential facility with information about the individual identified under division (C)(2)(a) of this section that the residential facility needs in order to determine whether the facility can meet the individual's needs.

(4) If the department completes the actions specified in divisions (C)(3)(a) and (b) of this section not later than ninety days after the date of the commitment and except as provided in division (D) of this section, the residential facility does all of the following not later than ninety days after the date of the commitment:

(a) Evaluates the information provided by the department;

(b) Assesses the identified individual's needs;

(c) Determines that the residential facility cannot meet the identified individual's needs.

(5) If the department completes the actions specified in divisions (C)(3)(a) and (b) of this section not later than ninety days after the date of the commitment and the residential facility determines that the residential facility can meet the identified individual's needs, the individual, or a parent or guardian of the individual, refuses placement in the residential facility.

(D) The department may reduce under division (B) of this section the number of residents for which a residential facility is licensed even though the residential facility completes the actions specified in division (C)(4) of this section not later than ninety days after the date of the commitment if all of the following are the case:

(1) The department disagrees with the residential facility's determination that the residential facility cannot meet the identified individual's needs.

(2) The department issues a written decision pursuant to the

uniform procedures for admissions, transfers, and discharges 14849
established by rules adopted under division (H)(9) of section 14850
5123.19 of the Revised Code that the residential facility should 14851
admit the identified individual. 14852

(3) After the department issues the written decision 14853
specified in division (D)(2) of this section, the residential 14854
facility refuses to admit the identified individual. 14855

(E) A residential facility that admits, refuses to admit, 14856
transfers, or discharges a resident under this section shall 14857
comply with the uniform procedures for admissions, transfers, and 14858
discharges established by rules adopted under division (H)(9) of 14859
section 5123.19 of the Revised Code. 14860

(F) The department of ~~mental retardation and~~ developmental 14861
disabilities may notify the department of job and family services 14862
of any reduction under this section in the number of residents for 14863
which a residential facility that is an intermediate care facility 14864
for the mentally retarded is licensed. On receiving the notice, 14865
the department of job and family services may transfer to the 14866
department of ~~mental retardation and~~ developmental disabilities 14867
the savings in the nonfederal share of medicaid expenditures for 14868
each fiscal year after the year of the commitment to be used for 14869
costs of the resident's care in the state-operated intermediate 14870
care facility for the mentally retarded. In determining the amount 14871
saved, the department of job and family services shall consider 14872
medicaid payments for the remaining residents of the facility in 14873
which the resident resided. 14874

Sec. 5123.21. The director of ~~mental retardation and~~ 14875
developmental disabilities or the director's designee may transfer 14876
or authorize the transfer of an involuntary resident or a 14877
consenting voluntary resident from one public institution to 14878
another or to an institution other than a public institution or 14879

other facility, if the director determines that it would be 14880
consistent with the habilitation needs of the resident to do so. 14881

Before an involuntary resident may be transferred to a more 14882
restrictive setting, the managing officer of the institution shall 14883
file a motion with the court requesting the court to amend its 14884
order of placement issued under section 5123.76 of the Revised 14885
Code. At the resident's request, the court shall hold a hearing on 14886
the motion at which the resident has the same rights as at a full 14887
hearing under section 5123.76 of the Revised Code. 14888

Whenever a resident is transferred, the director shall give 14889
written notice of the transfer to the resident's legal guardian, 14890
parents, spouse, and counsel, or, if none is known, to the 14891
resident's nearest known relative or friend. If the resident is a 14892
minor, the department before making such a transfer shall make a 14893
minute of the order for the transfer and the reason for it upon 14894
its record and shall send a certified copy at least seven days 14895
prior to the transfer to the person shown by its record to have 14896
had the care or custody of the minor immediately prior to the 14897
minor's commitment. Whenever a consenting voluntary resident is 14898
transferred, the notification shall be given only at the 14899
resident's request. The managing officer shall advise a voluntary 14900
resident who is being transferred that the patient may decide if 14901
such a notification shall be given. In all such transfers, due 14902
consideration shall be given to the relationship of the resident 14903
to the resident's family, legal guardian, or friends, so as to 14904
maintain relationships and encourage visits beneficial to the 14905
resident. 14906

Sec. 5123.211. (A) As used in this section, "residential 14907
services" has the same meaning as in section 5126.01 of the 14908
Revised Code. 14909

(B) The department of ~~mental retardation and~~ developmental 14910

disabilities shall provide or arrange provision of residential 14911
services for each person who, on or after July 1, 1989, ceases to 14912
be a resident of a state institution because of closure of the 14913
institution or a reduction in the institution's population by 14914
forty per cent or more within a period of one year. The services 14915
shall be provided in the county in which the person chooses to 14916
reside and shall consist of one of the following as determined 14917
appropriate by the department in consultation with the county 14918
board of mental retardation and developmental disabilities of the 14919
county in which the services are to be provided: 14920

(1) Residential services provided pursuant to section 5123.18 14921
of the Revised Code; 14922

(2) Residential services for which reimbursement is made 14923
under the medical assistance program established under section 14924
5111.01 of the Revised Code; 14925

(3) Residential services provided in a manner or setting 14926
approved by the director of ~~mental retardation and~~ developmental 14927
disabilities. 14928

(C) Not less than six months prior to closing a state 14929
institution or reducing a state institution's population by forty 14930
per cent or more within a period of one year, the department shall 14931
identify those counties in which individuals leaving the 14932
institution have chosen to reside and notify the county boards of 14933
mental retardation and developmental disabilities in those 14934
counties of the need to develop the services specified in division 14935
(B) of this section. The notice shall specify the number of 14936
individuals requiring services who plan to reside in the county 14937
and indicate the amount of funds the department will use to 14938
provide or arrange services for those individuals. 14939

(D) In each county in which one or more persons receive 14940
residential services pursuant to division (B) of this section, the 14941

department shall provide or arrange provision of residential 14942
services, or shall distribute moneys to the county board of mental 14943
retardation and developmental disabilities to provide or arrange 14944
provision of residential services, for an equal number of persons 14945
with mental retardation or developmental disabilities in that 14946
county who the county board has determined need residential 14947
services but are not receiving them. 14948

Sec. 5123.22. When it is necessary for an institution under 14949
the jurisdiction of the department of ~~mental retardation and~~ 14950
developmental disabilities to acquire any real estate, 14951
right-of-way, or easement in real estate in order to accomplish 14952
the purposes for which it was organized or is being conducted, and 14953
the department is unable to agree with the owner of such property 14954
upon the price to be paid therefor, such property may be 14955
appropriated in the manner provided for the appropriation of 14956
property for other state purposes. 14957

Any instrument by which real property is acquired pursuant to 14958
this section shall identify the agency of the state that has the 14959
use and benefit of the real property as specified in section 14960
5301.012 of the Revised Code. 14961

Sec. 5123.221. The department of ~~mental retardation and~~ 14962
developmental disabilities shall determine and direct what lands 14963
belonging to institutions under its control shall be cultivated. 14964

The department of agriculture, the department of health, and 14965
the Ohio state university shall cooperate with the department of 14966
~~mental retardation and~~ developmental disabilities, and the 14967
managing officer of each institution mentioned in section 5123.03 14968
of the Revised Code, in making such cooperative tests as are 14969
necessary to determine the quality, strength, and purity of 14970
supplies, the value and use of farm lands, or the conditions and 14971

needs of mechanical equipment. 14972

The department may direct the purchase of any materials, 14973
supplies, or other articles for any institution subject to its 14974
jurisdiction from any other such institution at the reasonable 14975
market value, such value to be fixed by the department, and 14976
payments therefor shall be made as between institutions in the 14977
manner provided for payment for supplies. 14978

Sec. 5123.23. The director of ~~mental retardation and~~ 14979
developmental disabilities may lease, for oil and gas, any real 14980
estate owned by the state and placed under the supervision of the 14981
department of ~~mental retardation and~~ developmental disabilities, 14982
to any person, upon such terms and for such number of years, not 14983
more than forty, as will be for the best interest of the state. No 14984
such lease shall be agreed upon or entered into before the 14985
proposal to lease the property has been advertised once each week 14986
for four weeks in a newspaper of general circulation in the county 14987
in which the property is located. The lease shall be made with the 14988
person offering the best terms to the state. 14989

The director, in such lease, may grant to the lessee the 14990
right to use so much of the surface of the land as may be 14991
reasonably necessary to carry on the work of prospecting for, 14992
extracting, piping, storing, and removing all oil or gas, and for 14993
depositing waste material and maintaining such buildings and 14994
constructions as are reasonably necessary for exploring or 14995
prospecting for such oil and gas. 14996

All leases made under this section shall be prepared by the 14997
attorney general and approved by the governor. All money received 14998
from any such leases shall be paid into the state treasury to the 14999
credit of the general revenue fund. 15000

Sec. 5123.24. A person, firm, or corporation may file a 15001

petition in the court of common pleas of the county in which an 15002
institution under the jurisdiction of the department of ~~mental~~ 15003
~~retardation and~~ developmental disabilities is located, in which 15004
petition the desire to erect or carry on at a less distance than 15005
that prescribed in section 3767.19 of the Revised Code shall be 15006
set forth, the business prohibited, the precise point of its 15007
establishment, and the reasons and circumstances, in its opinion, 15008
why the erection or carrying on thereof would not annoy or 15009
endanger the health, convenience, or recovery of the residents of 15010
such institution. The petitioner shall give notice in a newspaper 15011
of general circulation in the county of the pendency and prayer of 15012
the petition for at least six consecutive weeks before the day set 15013
for hearing the petition and serve a written notice upon the 15014
superintendent of the institution at least thirty days before the 15015
day set for hearing the petition. 15016

If, upon the hearing of the petition, it appears that the 15017
notice has been given as required and the court is of the opinion 15018
that no good reason exists why such establishment may not be 15019
erected or such business carried on and that by the erection or 15020
carrying on thereof at the point named, the institution will 15021
sustain no detriment, the court may issue an order granting the 15022
prayer of the petitioner. Thereafter the petitioner may locate 15023
such establishment or carry on such business at the point named in 15024
the petition. 15025

Sec. 5123.25. The department of administrative services shall 15026
purchase all supplies needed for the proper support and 15027
maintenance of the institutions under the control of the 15028
department of ~~mental retardation and~~ developmental disabilities in 15029
accordance with the competitive selection procedures of Chapter 15030
125. of the Revised Code and such rules as the department of 15031
administrative services adopts. All bids shall be publicly opened 15032
on the day and hour and at the place specified in the 15033

advertisement. 15034

Preference shall be given to bidders in localities wherein 15035
the institution is located, if the price is fair and reasonable 15036
and not greater than the usual price. 15037

The department of administrative services may require such 15038
security as it considers proper to accompany the bids and shall 15039
fix the security to be given by the contractor. 15040

The department of administrative services may reject any or 15041
all bids and secure new bids, if for any reason it is considered 15042
for the best interest of the state to do so, and it may authorize 15043
the managing officer of any institution to purchase perishable 15044
goods and supplies for use in cases of emergency, in which cases 15045
the managing officer shall certify such fact in writing and the 15046
department of administrative services shall record the reasons for 15047
the purchases. 15048

Sec. 5123.26. The treasurer of state shall have charge of all 15049
funds under the jurisdiction of the department of ~~mental~~ 15050
~~retardation and~~ developmental disabilities and shall pay out the 15051
same only in accordance with Chapter 5123. of the Revised Code. 15052

The department shall cause to be furnished a contract of 15053
indemnity to cover all moneys and funds received by it or by its 15054
managing officers, employees, or agents while such moneys or funds 15055
are in the possession of such managing officers, employees, or 15056
agents. Such funds are designated as follows: 15057

(A) Funds which are due and payable to the treasurer of state 15058
as provided by Chapter 131. of the Revised Code; 15059

(B) Those funds which are held in trust by the managing 15060
officers, employees, or agents of the institution as local funds 15061
or accounts under the jurisdiction of the department. 15062

Such contract of indemnity shall be made payable to the state 15063

and the premium for such contract of indemnity may be paid from 15064
any of the funds received for the use of the department under this 15065
chapter or Chapter 5121. of the Revised Code. 15066

Funds collected from various sources, such as the sale of 15067
goods, farm products, and all miscellaneous articles, shall be 15068
transmitted on or before Monday of each week to the treasurer of 15069
state and a detailed statement of such collections shall be made 15070
to the division of business administration by each managing 15071
officer. 15072

Sec. 5123.27. The director of ~~mental retardation and~~ 15073
developmental disabilities may accept, hold, and administer in 15074
trust on behalf of the state, if it is for the public interest, 15075
any grant, devise, gift, or bequest of money or property made to 15076
the state for the use or benefit of any institution under the 15077
jurisdiction of the department of ~~mental retardation and~~ 15078
developmental disabilities or for the use and benefit of persons 15079
with mental retardation or a developmental disability under the 15080
control of the department. If the trust so provides, the money or 15081
property may be used for any work which the department is 15082
authorized to undertake. 15083

The department shall keep such gift, grant, devise, or 15084
bequest as a distinct property or fund and, if it is in money, 15085
shall invest it in the manner provided by law. The department may 15086
deposit in a proper trust company or savings bank any money left 15087
in trust during a specified life or lives and shall adopt rules 15088
governing the deposit, transfer, withdrawal, or investment of the 15089
money and the income from it. 15090

The department shall, in the manner prescribed by the 15091
director of budget and management pursuant to section 126.21 of 15092
the Revised Code, account for all money or property received or 15093
expended under this section. The records, together with a 15094

statement certified by the depository showing the money deposited 15095
there to the credit of the trust, shall be open to public 15096
inspection. The director of budget and management may require the 15097
department to file a report with the director on any particular 15098
portion, or the whole, of any trust property received or expended 15099
by it. 15100

The department shall, upon the expiration of any trust 15101
according to its terms, dispose of the money or property held 15102
under the trust in the manner provided in the instrument creating 15103
the trust. If the instrument creating the trust failed to make any 15104
terms of disposition, or if no trust was in evidence, the decedent 15105
resident's money, saving or commercial deposits, dividends or 15106
distributions, bonds, or any other interest-bearing debt 15107
certificate or stamp issued by the United States government shall 15108
escheat to the state. All such unclaimed intangible personal 15109
property of a former resident shall be retained by the managing 15110
officer in such institution for the period of one year, during 15111
which time every possible effort shall be made to find the former 15112
resident or the former resident's legal representative. 15113

If after a period of one year from the time the resident has 15114
left the institution or has died, the managing officer has been 15115
unable to locate the person or the person's legal representative, 15116
then, upon proper notice of that fact, the director shall at that 15117
time formulate in writing a method of disposition on the minutes 15118
of the department authorizing the managing officer to convert such 15119
intangible personal property to cash to be paid into the state 15120
treasury to the credit of the general revenue fund. 15121

The department shall include in its annual report a statement 15122
of all such money and property and the terms and conditions 15123
relating to them. 15124

Sec. 5123.28. (A) Except as otherwise provided in this 15125

division, money or property deposited with managing officers of 15126
institutions under the jurisdiction of the department of ~~mental~~ 15127
~~retardation and~~ developmental disabilities by any resident under 15128
the department's control or by relatives, guardians, conservators, 15129
and others for the special benefit of such resident, as well as 15130
all other funds and all other income paid to the resident, to the 15131
resident's estate, or on the resident's behalf, or paid to the 15132
managing officer or to the institution as representative payee or 15133
otherwise paid on the resident's behalf, shall remain in the hands 15134
of such managing officers in appropriate accounts for use 15135
accordingly. Each such managing officer shall keep itemized book 15136
accounts of the receipt and disposition of such money and 15137
property, which book shall be open at all times to the inspection 15138
of the department. The director of ~~mental retardation and~~ 15139
developmental disabilities shall adopt rules governing the 15140
deposit, transfer, withdrawal, or investment of such funds and the 15141
income of the funds, as well as rules under which such funds and 15142
income shall be paid by managing officers, institutions, or 15143
district managers for the support of such residents pursuant to 15144
Chapter 5121. of the Revised Code, or for their other needs. 15145

This division does not require, and shall not be construed as 15146
requiring, the deposit of the principal or income of a trust 15147
created pursuant to section 5815.28 of the Revised Code with 15148
managing officers of institutions under the jurisdiction of the 15149
department. 15150

(B) Whenever any resident confined in a state institution 15151
under the jurisdiction of the department dies, escapes, or is 15152
discharged from the institution, any personal funds of the 15153
resident remain in the hands of the managing officer of the 15154
institution, and no demand is made upon the managing officer by 15155
the owner of the funds or the owner's legally appointed 15156
representative, the managing officer shall hold the funds in the 15157

personal deposit fund for a period of at least one year during 15158
which time the managing officer shall make every effort possible 15159
to locate the owner or the owner's legally appointed 15160
representative. If, at the end of this period, no demand has been 15161
made for the funds, the managing officer shall dispose of the 15162
funds as follows: 15163

(1) All money in a personal deposit fund in excess of ten 15164
dollars due for the support of a resident, shall be paid in 15165
accordance with Chapter 5121. of the Revised Code. 15166

(2) All money in a personal deposit fund in excess of ten 15167
dollars not due for the support of a resident, shall be placed to 15168
the credit of the institution's local account designated as the 15169
"industrial and entertainment" fund. 15170

(3) The first ten dollars to the credit of a resident shall 15171
be placed to the credit of the institution's local account 15172
designated as the "industrial and entertainment" fund. 15173

(C) Whenever any resident in any state institution subject to 15174
the jurisdiction of the department dies, escapes, or is discharged 15175
from the institution, any personal effects of the resident remain 15176
in the hands of the managing officer of the institution, and no 15177
demand is made upon the managing officer by the owner of the 15178
personal effects or the owner's legally appointed representative, 15179
the managing officer shall hold and dispose of the personal 15180
effects in the following manner. All the miscellaneous personal 15181
effects shall be held for a period of at least one year, during 15182
which time the managing officer shall make every effort possible 15183
to locate the owner or the owner's legal representative. If, at 15184
the end of this period, no demand has been made by the owner of 15185
the property or the owner's legal representative, the managing 15186
officer shall file with the county recorder of the county of 15187
commitment of such owner, all deeds, wills, contract mortgages, or 15188
assignments. The balance of the personal effects shall be sold at 15189

public auction after being duly advertised, and the funds turned 15190
over to the treasurer of state for credit to the general revenue 15191
fund. If any of the property is not of a type to be filed with the 15192
county recorder and is not salable at public auction, the managing 15193
officer of the institution shall destroy that property. 15194

Sec. 5123.29. Each managing officer of an institution under 15195
the jurisdiction of the department of ~~mental retardation and~~ 15196
developmental disabilities, with the approval of the director of 15197
~~mental retardation and~~ developmental disabilities, may establish 15198
funds in the institutions under the jurisdiction of the 15199
department, designated as follows: 15200

(A) Industrial and entertainment fund for the entertainment 15201
and welfare of the residents of the institution. 15202

(B) Commissary fund for the benefit of residents of the 15203
institution. Commissary revenue in excess of operating costs and 15204
reserve shall be considered profits. All profits from the 15205
commissary fund operations shall be paid into the industrial and 15206
entertainment fund, and used only for the entertainment and 15207
welfare of residents. 15208

The director shall establish rules for the operation of the 15209
industrial and entertainment and commissary funds. 15210

Sec. 5123.30. The department of ~~mental retardation and~~ 15211
developmental disabilities shall keep in its office a proper and 15212
complete set of books and accounts with each institution, which 15213
shall clearly show the nature and amount of every expenditure 15214
authorized and made at such institution, and which shall contain 15215
an account of all appropriations made by the general assembly and 15216
of all other funds, together with the disposition of such funds. 15217

The department shall prescribe the form of vouchers, records, 15218
and methods of keeping accounts at each of the institutions, which 15219

shall be as nearly uniform as possible. The department may examine 15220
the records of any institution at any time. 15221

The department may authorize any of its bookkeepers, 15222
accountants, or employees to examine the records, accounts, and 15223
vouchers or take an inventory of the property of any institution, 15224
or do whatever is necessary, and pay the actual and reasonable 15225
expenses incurred in such service when an itemized account is 15226
filed and approved. 15227

Sec. 5123.31. The department of ~~mental retardation and~~ 15228
developmental disabilities shall keep in its office, accessible 15229
only to its employees, except by the consent of the department or 15230
the order of the judge of a court of record, a record showing the 15231
name, residence, sex, age, nativity, occupation, condition, and 15232
date of entrance or commitment of every resident in the 15233
institutions governed by it, the date, cause, and terms of 15234
discharge and the condition of such person at the time of leaving, 15235
and also a record of all transfers from one institution to 15236
another, and, if such person dies while in the care or custody of 15237
the department, the date and cause of death. These and such other 15238
facts as the department requires shall be furnished by the 15239
managing officer of each institution within ten days after the 15240
commitment, entrance, death, or discharge of a resident. 15241

In case of an accident or injury or peculiar death of a 15242
resident the managing officer shall make a special report to the 15243
department within twenty-four hours thereafter, giving the 15244
circumstances as fully as possible. 15245

Sec. 5123.33. In its annual report, the department of ~~mental~~ 15246
~~retardation and~~ developmental disabilities shall include a list of 15247
the officers and agents employed, and complete financial statement 15248
of the various institutions under its control. The report shall 15249

describe the condition of each institution, and shall state, as to 15250
each institution, whether: 15251

(A) The moneys appropriated have been economically and 15252
judiciously expended; 15253

(B) The objects of the institutions have been accomplished; 15254

(C) The laws in relation to such institutions have been fully 15255
complied with; 15256

(D) All parts of the state are equally benefited by the 15257
institutions. 15258

Such annual report shall be accompanied by the reports of the 15259
managing officers, such other information as the department 15260
considers proper, and the department's recommendations for the 15261
more effective accomplishment of the general purpose of this 15262
chapter. 15263

Sec. 5123.34. This chapter attempts to do all of the 15264
following: 15265

(A) Provide humane and scientific treatment and care and the 15266
highest attainable degree of individual development for persons 15267
with mental retardation or a developmental disability; 15268

(B) Promote the study of the causes of mental retardation and 15269
developmental disabilities, with a view to ultimate prevention; 15270

(C) Secure by uniform and systematic management the highest 15271
attainable degree of economy in the administration of the 15272
institutions under the control of the department of ~~mental~~ 15273
~~retardation and~~ developmental disabilities. 15274

Sections 5123.02 to 5123.04, 5123.042, 5123.043, 5123.10, 15275
5123.21, 5123.221, 5123.25, and 5123.31 of the Revised Code shall 15276
be liberally construed to attain these purposes. 15277

Sec. 5123.35. (A) There is hereby created the Ohio 15278
developmental disabilities council, which shall serve as an 15279
advocate for all persons with developmental disabilities. The 15280
council shall act in accordance with the "Developmental 15281
Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 15282
(1984), 42 U.S.C. 6001, as amended. The governor shall appoint the 15283
members of the council in accordance with 42 U.S.C. 6024. 15284

(B) The Ohio developmental disabilities council shall develop 15285
the state plan required by federal law as a condition of receiving 15286
federal assistance under 42 U.S.C. 6021 to 6030. The department of 15287
~~mental retardation and~~ developmental disabilities, as the state 15288
agency selected by the governor for purposes of receiving the 15289
federal assistance, shall receive, account for, and disburse funds 15290
based on the state plan and shall provide assurances and other 15291
administrative support services required as a condition of 15292
receiving the federal assistance. 15293

(C) The federal funds may be disbursed through grants to or 15294
contracts with persons and government agencies for the provision 15295
of necessary or useful goods and services for developmentally 15296
disabled persons. The Ohio developmental disabilities council may 15297
award the grants or enter into the contracts. 15298

(D) The Ohio developmental disabilities council may award 15299
grants to or enter into contracts with a member of the council or 15300
an entity that the member represents if all of the following 15301
apply: 15302

(1) The member serves on the council as a representative of 15303
one of the principal state agencies concerned with services for 15304
persons with developmental disabilities as specified in 42 U.S.C. 15305
6024(b)(3), a representative of a university affiliated program as 15306
defined in 42 U.S.C. 6001(18), or a representative of the legal 15307
rights service created under section 5123.60 of the Revised Code. 15308

(2) The council determines that the member or the entity the member represents is capable of providing the goods or services specified under the terms of the grant or contract.

(3) The member has not taken part in any discussion or vote of the council related to awarding the grant or entering into the contract, including service as a member of a review panel established by the council to award grants or enter into contracts or to make recommendations with regard to awarding grants or entering into contracts.

(E) A member of the Ohio developmental disabilities council is not in violation of Chapter 102. or section 2921.42 of the Revised Code with regard to receiving a grant or entering into a contract under this section if the requirements of division (D) of this section have been met.

Sec. 5123.351. The director of ~~mental retardation and~~ developmental disabilities, with respect to the eligibility for state reimbursement of expenses incurred by facilities and programs established and operated under Chapter 5126. of the Revised Code for persons with mental retardation or a developmental disability, shall do all of the following:

(A) Make rules that may be necessary to carry out the purposes of Chapter 5126. and sections 5123.35, 5123.351, and 5123.36 of the Revised Code;

(B) Define minimum standards for qualifications of personnel, professional services, and in-service training and educational leave programs;

(C) Review and evaluate community programs and make recommendations for needed improvements to county boards of mental retardation and developmental disabilities and to program directors;

(D) Withhold state reimbursement, in whole or in part, from 15339
any county or combination of counties for failure to comply with 15340
Chapter 5126. or section 5123.35 or 5123.351 of the Revised Code 15341
or rules of the department of ~~mental retardation and~~ developmental 15342
disabilities; 15343

(E) Withhold state funds from an agency, corporation, or 15344
association denying or rendering service on the basis of race, 15345
color, sex, religion, ancestry, national origin, disability as 15346
defined in section 4112.01 of the Revised Code, or inability to 15347
pay; 15348

(F) Provide consultative staff service to communities to 15349
assist in ascertaining needs and in planning and establishing 15350
programs. 15351

Sec. 5123.352. There is hereby created in the state treasury 15352
the community ~~mental retardation and~~ developmental disabilities 15353
trust fund. The director of ~~mental retardation and~~ developmental 15354
disabilities, not later than sixty days after the end of each 15355
fiscal year, shall certify to the director of budget and 15356
management the amount of all the unexpended, unencumbered balances 15357
of general revenue fund appropriations made to the department of 15358
~~mental retardation and~~ developmental disabilities for the fiscal 15359
year, excluding appropriations for rental payments to the Ohio 15360
public facilities commission, and the amount of any other funds 15361
held by the department in excess of amounts necessary to meet the 15362
department's operating costs and obligations pursuant to this 15363
chapter and Chapter 5126. of the Revised Code. On receipt of the 15364
certification, the director of budget and management shall 15365
transfer cash to the trust fund in an amount up to, but not 15366
exceeding, the total of the amounts certified by the director of 15367
~~mental retardation and~~ developmental disabilities, except in cases 15368
in which the transfer will involve more than twenty million 15369

dollars. In such cases, the director of budget and management 15370
shall notify the controlling board and must receive the board's 15371
approval of the transfer prior to making the transfer. 15372

All moneys in the trust fund shall be distributed in 15373
accordance with section 5126.19 of the Revised Code. 15374

Sec. 5123.36. (A) To the extent funds are available and on 15375
application by a county board of mental retardation and 15376
developmental disabilities or private nonprofit agency 15377
incorporated to provide mental retardation or developmental 15378
disability services, the director of ~~mental retardation and~~ 15379
developmental disabilities may enter into an agreement with the 15380
county board or agency to assist the county board or agency with a 15381
mental retardation or developmental disability construction 15382
project. Except as provided by division (B) of this section, the 15383
director may provide up to ninety per cent of the total project 15384
cost where circumstances warrant. The director may, where 15385
circumstances warrant, use existing facilities or other in-kind 15386
match for the local share of the communities' share of the cost. 15387

(B) Upon the recommendation of the director, for projects of 15388
the highest priority of the department of ~~mental retardation and~~ 15389
developmental disabilities, the controlling board may authorize 15390
the director to provide more than ninety per cent of the total 15391
cost of a project under this section. 15392

(C) A county board is eligible for funds under this section 15393
for a project bid on or after January 1, 1992, under either 15394
section 153.07 or 307.86 of the Revised Code, as long as all other 15395
applicable requirements were followed. 15396

(D) A private nonprofit agency that receives funds pursuant 15397
to this section for the construction of a single-family home, 15398
including, where appropriate, the acquisition and installation of 15399
a single-family home fabricated in an off-site facility, is not 15400

subject to the requirements of Chapter 153. of the Revised Code 15401
with respect to the construction project, notwithstanding any 15402
provision of that chapter to the contrary. 15403

(E) The director may not assist a project under this section 15404
unless the controlling board or director of budget and management 15405
also approves the project pursuant to section 126.14 of the 15406
Revised Code. 15407

Sec. 5123.37. A county board of mental retardation and 15408
developmental disabilities or private, nonprofit agency that 15409
receives state funds pursuant to an agreement with the director of 15410
~~mental retardation and~~ developmental disabilities under section 15411
5123.36 of the Revised Code to acquire a facility may apply to the 15412
director for approval to sell the facility before the terms of the 15413
agreement expire for the purpose of acquiring a replacement 15414
facility to be used to provide mental retardation or developmental 15415
disability services to individuals the county board or agency 15416
serves. The application shall be made on a form the director shall 15417
prescribe. The county board or agency shall include in the 15418
application the specific purpose for which the replacement 15419
facility is to be used. The director may refuse to approve the 15420
application if the director determines that any of the following 15421
apply: 15422

(A) The application is incomplete or indicates that the 15423
county board or agency is unable to purchase a replacement 15424
facility. 15425

(B) The replacement facility would not be used to continue to 15426
provide mental retardation or developmental disability services 15427
that the director determines are appropriate for the individuals 15428
the county board or agency serves. 15429

(C) The county board or agency has failed to comply with a 15430
provision of Chapter 5123. or 5126. of the Revised Code or a rule 15431

adopted by the director. 15432

(D) Approving the application would be inconsistent with the 15433
plans and priorities of the department of ~~mental retardation and~~ 15434
developmental disabilities. 15435

Sec. 5123.371. If the director of ~~mental retardation and~~ 15436
developmental disabilities approves an application submitted under 15437
section 5123.37 of the Revised Code, the county board of mental 15438
retardation and developmental disabilities or private, nonprofit 15439
agency that submitted the application shall, after selling the 15440
facility for which the county board or agency received approval to 15441
sell, pay to the director the portion of the proceeds that equals 15442
the amount that the director determines the county board or agency 15443
owes the department of ~~mental retardation and~~ developmental 15444
disabilities, including the department's security interest in the 15445
facility, for the state funds used to acquire the facility. 15446

Sec. 5123.372. If the director of ~~mental retardation and~~ 15447
developmental disabilities approves an application submitted under 15448
section 5123.37 of the Revised Code, the director shall establish 15449
a deadline by which the county board of mental retardation and 15450
developmental disabilities or private, nonprofit agency that 15451
submitted the application must notify the director that the county 15452
board or agency is ready to acquire a replacement facility to be 15453
used for the purpose stated in the application. The director may 15454
extend the deadline as many times as the director determines 15455
necessary. 15456

Sec. 5123.373. If, on or before the deadline or, if any, the 15457
last extended deadline established under section 5123.372 of the 15458
Revised Code for a county board of mental retardation and 15459
developmental disabilities or private, nonprofit agency, the 15460
county board or agency notifies the director of ~~mental retardation~~ 15461

~~and~~ developmental disabilities that the county board or agency is ready to acquire the replacement facility, the director shall enter into an agreement with the county board or agency that provides for the director to pay to the county board or agency a percentage of the cost of acquiring the replacement facility. The agreement shall specify the amount that the director shall pay. The amount may be the amount of the security interest that the department of ~~mental retardation and~~ developmental disabilities had in the previous facility or a different amount. The agreement may provide for the department to hold a security interest in the replacement facility.

Sec. 5123.374. (A) The director of ~~mental retardation and~~ developmental disabilities may rescind approval of an application submitted under section 5123.37 of the Revised Code if either of the following occurs:

(1) The county board of mental retardation and developmental disabilities or private, nonprofit agency that submitted the application fails, on or before the deadline or, if any, the last extended deadline established under section 5123.372 of the Revised Code for the county board or agency, to notify the director that the county board or agency is ready to acquire the replacement facility.

(2) The county board or agency at any time notifies the director that the county board or agency no longer intends to acquire a replacement facility.

(B) If the director rescinds approval of an application, the director shall use any funds the county board or agency paid to the director under section 5123.371 of the Revised Code to assist mental retardation or developmental disabilities construction projects under section 5123.36 of the Revised Code.

Sec. 5123.375. The ~~MR/DD~~ developmental disabilities community capital replacement facilities fund is hereby created in the state treasury. The director of ~~mental retardation and~~ developmental disabilities shall credit all amounts paid to the director under section 5123.371 of the Revised Code to the fund. The director shall use the money in the fund as follows:

(A) To make payments to county boards of mental retardation and developmental disabilities and private, nonprofit agencies pursuant to agreements entered into under section 5123.373 of the Revised Code;

(B) To provide, pursuant to section 5123.374 of the Revised Code, assistance for mental retardation or developmental disabilities construction projects under section 5123.36 of the Revised Code.

Sec. 5123.38. (A) Except as provided in division (B) and (C) of this section, if an individual receiving supported living or home and community-based services funded by a county board of mental retardation and developmental disabilities is committed to a state-operated intermediate care facility for the mentally retarded pursuant to sections 5123.71 to 5123.76 of the Revised Code, the department of ~~mental retardation and~~ developmental disabilities shall use the funds otherwise allocated to the county board as the nonfederal share of medicaid expenditures for the individual's care in the state-operated facility.

(B) Division (A) of this section does not apply if the county board, not later than ninety days after the date of the commitment of a person receiving supported services, commences funding of supported living for an individual who resides in a state-operated intermediate care facility for the mentally retarded on the date of the commitment or another eligible individual designated by the

department. 15522

(C) Division (A) of this section does not apply if the county 15523
board, not later than ninety days after the date of the commitment 15524
of a person receiving home and community-based services, commences 15525
funding of home and community-based services for an individual who 15526
resides in a state-operated intermediate care facility for the 15527
mentally retarded on the date of the commitment or another 15528
eligible individual designated by the department. 15529

Sec. 5123.40. There is hereby created in the state treasury 15530
the services fund for individuals with mental retardation and 15531
developmental disabilities. On the death of the beneficiary of a 15532
trust created pursuant to section 1339.51 of the Revised Code, the 15533
portion of the remaining assets of the trust specified in the 15534
trust instrument shall be deposited to the credit of the fund. 15535

Money credited to the fund shall be used for individuals with 15536
mental retardation and developmental disabilities. In accordance 15537
with Chapter 119. of the Revised Code, the department of ~~mental~~ 15538
~~retardation and~~ developmental disabilities may adopt any rules 15539
necessary to implement this section. 15540

Sec. 5123.41. As used in this section and sections 5123.42 to 15541
5123.47 of the Revised Code: 15542

(A) "Adult services" has the same meaning as in section 15543
5126.01 of the Revised Code. 15544

(B) "Certified supported living provider" means a person or 15545
government entity certified under section 5123.161 of the Revised 15546
Code. 15547

(C) "Drug" has the same meaning as in section 4729.01 of the 15548
Revised Code. 15549

(D) "Family support services" has the same meaning as in 15550

section 5126.01 of the Revised Code.	15551
(E) "Health-related activities" means the following:	15552
(1) Taking vital signs;	15553
(2) Application of clean dressings that do not require health assessment;	15554 15555
(3) Basic measurement of bodily intake and output;	15556
(4) Oral suctioning;	15557
(5) Use of glucometers;	15558
(6) External urinary catheter care;	15559
(7) Emptying and replacing colostomy bags;	15560
(8) Collection of specimens by noninvasive means.	15561
(F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.	15562 15563 15564
(G) "MR/DD personnel" means the employees and the workers under contract who provide specialized services to individuals with mental retardation and developmental disabilities. "MR/DD personnel" includes those who provide the services as follows:	15565 15566 15567 15568
(1) Through direct employment with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities;	15569 15570 15571
(2) Through an entity under contract with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities;	15572 15573 15574
(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities.	15575 15576 15577
(H) "Nursing delegation" means the process established in	15578

rules adopted by the board of nursing pursuant to Chapter 4723. of 15579
the Revised Code under which a registered nurse or licensed 15580
practical nurse acting at the direction of a registered nurse 15581
transfers the performance of a particular nursing activity or task 15582
to another person who is not otherwise authorized to perform the 15583
activity or task. 15584

(I) "Prescribed medication" means a drug that is to be 15585
administered according to the instructions of a licensed health 15586
professional authorized to prescribe drugs. 15587

(J) "Residential facility" means a facility licensed under 15588
section 5123.19 of the Revised Code or subject to section 5123.192 15589
of the Revised Code. 15590

(K) "Specialized services" has the same meaning as in section 15591
5123.50 of the Revised Code. 15592

(L) "Tube feeding" means the provision of nutrition to an 15593
individual through a gastrostomy tube or a jejunostomy tube. 15594

Sec. 5123.42. (A) Beginning nine months after ~~the effective~~ 15595
~~date of this section~~ March 31, 2003, MR/DD personnel who are not 15596
specifically authorized by other provisions of the Revised Code to 15597
administer prescribed medications, perform health-related 15598
activities, or perform tube feedings may do so pursuant to this 15599
section as part of the specialized services the MR/DD personnel 15600
provide to individuals with mental retardation and developmental 15601
disabilities in the following categories: 15602

(1) Recipients of early intervention, preschool, and 15603
school-age services offered or provided pursuant to this chapter 15604
or Chapter 5126. of the Revised Code; 15605

(2) Recipients of adult services offered or provided pursuant 15606
to this chapter or Chapter 5126. of the Revised Code; 15607

(3) Recipients of family support services offered or provided 15608

pursuant to this chapter or Chapter 5126. of the Revised Code;	15609
	15610
(4) Recipients of services from certified supported living providers, if the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	15611
	15612
	15613
(5) Recipients of residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals with mental retardation and developmental disabilities and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	15614
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(6) Recipients of services not included in divisions (A)(1) to (5) of this section that are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	15620
	15621
	15622
(7) Residents of a residential facility with five or fewer resident beds;	15623
	15624
(8) Residents of a residential facility with at least six but not more than sixteen resident beds;	15625
	15626
(9) Residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, if all of the following are the case:	15627
	15628
	15629
(a) The field trip is sponsored by the facility for purposes of complying with federal medicaid statutes and regulations, state medicaid statutes and rules, or other federal or state statutes, regulations, or rules that require the facility to provide habilitation, community integration, or normalization services to its residents.	15630
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(b) Not more than five field trip participants are residents who have health needs requiring the administration of prescribed medications, excluding participants who self-administer prescribed	15636
	15637
	15638

medications or receive assistance with self-administration of 15639
prescribed medications. 15640

(c) The facility staffs the field trip with MR/DD personnel 15641
in such a manner that one person will administer prescribed 15642
medications, perform health-related activities, or perform tube 15643
feedings for not more than two participants if one or both of 15644
those participants have health needs requiring the person to 15645
administer prescribed medications through a gastrostomy or 15646
jejunostomy tube. 15647

(d) According to the instructions of a health care 15648
professional acting within the scope of the professional's 15649
practice, the health needs of the participants who require 15650
administration of prescribed medications by MR/DD personnel are 15651
such that the participants must receive the medications during the 15652
field trip to avoid jeopardizing their health and safety. 15653

(B)(1) In the case of recipients of early intervention, 15654
preschool, and school-age services, as specified in division 15655
(A)(1) of this section, all of the following apply: 15656

(a) With nursing delegation, MR/DD personnel may perform 15657
health-related activities. 15658

(b) With nursing delegation, MR/DD personnel may administer 15659
oral and topical prescribed medications. 15660

(c) With nursing delegation, MR/DD personnel may administer 15661
prescribed medications through gastrostomy and jejunostomy tubes, 15662
if the tubes being used are stable and labeled. 15663

(d) With nursing delegation, MR/DD personnel may perform 15664
routine tube feedings, if the gastrostomy and jejunostomy tubes 15665
being used are stable and labeled. 15666

(2) In the case of recipients of adult services, as specified 15667
in division (A)(2) of this section, all of the following apply: 15668

(a) With nursing delegation, MR/DD personnel may perform health-related activities.	15669 15670
(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.	15671 15672
(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.	15673 15674 15675
(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.	15676 15677 15678
(3) In the case of recipients of family support services, as specified in division (A)(3) of this section, all of the following apply:	15679 15680 15681
(a) Without nursing delegation, MR/DD personnel may perform health-related activities.	15682 15683
(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.	15684 15685
(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.	15686 15687 15688
(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.	15689 15690 15691
(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.	15692 15693 15694
(4) In the case of recipients of services from certified supported living providers, as specified in division (A)(4) of this section, all of the following apply:	15695 15696 15697
(a) Without nursing delegation, MR/DD personnel may perform	15698

health-related activities.	15699
(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.	15700 15701
(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.	15702 15703 15704
(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.	15705 15706 15707
(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.	15708 15709 15710
(5) In the case of recipients of residential support services from certified home and community-based services providers, as specified in division (A)(5) of this section, all of the following apply:	15711 15712 15713 15714
(a) Without nursing delegation, MR/DD personnel may perform health-related activities.	15715 15716
(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.	15717 15718
(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.	15719 15720 15721
(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.	15722 15723 15724
(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.	15725 15726 15727
(6) In the case of recipients of services not included in	15728

divisions (A)(1) to (5) of this section, as specified in division	15729
(A)(6) of this section, all of the following apply:	15730
(a) With nursing delegation, MR/DD personnel may perform health-related activities.	15731 15732
(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.	15733 15734
(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.	15735 15736 15737
(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.	15738 15739 15740
(7) In the case of residents of a residential facility with five or fewer beds, as specified in division (A)(7) of this section, all of the following apply:	15741 15742 15743
(a) Without nursing delegation, MR/DD personnel may perform health-related activities.	15744 15745
(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.	15746 15747
(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.	15748 15749 15750
(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.	15751 15752 15753
(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.	15754 15755 15756
(8) In the case of residents of a residential facility with at least six but not more than sixteen resident beds, as specified	15757 15758

in division (A)(8) of this section, all of the following apply: 15759

(a) With nursing delegation, MR/DD personnel may perform 15760
health-related activities. 15761

(b) With nursing delegation, MR/DD personnel may administer 15762
oral and topical prescribed medications. 15763

(c) With nursing delegation, MR/DD personnel may administer 15764
prescribed medications through gastrostomy and jejunostomy tubes, 15765
if the tubes being used are stable and labeled. 15766

(d) With nursing delegation, MR/DD personnel may perform 15767
routine tube feedings, if the gastrostomy and jejunostomy tubes 15768
being used are stable and labeled. 15769

(9) In the case of residents of a residential facility with 15770
seventeen or more resident beds who are on a field trip from the 15771
facility, all of the following apply during the field trip, 15772
subject to the limitations specified in division (A)(9) of this 15773
section: 15774

(a) With nursing delegation, MR/DD personnel may perform 15775
health-related activities. 15776

(b) With nursing delegation, MR/DD personnel may administer 15777
oral and topical prescribed medications. 15778

(c) With nursing delegation, MR/DD personnel may administer 15779
prescribed medications through gastrostomy and jejunostomy tubes, 15780
if the tubes being used are stable and labeled. 15781

(d) With nursing delegation, MR/DD personnel may perform 15782
routine tube feedings, if the gastrostomy and jejunostomy tubes 15783
being used are stable and labeled. 15784

(C) The authority of MR/DD personnel to administer prescribed 15785
medications, perform health-related activities, and perform tube 15786
feedings pursuant to this section is subject to all of the 15787
following: 15788

(1) To administer prescribed medications, perform 15789
health-related activities, or perform tube feedings for 15790
individuals in the categories specified under divisions (A)(1) to 15791
(8) of this section, MR/DD personnel shall obtain the certificate 15792
or certificates required by the department of ~~mental retardation~~ 15793
~~and~~ developmental disabilities and issued under section 5123.45 of 15794
the Revised Code. MR/DD personnel shall administer prescribed 15795
medication, perform health-related activities, and perform tube 15796
feedings only as authorized by the certificate or certificates 15797
held. 15798

(2) To administer prescribed medications, perform 15799
health-related activities, or perform tube feedings for 15800
individuals in the category specified under division (A)(9) of 15801
this section, MR/DD personnel shall successfully complete the 15802
training course or courses developed under section 5123.43 of the 15803
Revised Code for the MR/DD personnel. MR/DD personnel shall 15804
administer prescribed medication, perform health-related 15805
activities, and perform tube feedings only as authorized by the 15806
training completed. 15807

(3) If nursing delegation is required under division (B) of 15808
this section, MR/DD personnel shall not act without nursing 15809
delegation or in a manner that is inconsistent with the 15810
delegation. 15811

(4) The employer of MR/DD personnel shall ensure that MR/DD 15812
personnel have been trained specifically with respect to each 15813
individual for whom they administer prescribed medications, 15814
perform health-related activities, or perform tube feedings. MR/DD 15815
personnel shall not administer prescribed medications, perform 15816
health-related activities, or perform tube feedings for any 15817
individual for whom they have not been specifically trained. 15818

(5) If the employer of MR/DD personnel believes that MR/DD 15819
personnel have not or will not safely administer prescribed 15820

medications, perform health-related activities, or perform tube 15821
feedings, the employer shall prohibit the action from continuing 15822
or commencing. MR/DD personnel shall not engage in the action or 15823
actions subject to an employer's prohibition. 15824

(D) In accordance with section 5123.46 of the Revised Code, 15825
the department of ~~mental retardation and~~ developmental 15826
disabilities shall adopt rules governing its implementation of 15827
this section. The rules shall include the following: 15828

(1) Requirements for documentation of the administration of 15829
prescribed medications, performance of health-related activities, 15830
and performance of tube feedings by MR/DD personnel pursuant to 15831
the authority granted under this section; 15832

(2) Procedures for reporting errors that occur in the 15833
administration of prescribed medications, performance of 15834
health-related activities, and performance of tube feedings by 15835
MR/DD personnel pursuant to the authority granted under this 15836
section; 15837

(3) Other standards and procedures the department considers 15838
necessary for implementation of this section. 15839

Sec. 5123.421. The department of ~~mental retardation and~~ 15840
developmental disabilities shall accept complaints from any person 15841
or government entity regarding the administration of prescribed 15842
medications, performance of health-related activities, and 15843
performance of tube feedings by MR/DD personnel pursuant to the 15844
authority granted under section 5123.42 of the Revised Code. The 15845
department shall conduct investigations of complaints as it 15846
considers appropriate. The department shall adopt rules in 15847
accordance with section 5123.46 of the Revised Code establishing 15848
procedures for accepting complaints and conducting investigations 15849
under this section. 15850

Sec. 5123.43. (A) The department of ~~mental retardation and~~ 15851
developmental disabilities shall develop courses for the training 15852
of MR/DD personnel in the administration of prescribed 15853
medications, performance of health-related activities, and 15854
performance of tube feedings pursuant to the authority granted 15855
under section 5123.42 of the Revised Code. The department may 15856
develop separate or combined training courses for the 15857
administration of prescribed medications, performance of 15858
health-related activities, and performance of tube feedings. 15859
Training in the administration of prescribed medications through 15860
gastrostomy and jejunostomy tubes may be included in a course 15861
providing training in tube feedings. Training in the 15862
administration of insulin may be developed as a separate course or 15863
included in a course providing training in the administration of 15864
other prescribed medications. 15865

(B)(1) The department shall adopt rules in accordance with 15866
section 5123.46 of the Revised Code that specify the content and 15867
length of the training courses developed under this section. The 15868
rules may include any other standards the department considers 15869
necessary for the training courses. 15870

(2) In adopting rules that specify the content of a training 15871
course or part of a training course that trains MR/DD personnel in 15872
the administration of prescribed medications, the department shall 15873
ensure that the content includes all of the following: 15874

(a) Infection control and universal precautions; 15875

(b) Correct and safe practices, procedures, and techniques 15876
for administering prescribed medication; 15877

(c) Assessment of drug reaction, including known side 15878
effects, interactions, and the proper course of action if a side 15879
effect occurs; 15880

(d) The requirements for documentation of medications administered to each individual;	15881 15882
(e) The requirements for documentation and notification of medication errors;	15883 15884
(f) Information regarding the proper storage and care of medications;	15885 15886
(g) Information about proper receipt of prescriptions and transcription of prescriptions into an individual's medication administration record, except when the MR/DD personnel being trained will administer prescribed medications only to residents of a residential facility with seventeen or more resident beds who are participating in a field trip, as specified in division (A)(9) of section 5123.42 of the Revised Code;	15887 15888 15889 15890 15891 15892 15893
(h) Course completion standards that require successful demonstration of proficiency in administering prescribed medications;	15894 15895 15896
(i) Any other material or course completion standards that the department considers relevant to the administration of prescribed medications by MR/DD personnel.	15897 15898 15899
Sec. 5123.44. The department of mental retardation and developmental disabilities shall develop courses that train registered nurses to provide the MR/DD personnel training courses developed under section 5123.43 of the Revised Code. The department may develop courses that train registered nurses to provide all of the courses developed under section 5123.43 of the Revised Code or any one or more of the courses developed under that section.	15900 15901 15902 15903 15904 15905 15906 15907
The department shall adopt rules in accordance with section 5123.46 of the Revised Code that specify the content and length of the training courses. The rules may include any other standards	15908 15909 15910

the department considers necessary for the training courses. 15911

Sec. 5123.45. (A) The department of ~~mental retardation and~~ 15912
developmental disabilities shall establish a program under which 15913
the department issues certificates to the following: 15914

(1) MR/DD personnel, for purposes of meeting the requirement 15915
of division (C)(1) of section 5123.42 of the Revised Code to 15916
obtain a certificate or certificates to administer prescribed 15917
medications, perform health-related activities, and perform tube 15918
feedings; 15919

(2) Registered nurses, for purposes of meeting the 15920
requirement of division (B)(1) of section 5123.441 of the Revised 15921
Code to obtain a certificate or certificates to provide the MR/DD 15922
personnel training courses developed under section 5123.43 of the 15923
Revised Code. 15924

(B)(1) Except as provided in division (B)(2) of this section, 15925
to receive a certificate issued under this section, MR/DD 15926
personnel and registered nurses shall successfully complete the 15927
applicable training course or courses and meet all other 15928
applicable requirements established in rules adopted pursuant to 15929
this section. The department shall issue the appropriate 15930
certificate or certificates to MR/DD personnel and registered 15931
nurses who meet the requirements for the certificate or 15932
certificates. 15933

(2) The department shall include provisions in the program 15934
for issuing certificates to the following: 15935

(a) MR/DD personnel who, on ~~the effective date of this~~ 15936
~~section~~ March 31, 2003, are authorized to provide care to 15937
individuals with mental retardation and developmental disabilities 15938
pursuant to section 5123.193 or sections 5126.351 to 5126.354 of 15939
the Revised Code. A person who receives a certificate under 15940

division (B)(2)(a) of this section shall not administer insulin 15941
until the person has been trained by a registered nurse who has 15942
received a certificate under this section that allows the 15943
registered nurse to provide training courses to MR/DD personnel in 15944
the administration of insulin. 15945

(b) Registered nurses who, on ~~the effective date of this~~ 15946
~~section~~ March 31, 2003, are authorized to train MR/DD personnel to 15947
provide care to individuals with mental retardation and 15948
developmental disabilities pursuant to section 5123.193 or 15949
sections 5126.351 to 5126.354 of the Revised Code. A registered 15950
nurse who receives a certificate under division (B)(2)(b) of this 15951
section shall not provide training courses to MR/DD personnel in 15952
the administration of insulin unless the registered nurse 15953
completes a course developed under section 5123.44 of the Revised 15954
Code that enables the registered nurse to receive a certificate to 15955
provide training courses to MR/DD personnel in the administration 15956
of insulin. 15957

(C) Certificates issued to MR/DD personnel are valid for one 15958
year and may be renewed. Certificates issued to registered nurses 15959
are valid for two years and may be renewed. 15960

To be eligible for renewal, MR/DD personnel and registered 15961
nurses shall meet the applicable continued competency requirements 15962
and continuing education requirements specified in rules adopted 15963
under division (D) of this section. In the case of registered 15964
nurses, continuing nursing education completed in compliance with 15965
the license renewal requirements established under Chapter 4723. 15966
of the Revised Code may be counted toward meeting the continuing 15967
education requirements established in the rules adopted under 15968
division (D) of this section. 15969

(D) In accordance with section 5123.46 of the Revised Code, 15970
the department shall adopt rules that establish all of the 15971
following: 15972

(1) Requirements that MR/DD personnel and registered nurses must meet to be eligible to take a training course;	15973 15974
(2) Standards that must be met to receive a certificate, including requirements pertaining to an applicant's criminal background;	15975 15976 15977
(3) Procedures to be followed in applying for a certificate and issuing a certificate;	15978 15979
(4) Standards and procedures for renewing a certificate, including requirements for continuing education and, in the case of MR/DD personnel who administer prescribed medications, standards that require successful demonstration of proficiency in administering prescribed medications;	15980 15981 15982 15983 15984
(5) Standards and procedures for suspending or revoking a certificate;	15985 15986
(6) Standards and procedures for suspending a certificate without a hearing pending the outcome of an investigation;	15987 15988
(7) Any other standards or procedures the department considers necessary to administer the certification program.	15989 15990
Sec. 5123.451. The department of mental retardation and developmental disabilities shall establish and maintain a registry that lists all MR/DD personnel and registered nurses holding valid certificates issued under section 5123.45 of the Revised Code. The registry shall specify the type of certificate held and any limitations that apply to a certificate holder. The department shall make the information in the registry available to the public in computerized form or any other manner that provides continuous access to the information in the registry.	15991 15992 15993 15994 15995 15996 15997 15998 15999
Sec. 5123.47. (A) As used in this section:	16000
(1) "In-home care" means the supportive services provided	16001

within the home of an individual with mental retardation or a 16002
developmental disability who receives funding for the services 16003
through a county board of mental retardation and developmental 16004
disabilities, including any recipient of residential services 16005
funded as home and community-based services, family support 16006
services provided under section 5126.11 of the Revised Code, or 16007
supported living provided in accordance with sections 5126.41 to 16008
5126.47 of the Revised Code. "In-home care" includes care that is 16009
provided outside an individual's home in places incidental to the 16010
home, and while traveling to places incidental to the home, except 16011
that "in-home care" does not include care provided in the 16012
facilities of a county board of mental retardation and 16013
developmental disabilities or care provided in schools. 16014

(2) "Parent" means either parent of a child, including an 16015
adoptive parent but not a foster parent. 16016

(3) "Unlicensed in-home care worker" means an individual who 16017
provides in-home care but is not a health care professional. 16018

(4) "Family member" means a parent, sibling, spouse, son, 16019
daughter, grandparent, aunt, uncle, cousin, or guardian of the 16020
individual with mental retardation or a developmental disability 16021
if the individual with mental retardation or developmental 16022
disabilities lives with the person and is dependent on the person 16023
to the extent that, if the supports were withdrawn, another living 16024
arrangement would have to be found. 16025

(5) "Health care professional" means any of the following: 16026

(a) A dentist who holds a valid license issued under Chapter 16027
4715. of the Revised Code; 16028

(b) A registered or licensed practical nurse who holds a 16029
valid license issued under Chapter 4723. of the Revised Code; 16030

(c) An optometrist who holds a valid license issued under 16031
Chapter 4725. of the Revised Code; 16032

(d) A pharmacist who holds a valid license issued under Chapter 4729. of the Revised Code;	16033 16034
(e) A person who holds a valid certificate issued under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited brand of medicine;	16035 16036 16037 16038
(f) A physician assistant who holds a valid certificate issued under Chapter 4730. of the Revised Code;	16039 16040
(g) An occupational therapist or occupational therapy assistant or a physical therapist or physical therapist assistant who holds a valid license issued under Chapter 4755. of the Revised Code;	16041 16042 16043 16044
(h) A respiratory care professional who holds a valid license issued under Chapter 4761. of the Revised Code.	16045 16046
(6) "Health care task" means a task that is prescribed, ordered, delegated, or otherwise directed by a health care professional acting within the scope of the professional's practice.	16047 16048 16049 16050
(B) Except as provided in division (E) of this section, a family member of an individual with mental retardation or a developmental disability may authorize an unlicensed in-home care worker to administer oral and topical prescribed medications or perform other health care tasks as part of the in-home care the worker provides to the individual, if all of the following apply:	16051 16052 16053 16054 16055 16056
(1) The family member is the primary supervisor of the care.	16057
(2) The unlicensed in-home care worker has been selected by the family member or the individual receiving care and is under the direct supervision of the family member.	16058 16059 16060
(3) The unlicensed in-home care worker is providing the care through an employment or other arrangement entered into directly	16061 16062

with the family member and is not otherwise employed by or under 16063
contract with a person or government entity to provide services to 16064
individuals with mental retardation and developmental 16065
disabilities. 16066

(C) A family member shall obtain a prescription, if 16067
applicable, and written instructions from a health care 16068
professional for the care to be provided to the individual. The 16069
family member shall authorize the unlicensed in-home care worker 16070
to provide the care by preparing a written document granting the 16071
authority. The family member shall provide the unlicensed in-home 16072
care worker with appropriate training and written instructions in 16073
accordance with the instructions obtained from the health care 16074
professional. 16075

(D) A family member who authorizes an unlicensed in-home care 16076
worker to administer oral and topical prescribed medications or 16077
perform other health care tasks retains full responsibility for 16078
the health and safety of the individual receiving the care and for 16079
ensuring that the worker provides the care appropriately and 16080
safely. No entity that funds or monitors the provision of in-home 16081
care may be held liable for the results of the care provided under 16082
this section by an unlicensed in-home care worker, including such 16083
entities as the county board of mental retardation and 16084
developmental disabilities and the department of ~~mental~~ 16085
~~retardation and~~ developmental disabilities. 16086

An unlicensed in-home care worker who is authorized under 16087
this section by a family member to provide care to an individual 16088
may not be held liable for any injury caused in providing the 16089
care, unless the worker provides the care in a manner that is not 16090
in accordance with the training and instructions received or the 16091
worker acts in a manner that constitutes wanton or reckless 16092
misconduct. 16093

(E) A county board of mental retardation and developmental 16094

disabilities may evaluate the authority granted by a family member 16095
under this section to an unlicensed in-home care worker at any 16096
time it considers necessary and shall evaluate the authority on 16097
receipt of a complaint. If the board determines that a family 16098
member has acted in a manner that is inappropriate for the health 16099
and safety of the individual receiving the care, the authorization 16100
granted by the family member to an unlicensed in-home care worker 16101
is void, and the family member may not authorize other unlicensed 16102
in-home care workers to provide the care. In making such a 16103
determination, the board shall use appropriately licensed health 16104
care professionals and shall provide the family member an 16105
opportunity to file a complaint under section 5126.06 of the 16106
Revised Code. 16107

Sec. 5123.50. As used in this section and sections 5123.51, 16108
5123.52, and 5123.541 of the Revised Code: 16109

(A) "Abuse" means all of the following: 16110

(1) The use of physical force that can reasonably be expected 16111
to result in physical harm or serious physical harm; 16112

(2) Sexual abuse; 16113

(3) Verbal abuse. 16114

(B) "Misappropriation" means depriving, defrauding, or 16115
otherwise obtaining the real or personal property of an individual 16116
by any means prohibited by the Revised Code, including violations 16117
of Chapter 2911. or 2913. of the Revised Code. 16118

(C) "MR/DD employee" means all of the following: 16119

(1) An employee of the department of ~~mental retardation and~~ 16120
developmental disabilities; 16121

(2) An employee of a county board of mental retardation and 16122
developmental disabilities; 16123

(3) An employee in a position that includes providing 16124
specialized services to an individual with mental retardation or 16125
another developmental disability. 16126

(D) "Neglect" means, when there is a duty to do so, failing 16127
to provide an individual with any treatment, care, goods, or 16128
services that are necessary to maintain the health and safety of 16129
the individual. 16130

(E) "Physical harm" and "serious physical harm" have the same 16131
meanings as in section 2901.01 of the Revised Code. 16132

(F) "Sexual abuse" means unlawful sexual conduct or sexual 16133
contact. 16134

(G) "Specialized services" means any program or service 16135
designed and operated to serve primarily individuals with mental 16136
retardation or a developmental disability, including a program or 16137
service provided by an entity licensed or certified by the 16138
department of ~~mental retardation and~~ developmental disabilities. A 16139
program or service available to the general public is not a 16140
specialized service. 16141

(H) "Verbal abuse" means purposely using words to threaten, 16142
coerce, intimidate, harass, or humiliate an individual. 16143

(I) "Sexual conduct," "sexual contact," and "spouse" have the 16144
same meanings as in section 2907.01 of the Revised Code. 16145

Sec. 5123.51. (A) In addition to any other action required by 16146
sections 5123.61 and 5126.31 of the Revised Code, the department 16147
of ~~mental retardation and~~ developmental disabilities shall review 16148
each report the department receives of abuse or neglect of an 16149
individual with mental retardation or a developmental disability 16150
or misappropriation of an individual's property that includes an 16151
allegation that an MR/DD employee committed or was responsible for 16152
the abuse, neglect, or misappropriation. The department shall 16153

review a report it receives from a public children services agency 16154
only after the agency completes its investigation pursuant to 16155
section 2151.421 of the Revised Code. On receipt of a notice under 16156
section 2930.061 or 5123.541 of the Revised Code, the department 16157
shall review the notice. 16158

16159

(B) The department shall do both of the following: 16160

(1) Investigate the allegation or adopt the findings of an 16161
investigation or review of the allegation conducted by another 16162
person or government entity and determine whether there is a 16163
reasonable basis for the allegation; 16164

(2) If the department determines that there is a reasonable 16165
basis for the allegation, conduct an adjudication pursuant to 16166
Chapter 119. of the Revised Code. 16167

(C)(1) The department shall appoint an independent hearing 16168
officer to conduct any hearing conducted pursuant to division 16169
(B)(2) of this section, except that, if the hearing is regarding 16170
an employee of the department who is represented by a union, the 16171
department and a representative of the union shall jointly select 16172
the hearing officer. 16173

(2)(a) Except as provided in division (C)(2)(b) of this 16174
section, no hearing shall be conducted under division (B)(2) of 16175
this section until any criminal proceeding or collective 16176
bargaining arbitration concerning the same allegation has 16177
concluded. 16178

(b) The department may conduct a hearing pursuant to division 16179
(B)(2) of this section before a criminal proceeding concerning the 16180
same allegation is concluded if both of the following are the 16181
case: 16182

(i) The department notifies the prosecutor responsible for 16183
the criminal proceeding that the department proposes to conduct a 16184

hearing.	16185
(ii) The prosecutor consents to the hearing.	16186
(3) In conducting a hearing pursuant to division (B)(2) of this section, the hearing officer shall do all of the following:	16187
(a) Determine whether there is clear and convincing evidence that the MR/DD employee has done any of the following:	16188
(i) Misappropriated property of one or more individuals with mental retardation or a developmental disability that has a value, either separately or taken together, of one hundred dollars or more;	16189
(ii) Misappropriated property of an individual with mental retardation or a developmental disability that is designed to be used as a check, draft, negotiable instrument, credit card, charge card, or device for initiating an electronic fund transfer at a point of sale terminal, automated teller machine, or cash dispensing machine;	16190
(iii) Knowingly abused such an individual;	16191
(iv) Recklessly abused or neglected such an individual, with resulting physical harm;	16192
(v) Negligently abused or neglected such an individual, with resulting serious physical harm;	16193
(vi) Recklessly neglected such an individual, creating a substantial risk of serious physical harm;	16194
(vii) Engaged in sexual conduct or had sexual contact with an individual with mental retardation or another developmental disability who was not the MR/DD employee's spouse and for whom the MR/DD employee was employed or under a contract to provide care;	16195
(viii) Unreasonably failed to make a report pursuant to division (C) of section 5123.61 of the Revised Code when the	16196
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employee knew or should have known that the failure would result 16215
in a substantial risk of harm to an individual with mental 16216
retardation or a developmental disability. 16217

(b) Give weight to the decision in any collective bargaining 16218
arbitration regarding the same allegation; 16219

(c) Give weight to any relevant facts presented at the 16220
hearing. 16221

(D)(1) Unless the director of ~~mental retardation and~~ 16222
developmental disabilities determines that there are extenuating 16223
circumstances and except as provided in division (E) of this 16224
section, if the director, after considering all of the factors 16225
listed in division (C)(3) of this section, finds that there is 16226
clear and convincing evidence that an MR/DD employee has done one 16227
or more of the things described in division (C)(3)(a) of this 16228
section the director shall include the name of the employee in the 16229
registry established under section 5123.52 of the Revised Code. 16230

(2) Extenuating circumstances the director must consider 16231
include the use of physical force by an MR/DD employee that was 16232
necessary as self-defense. 16233

(3) If the director includes an MR/DD employee in the 16234
registry established under section 5123.52 of the Revised Code, 16235
the director shall notify the employee, the person or government 16236
entity that employs or contracts with the employee, the individual 16237
with mental retardation or a developmental disability who was the 16238
subject of the report and that individual's legal guardian, if 16239
any, the attorney general, and the prosecuting attorney or other 16240
law enforcement agency. If the MR/DD employee holds a license, 16241
certificate, registration, or other authorization to engage in a 16242
profession issued pursuant to Title XLVII of the Revised Code, the 16243
director shall notify the appropriate agency, board, department, 16244
or other entity responsible for regulating the employee's 16245

professional practice. 16246

(4) If an individual whose name appears on the registry is 16247
involved in a court proceeding or arbitration arising from the 16248
same facts as the allegation resulting in the individual's 16249
placement on the registry, the disposition of the proceeding or 16250
arbitration shall be noted in the registry next to the 16251
individual's name. 16252

(E) In the case of an allegation concerning an employee of 16253
the department, after the hearing conducted pursuant to division 16254
(B)(2) of this section, the director of health or that director's 16255
designee shall review the decision of the hearing officer to 16256
determine whether the standard described in division (C)(3) of 16257
this section has been met. If the director or designee determines 16258
that the standard has been met and that no extenuating 16259
circumstances exist, the director or designee shall notify the 16260
director of ~~mental retardation and~~ developmental disabilities that 16261
the MR/DD employee is to be included in the registry established 16262
under section 5123.52 of the Revised Code. If the director of 16263
~~mental retardation and~~ developmental disabilities receives such 16264
notification, the director shall include the MR/DD employee in the 16265
registry and shall provide the notification described in division 16266
(D)(3) of this section. 16267

(F) If the department is required by Chapter 119. of the 16268
Revised Code to give notice of an opportunity for a hearing and 16269
the MR/DD employee subject to the notice does not timely request a 16270
hearing in accordance with section 119.07 or 5123.0414 of the 16271
Revised Code, the department is not required to hold a hearing. 16272

(G) Files and records of investigations conducted pursuant to 16273
this section are not public records as defined in section 149.43 16274
of the Revised Code, but, on request, the department shall provide 16275
copies of those files and records to the attorney general, a 16276
prosecuting attorney, or a law enforcement agency. 16277

Sec. 5123.52. (A) The department of ~~mental retardation and~~ 16278
developmental disabilities shall establish a registry of MR/DD 16279
employees consisting of the names of MR/DD employees included in 16280
the registry pursuant to section 5123.51 of the Revised Code. 16281

(B) Before a person or government entity hires, contracts 16282
with, or employs an individual as an MR/DD employee, the person or 16283
government entity shall inquire whether the individual is included 16284
in the registry. 16285

(C) When it receives an inquiry regarding whether an 16286
individual is included in the registry, the department shall 16287
inform the person making the inquiry whether the individual is 16288
included in the registry. 16289

(D)(1) Except as otherwise provided in a collective 16290
bargaining agreement entered into under Chapter 4117. of the 16291
Revised Code that is in effect on ~~the effective date of this~~ 16292
~~section~~ November 22, 2000, no person or government entity shall 16293
hire, contract with, or employ as an MR/DD employee an individual 16294
who is included in the registry. Notwithstanding sections 4117.08 16295
and 4117.10 of the Revised Code, no agreement entered into under 16296
Chapter 4117. of the Revised Code after ~~the effective date of this~~ 16297
~~section~~ November 22, 2000, may contain any provision that in any 16298
way limits the effect or operation of this section. 16299

(2) Neither the department nor any county board of mental 16300
retardation and developmental disabilities may enter into a new 16301
contract or renew a contract with a person or government entity 16302
that fails to comply with division (D)(1) of this section until 16303
the department or board is satisfied that the person or government 16304
entity will comply. 16305

(3) A person or government entity that fails to hire or 16306
retain as an MR/DD employee a person because the person is 16307
included in the registry shall not be liable in damages in a civil 16308

action brought by the employee or applicant for employment. 16309
Termination of employment pursuant to division (D)(1) of this 16310
section constitutes a discharge for just cause for the purposes of 16311
section 4141.29 of the Revised Code. 16312

(E) Information contained in the registry is a public record 16313
for the purposes of section 149.43 of the Revised Code and is 16314
subject to inspection and copying under section 1347.08 of the 16315
Revised Code. 16316

Sec. 5123.53. An individual who is included in the registry 16317
may petition the director of ~~mental retardation and~~ developmental 16318
disabilities for removal from the registry. If the director 16319
determines that good cause exists, the director shall remove the 16320
individual from the registry and may properly reply to an inquiry 16321
that the individual is not included in the registry. Good cause 16322
includes meeting rehabilitation standards established in rules 16323
adopted under section 5123.54 of the Revised Code. 16324

Sec. 5123.54. The director of ~~mental retardation and~~ 16325
developmental disabilities shall adopt rules under Chapter 119. of 16326
the Revised Code to implement sections 5123.51, 5123.52, and 16327
5123.53 of the Revised Code. The rules shall establish 16328
rehabilitation standards for the purposes of section 5123.53 of 16329
the Revised Code and specify circumstances, other than meeting the 16330
standards, that constitute good cause for the purposes of that 16331
section. 16332

Sec. 5123.541. (A) No MR/DD employee shall engage in any 16333
sexual conduct or have any sexual contact with an individual with 16334
mental retardation or another developmental disability for whom 16335
the MR/DD employee is employed or under a contract to provide care 16336
unless the individual is the MR/DD employee's spouse. 16337

(B) Any MR/DD employee who violates division (A) of this 16338

section shall be eligible to be included in the registry regarding 16339
misappropriation, abuse, neglect, or other specified misconduct by 16340
MR/DD employees established under section 5123.52 of the Revised 16341
Code, in addition to any other sanction or penalty authorized or 16342
required by law. 16343

(C)(1) Any person listed in division (C)(2) of section 16344
5123.61 of the Revised Code who has reason to believe that an 16345
MR/DD employee has violated division (A) of this section shall 16346
immediately report that belief to the department of ~~mental~~ 16347
~~retardation and~~ developmental disabilities. 16348

(2) Any person who has reason to believe that an MR/DD 16349
employee has violated division (A) of this section may report that 16350
belief to the department of ~~mental retardation and~~ developmental 16351
disabilities. 16352

Sec. 5123.542. (A) Each of the following shall annually 16353
provide a written notice to each of its MR/DD employees explaining 16354
the conduct for which an MR/DD employee may be included in the 16355
registry established under section 5123.52 of the Revised Code: 16356

(1) The department of ~~mental retardation and~~ developmental 16357
disabilities; 16358

(2) Each county board of mental retardation and developmental 16359
disabilities; 16360

(3) Each contracting entity, as defined in section 5126.281 16361
of the Revised Code; 16362

(4) Each owner, operator, or administrator of a residential 16363
facility, as defined in section 5123.19 of the Revised Code; 16364

(5) Each owner, operator, or administrator of a program 16365
certified by the department to provide supported living. 16366

(B) The notice described in division (A) of this section 16367
shall be in a form and provided in a manner prescribed by the 16368

department of ~~mental retardation and~~ developmental disabilities. 16369
The form shall be the same for all persons and entities required 16370
to provide notice under division (A) of this section. 16371

(C) The fact that an MR/DD employee does not receive the 16372
notice required by this section does not exempt the employee from 16373
inclusion in the registry established under section 5123.52 of the 16374
Revised Code. 16375

Sec. 5123.55. As used in sections 5123.55 to 5123.59 of the 16376
Revised Code: 16377

(A) "Guardian" means a guardian of the person, limited 16378
guardian, interim guardian, or emergency guardian pursuant to 16379
appointment by the probate court under Chapter 2111. of the 16380
Revised Code. 16381

(B) "Trustee" means a trustee appointed by and accountable to 16382
the probate court, in lieu of a guardian and without a judicial 16383
determination of incompetency, with respect to an estate of ten 16384
thousand dollars or less. 16385

(C) "Protector" means an agency under contract with the 16386
department of ~~mental retardation and~~ developmental disabilities 16387
acting with or without court appointment to provide guidance, 16388
service, and encouragement in the development of maximum 16389
self-reliance to a person with mental retardation or a 16390
developmental disability, independent of any determination of 16391
incompetency. 16392

(D) "Protective service" means performance of the duties of a 16393
guardian, trustee, or conservator, or acting as a protector, with 16394
respect to a person with mental retardation or a developmental 16395
disability. 16396

(E) "Conservator" means a conservator of the person pursuant 16397
to an appointment by a probate court under Chapter 2111. of the 16398

Revised Code. 16399

Sec. 5123.56. The department of ~~mental retardation and~~ 16400
developmental disabilities shall develop a statewide system of 16401
protective service in accordance with rules and standards 16402
established by the department. With respect to this program, the 16403
department may enter into a contract with any responsible public 16404
or private agency for provision of protective service by the 16405
agency, and the contract may permit the agency to charge the 16406
person receiving services fees for services provided. 16407

No costs or fees shall be charged by a probate court for the 16408
filing of a petition for guardianship, trusteeship, protectorship, 16409
or conservatorship under sections 5123.55 to 5123.59 of the 16410
Revised Code, or for any service performed by a probate court, or 16411
by any state agency in the course of petitioning for protective 16412
services, or for any protective services provided under those 16413
sections. 16414

An agency that provides protective services pursuant to a 16415
contract with another agency or a court may charge the agency or 16416
court fees for the services provided. 16417

Sec. 5123.57. No guardianship or trusteeship appointment 16418
shall be made under sections 5123.55 to 5123.59 of the Revised 16419
Code and no person shall be accepted for service by a protector 16420
under those sections unless a comprehensive evaluation has been 16421
made in a clinic or other facility approved by the department of 16422
~~mental retardation and~~ developmental disabilities. The evaluation 16423
shall include a medical, psychological, social, and educational 16424
evaluation, and a copy of the evaluation shall be filed with the 16425
department. 16426

Any agency that is appointed as a guardian, trustee, or 16427
conservator under sections 5123.55 to 5123.59 of the Revised Code 16428

or accepted as a protector under those sections shall provide for 16429
a review at least once each year in writing of the physical, 16430
mental, and social condition of each mentally retarded or 16431
developmentally disabled person for whom it is acting as guardian, 16432
trustee, or protector. An agency providing protective services 16433
under contract with the department shall file these reports with 16434
the department of ~~mental retardation and~~ developmental 16435
disabilities. Any record of the department or agency pertaining to 16436
a mentally retarded or developmentally disabled person shall not 16437
be a public record under section 149.43 of the Revised Code. 16438
Information contained in those records shall not be disclosed 16439
publicly in such a manner as to identify individuals, but may be 16440
made available to persons approved by the director of ~~mental~~ 16441
~~retardation and~~ developmental disabilities or the court. 16442

Sec. 5123.58. An agency providing protective services under 16443
contract with the department of ~~mental retardation and~~ 16444
developmental disabilities may be nominated under any of the 16445
following conditions as guardian, trustee, protector, conservator, 16446
or as trustee and protector of a mentally retarded or 16447
developmentally disabled person: 16448

(A) The person who needs or believes ~~he~~ the person needs 16449
protective service may make application in writing. 16450

(B) Any interested person may make application in writing on 16451
behalf of a mentally retarded or developmentally disabled person. 16452

(C) A parent may name the department or agency as guardian or 16453
successor guardian in a will. 16454

(D) A parent may name the department or agency as guardian, 16455
trustee, or protector, to assume such duties during the parent's 16456
lifetime. 16457

If the results of the comprehensive evaluation required under 16458

section 5123.57 of the Revised Code indicate that the person named 16459
in the nomination is in need of protective services, the agency or 16460
service either shall reject or accept the nomination as guardian, 16461
trustee, or conservator, subject to appointment by the probate 16462
court, or reject or accept the nomination as protector, or trustee 16463
and protector. 16464

At the time the nomination is accepted or when an appointment 16465
is made by the court, the mentally retarded or developmentally 16466
disabled person and any person who made application for service on 16467
his the mentally retarded or developmentally disabled person's 16468
behalf under this section shall be informed by the agency, 16469
service, or court of the procedure for terminating the appointment 16470
or service. The agency or service shall cease to provide 16471
protective service as a protector pursuant to nomination under 16472
division (A), (B), or (D) of this section when a written request 16473
for termination is received by the agency from or on behalf of the 16474
mentally retarded or developmentally disabled person. If the 16475
agency or service believes the person to be in need of protective 16476
service, the agency or service may file an application for 16477
guardianship, trusteeship, or protectorship with the probate 16478
court. Termination of any court appointment as guardian, trustee, 16479
or protector shall be by order of the probate court. 16480

Sec. 5123.59. Before entering upon the duties of trustee, an 16481
agency under contract with the department of ~~mental retardation~~ 16482
~~and~~ developmental disabilities may require any of its employees 16483
having custody or control of funds or property to give bond to the 16484
probate court with sufficient surety, conditioned upon the full 16485
and faithful accounting of all trust funds which ~~he~~ the employee 16486
holds. The amount of the bond shall be determined by the court and 16487
may be modified by the court. 16488

Sec. 5123.60. (A) A legal rights service is hereby created 16489

and established to protect and advocate the rights of mentally ill 16490
persons, mentally retarded persons, developmentally disabled 16491
persons, and other disabled persons who may be represented by the 16492
service pursuant to division (L) of this section; to receive and 16493
act upon complaints concerning institutional and hospital 16494
practices and conditions of institutions for mentally retarded or 16495
developmentally disabled persons and hospitals for the mentally 16496
ill; and to assure that all persons detained, hospitalized, 16497
discharged, or institutionalized, and all persons whose detention, 16498
hospitalization, discharge, or institutionalization is sought or 16499
has been sought under this chapter or Chapter 5122. of the Revised 16500
Code are fully informed of their rights and adequately represented 16501
by counsel in proceedings under this chapter or Chapter 5122. of 16502
the Revised Code and in any proceedings to secure the rights of 16503
those persons. Notwithstanding the definitions of "mentally 16504
retarded person" and "developmentally disabled person" in section 16505
5123.01 of the Revised Code, the legal rights service shall 16506
determine who is a mentally retarded or developmentally disabled 16507
person for purposes of this section and sections 5123.601 to 16508
5123.604 of the Revised Code. 16509

(B)(1) In regard to those persons detained, hospitalized, or 16510
institutionalized under Chapter 5122. of the Revised Code, the 16511
legal rights service shall undertake formal representation only of 16512
those persons who are involuntarily detained, hospitalized, or 16513
institutionalized pursuant to sections 5122.10 to 5122.15 of the 16514
Revised Code, and those voluntarily detained, hospitalized, or 16515
institutionalized who are minors, who have been adjudicated 16516
incompetent, who have been detained, hospitalized, or 16517
institutionalized in a public hospital, or who have requested 16518
representation by the legal rights service. 16519

(2) If a person referred to in division (A) of this section 16520
voluntarily requests in writing that the legal rights service 16521

terminate participation in the person's case, such involvement 16522
shall cease. 16523

(3) Persons described in divisions (A) and (B)(1) of this 16524
section who are represented by the legal rights service are 16525
clients of the legal rights service. 16526

(C) Any person voluntarily hospitalized or institutionalized 16527
in a public hospital under division (A) of section 5122.02 of the 16528
Revised Code, after being fully informed of the person's rights 16529
under division (A) of this section, may, by written request, waive 16530
assistance by the legal rights service if the waiver is knowingly 16531
and intelligently made, without duress or coercion. 16532

The waiver may be rescinded at any time by the voluntary 16533
patient or resident, or by the voluntary patient's or resident's 16534
legal guardian. 16535

(D)(1) The legal rights service commission is hereby created 16536
for the purposes of appointing an administrator of the legal 16537
rights service, advising the administrator, assisting the 16538
administrator in developing a budget, advising the administrator 16539
in establishing and annually reviewing a strategic plan, creating 16540
a procedure for filing and determination of grievances against the 16541
legal rights service, and establishing general policy guidelines, 16542
including guidelines for the commencement of litigation, for the 16543
legal rights service. The commission may adopt rules to carry 16544
these purposes into effect and may receive and act upon appeals of 16545
personnel decisions by the administrator. 16546

(2) The commission shall consist of seven members. One 16547
member, who shall serve as chairperson, shall be appointed by the 16548
chief justice of the supreme court, three members shall be 16549
appointed by the speaker of the house of representatives, and 16550
three members shall be appointed by the president of the senate. 16551
At least two members shall have experience in the field of 16552

developmental disabilities, and at least two members shall have 16553
experience in the field of mental health. No member shall be a 16554
provider or related to a provider of services to mentally 16555
retarded, developmentally disabled, or mentally ill persons. 16556

(3) Terms of office of the members of the commission shall be 16557
for three years, each term ending on the same day of the month of 16558
the year as did the term which it succeeds. Each member shall 16559
serve subsequent to the expiration of the member's term until a 16560
successor is appointed and qualifies, or until sixty days has 16561
elapsed, whichever occurs first. No member shall serve more than 16562
two consecutive terms. 16563

All vacancies in the membership of the commission shall be 16564
filled in the manner prescribed for regular appointments to the 16565
commission and shall be limited to the unexpired terms. 16566

(4) The commission shall meet at least four times each year. 16567
Members shall be reimbursed for their necessary and actual 16568
expenses incurred in the performance of their official duties. 16569

(5) The administrator of the legal rights service shall serve 16570
at the pleasure of the commission. 16571

The administrator shall be an attorney admitted to practice 16572
law in this state. The salary of the administrator shall be 16573
established in accordance with section 124.14 of the Revised Code. 16574

(E) The legal rights service shall be completely independent 16575
of the department of mental health and the department of ~~mental~~ 16576
~~retardation and~~ developmental disabilities and, notwithstanding 16577
section 109.02 of the Revised Code, shall also be independent of 16578
the office of the attorney general. The administrator of the legal 16579
rights service, staff, and attorneys designated by the 16580
administrator to represent persons detained, hospitalized, or 16581
institutionalized under this chapter or Chapter 5122. of the 16582
Revised Code shall have ready access to the following: 16583

(1) During normal business hours and at other reasonable 16584
times, all records, except records of community residential 16585
facilities and records of contract agencies of county boards of 16586
mental retardation and developmental disabilities and boards of 16587
alcohol, drug addiction and mental health services, relating to 16588
expenditures of state and federal funds or to the commitment, 16589
care, treatment, and habilitation of all persons represented by 16590
the legal rights service, including those who may be represented 16591
pursuant to division (L) of this section, or persons detained, 16592
hospitalized, institutionalized, or receiving services under this 16593
chapter or Chapter 340., 5119., 5122., or 5126. of the Revised 16594
Code that are records maintained by the following entities 16595
providing services for those persons: departments; institutions; 16596
hospitals; boards of alcohol, drug addiction, and mental health 16597
services; county boards of mental retardation and developmental 16598
disabilities; and any other entity providing services to persons 16599
who may be represented by the service pursuant to division (L) of 16600
this section; 16601

(2) Any records maintained in computerized data banks of the 16602
departments or boards or, in the case of persons who may be 16603
represented by the service pursuant to division (L) of this 16604
section, any other entity that provides services to those persons; 16605

(3) During their normal working hours, personnel of the 16606
departments, facilities, boards, agencies, institutions, 16607
hospitals, and other service-providing entities; 16608

(4) At any time, all persons detained, hospitalized, or 16609
institutionalized; persons receiving services under this chapter 16610
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 16611
persons who may be represented by the service pursuant to division 16612
(L) of this section. 16613

(5) Records of a community residential facility, a contract 16614
agency of a board of alcohol, drug addiction, and mental health 16615

services, or a contract agency of a county board of mental 16616
retardation and developmental disabilities with one of the 16617
following consents: 16618

(a) The consent of the person, including when the person is a 16619
minor or has been adjudicated incompetent; 16620

(b) The consent of the person's guardian of the person, if 16621
any, or the parent if the person is a minor; 16622

(c) No consent, if the person is unable to consent for any 16623
reason, and the guardian of the person, if any, or the parent of 16624
the minor, has refused to consent or has not responded to a 16625
request for consent and either of the following has occurred: 16626

(i) A complaint regarding the person has been received by the 16627
legal rights service; 16628

(ii) The legal rights service has determined that there is 16629
probable cause to believe that such person has been subjected to 16630
abuse or neglect. 16631

(F) The administrator of the legal rights service shall do 16632
the following: 16633

(1) Administer and organize the work of the legal rights 16634
service and establish administrative or geographic divisions as 16635
the administrator considers necessary, proper, and expedient; 16636

(2) Adopt and promulgate rules that are not in conflict with 16637
rules adopted by the commission and prescribe duties for the 16638
efficient conduct of the business and general administration of 16639
the legal rights service; 16640

(3) Appoint and discharge employees, and hire experts, 16641
consultants, advisors, or other professionally qualified persons 16642
as the administrator considers necessary to carry out the duties 16643
of the legal rights service; 16644

(4) Apply for and accept grants of funds, and accept 16645

charitable gifts and bequests; 16646

(5) Prepare and submit a budget to the general assembly for 16647
the operation of the legal rights service. At least thirty days 16648
prior to submitting the budget to the general assembly, the 16649
administrator shall provide a copy of the budget to the commission 16650
for review and comment. When submitting the budget to the general 16651
assembly, the administrator shall include a copy of any written 16652
comments returned by the commission to the administrator. 16653

(6) Enter into contracts and make expenditures necessary for 16654
the efficient operation of the legal rights service; 16655

(7) Annually prepare a report of activities and submit copies 16656
of the report to the governor, the chief justice of the supreme 16657
court, the president of the senate, the speaker of the house of 16658
representatives, the director of mental health, and the director 16659
of ~~mental retardation~~ and developmental disabilities, and make the 16660
report available to the public; 16661

(8) Upon request of the commission or of the chairperson of 16662
the commission, report to the commission on specific litigation 16663
issues or activities. 16664

(G)(1) The legal rights service may act directly or contract 16665
with other organizations or individuals for the provision of the 16666
services envisioned under this section. 16667

(2) Whenever possible, the administrator shall attempt to 16668
facilitate the resolution of complaints through administrative 16669
channels. Subject to division (G)(3) of this section, if attempts 16670
at administrative resolution prove unsatisfactory, the 16671
administrator may pursue any legal, administrative, and other 16672
appropriate remedies or approaches that may be necessary to 16673
accomplish the purposes of this section. 16674

(3) The administrator may not pursue a class action lawsuit 16675
under division (G)(2) of this section when attempts at 16676

administrative resolution of a complaint prove unsatisfactory 16677
under that division unless both of the following have first 16678
occurred: 16679

(a) At least four members of the commission, by their 16680
affirmative vote, have consented to the pursuit of the class 16681
action lawsuit; 16682

(b) At least five members of the commission are present at 16683
the meeting of the commission at which that consent is obtained. 16684

(4) All records received or maintained by the legal rights 16685
service in connection with any investigation, representation, or 16686
other activity under this section shall be confidential and shall 16687
not be disclosed except as authorized by the person represented by 16688
the legal rights service or, subject to any privilege, a guardian 16689
of the person or parent of the minor. Subject to division (G)(5) 16690
of this section, relationships between personnel and the agents of 16691
the legal rights service and its clients shall be fiduciary 16692
relationships, and all communications shall be privileged as if 16693
between attorney and client. 16694

(5) Any person who has been represented by the legal rights 16695
service or who has applied for and been denied representation and 16696
who files a grievance with the service concerning the 16697
representation or application may appeal the decision of the 16698
service on the grievance to the commission. The person may appeal 16699
notwithstanding any objections of the person's legal guardian. The 16700
commission may examine any records relevant to the appeal and 16701
shall maintain the confidentiality of any records that are 16702
required to be kept confidential. 16703

(H) The legal rights service, on the order of the 16704
administrator, with the approval by an affirmative vote of at 16705
least four members of the commission, may compel by subpoena the 16706
appearance and sworn testimony of any person the administrator 16707

reasonably believes may be able to provide information or to 16708
produce any documents, books, records, papers, or other 16709
information necessary to carry out its duties. On the refusal of 16710
any person to produce or authenticate any requested documents, the 16711
legal rights service may apply to the Franklin county court of 16712
common pleas to compel the production or authentication of 16713
requested documents. If the court finds that failure to produce or 16714
authenticate any requested documents was improper, the court may 16715
hold the person in contempt as in the case of disobedience of the 16716
requirements of a subpoena issued from the court, or a refusal to 16717
testify in the court. 16718

(I) The legal rights service may conduct public hearings. 16719

(J) The legal rights service may request from any 16720
governmental agency any cooperation, assistance, services, or data 16721
that will enable it to perform its duties. 16722

(K) In any malpractice action filed against the administrator 16723
of the legal rights service, a member of the staff of the legal 16724
rights service, or an attorney designated by the administrator to 16725
perform legal services under division (E) of this section, the 16726
state shall, when the administrator, member, or attorney has acted 16727
in good faith and in the scope of employment, indemnify the 16728
administrator, member, or attorney for any judgment awarded or 16729
amount negotiated in settlement, and for any court costs or legal 16730
fees incurred in defense of the claim. 16731

This division does not limit or waive, and shall not be 16732
construed to limit or waive, any defense that is available to the 16733
legal rights service, its administrator or employees, persons 16734
under a personal services contract with it, or persons designated 16735
under division (E) of this section, including, but not limited to, 16736
any defense available under section 9.86 of the Revised Code. 16737

(L) In addition to providing services to mentally ill, 16738

mentally retarded, or developmentally disabled persons, when a 16739
grant authorizing the provision of services to other individuals 16740
is accepted pursuant to division (F)(4) of this section, the legal 16741
rights service and its ombudsperson section may provide advocacy 16742
or ombudsperson services to those other individuals and exercise 16743
any other authority granted by this section or sections 5123.601 16744
to 5123.604 of the Revised Code on behalf of those individuals. 16745
Determinations of whether an individual is eligible for services 16746
under this division shall be made by the legal rights service. 16747

Sec. 5123.601. (A) As used in sections 5123.601 to 5123.604 16748
of the Revised Code, "provider" means any person or governmental 16749
agency that furnishes one or more services to one or more mentally 16750
retarded, developmentally disabled, or mentally ill persons. 16751

(B) There is hereby created within the legal rights service 16752
the ~~ombudsman~~ ombudsperson section. The administrator of the legal 16753
rights service shall adopt rules in accordance with Chapter 119. 16754
of the Revised Code establishing procedures for receiving 16755
complaints and conducting investigations for the purposes of 16756
resolving and mediating complaints from mentally retarded, 16757
developmentally disabled, or mentally ill persons, their 16758
relatives, their guardians, and interested citizens, public 16759
officials, and governmental agencies or any deficiencies which 16760
come to its attention concerning any activity, practice, policy, 16761
or procedure it determines is adversely affecting or may adversely 16762
affect the health, safety, welfare, and civil or human rights of 16763
any mentally retarded, developmentally disabled, or mentally ill 16764
persons. After initial investigation, the section may decline to 16765
accept any complaint it determines is frivolous, vexatious, or not 16766
made in good faith. The section shall attempt to resolve the 16767
complaint at the lowest appropriate administrative level, unless 16768
otherwise provided by law. The procedures shall require the 16769
section to: 16770

(1) Acknowledge the receipt of a complaint by sending written notice to the complainant no more than seven days after it receives the complaint;

(2) When appropriate, provide written notice to the department of ~~mental retardation and~~ developmental disabilities or the department of mental health and any other appropriate agency within seven days after receiving the complaint;

(3) Immediately refer a complaint made under this section to the department of ~~mental retardation and~~ developmental disabilities and to any other appropriate governmental agency, whenever the complaint involves an immediate and substantial threat to the health or safety of a mentally retarded or developmentally disabled person, or to the department of mental health and to any other appropriate governmental agency, whenever the complaint involves an immediate and substantial threat to the health or safety of a mentally ill person. The department or an agency designated by the department shall report its findings and actions no later than forty-eight hours following its receipt of the complaint.

(4) Within seven days after identifying a deficiency in the treatment of a mentally retarded, developmentally disabled, or mentally ill person that pertains to misconduct, breach of duty, or noncompliance with state or federal laws, local ordinances, or rules or regulations adopted under those laws or ordinances that are administered by a governmental agency, refer the matter in writing to the appropriate state agency. The state agency shall report on its actions and findings within seven days of receiving the matter.

(5) Advise the complainant and any mentally retarded, developmentally disabled, or mentally ill person mentioned in the complaint, no more than thirty days after it receives the complaint, of any action it has taken and of any opinions and

recommendations it has with respect to the complaint. 16803

(6) Attempt to resolve the complaint by using informal 16804
techniques of mediation, conciliation, and persuasion. If the 16805
complaint cannot be resolved by the use of these informal 16806
techniques or if the act, practice, policy, or procedure that is 16807
the subject of the complaint adversely affects the health, safety, 16808
welfare, or civil or human rights of a mentally retarded, 16809
developmentally disabled, or mentally ill person, the section may 16810
recommend to the appropriate authorities or the administrator of 16811
the legal rights service that appropriate actions be taken. 16812

(7) Report its opinions or recommendations to the parties 16813
involved after attempting to resolve a complaint through informal 16814
techniques of mediation, conciliation, or persuasion. The section 16815
may request any party affected by the opinions or recommendations 16816
to notify the section, within a time period specified by the 16817
section, of any action the party has taken on the section's 16818
recommendations. 16819

(C) The section may make public any of its opinions or 16820
recommendations concerning a complaint, the responses of persons 16821
and governmental agencies to its opinions or recommendations, and 16822
any act, practice, policy, or procedure that adversely affects or 16823
may adversely affect the health, safety, welfare, or civil or 16824
human rights of a mentally retarded, developmentally disabled, or 16825
mentally ill person. 16826

(D) The section shall at all times maintain confidentiality 16827
under sections 5123.601 to 5123.604 of the Revised Code concerning 16828
the identities of mentally retarded, developmentally disabled, or 16829
mentally ill persons, complainants, witnesses, and other involved 16830
parties who provide it with information unless the person, in 16831
writing, authorizes the release of the information. 16832

Nothing in this section shall prohibit the legal rights 16833

service from taking appropriate action when the administrator 16834
determines it is necessary. 16835

(E) Whenever information is disclosed indicating the 16836
commission of a crime or a violation of standards of professional 16837
conduct, the legal rights service shall, within seven days of 16838
receiving the complaint or identifying the information during its 16839
investigation, refer the matter to the attorney general, county 16840
prosecutor, other law enforcement official, or regulatory board, 16841
as appropriate, to investigate the crime or violation. The section 16842
may disclose any information permitted by law that is necessary to 16843
resolve the matter referred. The section shall monitor and 16844
maintain records on every matter it refers under this division. 16845

Sec. 5123.604. (A) No one shall take a discriminatory, 16846
disciplinary, or retaliatory action against any officer or 16847
employee of a provider, any mentally retarded, developmentally 16848
disabled, or mentally ill person, the parents or guardian of a 16849
mentally retarded, developmentally disabled, or mentally ill 16850
person, or any volunteer or advocate for a mentally retarded, 16851
developmentally disabled, or mentally ill person, for any 16852
communication these persons make or information they disclose in 16853
good faith to the ombudsperson section of the legal rights 16854
service. 16855

(B) No person shall knowingly interfere with lawful actions 16856
of the ombudsperson section, refuse entry to its representatives, 16857
fail to comply with its lawful demands, or offer any compensation, 16858
gratuity, or promise thereof in an effort to influence the outcome 16859
of any matter being considered by the section. 16860

(C) The department of ~~mental retardation and~~ developmental 16861
disabilities shall immediately notify the ombudsperson section of 16862
all investigations of major unusual incidents or life-threatening 16863
situations, as defined in rules adopted by the department, 16864

involving mentally retarded and developmentally disabled persons, 16865
and shall furnish copies of all relevant reports within 16866
forty-eight hours after receipt. The department of mental health 16867
shall notify the ombudsperson section of all major unusual 16868
incidents or life-threatening situations, as defined in rules 16869
adopted by the department, involving mentally ill persons within 16870
forty-eight hours after receipt of the report of the incident or 16871
situation. The departments of health and job and family services 16872
shall notify the department of ~~mental retardation and~~ 16873
developmental disabilities of all allegations and investigations 16874
of abuse, neglect, or life-threatening situations involving 16875
mentally retarded or developmentally disabled persons. Any other 16876
state agency with information concerning abuse, neglect, or 16877
life-threatening situations involving mentally retarded or 16878
developmentally disabled persons shall report that information 16879
immediately to the department of ~~mental retardation and~~ 16880
developmental disabilities. 16881

Nothing in this section or section 5123.60, 5123.601, or 16882
5123.602 of the Revised Code shall preclude any department or 16883
board, its contract agencies, a community residential facility, or 16884
other governmental entity from carrying out its responsibility as 16885
prescribed by law. 16886

Sec. 5123.61. (A) As used in this section: 16887

(1) "Law enforcement agency" means the state highway patrol, 16888
the police department of a municipal corporation, or a county 16889
sheriff. 16890

(2) "Abuse" has the same meaning as in section 5123.50 of the 16891
Revised Code, except that it includes a misappropriation, as 16892
defined in that section. 16893

(3) "Neglect" has the same meaning as in section 5123.50 of 16894
the Revised Code. 16895

(B) The department of ~~mental retardation and~~ developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the department under this section and reports received from county boards of mental retardation and developmental disabilities under section 5126.31 of the Revised Code. The department shall establish committees to review reports of abuse, neglect, and other major unusual incidents.

(C)(1) Any person listed in division (C)(2) of this section, having reason to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect of that person, shall immediately report or cause reports to be made of such information to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or to the county board of mental retardation and developmental disabilities. If the report concerns a resident of a facility operated by the department of ~~mental retardation and~~ developmental disabilities the report shall be made either to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of mental retardation and developmental disabilities, the report immediately shall be made to the department and to the county board.

(2) All of the following persons are required to make a report under division (C)(1) of this section:

(a) Any physician, including a hospital intern or resident, any dentist, podiatrist, chiropractor, practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, hospital administrator or employee of a hospital, nurse

licensed under Chapter 4723. of the Revised Code, employee of an 16928
ambulatory health facility as defined in section 5101.61 of the 16929
Revised Code, employee of a home health agency, employee of an 16930
adult care facility licensed under Chapter 3722. of the Revised 16931
Code, or employee of a community mental health facility; 16932

(b) Any school teacher or school authority, social worker, 16933
psychologist, attorney, peace officer, coroner, or residents' 16934
rights advocate as defined in section 3721.10 of the Revised Code; 16935

(c) A superintendent, board member, or employee of a county 16936
board of mental retardation and developmental disabilities; an 16937
administrator, board member, or employee of a residential facility 16938
licensed under section 5123.19 of the Revised Code; an 16939
administrator, board member, or employee of any other public or 16940
private provider of services to a person with mental retardation 16941
or a developmental disability, or any MR/DD employee, as defined 16942
in section 5123.50 of the Revised Code; 16943

(d) A member of a citizen's advisory council established at 16944
an institution or branch institution of the department of ~~mental~~ 16945
~~retardation~~ and developmental disabilities under section 5123.092 16946
of the Revised Code; 16947

(e) A clergyman who is employed in a position that includes 16948
providing specialized services to an individual with mental 16949
retardation or another developmental disability, while acting in 16950
an official or professional capacity in that position, or a person 16951
who is employed in a position that includes providing specialized 16952
services to an individual with mental retardation or another 16953
developmental disability and who, while acting in an official or 16954
professional capacity, renders spiritual treatment through prayer 16955
in accordance with the tenets of an organized religion. 16956

(3)(a) The reporting requirements of this division do not 16957
apply to members of the legal rights service commission or to 16958

employees of the legal rights service. 16959

(b) An attorney or physician is not required to make a report 16960
pursuant to division (C)(1) of this section concerning any 16961
communication the attorney or physician receives from a client or 16962
patient in an attorney-client or physician-patient relationship, 16963
if, in accordance with division (A) or (B) of section 2317.02 of 16964
the Revised Code, the attorney or physician could not testify with 16965
respect to that communication in a civil or criminal proceeding, 16966
except that the client or patient is deemed to have waived any 16967
testimonial privilege under division (A) or (B) of section 2317.02 16968
of the Revised Code with respect to that communication and the 16969
attorney or physician shall make a report pursuant to division 16970
(C)(1) of this section, if both of the following apply: 16971

(i) The client or patient, at the time of the communication, 16972
is a person with mental retardation or a developmental disability. 16973

(ii) The attorney or physician knows or suspects, as a result 16974
of the communication or any observations made during that 16975
communication, that the client or patient has suffered or faces a 16976
substantial risk of suffering any wound, injury, disability, or 16977
condition of a nature that reasonably indicates abuse or neglect 16978
of the client or patient. 16979

(4) Any person who fails to make a report required under 16980
division (C) of this section and who is an MR/DD employee, as 16981
defined in section 5123.50 of the Revised Code, shall be eligible 16982
to be included in the registry regarding misappropriation, abuse, 16983
neglect, or other specified misconduct by MR/DD employees 16984
established under section 5123.52 of the Revised Code. 16985

(D) The reports required under division (C) of this section 16986
shall be made forthwith by telephone or in person and shall be 16987
followed by a written report. The reports shall contain the 16988
following: 16989

(1) The names and addresses of the person with mental 16990
retardation or a developmental disability and the person's 16991
custodian, if known; 16992

(2) The age of the person with mental retardation or a 16993
developmental disability; 16994

(3) Any other information that would assist in the 16995
investigation of the report. 16996

(E) When a physician performing services as a member of the 16997
staff of a hospital or similar institution has reason to believe 16998
that a person with mental retardation or a developmental 16999
disability has suffered injury, abuse, or physical neglect, the 17000
physician shall notify the person in charge of the institution or 17001
that person's designated delegate, who shall make the necessary 17002
reports. 17003

(F) Any person having reasonable cause to believe that a 17004
person with mental retardation or a developmental disability has 17005
suffered or faces a substantial risk of suffering abuse or neglect 17006
may report or cause a report to be made of that belief to the 17007
entity specified in this division. Except as provided in section 17008
5120.173 of the Revised Code or as otherwise provided in this 17009
division, the person making the report shall make it to a law 17010
enforcement agency or the county board of mental retardation and 17011
developmental disabilities. If the person is a resident of a 17012
facility operated by the department of ~~mental retardation and~~ 17013
developmental disabilities, the report shall be made to a law 17014
enforcement agency or to the department. If the report concerns 17015
any act or omission of an employee of a county board of mental 17016
retardation and developmental disabilities, the report immediately 17017
shall be made to the department and to the county board. 17018

(G)(1) Upon the receipt of a report concerning the possible 17019
abuse or neglect of a person with mental retardation or a 17020

developmental disability, the law enforcement agency shall inform 17021
the county board of mental retardation and developmental 17022
disabilities or, if the person is a resident of a facility 17023
operated by the department of ~~mental retardation and~~ developmental 17024
disabilities, the director of the department or the director's 17025
designee. 17026

(2) On receipt of a report under this section that includes 17027
an allegation of action or inaction that may constitute a crime 17028
under federal law or the law of this state, the department of 17029
~~mental retardation and~~ developmental disabilities shall notify the 17030
law enforcement agency. 17031

(3) When a county board of mental retardation and 17032
developmental disabilities receives a report under this section 17033
that includes an allegation of action or inaction that may 17034
constitute a crime under federal law or the law of this state, the 17035
superintendent of the board or an individual the superintendent 17036
designates under division (H) of this section shall notify the law 17037
enforcement agency. The superintendent or individual shall notify 17038
the department of ~~mental retardation and~~ developmental 17039
disabilities when it receives any report under this section. 17040

(4) When a county board of mental retardation and 17041
developmental disabilities receives a report under this section 17042
and believes that the degree of risk to the person is such that 17043
the report is an emergency, the superintendent of the board or an 17044
employee of the board the superintendent designates shall attempt 17045
a face-to-face contact with the person with mental retardation or 17046
a developmental disability who allegedly is the victim within one 17047
hour of the board's receipt of the report. 17048

(H) The superintendent of the board may designate an 17049
individual to be responsible for notifying the law enforcement 17050
agency and the department when the county board receives a report 17051
under this section. 17052

(I) An adult with mental retardation or a developmental disability about whom a report is made may be removed from the adult's place of residence only by law enforcement officers who consider that the adult's immediate removal is essential to protect the adult from further injury or abuse or in accordance with the order of a court made pursuant to section 5126.33 of the Revised Code.

(J) A law enforcement agency shall investigate each report of abuse or neglect it receives under this section. In addition, the department, in cooperation with law enforcement officials, shall investigate each report regarding a resident of a facility operated by the department to determine the circumstances surrounding the injury, the cause of the injury, and the person responsible. The investigation shall be in accordance with the memorandum of understanding prepared under section 5126.058 of the Revised Code. The department shall determine, with the registry office which shall be maintained by the department, whether prior reports have been made concerning an adult with mental retardation or a developmental disability or other principals in the case. If the department finds that the report involves action or inaction that may constitute a crime under federal law or the law of this state, it shall submit a report of its investigation, in writing, to the law enforcement agency. If the person with mental retardation or a developmental disability is an adult, with the consent of the adult, the department shall provide such protective services as are necessary to protect the adult. The law enforcement agency shall make a written report of its findings to the department.

If the person is an adult and is not a resident of a facility operated by the department, the county board of mental retardation and developmental disabilities shall review the report of abuse or neglect in accordance with sections 5126.30 to 5126.33 of the

Revised Code and the law enforcement agency shall make the written 17085
report of its findings to the county board. 17086

(K) Any person or any hospital, institution, school, health 17087
department, or agency participating in the making of reports 17088
pursuant to this section, any person participating as a witness in 17089
an administrative or judicial proceeding resulting from the 17090
reports, or any person or governmental entity that discharges 17091
responsibilities under sections 5126.31 to 5126.33 of the Revised 17092
Code shall be immune from any civil or criminal liability that 17093
might otherwise be incurred or imposed as a result of such actions 17094
except liability for perjury, unless the person or governmental 17095
entity has acted in bad faith or with malicious purpose. 17096

(L) No employer or any person with the authority to do so 17097
shall discharge, demote, transfer, prepare a negative work 17098
performance evaluation, reduce pay or benefits, terminate work 17099
privileges, or take any other action detrimental to an employee or 17100
retaliate against an employee as a result of the employee's having 17101
made a report under this section. This division does not preclude 17102
an employer or person with authority from taking action with 17103
regard to an employee who has made a report under this section if 17104
there is another reasonable basis for the action. 17105

(M) Reports made under this section are not public records as 17106
defined in section 149.43 of the Revised Code. Information 17107
contained in the reports on request shall be made available to the 17108
person who is the subject of the report, to the person's legal 17109
counsel, and to agencies authorized to receive information in the 17110
report by the department or by a county board of mental 17111
retardation and developmental disabilities. 17112

(N) Notwithstanding section 4731.22 of the Revised Code, the 17113
physician-patient privilege shall not be a ground for excluding 17114
evidence regarding the injuries or physical neglect of a person 17115
with mental retardation or a developmental disability or the cause 17116

thereof in any judicial proceeding resulting from a report 17117
submitted pursuant to this section. 17118

Sec. 5123.611. (A) As used in this section, "MR/DD employee" 17119
means all of the following: 17120

(1) An employee of the department of ~~mental retardation and~~ 17121
developmental disabilities; 17122

(2) An employee of a county board of mental retardation and 17123
developmental disabilities; 17124

(3) An employee in a position that includes providing 17125
specialized services, as defined in section 5123.50 of the Revised 17126
Code, to an individual with mental retardation or a developmental 17127
disability. 17128

(B) At the conclusion of a review of a report of abuse, 17129
neglect, or a major unusual incident that is conducted by a review 17130
committee established pursuant to section 5123.61 of the Revised 17131
Code, the committee shall issue recommendations to the department. 17132
The department shall review the committee's recommendations and 17133
issue a report of its findings. The department shall make the 17134
report available to all of the following: 17135

(1) The individual with mental retardation or a developmental 17136
disability who is the subject of the report; 17137

(2) That individual's guardian or legal counsel; 17138

(3) The licensee, as defined in section 5123.19 of the 17139
Revised Code, of a residential facility in which the individual 17140
resides; 17141

(4) The employer of any MR/DD employee who allegedly 17142
committed or was responsible for the abuse, neglect, or major 17143
unusual incident. 17144

(C) Except as provided in this section, the department shall 17145

not disclose its report to any person or government entity that is 17146
not authorized to investigate reports of abuse, neglect, or other 17147
major unusual incidents, unless the individual with mental 17148
retardation or a developmental disability who is the subject of 17149
the report or the individual's guardian gives the department 17150
written consent. 17151

Sec. 5123.612. The director of ~~mental retardation and~~ 17152
developmental disabilities shall adopt rules in accordance with 17153
Chapter 119. of the Revised Code regarding the reporting of major 17154
unusual incidents and unusual incidents concerning persons with 17155
mental retardation or a developmental disability. The rules shall 17156
specify what constitutes a major unusual incident or an unusual 17157
incident. 17158

Sec. 5123.613. (A) When a person who is the subject of a 17159
report under section 5123.61 of the Revised Code dies, the 17160
department of ~~mental retardation and~~ developmental disabilities or 17161
the county board of mental retardation and developmental 17162
disabilities, whichever is applicable, shall, on written request, 17163
provide to both of the following persons the report and any 17164
records relating to the report: 17165

(1) If the report or records are necessary to administer the 17166
estate of the person who is the subject of the report, to the 17167
executor or administrator of the person's estate; 17168

(2) To the guardian of the person who is the subject of the 17169
report or, if the individual had no guardian at the time of death, 17170
to a person in the first applicable of the following categories: 17171

(a) The person's spouse; 17172

(b) The person's children; 17173

(c) The person's parents; 17174

(d) The person's brothers or sisters;	17175
(e) The person's uncles or aunts;	17176
(f) The person's closest relative by blood or adoption;	17177
(g) The person's closest relative by marriage.	17178
(B) The department or county board shall provide the report	17179
and related records as required by this section not later than	17180
thirty days after receipt of the request.™	17181
Sec. 5123.614. (A) Subject to division (B) of this section,	17182
on receipt of a report of a major unusual incident made pursuant	17183
to section 5123.61 or 5126.31 of the Revised Code or rules adopted	17184
under section 5123.612 of the Revised Code, the department of	17185
mental retardation and developmental disabilities may do either of	17186
the following:	17187
(1) Conduct an independent review or investigation of the	17188
incident;	17189
(2) Request that an independent review or investigation of	17190
the incident be conducted by a county board of mental retardation	17191
and developmental disabilities that is not implicated in the	17192
report, a regional council of government, or any other entity	17193
authorized to conduct such investigations.	17194
(B) If a report described in division (A) of this section	17195
concerning the health or safety of a person with mental	17196
retardation or a developmental disability involves an allegation	17197
that an employee of a county board of mental retardation and	17198
developmental disabilities has created a substantial risk of	17199
serious physical harm to a person with mental retardation or a	17200
developmental disability, the department shall do one of the	17201
following:	17202
(1) Conduct an independent investigation regarding the	17203
incident;	17204

(2) Request that an independent review or investigation of the incident be conducted by a county board of mental retardation and developmental disabilities that is not implicated in the report, a regional council of government, or any other entity authorized to conduct such investigations.

Sec. 5123.63. Every state agency, county board of mental retardation and developmental disabilities, or political subdivision that provides services, either directly or through a contract, to persons with mental retardation or a developmental disability shall give each provider a copy of the list of rights contained in section 5123.62 of the Revised Code. Each public and private provider of services shall carry out the requirements of this section in addition to any other posting or notification requirements imposed by local, state, or federal law or rules.

The provider shall make copies of the list of rights and shall be responsible for an initial distribution of the list to each individual receiving services from the provider. If the individual is unable to read the list, the provider shall communicate the contents of the list to the individual to the extent practicable in a manner that the individual understands. The individual receiving services or the parent, guardian, or advocate of the individual shall sign an acknowledgement of receipt of a copy of the list of rights, and a copy of the signed acknowledgement shall be placed in the individual's file. The provider shall also be responsible for answering any questions and giving any explanations necessary to assist the individual to understand the rights enumerated. Instruction in these rights shall be documented.

Each provider shall make available to all persons receiving services and all employees and visitors a copy of the list of rights and the addresses and telephone numbers of the legal rights

service, the department of ~~mental retardation and~~ developmental 17236
disabilities, and the county board of mental retardation and 17237
developmental disabilities of the county in which the provider 17238
provides services. 17239

Sec. 5123.64. (A) Every provider of services to persons with 17240
mental retardation or a developmental disability shall establish 17241
policies and programs to ensure that all staff members are 17242
familiar with the rights enumerated in section 5123.62 of the 17243
Revised Code and observe those rights in their contacts with 17244
persons receiving services. Any policy, procedure, or rule of the 17245
provider that conflicts with any of the rights enumerated shall be 17246
null and void. Every provider shall establish written procedures 17247
for resolving complaints of violations of those rights. A copy of 17248
the procedures shall be provided to any person receiving services 17249
or to any parent, guardian, or advocate of a person receiving 17250
services. 17251

(B) Any person with mental retardation or a developmental 17252
disability who believes that the person's rights as enumerated in 17253
section 5123.62 of the Revised Code have been violated may: 17254

(1) Bring the violation to the attention of the provider for 17255
resolution; 17256

(2) Report the violation to the department of ~~mental~~ 17257
~~retardation and~~ developmental disabilities, the ombudsperson 17258
section of the legal rights service, or the appropriate county 17259
board of mental retardation and developmental disabilities; 17260

(3) Take any other appropriate action to ensure compliance 17261
with sections 5123.60 to 5123.64 of the Revised Code, including 17262
the filing of a legal action to enforce rights or to recover 17263
damages for violation of rights. 17264

Sec. 5123.65. In addition to the rights specified in section 17265

5123.62 of the Revised Code, individuals with mental retardation 17266
and developmental disabilities who can safely self-administer 17267
medication or receive assistance with self-administration of 17268
medication have the right to self-administer medication or receive 17269
assistance with the self-administration of medication. The 17270
department of ~~mental retardation and~~ developmental disabilities 17271
shall adopt rules as it considers necessary to implement and 17272
enforce this section. The rules shall be adopted in accordance 17273
with Chapter 119. of the Revised Code. 17274

Sec. 5123.71. (A)(1) Proceedings for the involuntary 17275
institutionalization of a person pursuant to sections 5123.71 to 17276
5123.76 of the Revised Code shall be commenced by the filing of an 17277
affidavit with the probate division of the court of common pleas 17278
of the county where the person resides or where the person is 17279
institutionalized, in the manner and form prescribed by the 17280
department of ~~mental retardation and~~ developmental disabilities 17281
either on information or actual knowledge, whichever is determined 17282
to be proper by the court. The affidavit may be filed only by a 17283
person who has custody of the individual as a parent, guardian, or 17284
service provider or by a person acting on behalf of the department 17285
or a county board of mental retardation and developmental 17286
disabilities. This section does not apply regarding the 17287
institutionalization of a person pursuant to section 2945.39, 17288
2945.40, 2945.401, or 2945.402 of the Revised Code. 17289

The affidavit shall contain an allegation setting forth the 17290
specific category or categories under division (O) of section 17291
5123.01 of the Revised Code upon which the commencement of 17292
proceedings is based and a statement of the factual ground for the 17293
belief that the person is a mentally retarded person subject to 17294
institutionalization by court order. Except as provided in 17295
division (A)(2) of this section, the affidavit shall be 17296
accompanied by both of the following: 17297

(a) A comprehensive evaluation report prepared by the 17298
person's evaluation team that includes a statement by the members 17299
of the team certifying that they have performed a comprehensive 17300
evaluation of the person and that they are of the opinion that the 17301
person is a mentally retarded person subject to 17302
institutionalization by court order; 17303

(b) An assessment report prepared by the county board of 17304
mental retardation and developmental disabilities under section 17305
5123.711 of the Revised Code specifying that the individual is in 17306
need of services on an emergency or priority basis. 17307

(2) In lieu of the comprehensive evaluation report, the 17308
affidavit may be accompanied by a written and sworn statement that 17309
the person or the guardian of a person adjudicated incompetent has 17310
refused to allow a comprehensive evaluation and county board 17311
assessment and assessment reports. Immediately after accepting an 17312
affidavit that is not accompanied by the reports of a 17313
comprehensive evaluation and county board assessment, the court 17314
shall cause a comprehensive evaluation and county board assessment 17315
of the person named in the affidavit to be performed. The 17316
evaluation shall be conducted in the least restrictive environment 17317
possible and the assessment shall be conducted in the same manner 17318
as assessments conducted under section 5123.711 of the Revised 17319
Code. The evaluation and assessment must be completed before a 17320
probable cause hearing or full hearing may be held under section 17321
5123.75 or 5123.76 of the Revised Code. 17322

A written report of the evaluation team's findings and the 17323
county board's assessment shall be filed with the court. The 17324
reports shall, consistent with the rules of evidence, be accepted 17325
as probative evidence in any proceeding under section 5123.75 or 17326
5123.76 of the Revised Code. If the counsel for the person who is 17327
evaluated or assessed is known, the court shall send to the 17328
counsel a copy of the reports as soon as possible after they are 17329

filed and prior to any proceedings under section 5123.75 or 17330
5123.76 of the Revised Code. 17331

(B) Any person who is involuntarily detained in an 17332
institution or otherwise is in custody under this chapter shall be 17333
informed of the right to do the following: 17334

(1) Immediately make a reasonable number of telephone calls 17335
or use other reasonable means to contact an attorney, a physician, 17336
or both, to contact any other person or persons to secure 17337
representation by counsel, or to obtain medical assistance, and be 17338
provided assistance in making calls if the assistance is needed 17339
and requested; 17340

(2) Retain counsel and have independent expert evaluation 17341
and, if the person is an indigent person, be represented by 17342
court-appointed counsel and have independent expert evaluation at 17343
court expense; 17344

(3) Upon request, have a hearing to determine whether there 17345
is probable cause to believe that the person is a mentally 17346
retarded person subject to institutionalization by court order. 17347

(C) No person who is being treated by spiritual means through 17348
prayer alone in accordance with a recognized religious method of 17349
healing may be ordered detained or involuntarily committed unless 17350
the court has determined that the person represents a very 17351
substantial risk of self-impairment, self-injury, or impairment or 17352
injury to others. 17353

Sec. 5123.711. (A) As used in this section: 17354

(1) "Emergency" means either of the following that creates a 17355
risk of substantial harm to an individual or others if action is 17356
not taken within thirty days: 17357

(a) Health and safety conditions that pose a serious risk of 17358
immediate harm or death to the individual or others; 17359

(b) Changes in the emotional or physical condition of an individual that necessitates substantial accommodation that cannot reasonably be provided by the individual's existing caretaker.

(2) "Priority" means a situation creating a risk of substantial harm to an individual or others, but for which action within thirty days is not necessary.

(3) "Resources" has the same meaning as in section 5126.01 of the Revised Code.

(B) Prior to filing an affidavit under section 5123.71 of the Revised Code for the involuntary institutionalization of an individual, a person who is eligible to file under that section and intends to do so shall request that the county board of mental retardation and developmental disabilities conduct an assessment of the individual's needs. Not later than thirty days after the date a request is received, the board shall complete the assessment and provide to the person a report of its findings and recommendations. The report shall be delivered by certified mail.

Within three working days after receiving a request for an assessment, the board shall notify the department of ~~mental retardation~~ and developmental disabilities that the request has been made and that there is the potential for court-ordered institutionalization of an individual. The department may provide assistance to the board in the performance of the assessment.

(C) The board's assessment of an individual's needs shall include the following:

(1) A determination of the current needs of the individual, including an appropriate plan for services;

(2) A determination of whether the community is the least restrictive environment in which the individual may be appropriately served;

(3) A determination of whether the individual meets the 17390
conditions for assistance on an emergency or priority basis; 17391

(4) Identification of available resources to meet the 17392
individual's needs, including service providers with the 17393
capability of appropriately meeting those needs, special ancillary 17394
services, and moneys to pay for the services necessary to meet the 17395
individual's needs within the community rather than in a state 17396
institution. 17397

(D) If the board's assessment of an individual identifies 17398
that county resources are available to meet the individual's needs 17399
in the community, the board shall provide services to the 17400
individual or arrange for the provision of services. If county 17401
resources are not available, the board shall petition the 17402
department of ~~mental retardation and~~ developmental disabilities 17403
for necessary resources that may be available from the department. 17404

Sec. 5123.72. ~~Except as provided in division (B) of this~~ 17405
~~section, the~~ The director of ~~mental retardation and~~ developmental 17406
disabilities shall designate a person to present the case on 17407
behalf of the state at the hearings provided for in sections 17408
5123.75 and 5123.76 of the Revised Code. The designee of the 17409
director also may present the case on behalf of the state in any 17410
other hearing provided for in this chapter. 17411

Sec. 5123.73. (A) After receipt of the affidavit required by 17412
section 5123.71 of the Revised Code, the court shall cause written 17413
notice, by mail or otherwise, of any hearing the court directs, to 17414
be given to all of the following persons: 17415

(1) The respondent; 17416

(2) The respondent's legal guardian, if any; 17417

(3) The respondent's spouse, if address is known; 17418

(4) The person filing the affidavit; 17419

(5) Any one person designated by the respondent, except that 17420
if the respondent does not make a selection, the notice shall be 17421
sent to the adult next of kin other than the person who filed the 17422
affidavit, if that person's address is known to the court; 17423

(6) The respondent's counsel; 17424

(7) The director of ~~mental retardation and~~ developmental 17425
disabilities or the director's designee under section 5123.72 of 17426
the Revised Code. 17427

(B) All persons entitled to notice under this section may 17428
waive that notice. 17429

(C) A copy of the affidavit and of any temporary order shall 17430
be served with a notice under this section. 17431

Sec. 5123.75. A respondent who is involuntarily placed in an 17432
institution or other place as designated in section 5123.77 of the 17433
Revised Code or with respect to whom proceedings have been 17434
instituted under section 5123.71 of the Revised Code shall, on 17435
request of the respondent, ~~his~~ the respondent's guardian, or ~~his~~ 17436
the respondent's counsel, or upon the court's own motion, be 17437
afforded a hearing to determine whether there is probable cause to 17438
believe that the respondent is a mentally retarded person subject 17439
to institutionalization by court order. 17440

(A) The probable cause hearing shall be conducted within two 17441
court days from the day on which the request is made. Failure to 17442
conduct the probable cause hearing within this time shall effect 17443
an immediate discharge of the respondent. If the proceedings are 17444
not reinstated within thirty days, records of the proceedings 17445
shall be expunged. 17446

(B) The respondent shall be informed that ~~he~~ the respondent 17447
may retain counsel and have independent expert evaluation and, if 17448

he the respondent is an indigent person, be represented by court 17449
appointed counsel and have independent expert evaluation at court 17450
expense. 17451

(C) The probable cause hearing shall be conducted in a manner 17452
consistent with the procedures set forth in division (A) of 17453
section 5123.76 of the Revised Code, except divisions (A)(10) and 17454
(14) of that section, and the designee of the director of ~~mental~~ 17455
~~retardation~~ and developmental disabilities shall present evidence 17456
for the state. 17457

(D) If the court does not find probable cause to believe that 17458
the respondent is a mentally retarded person subject to 17459
institutionalization by court order, it shall order immediate 17460
release of the respondent and dismiss and expunge all record of 17461
the proceedings under this chapter. 17462

(E) On motion of the respondent or ~~his~~ the respondent's 17463
counsel and for good cause shown, the court may order a 17464
continuance of the hearing. 17465

(F) If the court finds probable cause to believe that the 17466
respondent is a mentally retarded person subject to 17467
institutionalization by court order, the court may issue an 17468
interim order of placement and, where proceedings under section 17469
5123.71 of the Revised Code have been instituted, shall order a 17470
full hearing as provided in section 5123.76 of the Revised Code to 17471
be held on the question of whether the respondent is a mentally 17472
retarded person subject to institutionalization by court order. 17473
Unless specifically waived by the respondent or the respondent's 17474
counsel, the court shall schedule said hearing to be held as soon 17475
as possible within ten days from the probable cause hearing. A 17476
waiver of such full hearing at this point shall not preclude the 17477
respondent from asserting the respondent's right to such hearing 17478
under section 5123.76 of the Revised Code at any time prior to the 17479
mandatory hearing provided in division (H) of section 5123.76 of 17480

the Revised Code. In any case, if the respondent has waived ~~his~~ 17481
the right to the full hearing, a mandatory hearing shall be held 17482
under division (H) of section 5123.76 of the Revised Code between 17483
the ninetieth and the one hundredth day after the original 17484
involuntary detention of the person unless the respondent has been 17485
discharged. 17486

(G) Whenever possible, the probable cause hearing shall be 17487
held before the respondent is taken into custody. 17488

Sec. 5123.76. (A) The full hearing shall be conducted in a 17489
manner consistent with the procedures outlined in this chapter and 17490
with due process of law. The hearing shall be held by a judge of 17491
the probate division or, upon transfer by the judge of the probate 17492
division, by another judge of the court of common pleas, or a 17493
referee designated by the judge of the probate division. Any 17494
referee designated by the judge of the probate division must be an 17495
attorney. 17496

(1) The following shall be made available to counsel for the 17497
respondent: 17498

(a) All relevant documents, information, and evidence in the 17499
custody or control of the state or prosecutor; 17500

(b) All relevant documents, information, and evidence in the 17501
custody or control of the institution, facility, or program in 17502
which the respondent currently is held or in which the respondent 17503
has been held pursuant to these proceedings; 17504

(c) With the consent of the respondent, all relevant 17505
documents, information, and evidence in the custody or control of 17506
any institution or person other than the state. 17507

(2) The respondent has the right to be represented by counsel 17508
of the respondent's choice and has the right to attend the hearing 17509
except if unusual circumstances of compelling medical necessity 17510

exist that render the respondent unable to attend and the 17511
respondent has not expressed a desire to attend. 17512

(3) If the respondent is not represented by counsel and the 17513
court determines that the conditions specified in division (A)(2) 17514
of this section justify the respondent's absence and the right to 17515
counsel has not been validly waived, the court shall appoint 17516
counsel forthwith to represent the respondent at the hearing, 17517
reserving the right to tax costs of appointed counsel to the 17518
respondent unless it is shown that the respondent is indigent. If 17519
the court appoints counsel, or if the court determines that the 17520
evidence relevant to the respondent's absence does not justify the 17521
absence, the court shall continue the case. 17522

(4) The respondent shall be informed of the right to retain 17523
counsel, to have independent expert evaluation, and, if an 17524
indigent person, to be represented by court appointed counsel and 17525
have expert independent evaluation at court expense. 17526

(5) The hearing may be closed to the public unless counsel 17527
for the respondent requests that the hearing be open to the 17528
public. 17529

(6) Unless objected to by the respondent, the respondent's 17530
counsel, or the designee of the director of ~~mental retardation and~~ 17531
developmental disabilities, the court, for good cause shown, may 17532
admit persons having a legitimate interest in the proceedings. 17533

(7) The affiant under section 5123.71 of the Revised Code 17534
shall be subject to subpoena by either party. 17535

(8) The court shall examine the sufficiency of all documents 17536
filed and shall inform the respondent, if present, and the 17537
respondent's counsel of the nature of the content of the documents 17538
and the reason for which the respondent is being held or for which 17539
the respondent's placement is being sought. 17540

(9) The court shall receive only relevant, competent, and 17541

material evidence. 17542

(10) The designee of the director shall present the evidence 17543
for the state. In proceedings under this chapter, the attorney 17544
general shall present the comprehensive evaluation, assessment, 17545
diagnosis, prognosis, record of habilitation and care, if any, and 17546
less restrictive habilitation plans, if any. The attorney general 17547
does not have a similar presentation responsibility in connection 17548
with a person who has been found not guilty by reason of insanity 17549
and who is the subject of a hearing under section 2945.40 of the 17550
Revised Code to determine whether the person is a mentally 17551
retarded person subject to institutionalization by court order. 17552

(11) The respondent has the right to testify and the 17553
respondent or the respondent's counsel has the right to subpoena 17554
witnesses and documents and to present and cross-examine 17555
witnesses. 17556

(12) The respondent shall not be compelled to testify and 17557
shall be so advised by the court. 17558

(13) On motion of the respondent or the respondent's counsel 17559
for good cause shown, or upon the court's own motion, the court 17560
may order a continuance of the hearing. 17561

(14) To an extent not inconsistent with this chapter, the 17562
Rules of Civil Procedure shall be applicable. 17563

(B) Unless, upon completion of the hearing, the court finds 17564
by clear and convincing evidence that the respondent named in the 17565
affidavit is a mentally retarded person subject to 17566
institutionalization by court order, it shall order the 17567
respondent's discharge forthwith. 17568

(C) If, upon completion of the hearing, the court finds by 17569
clear and convincing evidence that the respondent is a mentally 17570
retarded person subject to institutionalization by court order, 17571
the court may order the respondent's discharge or order the 17572

respondent, for a period not to exceed ninety days, to any of the 17573
following: 17574

(1) A public institution, provided that commitment of the 17575
respondent to the institution will not cause the institution to 17576
exceed its licensed capacity determined in accordance with section 17577
5123.19 of the Revised Code and provided that such a placement is 17578
indicated by the comprehensive evaluation report filed pursuant to 17579
section 5123.71 of the Revised Code; 17580

(2) A private institution; 17581

(3) A county mental retardation program; 17582

(4) Receive private habilitation and care; 17583

(5) Any other suitable facility, program, or the care of any 17584
person consistent with the comprehensive evaluation, assessment, 17585
diagnosis, prognosis, and habilitation needs of the respondent. 17586

(D) Any order made pursuant to division (C)(2), (4), or (5) 17587
of this section shall be conditional upon the receipt by the court 17588
of consent by the facility, program, or person to accept the 17589
respondent. 17590

(E) In determining the place to which, or the person with 17591
whom, the respondent is to be committed, the court shall consider 17592
the comprehensive evaluation, assessment, diagnosis, and projected 17593
habilitation plan for the respondent, and shall order the 17594
implementation of the least restrictive alternative available and 17595
consistent with habilitation goals. 17596

(F) If, at any time it is determined by the director of the 17597
facility or program to which, or the person to whom, the 17598
respondent is committed that the respondent could be equally well 17599
habilitated in a less restrictive environment that is available, 17600
the following shall occur: 17601

(1) The respondent shall be released by the director of the 17602

facility or program or by the person forthwith and referred to the 17603
court together with a report of the findings and recommendations 17604
of the facility, program, or person. 17605

(2) The director of the facility or program or the person 17606
shall notify the respondent's counsel and the designee of the 17607
director of ~~mental retardation and~~ developmental disabilities. 17608

(3) The court shall dismiss the case or order placement in 17609
the less restrictive environment. 17610

(G)(1) Except as provided in divisions (G)(2) and (3) of this 17611
section, any person who has been committed under this section may 17612
apply at any time during the ninety-day period for voluntary 17613
admission to an institution under section 5123.69 of the Revised 17614
Code. Upon admission of a voluntary resident, the managing officer 17615
immediately shall notify the court, the respondent's counsel, and 17616
the designee of the director in writing of that fact by mail or 17617
otherwise, and, upon receipt of the notice, the court shall 17618
dismiss the case. 17619

(2) A person who is found incompetent to stand trial or not 17620
guilty by reason of insanity and who is committed pursuant to 17621
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 17622
Code shall not be voluntarily admitted to an institution pursuant 17623
to division (G)(1) of this section until after the termination of 17624
the commitment, as described in division (J) of section 2945.401 17625
of the Revised Code. 17626

(H) If, at the end of any commitment period, the respondent 17627
has not already been discharged or has not requested voluntary 17628
admission status, the director of the facility or program, or the 17629
person to whose care the respondent has been committed, shall 17630
discharge the respondent forthwith, unless at least ten days 17631
before the expiration of that period the designee of the director 17632
of ~~mental retardation and~~ developmental disabilities or the 17633

prosecutor files an application with the court requesting 17634
continued commitment. 17635

(1) An application for continued commitment shall include a 17636
written report containing a current comprehensive evaluation and 17637
assessment, a diagnosis, a prognosis, an account of progress and 17638
past habilitation, and a description of alternative habilitation 17639
settings and plans, including a habilitation setting that is the 17640
least restrictive setting consistent with the need for 17641
habilitation. A copy of the application shall be provided to 17642
respondent's counsel. The requirements for notice under section 17643
5123.73 of the Revised Code and the provisions of divisions (A) to 17644
(E) of this section apply to all hearings on such applications. 17645

(2) A hearing on the first application for continued 17646
commitment shall be held at the expiration of the first ninety-day 17647
period. The hearing shall be mandatory and may not be waived. 17648

(3) Subsequent periods of commitment not to exceed one 17649
hundred eighty days each may be ordered by the court if the 17650
designee of the director of ~~mental retardation and~~ developmental 17651
disabilities files an application for continued commitment, after 17652
a hearing is held on the application or without a hearing if no 17653
hearing is requested and no hearing required under division (H)(4) 17654
of this section is waived. Upon the application of a person 17655
involuntarily committed under this section, supported by an 17656
affidavit of a licensed physician alleging that the person is no 17657
longer a mentally retarded person subject to institutionalization 17658
by court order, the court for good cause shown may hold a full 17659
hearing on the person's continued commitment prior to the 17660
expiration of any subsequent period of commitment set by the 17661
court. 17662

(4) A mandatory hearing shall be held at least every two 17663
years after the initial commitment. 17664

(5) If the court, after a hearing upon a request to continue
commitment, finds that the respondent is a mentally retarded
person subject to institutionalization by court order, the court
may make an order pursuant to divisions (C), (D), and (E) of this
section.

(I) Notwithstanding the provisions of division (H) of this
section, no person who is found to be a mentally retarded person
subject to institutionalization by court order pursuant to
division (O)(2) of section 5123.01 of the Revised Code shall be
held under involuntary commitment for more than five years.

(J) The managing officer admitting a person pursuant to a
judicial proceeding, within ten working days of the admission,
shall make a report of the admission to the department.

Sec. 5123.801. If neither a discharged resident, nor a
resident granted trial visit, nor the persons requesting the
resident's trial visit or discharge are financially able to bear
the expense of the resident's trial visit or discharge, the
managing officer of an institution under the control of the
department of ~~mental retardation and~~ developmental disabilities
may then provide actual traveling and escort expenses to the
township of which the resident resided at the time of
institutionalization. The amount payable shall be charged to the
current expense fund of the institution.

The expense of the return of a resident on trial visit from
an institution, if it cannot be paid by the responsible relatives,
shall be borne by the county of institutionalization.

The managing officer of the institution shall provide
sufficient and proper clothing for traveling if neither the
resident nor the persons requesting the resident's trial visit or
discharge are financially able to provide that clothing.

Sec. 5123.81. When an involuntarily committed resident of an institution for the mentally retarded is absent without leave, an order shall be issued within five days after ~~his~~ the resident's absence requiring the resident to be taken into custody by any health or police officer, or sheriff and transported to the institution from which the resident is absent. The order may be issued by the director of ~~mental retardation and~~ developmental disabilities, the managing officer of the institution from which the resident is absent, or the probate judge of the county from which the resident was ordered institutionalized or in which he is found. The officer who takes the resident into custody shall immediately notify the issuer of the order.

Sec. 5123.811. The managing officer of an institution under the control of the department of ~~mental retardation and~~ developmental disabilities shall immediately report the removal, death, absence without leave, discharge, or trial visit of any resident, or return of an absent without leave or visiting resident to the department, the probate judge of the county from which such resident was institutionalized, and the probate judge of the county of the residence of such resident. In case of death, the managing officer shall also notify one or more of the nearest relatives of the deceased resident, if known to ~~him~~ the managing officer, by letter, telegram, or telephone. If the place of residence of such relative is unknown to the managing officer, immediately upon receiving notification, the probate judge shall in the speediest manner possible notify such relatives, if known to ~~him~~ the probate judge.

The managing officer of the institution shall, upon the request of the probate judge of the county from which such resident was institutionalized or the probate judge of the county of the residence of such resident, make a report to such judge of

the condition of any resident under the care, treatment, custody, 17726
or control of such managing officer. 17727

Sec. 5123.82. (A) Any person who has been institutionalized 17728
under this chapter may, at any time after discharge from such 17729
institution, make application to the managing officer of any 17730
public institution for habilitation and care if such person feels 17731
~~he~~ the person is in need of such services. If the chief program 17732
director determines the applicant to be in need of such services, 17733
the managing officer may provide such services as are required by 17734
the applicant. 17735

(B) Any person may apply to the managing officer of any 17736
public institution for habilitation and care if such person feels 17737
~~he~~ the person is in need of such services. If ~~his~~ the person's 17738
condition warrants, ~~he~~ the person's may be enrolled as an 17739
outpatient and, during such enrollment, ~~he~~ the person may receive 17740
services subject to Chapter 5121. of the Revised Code. 17741

(C) The application prescribed in division (A) or (B) of this 17742
section may also be made on behalf of a minor by a parent, 17743
guardian, or custodian of a minor, and on behalf of an adult 17744
adjudicated incompetent by the guardian or custodian of the adult. 17745

(D) The managing officer of the public institution may refer 17746
any discharged resident who makes an application under this 17747
section to the director of any community mental retardation 17748
program serving the county in which such resident resides, or to 17749
such other facility as the director of ~~mental retardation and~~ 17750
developmental disabilities may designate. Upon notice of such 17751
referral, the director of such program may provide the services 17752
required by the applicant. 17753

Sec. 5123.85. (A) All residents institutionalized pursuant to 17754
this chapter shall receive, within thirty days of their admission, 17755

a comprehensive evaluation, a diagnosis, a prognosis, and a 17756
description of habilitation goals consistent therewith. 17757

(B) All such residents shall have a written habilitation plan 17758
consistent with the comprehensive evaluation, diagnosis, 17759
prognosis, and goals which shall be provided, upon request of 17760
resident or resident's counsel, to resident's counsel and to any 17761
private physician designated by the resident or the resident's 17762
counsel. 17763

(C) All such residents shall receive habilitation and care 17764
consistent with the habilitation plan. The department of ~~mental~~ 17765
~~retardation and~~ developmental disabilities shall set standards for 17766
habilitation and care provided to such residents, consistent 17767
wherever possible with standards set by the joint commission on 17768
accreditation of facilities for the mentally retarded. 17769

(D) All such residents shall receive periodic comprehensive 17770
re-evaluations of the habilitation plan by the professional staff 17771
of the institution at intervals not to exceed ninety days. 17772

(E) All such residents shall be provided with prompt and 17773
adequate medical treatment for any physical or mental disease or 17774
injury. 17775

Sec. 5123.86. (A) Except as provided in divisions (C), (D), 17776
(E), and (F) of this section, the chief medical officer shall 17777
provide all information, including expected physical and medical 17778
consequences, necessary to enable any resident of an institution 17779
for the mentally retarded to give a fully informed, intelligent, 17780
and knowing consent if any of the following procedures are 17781
proposed: 17782

(1) Surgery; 17783

(2) Convulsive therapy; 17784

(3) Major aversive interventions; 17785

(4) Sterilization; 17786

(5) Experimental procedures; 17787

(6) Any unusual or hazardous treatment procedures. 17788

(B) No resident shall be subjected to any of the procedures 17789
listed in division (A)(4), (5), or (6) of this section without the 17790
resident's informed consent. 17791

(C) If a resident is physically or mentally unable to receive 17792
the information required for surgery under division (A)(1) of this 17793
section, or has been adjudicated incompetent, the information may 17794
be provided to the resident's natural or court-appointed guardian, 17795
including an agency providing guardianship services under contract 17796
with the department of ~~mental retardation and~~ developmental 17797
disabilities under sections 5123.55 to 5123.59 of the Revised 17798
Code, who may give the informed, intelligent, and knowing written 17799
consent for surgery. Consent for surgery shall not be provided by 17800
a guardian who is an officer or employee of the department of 17801
mental health or the department of ~~mental retardation and~~ 17802
developmental disabilities. 17803

If a resident is physically or mentally unable to receive the 17804
information required for surgery under division (A)(1) of this 17805
section and has no guardian, then the information, the 17806
recommendation of the chief medical officer, and the concurring 17807
judgment of a licensed physician who is not a full-time employee 17808
of the state may be provided to the court in the county in which 17809
the institution is located, which may approve the surgery. Before 17810
approving the surgery, the court shall notify the legal rights 17811
service created by section 5123.60 of the Revised Code, and shall 17812
notify the resident of the resident's rights to consult with 17813
counsel, to have counsel appointed by the court if the resident is 17814
indigent, and to contest the recommendation of the chief medical 17815
officer. 17816

(D) If, in the judgment of two licensed physicians, delay in 17817
obtaining consent for surgery would create a grave danger to the 17818
health of a resident, emergency surgery may be performed without 17819
the consent of the resident if the necessary information is 17820
provided to the resident's guardian, including an agency providing 17821
guardianship services under contract with the department of ~~mental~~ 17822
~~retardation~~ and developmental disabilities under sections 5123.55 17823
to 5123.59 of the Revised Code, or to the resident's spouse or 17824
next of kin to enable that person or agency to give an informed, 17825
intelligent, and knowing written consent. 17826

If the guardian, spouse, or next of kin cannot be contacted 17827
through exercise of reasonable diligence, or if the guardian, 17828
spouse, or next of kin is contacted, but refuses to consent, then 17829
the emergency surgery may be performed upon the written 17830
authorization of the chief medical officer and after court 17831
approval has been obtained. However, if delay in obtaining court 17832
approval would create a grave danger to the life of the resident, 17833
the chief medical officer may authorize surgery, in writing, 17834
without court approval. If the surgery is authorized without court 17835
approval, the chief medical officer who made the authorization and 17836
the physician who performed the surgery shall each execute an 17837
affidavit describing the circumstances constituting the emergency 17838
and warranting the surgery and the circumstances warranting their 17839
not obtaining prior court approval. The affidavit shall be filed 17840
with the court with which the request for prior approval would 17841
have been filed within five court days after the surgery, and a 17842
copy of the affidavit shall be placed in the resident's file and 17843
shall be given to the guardian, spouse, or next of kin of the 17844
resident, to the hospital at which the surgery was performed, and 17845
to the legal rights service created by section 5123.60 of the 17846
Revised Code. 17847

(E)(1) If it is the judgment of two licensed physicians, as 17848

described in division (E)(2) of this section, that a medical 17849
emergency exists and delay in obtaining convulsive therapy creates 17850
a grave danger to the life of a resident who is both mentally 17851
retarded and mentally ill, convulsive therapy may be administered 17852
without the consent of the resident if the resident is physically 17853
or mentally unable to receive the information required for 17854
convulsive therapy and if the necessary information is provided to 17855
the resident's natural or court-appointed guardian, including an 17856
agency providing guardianship services under contract with the 17857
department of ~~mental retardation and~~ developmental disabilities 17858
under sections 5123.55 to 5123.59 of the Revised Code, or to the 17859
resident's spouse or next of kin to enable that person or agency 17860
to give an informed, intelligent, and knowing written consent. If 17861
neither the resident's guardian, spouse, nor next of kin can be 17862
contacted through exercise of reasonable diligence, or if the 17863
guardian, spouse, or next of kin is contacted, but refuses to 17864
consent, then convulsive therapy may be performed upon the written 17865
authorization of the chief medical officer and after court 17866
approval has been obtained. 17867

(2) The two licensed physicians referred to in division 17868
(E)(1) of this section shall not be associated with each other in 17869
the practice of medicine or surgery by means of a partnership or 17870
corporate arrangement, other business arrangement, or employment. 17871
At least one of the physicians shall be a psychiatrist as defined 17872
in division (E) of section 5122.01 of the Revised Code. 17873

(F) Major aversive interventions shall not be used unless a 17874
resident continues to engage in behavior destructive to self or 17875
others after other forms of therapy have been attempted. The 17876
director of the legal rights service created by section 5123.60 of 17877
the Revised Code shall be notified of any proposed major aversive 17878
intervention. Major aversive interventions shall not be applied to 17879
a voluntary resident without the informed, intelligent, and 17880

knowing written consent of the resident or the resident's 17881
guardian, including an agency providing guardianship services 17882
under contract with the department of ~~mental retardation and~~ 17883
developmental disabilities under sections 5123.55 to 5123.59 of 17884
the Revised Code. 17885

(G)(1) This chapter does not authorize any form of compulsory 17886
medical or psychiatric treatment of any resident who is being 17887
treated by spiritual means through prayer alone in accordance with 17888
a recognized religious method of healing. 17889

(2) For purposes of this section, "convulsive therapy" does 17890
not include defibrillation. 17891

Sec. 5123.89. (A) All certificates, applications, records, 17892
and reports made for the purpose of this chapter, other than court 17893
journal entries or court docket entries, which directly or 17894
indirectly identify a resident or former resident of an 17895
institution for the mentally retarded or person whose 17896
institutionalization has been sought under this chapter shall be 17897
kept confidential and shall not be disclosed by any person except 17898
in the following situations: 17899

(1) It is the judgment of the court for judicial records, and 17900
the managing officer for institution records, that disclosure is 17901
in the best interest of the person identified, and that person or 17902
that person's guardian or, if that person is a minor, that 17903
person's parent or guardian consents. 17904

(2) Disclosure is provided for in other sections of this 17905
chapter. 17906

(3) It is the judgment of the managing officer for 17907
institution records that disclosure to a mental health facility is 17908
in the best interest of the person identified. 17909

(B) The department of ~~mental retardation and~~ developmental 17910

disabilities shall adopt rules with respect to the systematic and 17911
periodic destruction of residents' records. 17912

(C)(1) As used in this division, "family" means a parent, 17913
brother, sister, spouse, son, daughter, grandparent, aunt, uncle, 17914
or cousin. 17915

(2) Upon the death of a resident or former resident of an 17916
institution for the mentally retarded or a person whose 17917
institutionalization was sought under this chapter, the managing 17918
officer of an institution shall provide access to the 17919
certificates, applications, records, and reports made for the 17920
purposes of this chapter to the resident's, former resident's, or 17921
person's guardian if the guardian makes a written request. If a 17922
deceased resident, former resident, or person whose 17923
institutionalization was sought under this chapter did not have a 17924
guardian at the time of death, the managing officer shall provide 17925
access to the certificates, applications, records, and reports 17926
made for purposes of this chapter to a member of the person's 17927
family, upon that family member's written request. 17928

(D) No person shall reveal the contents of a record of a 17929
resident except as authorized by this chapter. 17930

Sec. 5123.90. The attorney general shall attend to all suits 17931
instituted on behalf of or against any public institution under 17932
the jurisdiction of the department of ~~mental retardation and~~ 17933
developmental disabilities and the managing officer thereof. 17934

If a writ of habeas corpus is applied for, the clerk of the 17935
court shall give notice of the time and place of hearing to the 17936
attorney general. 17937

Sec. 5123.96. Costs, fees, and expenses of all proceedings 17938
held under this chapter shall be paid as follows: 17939

(A) To police and health officers, other than sheriffs or 17940

their deputies, the same fees allowed to constables, to be paid 17941
upon the approval of the probate judge; 17942

(B) To sheriffs or their deputies, the same fees allowed for 17943
similar services in the court of common pleas; 17944

(C) To physicians or licensed clinical psychologists acting 17945
as expert witnesses and to other expert witnesses designated by 17946
the court, an amount determined by the court; 17947

(D) To other witnesses, the same fees and mileage as for 17948
attendance at the court of common pleas, to be paid upon the 17949
approval of the probate judge; 17950

(E) To a person, other than the sheriff or ~~his~~ the sheriff's 17951
deputies, for taking a mentally retarded person to an institution 17952
or removing a mentally retarded person from an institution, the 17953
actual necessary expenses incurred, specifically itemized, and 17954
approved by the probate judge; 17955

(F) To assistants who convey mentally retarded persons to 17956
institutions when authorized by the probate judge, a fee set by 17957
the probate court, provided the assistants are not drawing a 17958
salary from the state or any political subdivision of the state, 17959
and their actual necessary expenses incurred, provided that the 17960
expenses are specifically itemized and approved by the probate 17961
judge; 17962

(G) To an attorney appointed by the probate division for an 17963
indigent who allegedly is a mentally retarded person pursuant to 17964
any section of this chapter, the fees that are determined by the 17965
probate division. When those indigent persons are before the 17966
court, all filing and recording fees shall be waived. 17967

(H) To a referee who is appointed to conduct proceedings 17968
under this chapter that involve a respondent whose domicile is or, 17969
before ~~his~~ the respondent's institutionalization, was not the 17970
county in which the proceedings are held, compensation as fixed by 17971

the probate division, but not more than the compensation paid for 17972
similar proceedings for respondents whose domicile is in the 17973
county in which the proceedings are held; 17974

(I) To a court reporter appointed to make a transcript of 17975
proceedings under this chapter, the compensation and fees allowed 17976
in other cases under section 2101.08 of the Revised Code. 17977

All costs, fees, and expenses described in this section, 17978
after payment by the county from appropriations pursuant to 17979
section 2101.11 of the Revised Code, shall be certified by the 17980
county auditor to the department of ~~mental retardation and~~ 17981
developmental disabilities within two months of the date the 17982
costs, fees, and expenses are incurred by the county. Payment 17983
shall be provided for by the director of budget and management 17984
upon presentation of properly verified vouchers. The director of 17985
~~mental retardation and~~ developmental disabilities may adopt rules 17986
in accordance with Chapter 119. of the Revised Code to implement 17987
the payment of costs, fees, and expenses under this section. 17988

Sec. 5126.01. As used in this chapter: 17989

(A) As used in this division, "adult" means an individual who 17990
is eighteen years of age or over and not enrolled in a program or 17991
service under Chapter 3323. of the Revised Code and an individual 17992
sixteen or seventeen years of age who is eligible for adult 17993
services under rules adopted by the director of ~~mental retardation~~ 17994
~~and~~ developmental disabilities pursuant to Chapter 119. of the 17995
Revised Code. 17996

(1) "Adult services" means services provided to an adult 17997
outside the home, except when they are provided within the home 17998
according to an individual's assessed needs and identified in an 17999
individual service plan, that support learning and assistance in 18000
the area of self-care, sensory and motor development, 18001
socialization, daily living skills, communication, community 18002

living, social skills, or vocational skills.	18003
(2) "Adult services" includes all of the following:	18004
(a) Adult day habilitation services;	18005
(b) Adult day care;	18006
(c) Prevocational services;	18007
(d) Sheltered employment;	18008
(e) Educational experiences and training obtained through	18009
entities and activities that are not expressly intended for	18010
individuals with mental retardation and developmental	18011
disabilities, including trade schools, vocational or technical	18012
schools, adult education, job exploration and sampling, unpaid	18013
work experience in the community, volunteer activities, and	18014
spectator sports;	18015
(f) Community employment services and supported employment	18016
services.	18017
(B)(1) "Adult day habilitation services" means adult services	18018
that do the following:	18019
(a) Provide access to and participation in typical activities	18020
and functions of community life that are desired and chosen by the	18021
general population, including such activities and functions as	18022
opportunities to experience and participate in community	18023
exploration, companionship with friends and peers, leisure	18024
activities, hobbies, maintaining family contacts, community	18025
events, and activities where individuals without disabilities are	18026
involved;	18027
(b) Provide supports or a combination of training and	18028
supports that afford an individual a wide variety of opportunities	18029
to facilitate and build relationships and social supports in the	18030
community.	18031
(2) "Adult day habilitation services" includes all of the	18032

following:	18033
(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services;	18034 18035 18036 18037
(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;	18038 18039 18040 18041
(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;	18042 18043 18044 18045 18046 18047 18048
(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;	18049 18050 18051
(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected;	18052 18053 18054 18055 18056
(f) Transportation necessary to access adult day habilitation services;	18057 18058
(g) Habilitation management, as described in section 5126.14 of the Revised Code.	18059 18060
(3) "Adult day habilitation services" does not include activities that are components of the provision of residential	18061 18062

services, family support services, or supported living services. 18063

(C) "Appointing authority" means the following: 18064

(1) In the case of a member of a county board of mental 18065
retardation and developmental disabilities appointed by, or to be 18066
appointed by, a board of county commissioners, the board of county 18067
commissioners; 18068

(2) In the case of a member of a county board appointed by, 18069
or to be appointed by, a senior probate judge, the senior probate 18070
judge. 18071

(D) "Community employment services" or "supported employment 18072
services" means job training and other services related to 18073
employment outside a sheltered workshop. "Community employment 18074
services" or "supported employment services" include all of the 18075
following: 18076

(1) Job training resulting in the attainment of competitive 18077
work, supported work in a typical work environment, or 18078
self-employment; 18079

(2) Supervised work experience through an employer paid to 18080
provide the supervised work experience; 18081

(3) Ongoing work in a competitive work environment at a wage 18082
commensurate with workers without disabilities; 18083

(4) Ongoing supervision by an employer paid to provide the 18084
supervision. 18085

(E) As used in this division, "substantial functional 18086
limitation," "developmental delay," and "established risk" have 18087
the meanings established pursuant to section 5123.011 of the 18088
Revised Code. 18089

"Developmental disability" means a severe, chronic disability 18090
that is characterized by all of the following: 18091

(1) It is attributable to a mental or physical impairment or 18092

a combination of mental and physical impairments, other than a 18093
mental or physical impairment solely caused by mental illness as 18094
defined in division (A) of section 5122.01 of the Revised Code; 18095

(2) It is manifested before age twenty-two; 18096

(3) It is likely to continue indefinitely; 18097

(4) It results in one of the following: 18098

(a) In the case of a person under age three, at least one 18099
developmental delay or an established risk; 18100

(b) In the case of a person at least age three but under age 18101
six, at least two developmental delays or an established risk; 18102

(c) In the case of a person age six or older, a substantial 18103
functional limitation in at least three of the following areas of 18104
major life activity, as appropriate for the person's age: 18105
self-care, receptive and expressive language, learning, mobility, 18106
self-direction, capacity for independent living, and, if the 18107
person is at least age sixteen, capacity for economic 18108
self-sufficiency. 18109

(5) It causes the person to need a combination and sequence 18110
of special, interdisciplinary, or other type of care, treatment, 18111
or provision of services for an extended period of time that is 18112
individually planned and coordinated for the person. 18113

(F) "Early childhood services" means a planned program of 18114
habilitation designed to meet the needs of individuals with mental 18115
retardation or other developmental disabilities who have not 18116
attained compulsory school age. 18117

(G)(1) "Environmental modifications" means the physical 18118
adaptations to an individual's home, specified in the individual's 18119
service plan, that are necessary to ensure the individual's 18120
health, safety, and welfare or that enable the individual to 18121
function with greater independence in the home, and without which 18122

the individual would require institutionalization. 18123

(2) "Environmental modifications" includes such adaptations 18124
as installation of ramps and grab-bars, widening of doorways, 18125
modification of bathroom facilities, and installation of 18126
specialized electric and plumbing systems necessary to accommodate 18127
the individual's medical equipment and supplies. 18128

(3) "Environmental modifications" does not include physical 18129
adaptations or improvements to the home that are of general 18130
utility or not of direct medical or remedial benefit to the 18131
individual, including such adaptations or improvements as 18132
carpeting, roof repair, and central air conditioning. 18133

(H) "Family support services" means the services provided 18134
under a family support services program operated under section 18135
5126.11 of the Revised Code. 18136

(I) "Habilitation" means the process by which the staff of 18137
the facility or agency assists an individual with mental 18138
retardation or other developmental disability in acquiring and 18139
maintaining those life skills that enable the individual to cope 18140
more effectively with the demands of the individual's own person 18141
and environment, and in raising the level of the individual's 18142
personal, physical, mental, social, and vocational efficiency. 18143
Habilitation includes, but is not limited to, programs of formal, 18144
structured education and training. 18145

(J) "Home and community-based services" means medicaid-funded 18146
home and community-based services specified in division (B)(1) of 18147
section 5111.87 of the Revised Code and provided under the 18148
medicaid waiver components the department of ~~mental retardation~~ 18149
~~and~~ developmental disabilities administers pursuant to section 18150
5111.871 of the Revised Code. 18151

(K) "Immediate family" means parents, grandparents, brothers, 18152
sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, 18153

fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and 18154
daughters-in-law. 18155

(L) "Medicaid" has the same meaning as in section 5111.01 of 18156
the Revised Code. 18157

(M) "Medicaid case management services" means case management 18158
services provided to an individual with mental retardation or 18159
other developmental disability that the state medicaid plan 18160
requires. 18161

(N) "Mental retardation" means a mental impairment manifested 18162
during the developmental period characterized by significantly 18163
subaverage general intellectual functioning existing concurrently 18164
with deficiencies in the effectiveness or degree with which an 18165
individual meets the standards of personal independence and social 18166
responsibility expected of the individual's age and cultural 18167
group. 18168

(O) "Residential services" means services to individuals with 18169
mental retardation or other developmental disabilities to provide 18170
housing, food, clothing, habilitation, staff support, and related 18171
support services necessary for the health, safety, and welfare of 18172
the individuals and the advancement of their quality of life. 18173
"Residential services" includes program management, as described 18174
in section 5126.14 of the Revised Code. 18175

(P) "Resources" means available capital and other assets, 18176
including moneys received from the federal, state, and local 18177
governments, private grants, and donations; appropriately 18178
qualified personnel; and appropriate capital facilities and 18179
equipment. 18180

(Q) "Senior probate judge" means the current probate judge of 18181
a county who has served as probate judge of that county longer 18182
than any of the other current probate judges of that county. If a 18183
county has only one probate judge, "senior probate judge" means 18184

that probate judge. 18185

(R) "Service and support administration" means the duties 18186
performed by a service and support administrator pursuant to 18187
section 5126.15 of the Revised Code. 18188

(S)(1) "Specialized medical, adaptive, and assistive 18189
equipment, supplies, and supports" means equipment, supplies, and 18190
supports that enable an individual to increase the ability to 18191
perform activities of daily living or to perceive, control, or 18192
communicate within the environment. 18193

(2) "Specialized medical, adaptive, and assistive equipment, 18194
supplies, and supports" includes the following: 18195

(a) Eating utensils, adaptive feeding dishes, plate guards, 18196
mylatex straps, hand splints, reaches, feeder seats, adjustable 18197
pointer sticks, interpreter services, telecommunication devices 18198
for the deaf, computerized communications boards, other 18199
communication devices, support animals, veterinary care for 18200
support animals, adaptive beds, supine boards, prone boards, 18201
wedges, sand bags, sidelayers, bolsters, adaptive electrical 18202
switches, hand-held shower heads, air conditioners, humidifiers, 18203
emergency response systems, folding shopping carts, vehicle lifts, 18204
vehicle hand controls, other adaptations of vehicles for 18205
accessibility, and repair of the equipment received. 18206

(b) Nondisposable items not covered by medicaid that are 18207
intended to assist an individual in activities of daily living or 18208
instrumental activities of daily living. 18209

(T) "Supportive home services" means a range of services to 18210
families of individuals with mental retardation or other 18211
developmental disabilities to develop and maintain increased 18212
acceptance and understanding of such persons, increased ability of 18213
family members to teach the person, better coordination between 18214
school and home, skills in performing specific therapeutic and 18215

management techniques, and ability to cope with specific 18216
situations. 18217

(U)(1) "Supported living" means services provided for as long 18218
as twenty-four hours a day to an individual with mental 18219
retardation or other developmental disability through any public 18220
or private resources, including moneys from the individual, that 18221
enhance the individual's reputation in community life and advance 18222
the individual's quality of life by doing the following: 18223

(a) Providing the support necessary to enable an individual 18224
to live in a residence of the individual's choice, with any number 18225
of individuals who are not disabled, or with not more than three 18226
individuals with mental retardation and developmental disabilities 18227
unless the individuals are related by blood or marriage; 18228

(b) Encouraging the individual's participation in the 18229
community; 18230

(c) Promoting the individual's rights and autonomy; 18231

(d) Assisting the individual in acquiring, retaining, and 18232
improving the skills and competence necessary to live successfully 18233
in the individual's residence. 18234

(2) "Supported living" includes the provision of all of the 18235
following: 18236

(a) Housing, food, clothing, habilitation, staff support, 18237
professional services, and any related support services necessary 18238
to ensure the health, safety, and welfare of the individual 18239
receiving the services; 18240

(b) A combination of lifelong or extended-duration 18241
supervision, training, and other services essential to daily 18242
living, including assessment and evaluation and assistance with 18243
the cost of training materials, transportation, fees, and 18244
supplies; 18245

(c) Personal care services and homemaker services;	18246
(d) Household maintenance that does not include modifications to the physical structure of the residence;	18247 18248
(e) Respite care services;	18249
(f) Program management, as described in section 5126.14 of the Revised Code.	18250 18251
Sec. 5126.026. A board of county commissioners shall provide the director of mental retardation and developmental disabilities with a copy of each resolution the board adopts under section 5126.021, 5126.022, or 5126.023 of the Revised Code. A senior probate judge shall provide the director with a copy of each order the judge issues under those sections.	18252 18253 18254 18255 18256 18257
Sec. 5126.0210. (A) None of the following individuals may serve as a member of a county board of mental retardation and developmental disabilities:	18258 18259 18260
(1) An elected public official, except for a township trustee, township fiscal officer, or individual excluded from the definition of public official or employee in division (B) of section 102.01 of the Revised Code;	18261 18262 18263 18264
(2) An immediate family member of another county board member;	18265 18266
(3) A county board employee or immediate family member of a county board employee;	18267 18268
(4) A former employee of the county board whose employment with the county board ceased less than one calendar year before the former employee would begin to serve as a member of the county board;	18269 18270 18271 18272
(5) An individual who or whose immediate family member is a board member or an employee of an agency licensed or certified by	18273 18274

the department of ~~mental retardation and~~ developmental 18275
disabilities to provide services to individuals with mental 18276
retardation or developmental disabilities; 18277

(6) An individual who or whose immediate family member is a 18278
board member or employee of an agency contracting with the county 18279
board that is not licensed or certified by the department of 18280
~~mental retardation and~~ developmental disabilities to provide 18281
services to individuals with mental retardation or developmental 18282
disabilities unless there is no conflict of interest; 18283

(7) An individual with an immediate family member who serves 18284
as a county commissioner of a county served by the county board 18285
unless the individual was a member of the county board before 18286
October 31, 1980. 18287

(B) All questions relating to the existence of a conflict of 18288
interest for the purpose of division (A)(6) of this section shall 18289
be submitted to the local prosecuting attorney for resolution. The 18290
Ohio ethics commission may examine any issues arising under 18291
Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the 18292
Revised Code. 18293

Sec. 5126.0217. Each year, each member of a county board of 18294
mental retardation and developmental disabilities shall attend at 18295
least four hours of in-service training provided or approved by 18296
the department of ~~mental retardation and~~ developmental 18297
disabilities. This training shall not be considered regularly 18298
scheduled meetings of the county board. 18299

Sec. 5126.0221. An appointing authority shall not remove a 18300
member of a county board of mental retardation and developmental 18301
disabilities from the county board by reason of division (A)(5), 18302
(6), or (7) of section 5126.0220 of the Revised Code if the 18303
director of ~~mental retardation and~~ developmental disabilities 18304

waives the requirement that the member be removed. The director 18305
may issue the waiver only if the appointing authority requests 18306
that the director issue the waiver and provides the director 18307
evidence that is satisfactory to the director that the member's 18308
absences from the in-service training sessions or regularly 18309
scheduled board meetings are due to a serious health problem of 18310
the member or a member of the member's immediate family. The 18311
director's decision on whether to issue the waiver is final and 18312
not subject to appeal. 18313

The county board on which the member serves may pass a 18314
resolution urging the appointing authority to request that the 18315
director issue the waiver. The member whose absences from the 18316
sessions or meetings are at issue may not vote on the resolution. 18317
The appointing authority may request the waiver regardless of 18318
whether the county board adopts the resolution. 18319

Sec. 5126.0223. An appointing authority shall afford a member 18320
of a county board of mental retardation and developmental 18321
disabilities an opportunity for a hearing on the member's proposed 18322
removal in accordance with procedures the appointing authority 18323
shall establish, unless the appointing authority requested that 18324
the director of ~~mental retardation and~~ developmental disabilities 18325
waive the mandatory removal under section ~~5126.0220~~ 5126.0221 of 18326
the Revised Code and the director refused to issue the waiver. The 18327
appointing authority shall hold the hearing if the member requests 18328
the hearing not later than thirty days after the date that the 18329
county board sends the member the notice required by section 18330
~~5126.0221~~ 5126.0222 of the Revised Code. 18331

Sec. 5126.0226. (A) Each county board of mental retardation 18332
and developmental disabilities shall either employ a 18333
superintendent or obtain the services of the superintendent of 18334

another county board of mental retardation and developmental 18335
disabilities. The board shall provide for a superintendent who is 18336
qualified, as specified in rules adopted by the department of 18337
~~mental retardation and~~ developmental disabilities in accordance 18338
with Chapter 119. of the Revised Code. The superintendent shall 18339
have no voting privileges on the board. 18340

The board shall prescribe the duties of its superintendent 18341
and review the superintendent's performance. The superintendent 18342
may be removed, suspended, or demoted for cause pursuant to 18343
section 5126.23 of the Revised Code. The board shall fix the 18344
superintendent's compensation and reimburse the superintendent for 18345
actual and necessary expenses. 18346

Each county board that employs its own superintendent shall 18347
employ the superintendent under a contract. To enter into a 18348
contract, the board shall adopt a resolution agreeing to the 18349
contract. Each contract for employment or re-employment of a 18350
superintendent shall be for a term of not less than one and not 18351
more than five years. At the expiration of a superintendent's 18352
current term of employment, the superintendent may be re-employed. 18353
If the board intends not to re-employ the superintendent, the 18354
board shall give the superintendent written notification of its 18355
intention. The notice shall be given not less than ninety days 18356
prior to the expiration of the superintendent's contract. 18357

(B) Two or more county boards may enter into an arrangement 18358
under which the superintendent of one county board acts as the 18359
superintendent of another county board. To enter into such an 18360
arrangement, each board shall adopt a resolution agreeing to the 18361
arrangement. The resolutions shall specify the duration of the 18362
arrangement and the contribution each board is to make to the 18363
superintendent's compensation and reimbursement for expenses. 18364

(C) If a vacancy occurs in the position of superintendent, a 18365
county board may appoint a person who holds a valid 18366

superintendent's certificate issued under the rules of the 18367
department to work under a contract for an interim period not to 18368
exceed one hundred eighty days until a permanent superintendent 18369
can be employed or arranged for under division (A) or (B) of this 18370
section. The director of the department may approve additional 18371
periods of time for these types of interim appointments when so 18372
requested by a resolution adopted by a county board, if the 18373
director determines that the additional periods are warranted and 18374
the services of a permanent superintendent are not available. 18375

Sec. 5126.033. (A) A county board of mental retardation and 18376
developmental disabilities shall not enter into a direct services 18377
contract unless the contract is limited either to the actual 18378
amount of the expenses or to a reasonable and allowable amount 18379
projected by the board. 18380

(B) A county board shall not enter into a direct services 18381
contract that would result in payment to a board member, former 18382
board member, employee, former employee, or member of the 18383
immediate family of a board member, former board member, employee, 18384
or former employee if the person who would receive services under 18385
the contract stands to receive any preferential treatment or any 18386
unfair advantage over other eligible persons. 18387

(C) A county board shall not enter into a direct services 18388
contract for services provided in accordance with section 5126.11 18389
or sections 5126.40 to 5126.46 of the Revised Code under which an 18390
individual, agency, or other entity will employ an individual who 18391
is also an employee of that county board unless all of the 18392
following conditions are met: 18393

(1) The employee is not in a capacity to influence the award 18394
of the contract. 18395

(2) The employee has not attempted in any manner to secure 18396
the contract on behalf of the individual, agency, or other entity. 18397

(3) The employee is not employed in management level two or 18398
three according to rules adopted by the director of ~~mental~~ 18399
~~retardation and~~ developmental disabilities and does not provide 18400
service and support administration. 18401

(4) The employee is not employed by the board during the 18402
period when the contract is developed as an administrator or 18403
supervisor responsible for approving or supervising services to be 18404
provided under the contract and agrees not to take such a position 18405
while the contract is in effect, regardless of whether the 18406
position is related to the services provided under the contract. 18407

(5) The employee has not taken any actions that create the 18408
need for the services to be provided under the contract. 18409

(6) The individual, agency, or other entity seeks the 18410
services of the employee because of the employee's expertise and 18411
familiarity with the care and condition of one or more eligible 18412
persons and other individuals with such expertise and familiarity 18413
are unavailable, or an eligible person has requested to have the 18414
services provided by that employee. 18415

The superintendent of the county board shall notify the 18416
employee and the individual, agency, or other entity that seeks 18417
the employee's services of the ethics council's determination 18418
under section 5126.032 of the Revised Code regarding the contract. 18419
The council's determination shall be binding on all parties. 18420

The employee who is the subject of the contract shall inform 18421
the superintendent of the county board of any employment the 18422
employee has outside the county board that is with any individual, 18423
agency, or other entity that has a contract with the county board. 18424

Sec. 5126.04. (A) Each county board of mental retardation and 18425
developmental disabilities shall plan and set priorities based on 18426
available resources for the provision of facilities, programs, and 18427

other services to meet the needs of county residents who are 18428
individuals with mental retardation and other developmental 18429
disabilities, former residents of the county residing in state 18430
institutions or placed under purchase of service agreements under 18431
section 5123.18 of the Revised Code, and children subject to a 18432
determination made pursuant to section 121.38 of the Revised Code. 18433

Each county board shall assess the facility and service needs 18434
of the individuals with mental retardation and other developmental 18435
disabilities who are residents of the county or former residents 18436
of the county residing in state institutions or placed under 18437
purchase of service agreements under section 5123.18 of the 18438
Revised Code. 18439

Each county board shall require individual habilitation or 18440
service plans for individuals with mental retardation and other 18441
developmental disabilities who are being served or who have been 18442
determined eligible for services and are awaiting the provision of 18443
services. Each board shall ensure that methods of having their 18444
service needs evaluated are available. 18445

(B)(1) If a foster child is in need of assessment for 18446
eligible services or is receiving services from a county board of 18447
mental retardation and developmental disabilities and that child 18448
is placed in a different county, the agency that placed the child, 18449
immediately upon placement, shall inform the county board in the 18450
new county all of the following: 18451

(a) That a foster child has been placed in that county; 18452

(b) The name and other identifying information of the foster 18453
child; 18454

(c) The name of the foster child's previous county of 18455
residence; 18456

(d) That the foster child was in need of assessment for 18457
eligible services or was receiving services from the county board 18458

of mental retardation and developmental disabilities in the 18459
previous county. 18460

(2) Upon receiving the notice described in division (B)(1) of 18461
this section or otherwise learning that the child was in need of 18462
assessment for eligible services or was receiving services from a 18463
county board of mental retardation and developmental disabilities 18464
in the previous county, the county board in the new county shall 18465
communicate with the county board of the previous county to 18466
determine how services for the foster child shall be provided in 18467
accordance with each board's plan and priorities as described in 18468
division (A) of this section. 18469

If the two county boards are unable to reach an agreement 18470
within ten days of the child's placement, the county board in the 18471
new county shall send notice to the Ohio department of ~~mental~~ 18472
~~retardation and~~ developmental disabilities of the failure to 18473
agree. The department shall decide how services shall be provided 18474
for the foster child within ten days of receiving notice that the 18475
county boards could not reach an agreement. The department may 18476
decide that one, or both, of the county boards shall provide 18477
services. The services shall be provided in accordance with the 18478
board's plan and priorities as described in division (A) of this 18479
section. 18480

(C) The department of ~~mental retardation and~~ developmental 18481
disabilities may adopt rules in accordance with Chapter 119. of 18482
the Revised Code as necessary to implement this section. To the 18483
extent that rules adopted under this section apply to the 18484
identification and placement of children with disabilities under 18485
Chapter 3323. of the Revised Code, the rules shall be consistent 18486
with the standards and procedures established under sections 18487
3323.03 to 3323.05 of the Revised Code. 18488

(D) The responsibility or authority of a county board to 18489
provide services under this chapter does not affect the 18490

responsibility of any other entity of state or local government to 18491
provide services to individuals with mental retardation and 18492
developmental disabilities. 18493

(E) On or before the first day of February prior to a school 18494
year, a county board of mental retardation and developmental 18495
disabilities may elect not to participate during that school year 18496
in the provision of or contracting for educational services for 18497
children ages six through twenty-one years of age, provided that 18498
on or before that date the board gives notice of this election to 18499
the superintendent of public instruction, each school district in 18500
the county, and the educational service center serving the county. 18501
If a board makes this election, it shall not have any 18502
responsibility for or authority to provide educational services 18503
that school year for children ages six through twenty-one years of 18504
age. If a board does not make an election for a school year in 18505
accordance with this division, the board shall be deemed to have 18506
elected to participate during that school year in the provision of 18507
or contracting for educational services for children ages six 18508
through twenty-one years of age. 18509

(F) If a county board of mental retardation and developmental 18510
disabilities elects to provide educational services during a 18511
school year to individuals six through twenty-one years of age who 18512
have multiple disabilities, the board may provide these services 18513
to individuals who are appropriately identified and determined 18514
eligible pursuant to Chapter 3323. of the Revised Code, and in 18515
accordance with applicable rules of the state board of education. 18516
The county board may also provide related services to individuals 18517
six through twenty-one years of age who have one or more disabling 18518
conditions, in accordance with section 3317.20 and Chapter 3323. 18519
of the Revised Code and applicable rules of the state board of 18520
education. 18521

Sec. 5126.041. (A) As used in this section: 18522

(1) "Biological risk" and "environmental risk" have the 18523
meanings established pursuant to section 5123.011 of the Revised 18524
Code. 18525

(2) "Preschool child with a disability" has the same meaning 18526
as in section 3323.01 of the Revised Code. 18527

(3) "State institution" means all or part of an institution 18528
under the control of the department of ~~mental retardation and~~ 18529
developmental disabilities pursuant to section 5123.03 of the 18530
Revised Code and maintained for the care, treatment, and training 18531
of the mentally retarded. 18532

(B) Except as provided in division (C) of this section, each 18533
county board of mental retardation and developmental disabilities 18534
shall make eligibility determinations in accordance with the 18535
definition of "developmental disability" in section 5126.01 of the 18536
Revised Code. Pursuant to rules the department of ~~mental~~ 18537
~~retardation and~~ developmental disabilities shall adopt in 18538
accordance with Chapter 119. of the Revised Code, a county board 18539
may establish eligibility for programs and services for either of 18540
the following: 18541

(1) Individuals under age six who have a biological risk or 18542
environmental risk of a developmental delay; 18543

(2) Any preschool child with a disability eligible for 18544
services under section 3323.02 of the Revised Code whose 18545
disability is not attributable solely to mental illness as defined 18546
in section 5122.01 of the Revised Code. 18547

(C)(1) A county board shall make determinations of 18548
eligibility for service and support administration in accordance 18549
with rules adopted under section 5126.08 of the Revised Code. 18550

(2) All persons who were eligible for services and enrolled 18551

in programs offered by a county board of mental retardation and 18552
developmental disabilities pursuant to this chapter on July 1, 18553
1991, shall continue to be eligible for those services and to be 18554
enrolled in those programs as long as they are in need of 18555
services. 18556

(3) A person who resided in a state institution on or before 18557
October 29, 1993, is eligible for programs and services offered by 18558
a county board of mental retardation and developmental 18559
disabilities, unless the person is determined by the county board 18560
not to be in need of those programs and services. 18561

(D) A county board shall refer a person who requests but is 18562
not eligible for programs and services offered by the board to 18563
other entities of state and local government or appropriate 18564
private entities that provide services. 18565

(E) Membership of a person on, or employment of a person by, 18566
a county board of mental retardation and developmental 18567
disabilities does not affect the eligibility of any member of that 18568
person's family for services provided by the board or by any 18569
entity under contract with the board. 18570

Sec. 5126.042. (A) As used in this section: 18571

(1) "Emergency" means any situation that creates for an 18572
individual with mental retardation or developmental disabilities a 18573
risk of substantial self-harm or substantial harm to others if 18574
action is not taken within thirty days. An "emergency" may include 18575
one or more of the following situations: 18576

(a) Loss of present residence for any reason, including legal 18577
action; 18578

(b) Loss of present caretaker for any reason, including 18579
serious illness of the caretaker, change in the caretaker's 18580
status, or inability of the caretaker to perform effectively for 18581

the individual; 18582

(c) Abuse, neglect, or exploitation of the individual; 18583

(d) Health and safety conditions that pose a serious risk to 18584
the individual or others of immediate harm or death; 18585

(e) Change in the emotional or physical condition of the 18586
individual that necessitates substantial accommodation that cannot 18587
be reasonably provided by the individual's existing caretaker. 18588

(2) "Service substitution list" means a service substitution 18589
list established by a county board of mental retardation and 18590
developmental disabilities before ~~the effective date of this~~ 18591
~~amendment~~ September 1, 2008, pursuant to division (B) of this 18592
section as this section existed on the day immediately before ~~the~~ 18593
~~effective date of this amendment~~ September 1, 2008. 18594

(B) If a county board of mental retardation and developmental 18595
disabilities determines that available resources are not 18596
sufficient to meet the needs of all individuals who request 18597
programs and services and may be offered the programs and 18598
services, it shall establish waiting lists for services. The board 18599
may establish priorities for making placements on its waiting 18600
lists according to an individual's emergency status and shall 18601
establish priorities in accordance with divisions (D) and (E) of 18602
this section. 18603

The individuals who may be placed on a waiting list include 18604
individuals with a need for services on an emergency basis and 18605
individuals who have requested services for which resources are 18606
not available. 18607

An individual placed on a county board's service substitution 18608
list before ~~the effective date of this amendment~~ September 1, 18609
2008, for the purpose of obtaining home and community-based 18610
services shall be deemed to have been placed on the county board's 18611
waiting list for home and community-based services on the date the 18612

individual made a request to the county board that the individual 18613
receive home and community-based services instead of the services 18614
the individual received at the time the request for home and 18615
community-based services was made to the county board. 18616

(C) A county board shall establish a separate waiting list 18617
for each of the following categories of services, and may 18618
establish separate waiting lists within the waiting lists: 18619

(1) Early childhood services; 18620

(2) Educational programs for preschool and school age 18621
children; 18622

(3) Adult services; 18623

(4) Service and support administration; 18624

(5) Residential services and supported living; 18625

(6) Transportation services; 18626

(7) Other services determined necessary and appropriate for 18627
persons with mental retardation or a developmental disability 18628
according to their individual habilitation or service plans; 18629

(8) Family support services provided under section 5126.11 of 18630
the Revised Code. 18631

(D) Except as provided in division (G) of this section, a 18632
county board shall do, as priorities, all of the following in 18633
accordance with the assessment component, approved under section 18634
5123.046 of the Revised Code, of the county board's plan developed 18635
under section 5126.054 of the Revised Code: 18636

(1) For the purpose of obtaining additional federal medicaid 18637
funds for home and community-based services and medicaid case 18638
management services, do both of the following: 18639

(a) Give an individual who is eligible for home and 18640
community-based services and meets both of the following 18641

requirements priority over any other individual on a waiting list 18642
established under division (C) of this section for home and 18643
community-based services that include supported living, 18644
residential services, or family support services: 18645

- (i) Is twenty-two years of age or older; 18646
- (ii) Receives supported living or family support services. 18647

(b) Give an individual who is eligible for home and 18648
community-based services and meets both of the following 18649
requirements priority over any other individual on a waiting list 18650
established under division (C) of this section for home and 18651
community-based services that include adult services: 18652

- (i) Resides in the individual's own home or the home of the 18653
individual's family and will continue to reside in that home after 18654
enrollment in home and community-based services; 18655
- (ii) Receives adult services from the county board. 18656

(2) As federal medicaid funds become available pursuant to 18657
division (D)(1) of this section, give an individual who is 18658
eligible for home and community-based services and meets any of 18659
the following requirements priority for such services over any 18660
other individual on a waiting list established under division (C) 18661
of this section: 18662

- (a) Does not receive residential services or supported 18663
living, either needs services in the individual's current living 18664
arrangement or will need services in a new living arrangement, and 18665
has a primary caregiver who is sixty years of age or older; 18666
- (b) Is less than twenty-two years of age and has at least one 18667
of the following service needs that are unusual in scope or 18668
intensity: 18669

- (i) Severe behavior problems for which a behavior support 18670
plan is needed; 18671

(ii) An emotional disorder for which anti-psychotic medication is needed; 18672
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(iii) A medical condition that leaves the individual dependent on life-support medical technology; 18674
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(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed; 18676
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(v) A condition the county board determines to be comparable in severity to any condition described in divisions (D)(2)(b)(i) to (iv) of this section and places the individual at significant risk of institutionalization. 18679
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(c) Is twenty-two years of age or older, does not receive residential services or supported living, and is determined by the county board to have intensive needs for home and community-based services on an in-home or out-of-home basis. 18683
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(E) Except as provided in division (G) of this section and for a number of years and beginning on a date specified in rules adopted under division (K) of this section, a county board shall give an individual who is eligible for home and community-based services, resides in a nursing facility, and chooses to move to another setting with the help of home and community-based services, priority over any other individual on a waiting list established under division (C) of this section for home and community-based services who does not meet these criteria. 18687
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(F) If two or more individuals on a waiting list established under division (C) of this section for home and community-based services have priority for the services pursuant to division (D)(1) or (2) or (E) of this section, a county board may use criteria specified in rules adopted under division (K)(2) of this section in determining the order in which the individuals with priority will be offered the services. Otherwise, the county board 18696
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shall offer the home and community-based services to such 18703
individuals in the order they are placed on the waiting list. 18704

(G) No individual may receive priority for services pursuant 18705
to division (D) or (E) of this section over an individual placed 18706
on a waiting list established under division (C) of this section 18707
on an emergency status. 18708

(H) Prior to establishing any waiting list under this 18709
section, a county board shall develop and implement a policy for 18710
waiting lists that complies with this section and rules adopted 18711
under division (K) of this section. 18712

Prior to placing an individual on a waiting list, the county 18713
board shall assess the service needs of the individual in 18714
accordance with all applicable state and federal laws. The county 18715
board shall place the individual on the appropriate waiting list 18716
and may place the individual on more than one waiting list. The 18717
county board shall notify the individual of the individual's 18718
placement and position on each waiting list on which the 18719
individual is placed. 18720

At least annually, the county board shall reassess the 18721
service needs of each individual on a waiting list. If it 18722
determines that an individual no longer needs a program or 18723
service, the county board shall remove the individual from the 18724
waiting list. If it determines that an individual needs a program 18725
or service other than the one for which the individual is on the 18726
waiting list, the county board shall provide the program or 18727
service to the individual or place the individual on a waiting 18728
list for the program or service in accordance with the board's 18729
policy for waiting lists. 18730

When a program or service for which there is a waiting list 18731
becomes available, the county board shall reassess the service 18732
needs of the individual next scheduled on the waiting list to 18733

receive that program or service. If the reassessment demonstrates 18734
that the individual continues to need the program or service, the 18735
board shall offer the program or service to the individual. If it 18736
determines that an individual no longer needs a program or 18737
service, the county board shall remove the individual from the 18738
waiting list. If it determines that an individual needs a program 18739
or service other than the one for which the individual is on the 18740
waiting list, the county board shall provide the program or 18741
service to the individual or place the individual on a waiting 18742
list for the program or service in accordance with the board's 18743
policy for waiting lists. The county board shall notify the 18744
individual of the individual's placement and position on the 18745
waiting list on which the individual is placed. 18746

(I) A child subject to a determination made pursuant to 18747
section 121.38 of the Revised Code who requires the home and 18748
community-based services provided through a medicaid component 18749
that the department of ~~mental retardation and~~ developmental 18750
disabilities administers under section 5111.871 of the Revised 18751
Code shall receive services through that medicaid component. For 18752
all other services, a child subject to a determination made 18753
pursuant to section 121.38 of the Revised Code shall be treated as 18754
an emergency by the county boards and shall not be subject to a 18755
waiting list. 18756

(J) Not later than the fifteenth day of March of each 18757
even-numbered year, each county board shall prepare and submit to 18758
the director of ~~mental retardation and~~ developmental disabilities 18759
its recommendations for the funding of services for individuals 18760
with mental retardation and developmental disabilities and its 18761
proposals for reducing the waiting lists for services. 18762

(K)(1) The department of ~~mental retardation and~~ developmental 18763
disabilities shall adopt rules in accordance with Chapter 119. of 18764
the Revised Code governing waiting lists established under this 18765

section. The rules shall include procedures to be followed to 18766
ensure that the due process rights of individuals placed on 18767
waiting lists are not violated. 18768

(2) As part of the rules adopted under this division, the 18769
department shall adopt rules establishing criteria a county board 18770
may use under division (F) of this section in determining the 18771
order in which individuals with priority for home and 18772
community-based services will be offered the services. The rules 18773
shall also specify conditions under which a county board, when 18774
there is no individual with priority for home and community-based 18775
services pursuant to division (D)(1) or (2) or (E) of this section 18776
available and appropriate for the services, may offer the services 18777
to an individual on a waiting list for the services but not given 18778
such priority for the services. 18779

(3) As part of the rules adopted under this division, the 18780
department shall adopt rules specifying both of the following for 18781
the priority category established under division (E) of this 18782
section: 18783

(a) The number of years, which shall not exceed five, that 18784
the priority category will be in effect; 18785

(b) The date that the priority category is to go into effect. 18786

(L) The following shall take precedence over the applicable 18787
provisions of this section: 18788

(1) Medicaid rules and regulations; 18789

(2) Any specific requirements that may be contained within a 18790
medicaid state plan amendment or waiver program that a county 18791
board has authority to administer or with respect to which it has 18792
authority to provide services, programs, or supports. 18793

Sec. 5126.044. (A) As used in this section, "eligible person" 18794
has the same meaning as in section 5126.03 of the Revised Code. 18795

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(B) Except as provided in division (D) of this section, no person shall disclose the identity of an individual who requests programs or services under this chapter or release a record or report regarding an eligible person that is maintained by a county board of mental retardation and developmental disabilities or an entity under contract with a county board unless one of the following circumstances exists:

(1) The individual, eligible person, or the individual's guardian, or, if the individual is a minor, the individual's parent or guardian, makes a written request to the county board or entity for or approves in writing disclosure of the individual's identity or release of the record or report regarding the eligible person.

(2) Disclosure of the identity of an individual is needed for approval of a direct services contract under section 5126.032 or 5126.033 of the Revised Code. The county board shall release only the individual's name and the general nature of the services to be provided.

(3) Disclosure of the identity of the individual is needed to ascertain that the county board's waiting lists for programs or services are being maintained in accordance with section 5126.042 of the Revised Code and the rules adopted under that section. The county board shall release only the individual's name, the general nature of the programs or services to be provided the individual, the individual's rank on each waiting list that includes the individual, and any circumstances under which the individual was given priority when placed on a waiting list.

(C) A board or entity that discloses an individual's identity or releases a record or report regarding an eligible person shall maintain a record of when and to whom the disclosure or release

was made. 18827

(D)(1) At the request of an eligible person or the person's 18828
guardian or, if the eligible person is a minor, the person's 18829
parent or guardian, a county board or entity under contract with a 18830
county board shall provide the person who made the request access 18831
to records and reports regarding the eligible person. On written 18832
request, the county board or entity shall provide copies of the 18833
records and reports to the eligible person, guardian, or parent. 18834
The county board or entity may charge a reasonable fee to cover 18835
the costs of copying. The county board or entity may waive the fee 18836
in cases of hardship. 18837

(2) A county board shall provide access to any waiting list 18838
or record or report regarding an eligible person maintained by the 18839
board to any state agency responsible for monitoring and reviewing 18840
programs and services provided or arranged by the county board, 18841
any state agency involved in the coordination of services for an 18842
eligible person, and any agency under contract with the department 18843
of ~~mental retardation and~~ developmental disabilities for the 18844
provision of protective service pursuant to section 5123.56 of the 18845
Revised Code. 18846

(3) When an eligible person who requests programs or services 18847
under this chapter dies, the county board or entity under contract 18848
with the county board, shall, on written request, provide to both 18849
of the following persons any reports and records in the board or 18850
entity's possession concerning the eligible person: 18851

(a) If the report or records are necessary to administer the 18852
estate of the person who is the subject of the reports or records, 18853
to the executor or administrator of the person's estate; 18854

(b) To the guardian of the person who is the subject of the 18855
reports or records or, if the individual had no guardian at the 18856
time of death, to a person in the first applicable of the 18857

following categories:	18858
(i) The person's spouse;	18859
(ii) The person's children;	18860
(iii) The person's parents;	18861
(iv) The person's brothers or sisters;	18862
(v) The person's uncles or aunts;	18863
(vi) The person's closest relative by blood or adoption;	18864
(vii) The person's closest relative by marriage.	18865
The county board or entity shall provide the reports and	18866
records as required by division (D)(3) of this section not later	18867
than thirty days after receipt of the request.	18868
(E) A county board shall notify an eligible person, the	18869
person's guardian, or, if the eligible person is a minor, the	18870
person's parent or guardian, prior to destroying any record or	18871
report regarding the eligible person.	18872
Sec. 5126.045. (A) As used in this section, "eligible person"	18873
means a person eligible to receive services from a county board of	18874
mental retardation and developmental disabilities or from an	18875
entity under contract with a county board.	18876
(B) A county board shall establish fees for services rendered	18877
to eligible persons if such fees are required by federal	18878
regulation and by rule adopted by the director of mental	18879
retardation and developmental disabilities.	18880
A county board may provide services to a person who does not	18881
meet the standards for eligibility. The board may establish fees	18882
for these services, which may be paid for by the person, by	18883
another person on the person's behalf of the ineligible person, or	18884
by another governmental entity.	18885

Sec. 5126.046. (A) Each county board of mental retardation 18886
and developmental disabilities that has medicaid local 18887
administrative authority under division (A) of section 5126.055 of 18888
the Revised Code for habilitation, vocational, or community 18889
employment services provided as part of home and community-based 18890
services shall create a list of all persons and government 18891
entities eligible to provide such habilitation, vocational, or 18892
community employment services. If the county board chooses and is 18893
eligible to provide such habilitation, vocational, or community 18894
employment services, the county board shall include itself on the 18895
list. The county board shall make the list available to each 18896
individual with mental retardation or other developmental 18897
disability who resides in the county and is eligible for such 18898
habilitation, vocational, or community employment services. The 18899
county board shall also make the list available to such 18900
individuals' families. 18901

An individual with mental retardation or other developmental 18902
disability who is eligible for habilitation, vocational, or 18903
community employment services may choose the provider of the 18904
services. 18905

(B) Each month, the department of ~~mental retardation and~~ 18906
developmental disabilities shall create a list of all persons and 18907
government entities eligible to provide residential services and 18908
supported living. The department shall include on the list all 18909
residential facilities licensed under section 5123.19 of the 18910
Revised Code and all supported living providers certified under 18911
section 5123.161 of the Revised Code. The department shall 18912
distribute the monthly lists to county boards that have local 18913
administrative authority under division (A) of section 5126.055 of 18914
the Revised Code for residential services and supported living 18915
provided as part of home and community-based services. A county 18916
board that receives a list shall make it available to each 18917

individual with mental retardation or other developmental 18918
disability who resides in the county and is eligible for such 18919
residential services or supported living. The county board shall 18920
also make the list available to the families of those individuals. 18921
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An individual who is eligible for residential services or 18923
supported living may choose the provider of the residential 18924
services or supported living. 18925

(C) If a county board that has medicaid local administrative 18926
authority under division (A) of section 5126.055 of the Revised 18927
Code for home and community-based services violates the right 18928
established by this section of an individual to choose a provider 18929
that is qualified and willing to provide services to the 18930
individual, the individual shall receive timely notice that the 18931
individual may request a hearing under section 5101.35 of the 18932
Revised Code. 18933

(D) The departments of ~~mental retardation and~~ developmental 18934
disabilities and job and family services shall adopt rules in 18935
accordance with Chapter 119. of the Revised Code governing the 18936
implementation of this section. The rules shall include procedures 18937
for individuals to choose their service providers. The rules shall 18938
not be limited by a provider selection system established under 18939
section 5126.42 of the Revised Code, including any pool of 18940
providers created pursuant to a provider selection system. 18941

Sec. 5126.05. (A) Subject to the rules established by the 18942
director of ~~mental retardation and~~ developmental disabilities 18943
pursuant to Chapter 119. of the Revised Code for programs and 18944
services offered pursuant to this chapter, and subject to the 18945
rules established by the state board of education pursuant to 18946
Chapter 119. of the Revised Code for programs and services offered 18947
pursuant to Chapter 3323. of the Revised Code, the county board of 18948

mental retardation and developmental disabilities shall:	18949
(1) Administer and operate facilities, programs, and services as provided by this chapter and Chapter 3323. of the Revised Code and establish policies for their administration and operation;	18950 18951 18952
(2) Coordinate, monitor, and evaluate existing services and facilities available to individuals with mental retardation and developmental disabilities;	18953 18954 18955
(3) Provide early childhood services, supportive home services, and adult services, according to the plan and priorities developed under section 5126.04 of the Revised Code;	18956 18957 18958
(4) Provide or contract for special education services pursuant to Chapters 3317. and 3323. of the Revised Code and ensure that related services, as defined in section 3323.01 of the Revised Code, are available according to the plan and priorities developed under section 5126.04 of the Revised Code;	18959 18960 18961 18962 18963
(5) Adopt a budget, authorize expenditures for the purposes specified in this chapter and do so in accordance with section 319.16 of the Revised Code, approve attendance of board members and employees at professional meetings and approve expenditures for attendance, and exercise such powers and duties as are prescribed by the director;	18964 18965 18966 18967 18968 18969
(6) Submit annual reports of its work and expenditures, pursuant to sections 3323.09 and 5126.12 of the Revised Code, to the director, the superintendent of public instruction, and the board of county commissioners at the close of the fiscal year and at such other times as may reasonably be requested;	18970 18971 18972 18973 18974
(7) Authorize all positions of employment, establish compensation, including but not limited to salary schedules and fringe benefits for all board employees, approve contracts of employment for management employees that are for a term of more than one year, employ legal counsel under section 309.10 of the	18975 18976 18977 18978 18979

Revised Code, and contract for employee benefits;	18980
(8) Provide service and support administration in accordance with section 5126.15 of the Revised Code;	18981 18982
(9) Certify respite care homes pursuant to rules adopted under section 5123.171 of the Revised Code by the director of mental retardation and developmental disabilities.	18983 18984 18985
(B) To the extent that rules adopted under this section apply to the identification and placement of children with disabilities under Chapter 3323. of the Revised Code, they shall be consistent with the standards and procedures established under sections 3323.03 to 3323.05 of the Revised Code.	18986 18987 18988 18989 18990
(C) Any county board may enter into contracts with other such boards and with public or private, nonprofit, or profit-making agencies or organizations of the same or another county, to provide the facilities, programs, and services authorized or required, upon such terms as may be agreeable, and in accordance with this chapter and Chapter 3323. of the Revised Code and rules adopted thereunder and in accordance with sections 307.86 and 5126.071 of the Revised Code.	18991 18992 18993 18994 18995 18996 18997 18998
(D) A county board may combine transportation for children and adults enrolled in programs and services offered under section 5126.12 with transportation for children enrolled in classes funded under section 3317.20 or units approved under section 3317.05 of the Revised Code.	18999 19000 19001 19002 19003
(E) A county board may purchase all necessary insurance policies, may purchase equipment and supplies through the department of administrative services or from other sources, and may enter into agreements with public agencies or nonprofit organizations for cooperative purchasing arrangements.	19004 19005 19006 19007 19008
(F) A county board may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the	19009 19010

purposes for which the board is established and hold, apply, and 19011
dispose of the moneys, lands, and property according to the terms 19012
of the gift, grant, devise, or bequest. All money received by 19013
gift, grant, bequest, or disposition of lands or property received 19014
by gift, grant, devise, or bequest shall be deposited in the 19015
county treasury to the credit of such board and shall be available 19016
for use by the board for purposes determined or stated by the 19017
donor or grantor, but may not be used for personal expenses of the 19018
board members. Any interest or earnings accruing from such gift, 19019
grant, devise, or bequest shall be treated in the same manner and 19020
subject to the same provisions as such gift, grant, devise, or 19021
bequest. 19022

(G) The board of county commissioners shall levy taxes and 19023
make appropriations sufficient to enable the county board of 19024
mental retardation and developmental disabilities to perform its 19025
functions and duties, and may utilize any available local, state, 19026
and federal funds for such purpose. 19027

Sec. 5126.051. (A) To the extent that resources are 19028
available, a county board of mental retardation and developmental 19029
disabilities shall provide for or arrange residential services and 19030
supported living for individuals with mental retardation and 19031
developmental disabilities. 19032

A county board may acquire, convey, lease, or sell property 19033
for residential services and supported living and enter into loan 19034
agreements, including mortgages, for the acquisition of such 19035
property. A county board is not required to comply with provisions 19036
of Chapter 307. of the Revised Code providing for competitive 19037
bidding or sheriff sales in the acquisition, lease, conveyance, or 19038
sale of property under this division, but the acquisition, lease, 19039
conveyance, or sale must be at fair market value determined by 19040
appraisal of one or more disinterested persons appointed by the 19041

board. 19042

Any action taken by a county board under this division that 19043
will incur debt on the part of the county shall be taken in 19044
accordance with Chapter 133. of the Revised Code. A county board 19045
shall not incur any debt on the part of the county without the 19046
prior approval of the board of county commissioners. 19047

(B)(1) To the extent that resources are available, in 19048
addition to sheltered employment and work activities provided as 19049
adult services pursuant to division (A)(3) of section 5126.05 of 19050
the Revised Code, a county board of mental retardation and 19051
developmental disabilities may provide or arrange for job 19052
training, vocational evaluation, and community employment services 19053
to mentally retarded and developmentally disabled individuals who 19054
are age eighteen and older and not enrolled in a program or 19055
service under Chapter 3323. of the Revised Code or age sixteen or 19056
seventeen and eligible for adult services under rules adopted by 19057
the director of ~~mental retardation and~~ developmental disabilities 19058
under Chapter 119. of the Revised Code. These services shall be 19059
provided in accordance with the individual's individual service or 19060
habilitation plan and shall include support services specified in 19061
the plan. 19062

(2) A county board may, in cooperation with the Ohio 19063
rehabilitation services commission, seek federal funds for job 19064
training and community employment. 19065

(3) A county board may contract with any agency, board, or 19066
other entity that is accredited by the commission on accreditation 19067
of rehabilitation facilities to provide services. A county board 19068
that is accredited by the commission on accreditation of 19069
rehabilitation facilities may provide services for which it is 19070
certified by the commission. 19071

(C) To the extent that resources are available, a county 19072

board may provide services to an individual with mental 19073
retardation or other developmental disability in addition to those 19074
provided pursuant to this section, section 5126.05 of the Revised 19075
Code, or any other section of this chapter. The services shall be 19076
provided in accordance with the individual's habilitation or 19077
service plan and may be provided in collaboration with other 19078
entities of state or local government. 19079

Sec. 5126.054. (A) Each county board of mental retardation 19080
and developmental disabilities shall, by resolution, develop a 19081
three-calendar year plan that includes the following three 19082
components: 19083

(1) An assessment component that includes all of the 19084
following: 19085

(a) The number of individuals with mental retardation or 19086
other developmental disability residing in the county who need the 19087
level of care provided by an intermediate care facility for the 19088
mentally retarded, may seek home and community-based services, are 19089
given priority for the services pursuant to division (D) of 19090
section 5126.042 of the Revised Code; the service needs of those 19091
individuals; and the projected annualized cost for services; 19092

(b) The source of funds available to the county board to pay 19093
the nonfederal share of medicaid expenditures that the county 19094
board is required by sections 5126.059 and 5126.0510 of the 19095
Revised Code to pay; 19096

(c) Any other applicable information or conditions that the 19097
department of ~~mental retardation and~~ developmental disabilities 19098
requires as a condition of approving the component under section 19099
5123.046 of the Revised Code. 19100

(2) ~~A~~ preliminary implementation component that specifies 19101
the number of individuals to be provided, during the first year 19102

that the plan is in effect, home and community-based services 19103
pursuant to the priority given to them under divisions (D)(1) and 19104
(2) of section 5126.042 of the Revised Code and the types of home 19105
and community-based services the individuals are to receive; 19106

(3) A component that provides for the implementation of 19107
medicaid case management services and home and community-based 19108
services for individuals who begin to receive the services on or 19109
after the date the plan is approved under section 5123.046 of the 19110
Revised Code. A county board shall include all of the following in 19111
the component: 19112

(a) If the department of ~~mental retardation and~~ developmental 19113
disabilities or department of job and family services requires, an 19114
agreement to pay the nonfederal share of medicaid expenditures 19115
that the county board is required by sections 5126.059 and 19116
5126.0510 of the Revised Code to pay; 19117

(b) How the services are to be phased in over the period the 19118
plan covers, including how the county board will serve individuals 19119
on a waiting list established under division (C) of section 19120
5126.042 who are given priority status under division (D)(1) of 19121
that section; 19122

(c) Any agreement or commitment regarding the county board's 19123
funding of home and community-based services that the county board 19124
has with the department at the time the county board develops the 19125
component; 19126

(d) Assurances adequate to the department that the county 19127
board will comply with all of the following requirements: 19128

(i) To provide the types of home and community-based services 19129
specified in the preliminary implementation component required by 19130
division (A)(2) of this section to at least the number of 19131
individuals specified in that component; 19132

(ii) To use any additional funds the county board receives 19133

for the services to improve the county board's resource 19134
capabilities for supporting such services available in the county 19135
at the time the component is developed and to expand the services 19136
to accommodate the unmet need for those services in the county; 19137

(iii) To employ a business manager who is either a new 19138
employee who has earned at least a bachelor's degree in business 19139
administration or a current employee who has the equivalent 19140
experience of a bachelor's degree in business administration. If 19141
the county board will employ a new employee, the county board 19142
shall include in the component a timeline for employing the 19143
employee. 19144

(iv) To employ or contract with a medicaid services manager 19145
who is either a new employee who has earned at least a bachelor's 19146
degree or a current employee who has the equivalent experience of 19147
a bachelor's degree. If the county board will employ a new 19148
employee, the county board shall include in the component a 19149
timeline for employing the employee. Two or three county boards 19150
that have a combined total enrollment in county board services not 19151
exceeding one thousand individuals as determined pursuant to 19152
certifications made under division (B) of section 5126.12 of the 19153
Revised Code may satisfy this requirement by sharing the services 19154
of a medicaid services manager or using the services of a medicaid 19155
services manager employed by or under contract with a regional 19156
council that the county boards establish under section 5126.13 of 19157
the Revised Code. 19158

(e) Programmatic and financial accountability measures and 19159
projected outcomes expected from the implementation of the plan; 19160

(f) Any other applicable information or conditions that the 19161
department requires as a condition of approving the component 19162
under section 5123.046 of the Revised Code. 19163

(B) A county board whose plan developed under division (A) of 19164

this section is approved by the department under section 5123.046 19165
of the Revised Code shall update and renew the plan in accordance 19166
with a schedule the department shall develop. 19167

Sec. 5126.055. (A) Except as provided in section 5126.056 of 19168
the Revised Code, a county board of mental retardation and 19169
developmental disabilities has medicaid local administrative 19170
authority to, and shall, do all of the following for an individual 19171
with mental retardation or other developmental disability who 19172
resides in the county that the county board serves and seeks or 19173
receives home and community-based services: 19174

(1) Perform assessments and evaluations of the individual. As 19175
part of the assessment and evaluation process, the county board 19176
shall do all of the following: 19177

(a) Make a recommendation to the department of ~~mental~~ 19178
~~retardation and~~ developmental disabilities on whether the 19179
department should approve or deny the individual's application for 19180
the services, including on the basis of whether the individual 19181
needs the level of care an intermediate care facility for the 19182
mentally retarded provides; 19183

(b) If the individual's application is denied because of the 19184
county board's recommendation and the individual requests a 19185
hearing under section 5101.35 of the Revised Code, present, with 19186
the department of ~~mental retardation and~~ developmental 19187
disabilities or department of job and family services, whichever 19188
denies the application, the reasons for the recommendation and 19189
denial at the hearing; 19190

(c) If the individual's application is approved, recommend to 19191
the departments of ~~mental retardation and~~ developmental 19192
disabilities and job and family services the services that should 19193
be included in the individual's individualized service plan and, 19194
if either department approves, reduces, denies, or terminates a 19195

service included in the individual's individualized service plan 19196
under section 5111.871 of the Revised Code because of the county 19197
board's recommendation, present, with the department that made the 19198
approval, reduction, denial, or termination, the reasons for the 19199
recommendation and approval, reduction, denial, or termination at 19200
a hearing under section 5101.35 of the Revised Code. 19201

(2) In accordance with the rules adopted under section 19202
5126.046 of the Revised Code, perform the county board's duties 19203
under that section regarding assisting the individual's right to 19204
choose a qualified and willing provider of the services and, at a 19205
hearing under section 5101.35 of the Revised Code, present 19206
evidence of the process for appropriate assistance in choosing 19207
providers; 19208

(3) If the county board is certified under section 5123.161 19209
of the Revised Code to provide the services and agrees to provide 19210
the services to the individual and the individual chooses the 19211
county board to provide the services, furnish, in accordance with 19212
the county board's medicaid provider agreement and for the 19213
authorized reimbursement rate, the services the individual 19214
requires; 19215

(4) Monitor the services provided to the individual and 19216
ensure the individual's health, safety, and welfare. The 19217
monitoring shall include quality assurance activities. If the 19218
county board provides the services, the department of ~~mental~~ 19219
~~retardation and~~ developmental disabilities shall also monitor the 19220
services. 19221

(5) Develop, with the individual and the provider of the 19222
individual's services, an effective individualized service plan 19223
that includes coordination of services, recommend that the 19224
departments of ~~mental retardation and~~ developmental disabilities 19225
and job and family services approve the plan, and implement the 19226
plan unless either department disapproves it; 19227

(6) Have an investigative agent conduct investigations under section 5126.313 of the Revised Code that concern the individual;	19228 19229
(7) Have a service and support administrator perform the duties under division (B)(9) of section 5126.15 of the Revised Code that concern the individual.	19230 19231 19232
(B) A county board shall perform its medicaid local administrative authority under this section in accordance with all of the following:	19233 19234 19235
(1) The county board's plan that the department of mental retardation and developmental disabilities approves under section 5123.046 of the Revised Code;	19236 19237 19238
(2) All applicable federal and state laws;	19239
(3) All applicable policies of the departments of mental retardation and developmental disabilities and job and family services and the United States department of health and human services;	19240 19241 19242 19243
(4) The department of job and family services' supervision under its authority under section 5111.01 of the Revised Code to act as the single state medicaid agency;	19244 19245 19246
(5) The department of mental retardation and developmental disabilities' oversight.	19247 19248
(C) The departments of mental retardation and developmental disabilities and job and family services shall communicate with and provide training to county boards regarding medicaid local administrative authority granted by this section. The communication and training shall include issues regarding audit protocols and other standards established by the United States department of health and human services that the departments determine appropriate for communication and training. County boards shall participate in the training. The departments shall	19249 19250 19251 19252 19253 19254 19255 19256 19257

assess the county board's compliance against uniform standards 19258
that the departments shall establish. 19259

(D) A county board may not delegate its medicaid local 19260
administrative authority granted under this section but may 19261
contract with a person or government entity, including a council 19262
of governments, for assistance with its medicaid local 19263
administrative authority. A county board that enters into such a 19264
contract shall notify the director of ~~mental retardation and~~ 19265
developmental disabilities. The notice shall include the tasks and 19266
responsibilities that the contract gives to the person or 19267
government entity. The person or government entity shall comply in 19268
full with all requirements to which the county board is subject 19269
regarding the person or government entity's tasks and 19270
responsibilities under the contract. The county board remains 19271
ultimately responsible for the tasks and responsibilities. 19272

(E) A county board that has medicaid local administrative 19273
authority under this section shall, through the departments of 19274
~~mental retardation and~~ developmental disabilities and job and 19275
family services, reply to, and cooperate in arranging compliance 19276
with, a program or fiscal audit or program violation exception 19277
that a state or federal audit or review discovers. The department 19278
of job and family services shall timely notify the department of 19279
~~mental retardation and~~ developmental disabilities and the county 19280
board of any adverse findings. After receiving the notice, the 19281
county board, in conjunction with the department of ~~mental~~ 19282
~~retardation and~~ developmental disabilities, shall cooperate fully 19283
with the department of job and family services and timely prepare 19284
and send to the department a written plan of correction or 19285
response to the adverse findings. The county board is liable for 19286
any adverse findings that result from an action it takes or fails 19287
to take in its implementation of medicaid local administrative 19288
authority. 19289

(F) If the department of ~~mental retardation and~~ developmental 19290
disabilities or department of job and family services determines 19291
that a county board's implementation of its medicaid local 19292
administrative authority under this section is deficient, the 19293
department that makes the determination shall require that county 19294
board do the following: 19295

(1) If the deficiency affects the health, safety, or welfare 19296
of an individual with mental retardation or other developmental 19297
disability, correct the deficiency within twenty-four hours; 19298

(2) If the deficiency does not affect the health, safety, or 19299
welfare of an individual with mental retardation or other 19300
developmental disability, receive technical assistance from the 19301
department or submit a plan of correction to the department that 19302
is acceptable to the department within sixty days and correct the 19303
deficiency within the time required by the plan of correction. 19304

Sec. 5126.056. (A) The department of ~~mental retardation and~~ 19305
developmental disabilities shall take action under division (B) of 19306
this section against a county board of mental retardation and 19307
developmental disabilities if any of the following are the case: 19308

(1) The county board fails to submit to the department all 19309
the components of its three-year plan required by section 5126.054 19310
of the Revised Code. 19311

(2) The department disapproves the county board's three-year 19312
plan under section 5123.046 of the Revised Code. 19313

(3) The county board fails, as required by division (B) of 19314
section 5126.054 of the Revised Code, to update and renew its 19315
three-year plan in accordance with a schedule the department 19316
develops under that section. 19317

(4) The county board fails to implement its initial or 19318
renewed three-year plan approved by the department. 19319

(5) The county board fails to correct a deficiency within the 19320
time required by division (F) of section 5126.055 of the Revised 19321
Code to the satisfaction of the department. 19322

(6) The county board fails to submit an acceptable plan of 19323
correction to the department within the time required by division 19324
(F)(2) of section 5126.055 of the Revised Code. 19325

(B) If required by division (A) of this section to take 19326
action against a county board, the department shall issue an order 19327
terminating the county board's medicaid local administrative 19328
authority over all or part of home and community-based services, 19329
medicaid case management services, or all or part of both of those 19330
services. The department shall provide a copy of the order to the 19331
board of county commissioners, senior probate judge, county 19332
auditor, and president and superintendent of the county board. The 19333
department shall specify in the order the medicaid local 19334
administrative authority that the department is terminating, the 19335
reason for the termination, and the county board's option and 19336
responsibilities under this division. 19337

A county board whose medicaid local administrative authority 19338
is terminated may, not later than thirty days after the department 19339
issues the termination order, recommend to the department that 19340
another county board that has not had any of its medicaid local 19341
administrative authority terminated or another entity the 19342
department approves administer the services for which the county 19343
board's medicaid local administrative authority is terminated. The 19344
department may contract with the other county board or entity to 19345
administer the services. If the department enters into such a 19346
contract, the county board shall adopt a resolution giving the 19347
other county board or entity full medicaid local administrative 19348
authority over the services that the other county board or entity 19349
is to administer. The other county board or entity shall be known 19350
as the contracting authority. 19351

If the department rejects the county board's recommendation 19352
regarding a contracting authority, the county board may appeal the 19353
rejection under section 5123.043 of the Revised Code. 19354

If the county board does not submit a recommendation to the 19355
department regarding a contracting authority within the required 19356
time or the department rejects the county board's recommendation 19357
and the rejection is upheld pursuant to an appeal, if any, under 19358
section 5123.043 of the Revised Code, the department shall appoint 19359
an administrative receiver to administer the services for which 19360
the county board's medicaid local administrative authority is 19361
terminated. To the extent necessary for the department to appoint 19362
an administrative receiver, the department may utilize employees 19363
of the department, management personnel from another county board, 19364
or other individuals who are not employed by or affiliated with in 19365
any manner a person that provides home and community-based 19366
services or medicaid case management services pursuant to a 19367
contract with any county board. The administrative receiver shall 19368
assume full administrative responsibility for the county board's 19369
services for which the county board's medicaid local 19370
administrative authority is terminated. 19371

The contracting authority or administrative receiver shall 19372
develop and submit to the department a plan of correction to 19373
remediate the problems that caused the department to issue the 19374
termination order. If, after reviewing the plan, the department 19375
approves it, the contracting authority or administrative receiver 19376
shall implement the plan. 19377

The county board shall transfer control of state and federal 19378
funds it is otherwise eligible to receive for the services for 19379
which the county board's medicaid local administrative authority 19380
is terminated and funds the county board may use under division 19381
(A) of section 5126.0511 of the Revised Code to pay the nonfederal 19382
share of the services that the county board is required by 19383

sections 5126.059 and 5126.0510 of the Revised Code to pay. The 19384
county board shall transfer control of the funds to the 19385
contracting authority or administrative receiver administering the 19386
services. The amount the county board shall transfer shall be the 19387
amount necessary for the contracting authority or administrative 19388
receiver to fulfill its duties in administering the services, 19389
including its duties to pay its personnel for time worked, travel, 19390
and related matters. If the county board fails to make the 19391
transfer, the department may withhold the state and federal funds 19392
from the county board and bring a mandamus action against the 19393
county board in the court of common pleas of the county served by 19394
the county board or in the Franklin county court of common pleas. 19395
The mandamus action may not require that the county board transfer 19396
any funds other than the funds the county board is required by 19397
division (B) of this section to transfer. 19398

The contracting authority or administrative receiver has the 19399
right to authorize the payment of bills in the same manner that 19400
the county board may authorize payment of bills under this chapter 19401
and section 319.16 of the Revised Code. 19402

Sec. 5126.0510. (A) Except as otherwise provided in an 19403
agreement entered into under section 5123.048 of the Revised Code 19404
and subject to divisions (B), (C), and (D) of this section, a 19405
county board of mental retardation and developmental disabilities 19406
shall pay the nonfederal share of medicaid expenditures for the 19407
following home and community-based services provided to an 19408
individual with mental retardation or other developmental 19409
disability who the county board determines under section 5126.041 19410
of the Revised Code is eligible for county board services: 19411

(1) Home and community-based services provided by the county 19412
board to such an individual; 19413

(2) Home and community-based services provided by a provider 19414

other than the county board to such an individual who is enrolled 19415
as of June 30, 2007, in the medicaid waiver component under which 19416
the services are provided; 19417

(3) Home and community-based services provided by a provider 19418
other than the county board to such an individual who, pursuant to 19419
a request the county board makes, enrolls in the medicaid waiver 19420
component under which the services are provided after June 30, 19421
2007; 19422

(4) Home and community-based services provided by a provider 19423
other than the county board to such an individual for whom there 19424
is in effect an agreement entered into under division (E) of this 19425
section between the county board and director of ~~mental~~ 19426
~~retardation and~~ developmental disabilities. 19427

(B) In the case of medicaid expenditures for home and 19428
community-based services for which division (A)(2) of this section 19429
requires a county board to pay the nonfederal share, the following 19430
shall apply to such services provided during fiscal year 2008 19431
under the individual options medicaid waiver component: 19432

(1) The county board shall pay no less than the total amount 19433
the county board paid as the nonfederal share for home and 19434
community-based services provided in fiscal year 2007 under the 19435
individual options medicaid waiver component; 19436

(2) The county board shall pay no more than the sum of the 19437
following: 19438

(a) The total amount the county board paid as the nonfederal 19439
share for home and community-based services provided in fiscal 19440
year 2007 under the individual options medicaid waiver component; 19441

(b) An amount equal to one per cent of the total amount the 19442
department of ~~mental-retardation and~~ developmental disabilities 19443
and county board paid as the nonfederal share for home and 19444
community-based services provided in fiscal year 2007 under the 19445

individual options medicaid waiver component to individuals the 19446
county board determined under section 5126.041 of the Revised Code 19447
are eligible for county board services. 19448

(C) A county board is not required to pay the nonfederal 19449
share of home and community-based services provided after June 30, 19450
2008, that the county board is otherwise required by division 19451
(A)(2) of this section to pay if the department of ~~mental~~ 19452
~~retardation~~ and developmental disabilities fails to comply with 19453
division (A) of section 5123.0416 of the Revised Code. 19454

(D) A county board is not required to pay the nonfederal 19455
share of home and community-based services that the county board 19456
is otherwise required by division (A)(3) of this section to pay if 19457
both of the following apply: 19458

(1) The services are provided to an individual who enrolls in 19459
the medicaid waiver component under which the services are 19460
provided as the result of an order issued following a state 19461
hearing, administrative appeal, or appeal to a court of common 19462
pleas made under section 5101.35 of the Revised Code; 19463

(2) There are more individuals who are eligible for services 19464
from the county board enrolled in the medicaid waiver component 19465
than is required by section 5126.0512 of the Revised Code. 19466

(E) A county board may enter into an agreement with the 19467
director of ~~mental retardation~~ and developmental disabilities 19468
under which the county board agrees to pay the nonfederal share of 19469
medicaid expenditures for one or more home and community-based 19470
services that the county board is not otherwise required by 19471
division (A)(1), (2), or (3) of this section to pay and that are 19472
provided to an individual the county board determines under 19473
section 5126.041 of the Revised Code is eligible for county board 19474
services. The agreement shall specify which home and 19475
community-based services the agreement covers. The county board 19476

shall pay the nonfederal share of medicaid expenditures for the 19477
home and community-based services that the agreement covers as 19478
long as the agreement is in effect. 19479

Sec. 5126.0511. (A) A county board of mental retardation and 19480
developmental disabilities may use the following funds to pay the 19481
nonfederal share of the medicaid expenditures that the county 19482
board is required by sections 5126.059 and 5126.0510 of the 19483
Revised Code to pay: 19484

(1) To the extent consistent with the levy that generated the 19485
taxes, the following taxes: 19486

(a) Taxes levied pursuant to division (L) of section 5705.19 19487
of the Revised Code and section 5705.222 of the Revised Code; 19488

(b) Taxes levied under section 5705.191 of the Revised Code 19489
that the board of county commissioners allocates to the county 19490
board. 19491

(2) Funds that the department of ~~mental retardation and~~ 19492
developmental disabilities distributes to the county board under 19493
sections 5126.11 and 5126.18 of the Revised Code; 19494

(3) Earned federal revenue funds the county board receives 19495
for medicaid services the county board provides pursuant to the 19496
county board's valid medicaid provider agreement; 19497

(4) Funds that the department of ~~mental retardation and~~ 19498
developmental disabilities distributes to the county board as 19499
subsidy payments; 19500

(5) In the case of medicaid expenditures for home and 19501
community-based services, funds allocated to or otherwise made 19502
available for the county board under section 5123.0416 of the 19503
Revised Code to pay the nonfederal share of such medicaid 19504
expenditures. 19505

Each year, each county board shall adopt a resolution 19506

specifying the amount of funds it will use in the next year to pay 19507
the nonfederal share of the medicaid expenditures that the county 19508
board is required by sections 5126.059 and 5126.0510 of the 19509
Revised Code to pay. The amount specified shall be adequate to 19510
assure that the services for which the medicaid expenditures are 19511
made will be available in the county in a manner that conforms to 19512
all applicable state and federal laws. A county board shall state 19513
in its resolution that the payment of the nonfederal share 19514
represents an ongoing financial commitment of the county board. A 19515
county board shall adopt the resolution in time for the county 19516
auditor to make the determination required by division (C) of this 19517
section. 19518

(C) Each year, a county auditor shall determine whether the 19519
amount of funds a county board specifies in the resolution it 19520
adopts under division (B) of this section will be available in the 19521
following year for the county board to pay the nonfederal share of 19522
the medicaid expenditures that the county board is required by 19523
sections 5126.059 and 5126.0510 of the Revised Code to pay. The 19524
county auditor shall make the determination not later than the 19525
last day of the year before the year in which the funds are to be 19526
used. 19527

Sec. 5126.071. (A) As used in this section, "minority 19528
business enterprise" has the meaning given in division (E)(1) of 19529
section 122.71 of the Revised Code. 19530

(B) Any minority business enterprise that desires to bid on a 19531
contract under division (C) or (D) of this section shall first 19532
apply to the equal employment opportunity coordinator in the 19533
department of administrative services for certification as a 19534
minority business enterprise. The coordinator shall approve the 19535
application of any minority business enterprise that complies with 19536
the rules adopted under section 122.71 of the Revised Code. The 19537

coordinator shall prepare and maintain a list of minority business enterprises certified under this section. 19538
19539

(C) From the contracts to be awarded for the purchases of equipment, materials, supplies, insurance, and nonprogram services, other than contracts entered into and exempt under sections 307.86 and 5126.05 of the Revised Code, each county board of mental retardation and developmental disabilities shall select a number of contracts with an aggregate value of approximately fifteen per cent of the total estimated value of such contracts to be awarded in the current calendar year. The board shall set aside the contracts so selected for bidding by minority business enterprises only. The bidding procedures for such contracts shall be the same as for all other contracts awarded under section 307.86 of the Revised Code, except that only minority business enterprises certified and listed under division (B) of this section shall be qualified to submit bids. Contracts set aside and awarded under this section shall not include contracts for the purchase of services such as direct and ancillary services, service and support administration, residential services, and family support services. 19540
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(D) To the extent that a board is authorized to enter into contracts for construction which are not exempt from the competitive bidding requirements of section 307.86 of the Revised Code, the board shall set aside a number of contracts the aggregate value of which equals approximately five per cent of the aggregate value of construction contracts for the current calendar year for bidding by minority business enterprises only. The bidding procedures for the contracts set aside for minority business enterprises shall be the same as for all other contracts awarded by the board, except that only minority business enterprises certified and listed under division (B) of this section shall be qualified to submit bids. 19558
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Any contractor awarded a construction contract pursuant to 19570
this section shall make every effort to ensure that certified 19571
minority business subcontractors and materials suppliers 19572
participate in the contract. In the case of contracts specified in 19573
this division, the total value of subcontracts awarded to and 19574
materials and services purchased from minority businesses shall be 19575
at least ten per cent of the total value of the contract, wherever 19576
possible and whenever the contractor awards subcontracts or 19577
purchases materials or services. 19578

(E) In the case of contracts set aside under divisions (C) 19579
and (D) of this section, if no bid is submitted by a minority 19580
business enterprise, the contract shall be awarded according to 19581
normal bidding procedures. The board shall from time to time set 19582
aside such additional contracts as are necessary to replace those 19583
contracts previously set aside on which no minority business 19584
enterprise bid. 19585

(F) This section does not preclude any minority business 19586
enterprise from bidding on any other contract not specifically set 19587
aside for minority business enterprises. 19588

(G) Within ninety days after the beginning of each calendar 19589
year, each county board of mental retardation and developmental 19590
disabilities shall file a report with the department of ~~mental~~ 19591
~~retardation and~~ developmental disabilities that shows for that 19592
calendar year the name of each minority business enterprise with 19593
which the board entered into a contract, the value and type of 19594
each such contract, the total value of contracts awarded under 19595
divisions (C) and (D) of this section, the total value of 19596
contracts awarded for the purchases of equipment, materials, 19597
supplies, or services, other than contracts entered into under the 19598
exemptions of sections 307.86 and 5126.05 of the Revised Code, and 19599
the total value of contracts entered into for construction. 19600

(H) Any person who intentionally misrepresents that person as 19601

owning, controlling, operating, or participating in a minority 19602
business enterprise for the purpose of obtaining contracts or any 19603
other benefits under this section shall be guilty of theft by 19604
deception as provided for in section 2913.02 of the Revised Code. 19605

Sec. 5126.08. (A) The director of ~~mental retardation and~~ 19606
developmental disabilities shall adopt rules in accordance with 19607
Chapter 119. of the Revised Code for all programs and services 19608
offered by a county board of mental retardation and developmental 19609
disabilities. Such rules shall include, but are not limited to, 19610
the following: 19611

(1) Determination of what constitutes a program or service; 19612

(2) Standards to be followed by a board in administering, 19613
providing, arranging, or operating programs and services; 19614

(3) Standards for determining the nature and degree of mental 19615
retardation, including mild mental retardation, or developmental 19616
disability; 19617

(4) Standards for determining eligibility for programs and 19618
services under sections 5126.042 and 5126.15 of the Revised Code; 19619

(5) Procedures for obtaining consent for the arrangement of 19620
services under section 5126.31 of the Revised Code and for 19621
obtaining signatures on individual service plans under that 19622
section; 19623

(6) Specification of the service and support administration 19624
to be provided by a county board and standards for resolving 19625
grievances in connection with service and support administration; 19626

(7) Standards for the provision of environmental 19627
modifications, including standards that require adherence to all 19628
applicable state and local building codes; 19629

(8) Standards for the provision of specialized medical, 19630
adaptive, and assistive equipment, supplies, and supports. 19631

(B) The director shall be the final authority in determining 19632
the nature and degree of mental retardation or developmental 19633
disability. 19634

Sec. 5126.081. (A) In addition to the rules adopted under 19635
division (A)(2) of section 5126.08 of the Revised Code 19636
establishing standards for the administration, provision, 19637
arrangement, and operation of programs and services by county 19638
boards of mental retardation and developmental disabilities, the 19639
department of ~~mental retardation and~~ developmental disabilities 19640
shall establish a system of accreditation for county boards of 19641
mental retardation and developmental disabilities to ensure that 19642
the boards are in compliance with federal and state statutes and 19643
rules. The department shall adopt rules in accordance with Chapter 19644
119. of the Revised Code governing the system of accreditation. 19645
The rules shall include appropriate timelines for compliance when 19646
a board is found to be not in compliance and appropriate actions 19647
to be taken by boards in complying with the accreditation 19648
requirements. 19649

(B) Prior to accrediting a board, the department shall 19650
conduct a comprehensive, on-site review of the board. During the 19651
review, the department shall document the board's compliance with 19652
the department's accreditation requirements. After completing the 19653
review, the department shall conduct an exit conference with the 19654
president of the board, the superintendent of the board, and any 19655
other officials the board asks to have present. The department 19656
shall discuss its findings from the review with the board's 19657
representatives and provide a written report of its findings not 19658
later than thirty days following the exit conference. If the 19659
department finds that the board is in compliance with the 19660
requirements for accreditation, the department shall issue 19661
evidence of accreditation to the board. 19662

Accreditation may be granted for periods of up to five years 19663
and may be renewed. Not less than once prior to the date a board's 19664
accreditation is scheduled to expire, the department shall conduct 19665
a comprehensive, on-site review of the board. 19666

Each board shall conduct an annual audit of itself to 19667
evaluate its compliance with the requirements for accreditation. 19668
The department may conduct an interim review of any new program or 19669
service initiated by a board after its last comprehensive review. 19670
The department may conduct other reviews and investigations as 19671
necessary to enforce this section. 19672

(C) If the department determines through its review of a 19673
board that the board is not in compliance with the requirements 19674
for accreditation, the department shall, except as provided in 19675
division (F) of this section, grant the board an opportunity to 19676
correct the matters in which it is not in compliance. The 19677
department shall grant the board an appropriate length of time to 19678
comply with the requirements prior to taking any action to deny 19679
accreditation to the board. To avoid denial of accreditation, the 19680
board superintendent shall prepare a plan of correction to 19681
remediate the matters specified in the department's written report 19682
as not being in compliance with the requirements for 19683
accreditation. The superintendent shall submit the plan to the 19684
board for review, and the board shall review the plan. If the 19685
board believes that the plan is sufficient to correct the matters, 19686
the board shall approve the plan by resolution and submit the plan 19687
to the department for its review. The department shall review the 19688
plan of correction. If the department approves the plan, the board 19689
shall commence action to implement the plan. The department shall, 19690
as necessary, conduct follow-up reviews of the board to determine 19691
whether it has met the requirements for accreditation. If the plan 19692
of correction submitted by a board is disapproved, the department 19693
shall inform the board of the reasons for disapproval and may 19694

grant the board an opportunity to submit a revised plan of 19695
correction. 19696

A board may request technical assistance from the department, 19697
other boards, or professional organizations in preparing plans of 19698
correction and in implementing plans of correction. 19699

(D) If, after being given the opportunity to implement a plan 19700
of correction, a board continues to fail to meet the requirements 19701
for accreditation, the department shall issue an order denying 19702
accreditation to the board. The department may deny accreditation 19703
to the board for all or part of the programs or services offered 19704
by the board. 19705

The department shall simultaneously notify all of the 19706
following officials in the county: the members of the board of 19707
county commissioners, the senior probate judge, the county 19708
auditor, and the president and superintendent of the county board 19709
of mental retardation and developmental disabilities. The notice 19710
shall identify the programs and services that have been denied 19711
accreditation, the requirements for accreditation with which the 19712
board is not in compliance, and the responsibilities of the county 19713
officials to contract under division (E)(1) of this section to 19714
have the board's programs and services administered by another 19715
party or become subject to administrative receivership under 19716
division (E)(2) of this section. 19717

(E)(1) When a board is denied accreditation, the department 19718
shall first give the board the option of contracting to have the 19719
board's programs and services that were denied accreditation 19720
administered by an accredited county board of mental retardation 19721
and developmental disabilities or another qualified entity subject 19722
to the approval of the department. The board may contract with 19723
more than one board that has been accredited. When a board enters 19724
into a contract, the board shall, by resolution, give the 19725
contractor full administrative authority over the programs and 19726

services that the contractor will administer. 19727

(2) If a board fails to exercise its option of entering into 19728
a contract under division (E)(1) of this section sooner than 19729
thirty days after the department denies accreditation, the 19730
department shall appoint an administrative receiver of the board's 19731
programs and services that were denied accreditation. The 19732
department may appoint employees of the department, management 19733
personnel from county boards of mental retardation and 19734
developmental disabilities, or individuals from other entities as 19735
necessary to meet its needs for appointing an administrative 19736
receiver, except that individuals from other entities may be 19737
appointed only when qualified department employees or board 19738
management personnel are unavailable. The department may not 19739
appoint an individual who is employed by or affiliated with an 19740
entity that is under contract with the board. The administrative 19741
receiver shall assume full administrative responsibility for the 19742
board's programs and services that were denied accreditation. 19743

(3) The board or entity that contracts with a board under 19744
division (E)(1) of this section, or the administrative receiver 19745
appointed under division (E)(2) of this section, shall develop and 19746
implement a plan of correction to remediate the matters that 19747
caused the department to deny accreditation. The contractor or 19748
administrative receiver shall submit the plan to the department, 19749
and the department shall review the plan. If the plan is approved 19750
by the department, the contractor or administrative receiver shall 19751
commence action to implement the plan. The contractor or 19752
administrative receiver shall report to the department any 19753
findings it can make pertaining to issues or circumstances that 19754
are beyond the control of the board and result in the unlikelihood 19755
that compliance with the requirements for accreditation can be 19756
achieved unless the issues or circumstances are remediated. 19757

(4) For purposes of divisions (E)(1) and (2) of this section, 19758

the department shall require the board that has been denied 19759
accreditation to transfer control of state and federal funds it is 19760
eligible to receive for the board's programs and services that 19761
have been denied accreditation in an amount necessary for the 19762
contractor or administrative receiver to fulfill its duties in 19763
administering the programs and services for the board. The 19764
transfer of control of funds does not cause any programs and 19765
services of the board that are accredited to lose their 19766
accreditation. If the board refuses to transfer control of funds, 19767
the department may withhold state and federal funds from the board 19768
in an amount necessary for the contractor or administrative 19769
receiver to fulfill its duties. The amount transferred or withheld 19770
from a board shall include reimbursements for the personnel of the 19771
contractor or administrative receiver, including amounts for time 19772
worked, travel, and related expenses. 19773

A contractor or administrative receiver that has assumed the 19774
administration of a board's programs and services has the right to 19775
authorize the payment of bills in the same manner that a board may 19776
authorize payment of bills under this chapter and section 319.16 19777
of the Revised Code. 19778

(F) When the department's review of a board reveals serious 19779
health and safety issues within the programs and services offered 19780
by the board, the department shall order the board to correct the 19781
violations immediately or appoint an administrative receiver. 19782

(G) At any time a board can demonstrate that it is capable of 19783
assuming its duties in compliance with the department's 19784
requirements for accreditation, the department shall reverse its 19785
order denying accreditation and issue evidence of accreditation to 19786
the board. 19787

A board may appeal the department's denial of accreditation 19788
or refusal to reverse a denial of accreditation only by filing a 19789
complaint under section 5123.043 of the Revised Code. If in its 19790

appeal the board can demonstrate that it is capable of assuming 19791
its duties in compliance with the department's requirements for 19792
accreditation, the department shall reverse its order denying 19793
accreditation and shall issue evidence of accreditation to the 19794
board. 19795

(H) All notices issued to a board by the department under 19796
this section shall be delivered to the board's president and 19797
superintendent. 19798

(I) A board's president may designate another member of the 19799
board as the individual to be responsible for fulfilling all or 19800
part of the president's responsibilities established under this 19801
section. 19802

Sec. 5126.082. (A) In addition to the rules adopted under 19803
division (A)(2) of section 5126.08 of the Revised Code 19804
establishing standards to be followed by county boards of mental 19805
retardation and developmental disabilities in administering, 19806
providing, arranging, and operating programs and services and in 19807
addition to the board accreditation system established under 19808
section 5126.081 of the Revised Code, the director of ~~mental~~ 19809
~~retardation and~~ developmental disabilities shall adopt rules in 19810
accordance with Chapter 119. of the Revised Code establishing 19811
standards for promoting and advancing the quality of life of 19812
individuals with mental retardation and developmental disabilities 19813
receiving any of the following: 19814

(1) Early childhood services pursuant to section 5126.05 of 19815
the Revised Code for children under age three; 19816

(2) Adult services pursuant to section 5126.05 and division 19817
(B) of section 5126.051 of the Revised Code for individuals age 19818
sixteen or older; 19819

(3) Family support services pursuant to section 5126.11 of 19820

the Revised Code. 19821

(B) The rules adopted under this section shall specify the 19822
actions county boards of mental retardation and developmental 19823
disabilities and the agencies with which they contract should take 19824
to do the following: 19825

(1) Offer individuals with mental retardation and 19826
developmental disabilities, and their families when appropriate, 19827
choices in programs and services that are centered on the needs 19828
and desires of those individuals; 19829

(2) Maintain infants with their families whenever possible by 19830
collaborating with other agencies that provide services to infants 19831
and their families and taking other appropriate actions; 19832

(3) Provide families that have children with mental 19833
retardation and developmental disabilities under age eighteen 19834
residing in their homes the resources necessary to allow the 19835
children to remain in their homes; 19836

(4) Create and implement community employment services based 19837
on the needs and desires of adults with mental retardation and 19838
developmental disabilities; 19839

(5) Create, in collaboration with other agencies, 19840
transportation systems that provide safe and accessible 19841
transportation within the county to individuals with disabilities; 19842

(6) Provide services that allow individuals with disabilities 19843
to be integrated into the community by engaging in educational, 19844
vocational, and recreational activities with individuals who do 19845
not have disabilities; 19846

(7) Provide age-appropriate retirement services for 19847
individuals age sixty-five and older with mental retardation and 19848
developmental disabilities; 19849

(8) Establish residential services and supported living for 19850

individuals with mental retardation and developmental disabilities 19851
in accordance with their needs. 19852

(C) To assist in funding programs and services that meet the 19853
standards established under this section, each county board of 19854
mental retardation and developmental disabilities shall make a 19855
good faith effort to acquire available federal funds, including 19856
reimbursements under Title XIX of the "Social Security Act," 79 19857
Stat. 286 (1965), 42 U.S.C.A. 1396, as amended. 19858

(D) Each county board of mental retardation and developmental 19859
disabilities shall work toward full compliance with the standards 19860
established under this section, based on its available resources. 19861
Funds received under this chapter shall be used to comply with the 19862
standards. Annually, each board shall conduct a self audit to 19863
evaluate the board's progress in complying fully with the 19864
standards. 19865

(E) The department shall complete a program quality review of 19866
each county board of mental retardation and developmental 19867
disabilities to determine the extent to which the board has 19868
complied with the standards. The review shall be conducted in 19869
conjunction with the comprehensive accreditation review of the 19870
board that is conducted under section 5126.081 of the Revised 19871
Code. 19872

Notwithstanding any provision of this chapter or Chapter 19873
5123. of the Revised Code requiring the department to distribute 19874
funds to county boards of mental retardation and developmental 19875
disabilities, the department may withhold funds from a board if it 19876
finds that the board is not in substantial compliance with the 19877
standards established under this section. 19878

(F) When the standards for accreditation from the commission 19879
on accreditation of rehabilitation facilities, or another 19880
accrediting agency, meet or exceed the standards established under 19881

this section, the director may accept accreditation from the 19882
commission or other agency as evidence that the board is in 19883
compliance with all or part of the standards established under 19884
this section. Programs and services accredited by the commission 19885
or agency are exempt from the program quality reviews required by 19886
division (E) of this section. 19887

Sec. 5126.10. The director of ~~mental retardation and~~ 19888
developmental disabilities shall adopt rules in accordance with 19889
Chapter 119. of the Revised Code establishing standard cost 19890
allocation procedures and shall require county boards of mental 19891
retardation and developmental disabilities to use such procedures 19892
to allocate all indirect costs to services provided pursuant to 19893
Chapters 3323. and 5126. of the Revised Code. 19894

Sec. 5126.11. (A) As used in this section, "respite care" 19895
means appropriate, short-term, temporary care that is provided to 19896
a mentally retarded or developmentally disabled person to sustain 19897
the family structure or to meet planned or emergency needs of the 19898
family. 19899

(B) Subject to rules adopted by the director of ~~mental~~ 19900
~~retardation and~~ developmental disabilities, and subject to the 19901
availability of money from state and federal sources, the county 19902
board of mental retardation and developmental disabilities shall 19903
establish a family support services program. Under such a program, 19904
the board shall make payments to an individual with mental 19905
retardation or other developmental disability or the family of an 19906
individual with mental retardation or other developmental 19907
disability who desires to remain in and be supported in the family 19908
home. Payments shall be made for all or part of costs incurred or 19909
estimated to be incurred for services that would promote 19910
self-sufficiency and normalization, prevent or reduce 19911
inappropriate institutional care, and further the unity of the 19912

family by enabling the family to meet the special needs of the 19913
individual and to live as much like other families as possible. 19914
Payments may be made in the form of reimbursement for expenditures 19915
or in the form of vouchers to be used to purchase services. 19916

(C) Payment shall not be made under this section to an 19917
individual or the individual's family if the individual is living 19918
in a residential facility that is providing residential services 19919
under contract with the department of ~~mental retardation and~~ 19920
developmental disabilities or a county board. 19921

(D) Payments may be made for the following services: 19922

(1) Respite care, in or out of the home; 19923

(2) Counseling, supervision, training, and education of the 19924
individual, the individual's caregivers, and members of the 19925
individual's family that aid the family in providing proper care 19926
for the individual, provide for the special needs of the family, 19927
and assist in all aspects of the individual's daily living; 19928

(3) Special diets, purchase or lease of special equipment, or 19929
modifications of the home, if such diets, equipment, or 19930
modifications are necessary to improve or facilitate the care and 19931
living environment of the individual; 19932

(4) Providing support necessary for the individual's 19933
continued skill development, including such services as 19934
development of interventions to cope with unique problems that may 19935
occur within the complexity of the family, enrollment of the 19936
individual in special summer programs, provision of appropriate 19937
leisure activities, and other social skills development 19938
activities; 19939

(5) Any other services that are consistent with the purposes 19940
specified in division (B) of this section and specified in the 19941
individual's service plan. 19942

(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and the individual must be in need of habilitation. Payments shall be adjusted for income in accordance with the payment schedule established in rules adopted under this section. Payments shall be made only after the county board has taken into account all other available assistance for which the individual or family is eligible.

(F) Before incurring expenses for a service for which payment will be sought under a family support services program, the individual or family shall apply to the county board for a determination of eligibility and approval of the service. The service need not be provided in the county served by the county board. After being determined eligible and receiving approval for the service, the individual or family may incur expenses for the service or use the vouchers received from the county board for the purchase of the service.

If the county board refuses to approve a service, an appeal may be made in accordance with rules adopted by the department under this section.

(G) To be reimbursed for expenses incurred for approved services, the individual or family shall submit to the county board a statement of the expenses incurred accompanied by any evidence required by the board. To redeem vouchers used to purchase approved services, the entity that provided the service shall submit to the county board evidence that the service was provided and a statement of the charges. The county board shall make reimbursements and redeem vouchers no later than forty-five days after it receives the statements and evidence required by this division.

(H) A county board shall consider the following objectives in

carrying out a family support services program:	19975
(1) Enabling individuals to return to their families from an institution under the jurisdiction of the department of mental retardation and developmental disabilities;	19976 19977 19978
(2) Enabling individuals found to be subject to institutionalization by court order under section 5123.76 of the Revised Code to remain with their families with the aid of payments provided under this section;	19979 19980 19981 19982
(3) Providing services to eligible children and adults currently residing in the community;	19983 19984
(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board.	19985 19986
(I) The director shall adopt, and may amend and rescind, rules for the implementation of family support services programs by county boards. Such rules shall include the following:	19987 19988 19989
(1) A payment schedule adjusted for income;	19990
(2) A formula for distributing to county boards the money appropriated for family support services;	19991 19992
(3) Standards for supervision, training, and quality control in the provision of respite care services;	19993 19994
(4) Eligibility standards and procedures for providing temporary emergency respite care;	19995 19996
(5) Procedures for hearing and deciding appeals made under division (F) of this section;	19997 19998
(6) Requirements to be followed by county boards regarding reports submitted under division (K) of this section.	19999 20000
Rules adopted under divisions (I)(1) and (2) of this section shall be adopted in accordance with section 111.15 of the Revised Code. Rules adopted under divisions (I)(3) to (6) of this section	20001 20002 20003

shall be adopted in accordance with Chapter 119. of the Revised Code. 20004
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(J) All individuals certified by the superintendent of the county board as eligible for temporary emergency respite care in accordance with rules adopted under this section shall be considered eligible for temporary emergency respite care for not more than five days to permit the determination of eligibility for family support services. The requirements of divisions (E) and (F) of this section do not apply to temporary emergency respite care. 20006
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(K) The department of ~~mental retardation and~~ developmental disabilities shall distribute to county boards money appropriated for family support services in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June. A county board shall use no more than seven per cent of the funds for administrative costs. Each county board shall submit reports to the department on payments made under this section. The reports shall be submitted at those times and in the manner specified in rules adopted under this section. 20013
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(L) The county board shall not be required to make payments for family support services at a level that exceeds available state and federal funds for such payments. 20024
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Sec. 5126.12. (A) As used in this section: 20027

(1) "Approved school age class" means a class operated by a county board of mental retardation and developmental disabilities and funded by the department of education under section 3317.20 of the Revised Code. 20028
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(2) "Approved preschool unit" means a class or unit operated by a county board of mental retardation and developmental 20032
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disabilities and approved under division (B) of section 3317.05 of the Revised Code. 20034
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(3) "Active treatment" means a continuous treatment program, 20036
which includes aggressive, consistent implementation of a program 20037
of specialized and generic training, treatment, health services, 20038
and related services, that is directed toward the acquisition of 20039
behaviors necessary for an individual with mental retardation or 20040
other developmental disability to function with as much 20041
self-determination and independence as possible and toward the 20042
prevention of deceleration, regression, or loss of current optimal 20043
functional status. 20044

(4) "Eligible for active treatment" means that an individual 20045
with mental retardation or other developmental disability resides 20046
in an intermediate care facility for the mentally retarded 20047
certified under Title XIX of the "Social Security Act," 79 Stat. 20048
286 (1965), 42 U.S.C. 1396, as amended; resides in a state 20049
institution operated by the department of ~~mental retardation and~~ 20050
developmental disabilities; or is enrolled in home and 20051
community-based services. 20052

(5) "Traditional adult services" means vocational and 20053
nonvocational activities conducted within a sheltered workshop or 20054
adult activity center or supportive home services. 20055

(B) Each county board of mental retardation and developmental 20056
disabilities shall certify to the director of ~~mental retardation~~ 20057
~~and~~ developmental disabilities all of the following: 20058

(1) On or before the fifteenth day of October, the average 20059
daily membership for the first full week of programs and services 20060
during October receiving: 20061

(a) Early childhood services provided pursuant to section 20062
5126.05 of the Revised Code for children who are less than three 20063
years of age on the thirtieth day of September of the academic 20064

year;	20065
(b) Special education for children with disabilities in approved school age classes;	20066 20067
(c) Adult services for persons sixteen years of age and older operated pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code. Separate counts shall be made for the following:	20068 20069 20070 20071
(i) Persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment;	20072 20073
(ii) Persons enrolled in traditional adult services who are eligible for and enrolled in active treatment;	20074 20075
(iii) Persons enrolled in traditional adult services but who are not eligible for active treatment;	20076 20077
(iv) Persons participating in community employment services. To be counted as participating in community employment services, a person must have spent an average of no less than ten hours per week in that employment during the preceding six months.	20078 20079 20080 20081
(d) Other programs in the county for individuals with mental retardation and developmental disabilities that have been approved for payment of subsidy by the department of mental retardation and developmental disabilities.	20082 20083 20084 20085
The membership in each such program and service in the county shall be reported on forms prescribed by the department of mental retardation and developmental disabilities.	20086 20087 20088
The department of mental retardation and developmental disabilities shall adopt rules defining full-time equivalent enrollees and for determining the average daily membership therefrom, except that certification of average daily membership in approved school age classes shall be in accordance with rules adopted by the state board of education. The average daily	20089 20090 20091 20092 20093 20094

membership figure shall be determined by dividing the amount 20095
representing the sum of the number of enrollees in each program or 20096
service in the week for which the certification is made by the 20097
number of days the program or service was offered in that week. No 20098
enrollee may be counted in average daily membership for more than 20099
one program or service. 20100

(2) By the fifteenth day of December, the number of children 20101
enrolled in approved preschool units on the first day of December; 20102

(3) On or before the thirtieth day of April, an itemized 20103
report of all income and operating expenditures for the 20104
immediately preceding calendar year, in the format specified by 20105
the department of ~~mental retardation and~~ developmental 20106
disabilities; 20107

(4) That each required certification and report is in 20108
accordance with rules established by the department of ~~mental~~ 20109
~~retardation and~~ developmental disabilities and the state board of 20110
education for the operation and subsidization of the programs and 20111
services. 20112

Sec. 5126.121. Each county board of mental retardation and 20113
developmental disabilities may be eligible to receive a subsidy 20114
from the department of ~~mental retardation and~~ developmental 20115
disabilities for the employment of a business manager as provided 20116
in this section. The department shall adopt rules in accordance 20117
with Chapter 119. of the Revised Code specifying standards for the 20118
employment of such a business manager. The rules shall include the 20119
minimum education and experience requirements for the position of 20120
business manager and shall specify requirements for courses in 20121
fiscal and business management that are annually sponsored or 20122
certified by the department and that are applicable to the 20123
position and designed to teach effective business practices. Each 20124
county board of mental retardation and developmental disabilities 20125

that employs a business manager in accordance with the standards 20126
adopted under this section may receive a subsidy from the 20127
department. 20128

The department shall distribute this subsidy to eligible 20129
county boards in quarterly installments of equal amounts. The 20130
installments shall be made not later than the thirtieth day of 20131
September, the thirty-first day of December, the thirty-first day 20132
of March, and the thirtieth day of June. 20133

Sec. 5126.13. (A) A county board of mental retardation and 20134
developmental disabilities may enter into an agreement with one or 20135
more other county boards of mental retardation and developmental 20136
disabilities to establish a regional council in accordance with 20137
Chapter 167. of the Revised Code. The agreement shall specify the 20138
duties and functions to be performed by the council, which may 20139
include any duty or function a county board is required or 20140
authorized to perform under this chapter. If directed to do so by 20141
a resolution adopted by a county board that is a member of a 20142
regional council, the department of ~~mental retardation and~~ 20143
developmental disabilities shall make any distributions of money 20144
for that county for the duties or functions performed by the 20145
council pursuant to its agreement that are otherwise required to 20146
be made to the county board under this chapter to the fiscal 20147
officer of the council designated under section 167.04 of the 20148
Revised Code. 20149

A county board may also enter into an agreement with one or 20150
more school districts or other political subdivisions to establish 20151
a regional council in accordance with Chapter 167. of the Revised 20152
Code. 20153

(B) On or before the thirtieth day of March, the fiscal 20154
officer of a regional council described in this section shall 20155
report to the department of ~~mental retardation and~~ developmental 20156

disabilities, in the format specified by the department, all 20157
income and operating expenditures of the council for the 20158
immediately preceding calendar year. 20159

Sec. 5126.15. (A) A county board of mental retardation and 20160
developmental disabilities shall provide service and support 20161
administration to each individual three years of age or older who 20162
is eligible for service and support administration if the 20163
individual requests, or a person on the individual's behalf 20164
requests, service and support administration. A board shall 20165
provide service and support administration to each individual 20166
receiving home and community-based services. A board may provide, 20167
in accordance with the service coordination requirements of 34 20168
C.F.R. 303.23, service and support administration to an individual 20169
under three years of age eligible for early intervention services 20170
under 34 C.F.R. part 303. A board may provide service and support 20171
administration to an individual who is not eligible for other 20172
services of the board. Service and support administration shall be 20173
provided in accordance with rules adopted under section 5126.08 of 20174
the Revised Code. 20175

A board may provide service and support administration by 20176
directly employing service and support administrators or by 20177
contracting with entities for the performance of service and 20178
support administration. Individuals employed or under contract as 20179
service and support administrators shall not be in the same 20180
collective bargaining unit as employees who perform duties that 20181
are not administrative. 20182

Individuals employed by a board as service and support 20183
administrators shall not be assigned responsibilities for 20184
implementing other services for individuals and shall not be 20185
employed by or serve in a decision-making or policy-making 20186
capacity for any other entity that provides programs or services 20187

to individuals with mental retardation or developmental 20188
disabilities. An individual employed as a conditional status 20189
service and support administrator shall perform the duties of 20190
service and support administration only under the supervision of a 20191
management employee who is a service and support administration 20192
supervisor. 20193

(B) The individuals employed by or under contract with a 20194
board to provide service and support administration shall do all 20195
of the following: 20196

(1) Establish an individual's eligibility for the services of 20197
the county board of mental retardation and developmental 20198
disabilities; 20199

(2) Assess individual needs for services; 20200

(3) Develop individual service plans with the active 20201
participation of the individual to be served, other persons 20202
selected by the individual, and, when applicable, the provider 20203
selected by the individual, and recommend the plans for approval 20204
by the department of ~~mental retardation and~~ developmental 20205
disabilities when services included in the plans are funded 20206
through medicaid; 20207

(4) Establish budgets for services based on the individual's 20208
assessed needs and preferred ways of meeting those needs; 20209

(5) Assist individuals in making selections from among the 20210
providers they have chosen; 20211

(6) Ensure that services are effectively coordinated and 20212
provided by appropriate providers; 20213

(7) Establish and implement an ongoing system of monitoring 20214
the implementation of individual service plans to achieve 20215
consistent implementation and the desired outcomes for the 20216
individual; 20217

(8) Perform quality assurance reviews as a distinct function of service and support administration;

(9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual;

(10) Ensure that each individual receiving services has a designated person who is responsible on a continuing basis for providing the individual with representation, advocacy, advice, and assistance related to the day-to-day coordination of services in accordance with the individual's service plan. The service and support administrator shall give the individual receiving services an opportunity to designate the person to provide daily representation. If the individual declines to make a designation, the administrator shall make the designation. In either case, the individual receiving services may change at any time the person designated to provide daily representation.

Sec. 5126.18. (A) As used in this section:

(1) "County board" means a county board of mental retardation and developmental disabilities.

(2) Notwithstanding section 5126.01 of the Revised Code, "adult services" means the following services, as they are identified on individual information forms submitted by county boards to the department of ~~mental retardation and~~ developmental disabilities, provided to an individual with mental retardation or other developmental disability who is at least twenty-two years of age:

(a) Assessment;

(b) Home service;

(c) Adult program;	20248
(d) Community employment services;	20249
(e) Retirement.	20250
(3) "Adult services enrollment" means a county board's	20251
average daily membership in adult services, exclusive of such	20252
services provided to individuals served solely through service and	20253
support administration provided pursuant to section 5126.15 of the	20254
Revised Code or family support services provided pursuant to	20255
section 5126.11 of the Revised Code.	20256
(4) "Taxable value" means the taxable value of a county board	20257
certified under division (B)(1) of this section.	20258
(5) "Per-mill yield" of a county board means the quotient	20259
obtained by dividing (a) the taxable value of the county board by	20260
(b) one thousand.	20261
(6) "Local adult services cost" means a county board's	20262
expenditures for adult services, excluding all federal and state	20263
reimbursements and subsidy allocations received by such boards and	20264
expended for such services, as certified under section 5126.12 of	20265
the Revised Code.	20266
(7) "Statewide average millage" means one thousand multiplied	20267
by the quotient obtained by dividing (a) the total of the local	20268
adult services costs of all county boards by (b) the total of the	20269
taxable values of all county boards.	20270
(8) "County yield" of a county board means the product	20271
obtained by multiplying (a) the statewide average millage by (b)	20272
the per-mill yield of the county board.	20273
(9) "County yield per enrollee" of a county board means the	20274
quotient obtained by dividing (a) the county yield of the county	20275
board by (b) the adult enrollment of the county board.	20276
(10) "Statewide yield per enrollee" means the quotient	20277

obtained by dividing (a) the sum of the county yields of all county boards by (b) the sum of the adult enrollments of all county boards.

(11) "Local tax effort for adult services" of a county board means one thousand multiplied by the quotient obtained by dividing (a) the local adult services cost of the county board by (b) the taxable value of the county board.

(12) "Funding percentage" for a fiscal year means the percentage that the amount appropriated to the department for the purpose of making payments under this section in the fiscal year is of the amount computed under division (C)(3) of this section for the fiscal year.

(13) "Funding-adjusted required millage" for a fiscal year means the statewide average millage multiplied by the funding percentage for that fiscal year.

(B)(1) On the request of the director of ~~mental retardation~~ and developmental disabilities, the tax commissioner shall provide to the department of ~~mental retardation and~~ developmental disabilities information specifying the taxable value of property on each county's tax list of real and public utility property and tax list of personal property for the most recent tax year for which such information is available. The director may request any other tax information necessary for the purposes of this section.

(2) On the request of the director, each county board shall report the county board's adult services enrollment and local adult services cost.

(C) Each year, the department of ~~mental retardation and~~ developmental disabilities shall compute the following:

(1) For each county board, the amount, if any, by which the statewide yield per enrollee exceeds the county yield per enrollee;

(2) For each county board, the amount of any excess computed 20309
under division (C)(1) of this section multiplied by the adult 20310
services enrollment of the county board; 20311

(3) The sum of the amounts computed under division (C)(2) of 20312
this section for all county boards. 20313

(D) From money appropriated for the purpose, the department 20314
shall provide for payment to each county board of the amount 20315
computed for that county board under division (C)(2) of this 20316
section, subject to any reduction or adjustment under division 20317
(E), (F), or (G) of this section. The department shall make the 20318
payments in quarterly installments of equal amounts. The 20319
installments shall be made not later than the thirtieth day of 20320
September, thirty-first day of December, thirty-first day of 20321
March, and thirtieth day of June. 20322

(E) If a county board's local tax effort for adult services 20323
is less than the funding-adjusted required millage, the director 20324
shall reduce the amount of payment otherwise computed under 20325
division (C)(2) of this section so that the amount paid, after the 20326
reduction, is the same percentage of the amount computed under 20327
division (C)(2) of this section as the county board's local tax 20328
effort for adult services is of the funding-adjusted required 20329
millage. 20330

If the director reduces the amount of a county board's 20331
payment under this division, the department, not later than the 20332
fifteenth day of July, shall notify the county board of the 20333
reduction and the amount of the reduction. The notice shall 20334
include a statement that the county board may request to be 20335
exempted from the reduction by filing a request with the director, 20336
in the manner and form prescribed by the director, within 20337
twenty-one days after such notification is issued. The board may 20338
present evidence of its attempt to obtain passage of levies or any 20339
other extenuating circumstances the board considers relevant. If 20340

the county board requests a hearing before the director to present 20341
such evidence, the director shall conduct a hearing on the request 20342
unless the director exempts the board from the reduction on the 20343
basis of the evidence presented in the request filed by the board. 20344
Upon receiving a properly and timely filed request for exemption, 20345
but not later than the thirty-first day of August, the director 20346
shall determine whether the county board shall be exempted from 20347
all or a part of the reduction. The director may exempt the board 20348
from all or part of the reduction if the director finds that the 20349
board has made good faith efforts to obtain passage of tax levies 20350
or that there are extenuating circumstances. 20351

(F) If a payment is reduced under division (E) of this 20352
section and the director does not exempt the county board from the 20353
reduction, the amount of the reduction shall be apportioned among 20354
all county boards entitled to payments under this section for 20355
which payments were not so reduced. The amount apportioned to each 20356
county board shall be proportionate to the amount of the board's 20357
payment as computed under division (C)(2) of this section. 20358

(G) If, for any fiscal year, the amount appropriated to the 20359
department for the purpose of this section is less than the amount 20360
computed under division (C)(3) of this section for the fiscal 20361
year, the department shall adjust the amount of each payment as 20362
computed under divisions (C)(2), (E), and (F) of this section by 20363
multiplying that amount by the funding percentage. 20364

(H) The payments authorized by this section are supplemental 20365
to all other funds that may be received by a county board. A 20366
county board shall use the payments solely to pay the nonfederal 20367
share of medicaid expenditures that sections 5126.059 and 20368
5126.0510 of the Revised Code require the county board to pay. 20369

Sec. 5126.19. (A) The director of ~~mental retardation~~ and 20370
developmental disabilities may grant temporary funding from the 20371

community ~~mental retardation and~~ developmental disabilities trust 20372
fund based on allocations to county boards of mental retardation 20373
and developmental disabilities. The director may distribute all or 20374
part of the funding directly to a county board, the persons who 20375
provide the services for which the funding is granted, or persons 20376
with mental retardation or developmental disabilities who are to 20377
receive those services. 20378

(B) Funding granted under division (A) of this section shall 20379
be granted according to the availability of moneys in the fund and 20380
priorities established by the director. Funding may be granted for 20381
any of the following purposes: 20382

(1) Behavioral or short-term interventions for persons with 20383
mental retardation or developmental disabilities that assist them 20384
in remaining in the community by preventing institutionalization; 20385

(2) Emergency respite care services, as defined in section 20386
5126.11 of the Revised Code; 20387

(3) Family support services provided under section 5126.11 of 20388
the Revised Code; 20389

(4) Supported living, as defined in section 5126.01 of the 20390
Revised Code; 20391

(5) Staff training for county board employees, employees of 20392
providers of residential services as defined in section 5126.01 of 20393
the Revised Code, and other personnel under contract with a county 20394
board, to provide the staff with necessary training in serving 20395
mentally retarded or developmentally disabled persons in the 20396
community; 20397

(6) Short-term provision of early childhood services provided 20398
under section 5126.05, adult services provided under sections 20399
5126.05 and 5126.051, and service and support administration 20400
provided under section 5126.15 of the Revised Code, when local 20401
moneys are insufficient to meet the need for such services due to 20402

the successive failure within a two-year period of three or more
proposed levies for the services;

(7) Contracts with providers of residential services to
maintain persons with mental retardation and developmental
disabilities in their programs and avoid institutionalization.

(C) If the trust fund contains more than ten million dollars
on the first day of July the director shall use one million
dollars for payments under section 5126.18 of the Revised Code,
two million dollars for subsidies to county boards for supported
living, and one million dollars for subsidies to county boards for
early childhood services and adult services provided under section
5126.05 of the Revised Code. Distributions of funds under this
division shall be made prior to August 31 of the state fiscal year
in which the funds are available. The funds shall be allocated to
a county board in an amount equal to the same percentage of the
total amount allocated to the county board the immediately
preceding state fiscal year.

(D) In addition to making grants under division (A) of this
section, the director may use money available in the trust fund
for the same purposes that rules adopted under section 5123.0413
of the Revised Code provide for money in the state ~~MR/DD~~
developmental disabilities risk fund and the state insurance
against ~~MR/DD~~ developmental disabilities risk fund, both created
under that section, to be used.

Sec. 5126.22. (A) Employees who hold the following positions
in a county board of mental retardation and developmental
disabilities are management employees:

assistant superintendent

director of business

director of personnel

adult services director	20433
workshop director	20434
habilitation manager	20435
director of residential services	20436
principal (director of children services)	20437
program or service supervisor	20438
plant manager	20439
production manager	20440
service and support administration supervisor	20441
investigative agent	20442
confidential employees as defined in section 4117.01 of the Revised Code	20443 20444
positions designated by the director of mental-retardation and developmental disabilities as having managerial or supervisory responsibilities and duties	20445 20446 20447
positions designated by the county board in accordance with division (D) of this section.	20448 20449
(B) Employees who hold the following positions in a board are professional employees:	20450 20451
personnel certified pursuant to Chapter 3319. of the Revised Code	20452 20453
early intervention specialist	20454
physical development specialist	20455
habilitation specialist	20456
work adjustment specialist	20457
placement specialist	20458
vocational evaluator	20459

psychologist	20460
occupational therapist	20461
speech and language pathologist	20462
recreation specialist	20463
behavior management specialist	20464
physical therapist	20465
supportive home services specialist	20466
licensed practical nurse or registered nurse	20467
rehabilitation counselor	20468
doctor of medicine and surgery or of osteopathic medicine and surgery	20469 20470
dentist	20471
service and support administrator	20472
conditional status service and support administrator	20473
social worker	20474
any position that is not a management position and for which	20475
the standards for certification established by the director of	20476
mental retardation and developmental disabilities under section	20477
5126.25 of the Revised Code require a bachelor's or higher degree	20478
professional positions designated by the director	20479
professional positions designated by the county board in accordance with division (D) of this section.	20480 20481
(C) Employees who hold positions in a board that are neither	20482
management positions nor professional positions are service	20483
employees. Service employee positions include:	20484
workshop specialist	20485
workshop specialist assistant	20486

contract procurement specialist	20487
community employment specialist	20488
any assistant to a professional employee certified to provide, or supervise the provision of, adult services or service and support administration	20489 20490 20491
service positions designated by the director	20492
service positions designated by a county board in accordance with division (D) of this section.	20493 20494
(D) A county board may designate a position only if the position does not include directly providing, or supervising employees who directly provide, service or instruction to individuals with mental retardation or developmental disabilities.	20495 20496 20497 20498
(E) If a county board desires to have a position established that is not specifically listed in this section that includes directly providing, or supervising employees who directly provide, services or instruction to individuals with mental retardation or developmental disabilities, the board shall submit to the director a written description of the position and request that the director designate the position as a management, professional, or service position under this section. The director shall consider each request submitted under this division and respond within thirty days. If the director approves the request, the director shall designate the position as a management, professional, or service position.	20499 20500 20501 20502 20503 20504 20505 20506 20507 20508 20509 20510
(F) A county board shall not terminate its employment of any management, professional, or service employee solely because a position is added to or eliminated from those positions listed in this section or because a position is designated or no longer designated by the director or a county board.	20511 20512 20513 20514 20515
Sec. 5126.24. (A) As used in this section:	20516

(1) "License" means an educator license issued by the state board of education under section 3319.22 of the Revised Code or a certificate issued by the department of ~~mental retardation and~~ developmental disabilities.

(2) "Teacher" means a person employed by a county board of mental retardation and developmental disabilities in a position that requires a license.

(3) "Nonteaching employee" means a person employed by a county board of mental retardation and developmental disabilities in a position that does not require a license.

(4) "Years of service" includes all service described in division (A) of section 3317.13 of the Revised Code.

(B) Subject to rules established by the director of ~~mental retardation and~~ developmental disabilities pursuant to Chapter 119. of the Revised Code, each county board of mental retardation and developmental disabilities shall annually adopt separate salary schedules for teachers and nonteaching employees.

(C) The teachers' salary schedule shall provide for increments based on training and years of service. The board may establish its own service requirements provided no teacher receives less than the salary the teacher would be paid under section 3317.13 of the Revised Code if the teacher were employed by a school district board of education and provided full credit for a minimum of five years of actual teaching and military experience as defined in division (A) of such section is given to each teacher.

Each teacher who has completed training that would qualify the teacher for a higher salary bracket pursuant to this section shall file by the fifteenth day of September with the fiscal officer of the board, satisfactory evidence of the completion of such additional training. The fiscal officer shall then

immediately place the teacher, pursuant to this section, in the 20548
proper salary bracket in accordance with training and years of 20549
service. No teacher shall be paid less than the salary to which 20550
the teacher would be entitled under section 3317.13 of the Revised 20551
Code if the teacher were employed by a school district board of 20552
education. 20553

The superintendent of each county board, on or before the 20554
fifteenth day of October of each year, shall certify to the state 20555
board of education the name of each teacher employed, on an annual 20556
salary, in each special education program operated pursuant to 20557
section 3323.09 of the Revised Code during the first full school 20558
week of October. The superintendent further shall certify, for 20559
each teacher, the number of years of training completed at a 20560
recognized college, the degrees earned from a college recognized 20561
by the state board, the type of license held, the number of months 20562
employed by the board, the annual salary, and other information 20563
that the state board may request. 20564

(D) The nonteaching employees' salary schedule established by 20565
the board shall be based on training, experience, and 20566
qualifications with initial salaries no less than salaries in 20567
effect on July 1, 1985. Each board shall prepare and may amend 20568
from time to time, specifications descriptive of duties, 20569
responsibilities, requirements, and desirable qualifications of 20570
the classifications of employees required to perform the duties 20571
specified in the salary schedule. All nonteaching employees shall 20572
be notified of the position classification to which they are 20573
assigned and the salary for the classification. The compensation 20574
of all nonteaching employees working for a particular board shall 20575
be uniform for like positions except as compensation would be 20576
affected by salary increments based upon length of service. 20577

On the fifteenth day of October of each year the nonteaching 20578
employees' salary schedule and list of job classifications and 20579

salaries in effect on that date shall be filed by each board with 20580
the superintendent of public instruction. If such salary schedule 20581
and classification plan is not filed, the superintendent of public 20582
instruction shall order the board to file such schedule and list 20583
forthwith. If this condition is not corrected within ten days 20584
after receipt of the order from the superintendent, no money shall 20585
be distributed to the district under Chapter 3317. of the Revised 20586
Code until the superintendent has satisfactory evidence of the 20587
board's full compliance with such order. 20588

Sec. 5126.25. (A) The director of ~~mental retardation and~~ 20589
developmental disabilities shall adopt rules in accordance with 20590
Chapter 119. of the Revised Code establishing uniform standards 20591
and procedures for the certification of persons for employment by 20592
county boards of mental retardation and developmental disabilities 20593
as superintendents, management employees, and professional 20594
employees and uniform standards and procedures for the 20595
registration of persons for employment by county boards as 20596
registered service employees. As part of the rules, the director 20597
may establish continuing education and professional training 20598
requirements for renewal of certificates and evidence of 20599
registration and shall establish such requirements for renewal of 20600
an investigative agent certificate. In the rules, the director 20601
shall establish certification standards for employment in the 20602
position of investigative agent that require an individual to have 20603
or obtain no less than an associate degree from an accredited 20604
college or university or have or obtain comparable experience or 20605
training. The director shall not adopt rules that require any 20606
service employee to have or obtain a bachelor's or higher degree. 20607

The director shall adopt the rules in a manner that provides 20608
for the issuance of certificates and evidence of registration 20609
according to categories, levels, and grades. The rules shall 20610
describe each category, level, and grade. 20611

The rules adopted under this division shall apply to persons 20612
employed or seeking employment in a position that includes 20613
directly providing, or supervising persons who directly provide, 20614
services or instruction to or on behalf of individuals with mental 20615
retardation or developmental disabilities, except that the rules 20616
shall not apply to persons who hold a valid license issued under 20617
Chapter 3319. of the Revised Code and perform no duties other than 20618
teaching or supervision of a teaching program or persons who hold 20619
a valid license or certificate issued under Title XLVII of the 20620
Revised Code and perform only those duties governed by the license 20621
or certificate. The rules shall specify the positions that require 20622
certification or registration. The rules shall specify that the 20623
position of investigative agent requires certification. 20624

(B) The director shall adopt rules in accordance with Chapter 20625
119. of the Revised Code establishing standards for approval of 20626
courses of study to prepare persons to meet certification 20627
requirements. The director shall approve courses of study meeting 20628
the standards and provide for the inspection of the courses to 20629
ensure the maintenance of satisfactory training procedures. The 20630
director shall approve courses of study only if given by a state 20631
university or college as defined in section 3345.32 of the Revised 20632
Code, a state university or college of another state, or an 20633
institution that has received a certificate of authorization to 20634
confer degrees from the board of regents pursuant to Chapter 1713. 20635
of the Revised Code or from a comparable agency of another state. 20636

(C) Each applicant for a certificate for employment or 20637
evidence of registration for employment by a county board shall 20638
apply to the department of ~~mental retardation and~~ developmental 20639
disabilities on forms that the director of the department shall 20640
prescribe and provide. The application shall be accompanied by the 20641
application fee established in rules adopted under this section. 20642

(D) The director shall issue a certificate for employment to 20643

each applicant who meets the standards for certification 20644
established under this section and shall issue evidence of 20645
registration for employment to each applicant who meets the 20646
standards for registration established under this section. Each 20647
certificate or evidence of registration shall state the category, 20648
level, and grade for which it is issued. 20649

The director shall issue, renew, deny, suspend, or revoke 20650
certificates and evidence of registration in accordance with rules 20651
adopted under this section. The director shall deny, suspend, or 20652
revoke a certificate or evidence of registration if the director 20653
finds, pursuant to an adjudication conducted in accordance with 20654
Chapter 119. of the Revised Code, that the applicant for or holder 20655
of the certificate or evidence of registration is guilty of 20656
intemperate, immoral, or other conduct unbecoming to the 20657
applicant's or holder's position, or is guilty of incompetence or 20658
negligence within the scope of the applicant's or holder's duties. 20659
The director shall deny or revoke a certificate or evidence of 20660
registration if the director finds, pursuant to an adjudication 20661
conducted in accordance with Chapter 119. of the Revised Code, 20662
that the applicant for or holder of the certificate or evidence of 20663
registration has been convicted of or pleaded guilty to any of the 20664
offenses described in division (E) of section 5126.28 of the 20665
Revised Code, unless the individual meets standards for 20666
rehabilitation that the director establishes in the rules adopted 20667
under that section. Evidence supporting such allegations shall be 20668
presented to the director in writing and the director shall 20669
provide prompt notice of the allegations to the person who is the 20670
subject of the allegations. A denial, suspension, or revocation 20671
may be appealed in accordance with procedures the director shall 20672
establish in the rules adopted under this section. 20673

(E)(1) A person holding a valid certificate under this 20674
section on the effective date of any rules adopted under this 20675

section that increase certification standards shall have such 20676
period as the rules prescribe, but not less than one year after 20677
the effective date of the rules, to meet the new certification 20678
standards. 20679

A person who is registered under this section on the 20680
effective date of any rule that changes the standards adopted 20681
under this section shall have such period as the rules prescribe, 20682
but not less than one year, to meet the new registration 20683
standards. 20684

(2) If an applicant for a certificate for employment has not 20685
completed the courses of instruction necessary to meet the 20686
department's standards for certification, the department shall 20687
inform the applicant of the courses the applicant must 20688
successfully complete to meet the standards and shall specify the 20689
time within which the applicant must complete the courses. The 20690
department shall grant the applicant at least one year to complete 20691
the courses and shall not require the applicant to complete more 20692
than four courses in any one year. The applicant is not subject to 20693
any changes regarding the courses required for certification that 20694
are made after the department informs the applicant of the courses 20695
the applicant must complete, unless the applicant does not 20696
successfully complete the courses within the time specified by the 20697
department. 20698

(F) A person who holds a certificate or evidence of 20699
registration, other than one designated as temporary, is qualified 20700
to be employed according to that certificate or evidence of 20701
registration by any county board. 20702

(G) The director shall monitor county boards to ensure that 20703
their employees who must be certified or registered are 20704
appropriately certified or registered and performing those 20705
functions they are authorized to perform under their certificate 20706
or evidence of registration. 20707

(H) A county board superintendent or the superintendent's 20708
designee may certify to the director that county board employees 20709
who are required to meet continuing education or professional 20710
training requirements as a condition of renewal of certificates or 20711
evidence of registration have met the requirements. The 20712
superintendent or the superintendent's designee shall maintain in 20713
appropriate personnel files evidence acceptable to the director 20714
that the employees have met the requirements and permit 20715
representatives of the department access to the evidence on 20716
request. 20717

(I) All fees collected pursuant to this section shall be 20718
deposited in the state treasury to the credit of the program fee 20719
fund created under section 5123.033 of the Revised Code. 20720

(J) Employees of entities that contract with county boards of 20721
mental retardation and developmental disabilities to operate 20722
programs and services for individuals with mental retardation and 20723
developmental disabilities are subject to the certification and 20724
registration requirements established under section 5123.082 of 20725
the Revised Code. 20726

Sec. 5126.251. On receipt of a notice pursuant to section 20727
3123.43 of the Revised Code, the director of ~~mental retardation~~ 20728
~~and~~ developmental disabilities shall comply with sections 3123.41 20729
to 3123.50 of the Revised Code and any applicable rules adopted 20730
under section 3123.63 of the Revised Code with respect to a 20731
certificate or evidence of registration issued pursuant to this 20732
chapter. 20733

Sec. 5126.252. Notwithstanding sections 5123.082, 5126.25, 20734
and 5126.26 of the Revised Code, the department of ~~mental~~ 20735
~~retardation and~~ developmental disabilities may authorize county 20736
boards of mental retardation and developmental disabilities to 20737

establish and administer in their counties programs for the certification and registration of persons for employment by the boards. A certificate or evidence of registration issued by a board participating in programs under this section shall have the same force and effect as a certificate or evidence of registration issued by the department under section 5123.082 or 5126.25 of the Revised Code.

Sec. 5126.27. (A) A county board of mental retardation and developmental disabilities shall allow a professional employee hired by the board prior to July 17, 1990, who does not meet the standards for certification established under section 5126.25 of the Revised Code for the position he holds on July 17, 1990, to elect to do one of the following:

(1) Accept a position with the board, if such a position is available, for which ~~he~~ the employee meets the certification standards;

(2) Remain in the position ~~he~~ the employee holds on July 17, 1990, and comply with the provisions of a professional development plan prescribed by the director of ~~mental retardation and~~ developmental disabilities under division (B) of this section.

If the employee accepts a position under division (A)(1) of this section, ~~his~~ the employee's compensation shall be not less than the compensation ~~he~~ the employee received in the position ~~he~~ the employee held on July 17, 1990.

(B) If an employee elects the option described in division (A)(2) of this section, the board shall notify the department. The director shall issue a temporary certificate to the employee for the position ~~he~~ the employee holds and develop a professional development plan for ~~him~~ the employee. The temporary certificate shall be valid only during the period required for completion of the professional development plan and only while the employee is

employed by the board by which ~~he~~ the employee was employed on 20769
July 17, 1990. The plan shall specify the coursework the employee 20770
must successfully complete and any other requirements for 20771
certification and the schedule for completion of the plan, except: 20772

(1) The plan shall not require that the employee complete 20773
more than six semester hours, or the equivalent, of coursework in 20774
any twelve-month period; 20775

(2) All coursework must be completed at an accredited college 20776
or university recognized by the department; 20777

(3) The plan shall not require the employee to complete more 20778
than sixty semester hours, or the equivalent, of coursework, or to 20779
obtain a bachelor's or higher degree if a greater number of hours 20780
of coursework would be required to do so. 20781

Notwithstanding any standards for certification established 20782
by the director under section 5126.25 of the Revised Code, if the 20783
employee successfully completes the professional development plan 20784
within the time specified, the director shall grant ~~him~~ the 20785
employee the appropriate certificate for the position ~~he~~ the 20786
employer holds. 20787

Sec. 5126.28. (A) As used in this section: 20788

(1) "Applicant" means a person who is under final 20789
consideration for appointment to or employment in a position with 20790
a county board of mental retardation and developmental 20791
disabilities, including, but not limited to, a person who is being 20792
transferred to the county board and an employee who is being 20793
recalled or reemployed after a layoff. 20794

(2) "Criminal records check" has the same meaning as in 20795
section 109.572 of the Revised Code. 20796

(3) "Minor drug possession offense" has the same meaning as 20797
in section 2925.01 of the Revised Code. 20798

(B) The superintendent of a county board of mental 20799
retardation and developmental disabilities shall request the 20800
superintendent of the bureau of criminal identification and 20801
investigation to conduct a criminal records check with respect to 20802
any applicant who has applied to the board for employment in any 20803
position, except that a county board superintendent is not 20804
required to request a criminal records check for an employee of 20805
the board who is being considered for a different position or is 20806
returning after a leave of absence or seasonal break in 20807
employment, as long as the superintendent has no reason to believe 20808
that the employee has committed any of the offenses listed or 20809
described in division (E) of this section. 20810

If the applicant does not present proof that the applicant 20811
has been a resident of this state for the five-year period 20812
immediately prior to the date upon which the criminal records 20813
check is requested, the county board superintendent shall request 20814
that the superintendent of the bureau obtain information from the 20815
federal bureau of investigation as a part of the criminal records 20816
check for the applicant. If the applicant presents proof that the 20817
applicant has been a resident of this state for that five-year 20818
period, the county board superintendent may request that the 20819
superintendent of the bureau include information from the federal 20820
bureau of investigation in the criminal records check. For 20821
purposes of this division, an applicant may provide proof of 20822
residency in this state by presenting, with a notarized statement 20823
asserting that the applicant has been a resident of this state for 20824
that five-year period, a valid driver's license, notification of 20825
registration as an elector, a copy of an officially filed federal 20826
or state tax form identifying the applicant's permanent residence, 20827
or any other document the superintendent considers acceptable. 20828

(C) The county board superintendent shall provide to each 20829
applicant a copy of the form prescribed pursuant to division 20830

(C)(1) of section 109.572 of the Revised Code, provide to each 20831
applicant a standard impression sheet to obtain fingerprint 20832
impressions prescribed pursuant to division (C)(2) of section 20833
109.572 of the Revised Code, obtain the completed form and 20834
impression sheet from each applicant, and forward the completed 20835
form and impression sheet to the superintendent of the bureau of 20836
criminal identification and investigation at the time the criminal 20837
records check is requested. 20838

Any applicant who receives pursuant to this division a copy 20839
of the form prescribed pursuant to division (C)(1) of section 20840
109.572 of the Revised Code and a copy of an impression sheet 20841
prescribed pursuant to division (C)(2) of that section and who is 20842
requested to complete the form and provide a set of fingerprint 20843
impressions shall complete the form or provide all the information 20844
necessary to complete the form and shall provide the impression 20845
sheet with the impressions of the applicant's fingerprints. If an 20846
applicant, upon request, fails to provide the information 20847
necessary to complete the form or fails to provide impressions of 20848
the applicant's fingerprints, the county board superintendent 20849
shall not employ that applicant. 20850

(D) A county board superintendent may request any other state 20851
or federal agency to supply the board with a written report 20852
regarding the criminal record of each applicant. With regard to an 20853
applicant who becomes a board employee, if the employee holds an 20854
occupational or professional license or other credentials, the 20855
superintendent may request that the state or federal agency that 20856
regulates the employee's occupation or profession supply the board 20857
with a written report of any information pertaining to the 20858
employee's criminal record that the agency obtains in the course 20859
of conducting an investigation or in the process of renewing the 20860
employee's license or other credentials. 20861

(E) Except as provided in division (K)(2) of this section and 20862

in rules adopted by the department of ~~mental retardation and~~ 20863
developmental disabilities in accordance with division (M) of this 20864
section, no county board of mental retardation and developmental 20865
disabilities shall employ a person to fill a position with the 20866
board who has been convicted of or pleaded guilty to any of the 20867
following: 20868

(1) A violation of section 2903.01, 2903.02, 2903.03, 20869
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 20870
2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 20871
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 20872
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 20873
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 20874
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 20875
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of 20876
section 2905.04 of the Revised Code as it existed prior to July 1, 20877
1996, a violation of section 2919.23 of the Revised Code that 20878
would have been a violation of section 2905.04 of the Revised Code 20879
as it existed prior to July 1, 1996, had the violation occurred 20880
prior to that date, a violation of section 2925.11 of the Revised 20881
Code that is not a minor drug possession offense, or felonious 20882
sexual penetration in violation of former section 2907.12 of the 20883
Revised Code; 20884

(2) A felony contained in the Revised Code that is not listed 20885
in this division, if the felony bears a direct and substantial 20886
relationship to the duties and responsibilities of the position 20887
being filled; 20888

(3) Any offense contained in the Revised Code constituting a 20889
misdemeanor of the first degree on the first offense and a felony 20890
on a subsequent offense, if the offense bears a direct and 20891
substantial relationship to the position being filled and the 20892
nature of the services being provided by the county board; 20893

(4) A violation of an existing or former municipal ordinance 20894

or law of this state, any other state, or the United States, if 20895
the offense is substantially equivalent to any of the offenses 20896
listed or described in division (E)(1), (2), or (3) of this 20897
section. 20898

(F) Prior to employing an applicant, the county board 20899
superintendent shall require the applicant to submit a statement 20900
with the applicant's signature attesting that the applicant has 20901
not been convicted of or pleaded guilty to any of the offenses 20902
listed or described in division (E) of this section. The 20903
superintendent also shall require the applicant to sign an 20904
agreement under which the applicant agrees to notify the 20905
superintendent within fourteen calendar days if, while employed by 20906
the board, the applicant is ever formally charged with, convicted 20907
of, or pleads guilty to any of the offenses listed or described in 20908
division (E) of this section. The agreement shall inform the 20909
applicant that failure to report formal charges, a conviction, or 20910
a guilty plea may result in being dismissed from employment. 20911

(G) A county board of mental retardation and developmental 20912
disabilities shall pay to the bureau of criminal identification 20913
and investigation the fee prescribed pursuant to division (C)(3) 20914
of section 109.572 of the Revised Code for each criminal records 20915
check requested and conducted pursuant to this section. 20916

(H)(1) Any report obtained pursuant to this section is not a 20917
public record for purposes of section 149.43 of the Revised Code 20918
and shall not be made available to any person, other than the 20919
applicant who is the subject of the records check or criminal 20920
records check or the applicant's representative, the board 20921
requesting the records check or criminal records check or its 20922
representative, the department of ~~mental retardation and~~ 20923
developmental disabilities, and any court, hearing officer, or 20924
other necessary individual involved in a case dealing with the 20925
denial of employment to the applicant or the denial, suspension, 20926

or revocation of a certificate or evidence of registration under 20927
section 5126.25 of the Revised Code. 20928

(2) An individual for whom a county board superintendent has 20929
obtained reports under this section may submit a written request 20930
to the county board to have copies of the reports sent to any 20931
state agency, entity of local government, or private entity. The 20932
individual shall specify in the request the agencies or entities 20933
to which the copies are to be sent. On receiving the request, the 20934
county board shall send copies of the reports to the agencies or 20935
entities specified. 20936

A county board may request that a state agency, entity of 20937
local government, or private entity send copies to the board of 20938
any report regarding a records check or criminal records check 20939
that the agency or entity possesses, if the county board obtains 20940
the written consent of the individual who is the subject of the 20941
report. 20942

(I) Each county board superintendent shall request the 20943
registrar of motor vehicles to supply the superintendent with a 20944
certified abstract regarding the record of convictions for 20945
violations of motor vehicle laws of each applicant who will be 20946
required by the applicant's employment to transport individuals 20947
with mental retardation or developmental disabilities or to 20948
operate the board's vehicles for any other purpose. For each 20949
abstract provided under this section, the board shall pay the 20950
amount specified in section 4509.05 of the Revised Code. 20951

(J) The county board superintendent shall provide each 20952
applicant with a copy of any report or abstract obtained about the 20953
applicant under this section. At the request of the director of 20954
~~mental retardation and~~ developmental disabilities, the 20955
superintendent also shall provide the director with a copy of a 20956
report or abstract obtained under this section. 20957

(K)(1) The county board superintendent shall inform each 20958
person, at the time of the person's initial application for 20959
employment, that the person is required to provide a set of 20960
impressions of the person's fingerprints and that a criminal 20961
records check is required to be conducted and satisfactorily 20962
completed in accordance with section 109.572 of the Revised Code 20963
if the person comes under final consideration for appointment or 20964
employment as a precondition to employment in a position. 20965

(2) A board may employ an applicant pending receipt of 20966
reports requested under this section. The board shall terminate 20967
employment of any such applicant if it is determined from the 20968
reports that the applicant failed to inform the county board that 20969
the applicant had been convicted of or pleaded guilty to any of 20970
the offenses listed or described in division (E) of this section. 20971

(L) The board may charge an applicant a fee for costs it 20972
incurs in obtaining reports, abstracts, or fingerprint impressions 20973
under this section. A fee charged under this division shall not 20974
exceed the amount of the fees the board pays under divisions (G) 20975
and (I) of this section. If a fee is charged under this division, 20976
the board shall notify the applicant of the amount of the fee at 20977
the time of the applicant's initial application for employment and 20978
that, unless the fee is paid, the board will not consider the 20979
applicant for employment. 20980

(M) The department of ~~mental retardation and~~ developmental 20981
disabilities shall adopt rules pursuant to Chapter 119. of the 20982
Revised Code to implement this section and section 5126.281 of the 20983
Revised Code, including rules specifying circumstances under which 20984
a county board or contracting entity may hire a person who has 20985
been convicted of or pleaded guilty to an offense listed or 20986
described in division (E) of this section but who meets standards 20987
in regard to rehabilitation set by the department. The rules may 20988
not authorize a county board or contracting entity to hire an 20989

individual who is included in the registry established under 20990
section 5123.52 of the Revised Code. 20991

Sec. 5126.281. (A) As used in this section: 20992

(1) "Contracting entity" means an entity under contract with 20993
a county board of mental retardation and developmental 20994
disabilities for the provision of specialized services to 20995
individuals with mental retardation or a developmental disability. 20996

(2) "Direct services position" means an employment position 20997
in which the employee has physical contact with, the opportunity 20998
to be alone with, or exercises supervision or control over one or 20999
more individuals with mental retardation or a developmental 21000
disability. 21001

(3) "Specialized services" means any program or service 21002
designed and operated to serve primarily individuals with mental 21003
retardation or a developmental disability, including a program or 21004
service provided by an entity licensed or certified by the 21005
department of ~~mental retardation and~~ developmental disabilities. 21006
If there is a question as to whether a contracting entity is 21007
providing specialized services, the contracting entity may request 21008
that the director of ~~mental retardation and~~ developmental 21009
disabilities make a determination. The director's determination is 21010
final. 21011

(B)(1) Except as provided in division (B)(2) of this section, 21012
each contracting entity shall conduct background investigations in 21013
the same manner county boards conduct investigations under section 21014
5126.28 of the Revised Code of all persons under final 21015
consideration for employment with the contracting entity in a 21016
direct services position. On request, the county board shall 21017
assist a contracting entity in obtaining reports from the bureau 21018
of criminal identification and investigation or any other state or 21019
federal agency and in obtaining abstracts from the registrar of 21020

motor vehicles. 21021

(2) A contracting entity is not required to request a 21022
criminal records check for either of the following: 21023

(a) An employee of the entity who is in a direct services 21024
position and being considered for a different direct services 21025
position or is returning after a leave of absence or seasonal 21026
break in employment, as long as the contracting entity has no 21027
reason to believe that the employee has committed any of the 21028
offenses listed or described in division (E) of section 5126.28 of 21029
the Revised Code; 21030

(b) A person who will provide only respite care under a 21031
family support services program established under section 5126.11 21032
of the Revised Code, if the person is selected by a family member 21033
of the individual with mental retardation or a developmental 21034
disability who is to receive the respite care. 21035

(C) No contracting entity shall place a person in a direct 21036
services position if the person has been convicted of or pleaded 21037
guilty to any offense listed or described in division (E) of 21038
section 5126.28 of the Revised Code, unless the person meets the 21039
standards for rehabilitation established by rules adopted under 21040
section 5126.28 of the Revised Code. 21041

(D) A contracting entity may place a person in a direct 21042
services position pending receipt of information concerning the 21043
person's background investigation from the bureau of criminal 21044
identification and investigation, the registrar of motor vehicles, 21045
or any other state or federal agency if the person submits to the 21046
contracting entity a statement with the person's signature that 21047
the person has not been convicted of or pleaded guilty to any of 21048
the offenses listed or described in division (E) of section 21049
5126.28 of the Revised Code. No contracting entity shall fail to 21050
terminate the placement of such person if the contracting entity 21051

is informed that the person has been convicted of or pleaded 21052
guilty to any of the offenses listed or described in division (E) 21053
of section 5126.28 of the Revised Code. 21054

(E) Prior to employing a person in a direct services 21055
position, the contracting entity shall require the person to 21056
submit a statement with the applicant's signature attesting that 21057
the applicant has not been convicted of or pleaded guilty to any 21058
of the offenses listed or described in division (E) of section 21059
5126.28 of the Revised Code. The contracting entity also shall 21060
require the person to sign an agreement to notify the contracting 21061
entity within fourteen calendar days if, while employed by the 21062
entity, the person is ever formally charged with, convicted of, or 21063
pleads guilty to any of the offenses listed or described in 21064
division (E) of section 5126.28 of the Revised Code. The agreement 21065
shall inform the person that failure to report formal charges, a 21066
conviction, or a guilty plea may result in being dismissed from 21067
employment. 21068

(F) A county board may take appropriate action against a 21069
contracting entity that violates this section, including 21070
terminating the contracting entity's contract with the board. 21071

Sec. 5126.29. (A) No professional or management employee in a 21072
position that requires a license issued by the state board of 21073
education under sections 3319.22 to 3319.31 of the Revised Code or 21074
a certificate issued by the director of ~~mental retardation and~~ 21075
developmental disabilities under section 5126.25 of the Revised 21076
Code shall terminate the employee's employment contract with a 21077
county board of mental retardation and developmental disabilities 21078
without obtaining the written consent of the board prior to the 21079
termination or giving the board written notice of the termination 21080
at least thirty days before its effective date. 21081

(B) Upon complaint by a county board of mental retardation 21082

and developmental disabilities that a person holding a license 21083
issued under sections 3319.22 to 3319.31 of the Revised Code has 21084
violated division (A) of this section, the state board of 21085
education shall investigate the complaint. If the state board 21086
determines that the person did violate division (A) of this 21087
section, it may suspend the person's license for a period of time 21088
not exceeding one year as determined by the state board. 21089

(C) Upon complaint by a county board of mental retardation 21090
and developmental disabilities that a person holding a certificate 21091
issued under section 5126.25 of the Revised Code has violated 21092
division (A) of this section, the director of ~~mental retardation~~ 21093
~~and~~ developmental disabilities shall investigate the complaint. If 21094
the director determines that the person did violate division (A) 21095
of this section, the director may suspend the person's certificate 21096
for a period of time not exceeding one year as determined by the 21097
director. 21098

Sec. 5126.31. (A) A county board of mental retardation and 21099
developmental disabilities shall review reports of abuse and 21100
neglect made under section 5123.61 of the Revised Code and reports 21101
referred to it under section 5101.611 of the Revised Code to 21102
determine whether the person who is the subject of the report is 21103
an adult with mental retardation or a developmental disability in 21104
need of services to deal with the abuse or neglect. The board 21105
shall give notice of each report to the registry office of the 21106
department of ~~mental retardation and~~ developmental disabilities 21107
established pursuant to section 5123.61 of the Revised Code on the 21108
first working day after receipt of the report. If the report 21109
alleges that there is a substantial risk to the adult of immediate 21110
physical harm or death, the board shall initiate review within 21111
twenty-four hours of its receipt of the report. If the board 21112
determines that the person is sixty years of age or older but does 21113
not have mental retardation or a developmental disability, it 21114

shall refer the case to the county department of job and family 21115
services. If the board determines that the person is an adult with 21116
mental retardation or a developmental disability, it shall 21117
continue its review of the case. 21118

(B) For each review over which the board retains 21119
responsibility under division (A) of this section, it shall do all 21120
of the following: 21121

(1) Give both written and oral notice of the purpose of the 21122
review to the adult and, if any, to the adult's legal counsel or 21123
caretaker, in simple and clear language; 21124

(2) Visit the adult, in the adult's residence if possible, 21125
and explain the notice given under division (B)(1) of this 21126
section; 21127

(3) Request from the registry office any prior reports 21128
concerning the adult or other principals in the case; 21129

(4) Consult, if feasible, with the person who made the report 21130
under section 5101.61 or 5123.61 of the Revised Code and with any 21131
agencies or persons who have information about the alleged abuse 21132
or neglect; 21133

(5) Cooperate fully with the law enforcement agency 21134
responsible for investigating the report and for filing any 21135
resulting criminal charges and, on request, turn over evidence to 21136
the agency; 21137

(6) Determine whether the adult needs services, and prepare a 21138
written report stating reasons for the determination. No adult 21139
shall be determined to be abused, neglected, or in need of 21140
services for the sole reason that, in lieu of medical treatment, 21141
the adult relies on or is being furnished spiritual treatment 21142
through prayer alone in accordance with the tenets and practices 21143
of a church or religious denomination of which the adult is a 21144
member or adherent. 21145

(C) The board shall arrange for the provision of services for 21146
the prevention, correction or discontinuance of abuse or neglect 21147
or of a condition resulting from abuse or neglect for any adult 21148
who has been determined to need the services and consents to 21149
receive them. These services may include, but are not limited to, 21150
service and support administration, fiscal management, medical, 21151
mental health, home health care, homemaker, legal, and residential 21152
services and the provision of temporary accommodations and 21153
necessities such as food and clothing. The services do not include 21154
acting as a guardian, trustee, or protector as defined in section 21155
5123.55 of the Revised Code. If the provision of residential 21156
services would require expenditures by the department of ~~mental~~ 21157
~~retardation and~~ developmental disabilities, the board shall obtain 21158
the approval of the department prior to arranging the residential 21159
services. 21160

To arrange services, the board shall: 21161

(1) Develop an individualized service plan identifying the 21162
types of services required for the adult, the goals for the 21163
services, and the persons or agencies that will provide them; 21164

(2) In accordance with rules established by the director of 21165
~~mental retardation and~~ developmental disabilities, obtain the 21166
consent of the adult or the adult's guardian to the provision of 21167
any of these services and obtain the signature of the adult or 21168
guardian on the individual service plan. An adult who has been 21169
found incompetent under Chapter 2111. of the Revised Code may 21170
consent to services. If the board is unable to obtain consent, it 21171
may seek, if the adult is incapacitated, a court order pursuant to 21172
section 5126.33 of the Revised Code authorizing the board to 21173
arrange these services. 21174

(D) The board shall ensure that the adult receives the 21175
services arranged by the board from the provider and shall have 21176
the services terminated if the adult withdraws consent. 21177

(E) On completion of a review, the board shall submit a written report to the registry office established under section 5123.61 of the Revised Code. If the report includes a finding that a person with mental retardation or a developmental disability is a victim of action or inaction that may constitute a crime under federal law or the law of this state, the board shall submit the report to the law enforcement agency responsible for investigating the report. Reports prepared under this section are not public records as defined in section 149.43 of the Revised Code.

Sec. 5126.311. (A) Notwithstanding the requirement of section 5126.31 of the Revised Code that a county board of mental retardation and developmental disabilities review reports of abuse and neglect, one of the following government entities, at the request of the county board or the department of ~~mental retardation and developmental disabilities~~, shall review the report instead of the county board if circumstances specified in rules adopted under division (B) of this section exist:

(1) Another county board of mental retardation and developmental disabilities;

(2) The department;

(3) A regional council of government established pursuant to Chapter 167. of the Revised Code;

(4) Any other government entity authorized to investigate reports of abuse and neglect.

(B) The director of ~~mental retardation and developmental disabilities~~ shall adopt rules in accordance with Chapter 119. of the Revised Code specifying circumstances under which it is inappropriate for a county board to review reports of abuse and neglect.

Sec. 5126.313. (A) After reviewing a report of abuse or

neglect under section 5126.31 of the Revised Code or a report of a 21208
major unusual incident made in accordance with rules adopted under 21209
section 5123.612 of the Revised Code, a county board of mental 21210
retardation and developmental disabilities shall conduct an 21211
investigation if circumstances specified in rules adopted under 21212
division (B) of this section exist. If the circumstances specified 21213
in the rules exist, the county board shall conduct the 21214
investigation in the manner specified by the rules. 21215

(B) The director of ~~mental retardation and~~ developmental 21216
disabilities shall adopt rules in accordance with Chapter 119. of 21217
the Revised Code specifying circumstances under which a county 21218
board shall conduct investigations under division (A) of this 21219
section and the manner in which the county board shall conduct the 21220
investigation. 21221

Sec. 5126.333. Any person who has reason to believe that 21222
there is a substantial risk to an adult with mental retardation or 21223
a developmental disability of immediate physical harm or death and 21224
that the responsible county board of mental retardation and 21225
developmental disabilities has failed to seek an order pursuant to 21226
section 5126.33 or 5126.331 of the Revised Code may notify the 21227
department of ~~mental retardation and~~ developmental disabilities. 21228
Within twenty-four hours of receipt of such notice, the department 21229
shall cause an investigation to be conducted regarding the notice. 21230
The department shall provide assistance to the county board to 21231
provide for the health and safety of the adult as permitted by 21232
law. 21233

Sec. 5126.34. Each county board of mental retardation and 21234
developmental disabilities shall provide comprehensive, formal 21235
training for county board employees and other persons authorized 21236
to implement sections 5126.30 to 5126.34 of the Revised Code. 21237

The department of ~~mental retardation and~~ developmental 21238
disabilities shall adopt rules establishing minimum standards for 21239
the training provided by county boards pursuant to this section. 21240
The training provided by the county boards shall meet the minimum 21241
standards prescribed by the rules. 21242

Sec. 5126.40. (A) Sections 5126.40 to 5126.47 of the Revised 21243
Code do not apply to medicaid-funded supported living. 21244

(B) As used in sections 5126.40 to 5126.47 of the Revised 21245
Code, "provider" means a person or government entity certified by 21246
the director of ~~mental retardation and~~ developmental disabilities 21247
to provide supported living for individuals with mental 21248
retardation and developmental disabilities. 21249

(C) On and after July 1, 1995, each county board shall plan 21250
and develop supported living for individuals with mental 21251
retardation and developmental disabilities who are residents of 21252
the county in accordance with sections 5126.41 to 5126.47 of the 21253
Revised Code. 21254

Sec. 5126.42. (A) A county board of mental retardation and 21255
developmental disabilities shall establish an advisory council 21256
composed of board members or employees of the board, providers, 21257
individuals receiving supported living, and advocates for 21258
individuals receiving supported living to provide on-going 21259
communication among all persons concerned with supported living. 21260

(B) The board shall develop procedures for the resolution of 21261
grievances between the board and providers or between the board 21262
and an entity with which it has a shared funding agreement. 21263

(C) The board shall develop and implement a provider 21264
selection system. Each system shall enable an individual to choose 21265
to continue receiving supported living from the same providers, to 21266
select additional providers, or to choose alternative providers. 21267

Annually, the board shall review its provider selection system to 21268
determine whether it has been implemented in a manner that allows 21269
individuals fair and equitable access to providers. 21270

In developing a provider selection system, the county board 21271
shall create a pool of providers for individuals to use in 21272
choosing their providers of supported living. The pool shall be 21273
created by placing in the pool all providers on record with the 21274
board or by placing in the pool all providers approved by the 21275
board through soliciting requests for proposals for supported 21276
living contracts. In either case, only providers that are 21277
certified by the director of ~~mental retardation and~~ developmental 21278
disabilities may be placed in the pool. 21279

If the board places all providers on record in the pool, the 21280
board shall review the pool at least annually to determine whether 21281
each provider has continued interest in being a provider and has 21282
maintained its certification by the department. At any time, an 21283
interested and certified provider may make a request to the board 21284
that it be added to the pool, and the board shall add the provider 21285
to the pool not later than seven days after receiving the request. 21286

If the board solicits requests for proposals for inclusion of 21287
providers in the pool, the board shall develop standards for 21288
selecting the providers to be included. Requests for proposals 21289
shall be solicited at least annually. When requests are solicited, 21290
the board shall cause legal notices to be published at least once 21291
each week for two consecutive weeks in a newspaper with general 21292
circulation within the county. The board's formal request for 21293
proposals shall include a description of any applicable contract 21294
terms, the standards that are used to select providers for 21295
inclusion in the pool, and the process the board uses to resolve 21296
disputes arising from the selection process. The board shall 21297
accept requests from any entity interested in being a provider of 21298
supported living for individuals served by the board. Requests 21299

shall be approved or denied according to the standards developed 21300
by the board. Providers that previously have been placed in the 21301
pool are not required to resubmit a request for proposal to be 21302
included in the pool, unless the board's standards have been 21303
changed. 21304

In assisting an individual in choosing a provider, the county 21305
board shall provide the individual with uniform and consistent 21306
information pertaining to each provider in the pool. An individual 21307
may choose to receive supported living from a provider that is not 21308
included in the pool, if the provider is certified by the director 21309
of ~~mental retardation and~~ developmental disabilities. 21310

Sec. 5126.43. (A) After receiving notice from the department 21311
of ~~mental retardation and~~ developmental disabilities of the amount 21312
of state funds to be distributed to it for planning, developing, 21313
contracting for, and providing supported living, the county board 21314
of mental retardation and developmental disabilities shall arrange 21315
for supported living on behalf of and with the consent of 21316
individuals based on their individual service plans developed 21317
under section 5126.41 of the Revised Code. With the state 21318
distribution and any other money designated by the board for 21319
supported living, the board shall arrange for supported living in 21320
one or more of the following ways: 21321

(1) By contracting under section 5126.45 of the Revised Code 21322
with providers selected by the individual to be served; 21323

(2) By entering into shared funding agreements with state 21324
agencies, local public agencies, or political subdivisions at 21325
rates negotiated by the board; 21326

(3) By providing direct payment or vouchers to be used to 21327
purchase supported living, pursuant to a written contract in an 21328
amount determined by the board, to the individual or a person 21329
providing the individual with protective services as defined in 21330

section 5123.55 of the Revised Code. 21331

(B) The board may arrange for supported living only with 21332
providers that are certified by the director of ~~mental retardation~~ 21333
~~and~~ developmental disabilities. 21334

When no certified provider is willing and able to provide 21335
supported living for an individual in accordance with the terms of 21336
the individual service plan for that individual, a county board 21337
may provide supported living directly if it is certified by the 21338
director of ~~mental retardation and~~ developmental disabilities to 21339
provide supported living. 21340

A county board may, for a period not to exceed ninety days, 21341
contract for or provide supported living without meeting the 21342
requirements of this section for an individual it determines to be 21343
in emergency need of supported living. Thereafter, the individual 21344
shall choose providers in accordance with sections 5126.41 and 21345
5126.42 of the Revised Code. 21346

Sec. 5139.08. The department of youth services may enter into 21347
an agreement with the director of rehabilitation and correction 21348
pursuant to which the department of youth services, in accordance 21349
with division (C)(2) of section 5139.06 and section 5120.162 of 21350
the Revised Code, may transfer to a correctional medical center 21351
established by the department of rehabilitation and correction, 21352
children who are within its custody for diagnosis or treatment of 21353
an illness, physical condition, or other medical problem. The 21354
department of youth services may enter into any other agreements 21355
with the director of job and family services, the director of 21356
mental health, the director of ~~mental retardation and~~ 21357
developmental disabilities, the director of rehabilitation and 21358
correction, with the courts having probation officers or other 21359
public officials, and with private agencies or institutions for 21360
separate care or special treatment of children subject to the 21361

control of the department of youth services. The department of 21362
youth services may, upon the request of a juvenile court not 21363
having a regular probation officer, provide probation services for 21364
such court. 21365

Upon request by the department of youth services, any public 21366
agency or group care facility established or administered by the 21367
state for the care and treatment of children and youth shall, 21368
consistent with its functions, accept and care for any child whose 21369
custody is vested in the department in the same manner as it would 21370
be required to do if custody had been vested by a court in such 21371
agency or group care facility. If the department has reasonable 21372
grounds to believe that any child or youth whose custody is vested 21373
in it is mentally ill or mentally retarded, the department may 21374
file an affidavit under section 5122.11 or 5123.76 of the Revised 21375
Code. The department's affidavit for admission of a child or youth 21376
to such institution shall be filed with the probate court of the 21377
county from which the child was committed to the department. Such 21378
court may request the probate court of the county in which the 21379
child is held to conduct the hearing on the application, in which 21380
case the court making such request shall bear the expenses of the 21381
proceeding. If the department files such an affidavit, the child 21382
or youth may be kept in such institution until a final decision on 21383
the affidavit is made by the appropriate court. 21384

Sec. 5139.34. (A) Funds may be appropriated to the department 21385
of youth services for the purpose of granting state subsidies to 21386
counties. A county or the juvenile court that serves a county 21387
shall use state subsidies granted to the county pursuant to this 21388
section only in accordance with divisions (B)(2)(a) and (3)(a) of 21389
section 5139.43 of the Revised Code and the rules pertaining to 21390
the state subsidy funds that the department adopts pursuant to 21391
division (D) of section 5139.04 of the Revised Code. The 21392
department shall not grant financial assistance pursuant to this 21393

section for the provision of care and services for children in a placement facility unless the facility has been certified, licensed, or approved by a state or national agency with certification, licensure, or approval authority, including, but not limited to, the department of job and family services, department of education, department of mental health, department of ~~mental retardation and~~ developmental disabilities, or American ~~Correctional Association~~ correctional association. For the purposes of this section, placement facilities do not include a state institution or a county or district children's home.

The department also shall not grant financial assistance pursuant to this section for the provision of care and services for children, including, but not limited to, care and services in a detention facility, in another facility, or in out-of-home placement, unless the minimum standards applicable to the care and services that the department prescribes in rules adopted pursuant to division (D) of section 5139.04 of the Revised Code have been satisfied.

(B) The department of youth services shall apply the following formula to determine the amount of the annual grant that each county is to receive pursuant to division (A) of this section, subject to the appropriation for this purpose to the department made by the general assembly:

(1) Each county shall receive a basic annual grant of fifty thousand dollars.

(2) The sum of the basic annual grants provided under division (B)(1) of this section shall be subtracted from the total amount of funds appropriated to the department of youth services for the purpose of making grants pursuant to division (A) of this section to determine the remaining portion of the funds appropriated. The remaining portion of the funds appropriated shall be distributed on a per capita basis to each county that has

a population of more than twenty-five thousand for that portion of 21426
the population of the county that exceeds twenty-five thousand. 21427

(C)(1) Prior to a county's receipt of an annual grant 21428
pursuant to this section, the juvenile court that serves the 21429
county shall prepare, submit, and file in accordance with division 21430
(B)(3)(a) of section 5139.43 of the Revised Code an annual grant 21431
agreement and application for funding that is for the combined 21432
purposes of, and that satisfies the requirements of, this section 21433
and section 5139.43 of the Revised Code. In addition to the 21434
subject matters described in division (B)(3)(a) of section 5139.43 21435
of the Revised Code or in the rules that the department adopts to 21436
implement that division, the annual grant agreement and 21437
application for funding shall address fiscal accountability and 21438
performance matters pertaining to the programs, care, and services 21439
that are specified in the agreement and application and for which 21440
state subsidy funds granted pursuant to this section will be used. 21441

(2) The county treasurer of each county that receives an 21442
annual grant pursuant to this section shall deposit the state 21443
subsidy funds so received into the county's felony delinquent care 21444
and custody fund created pursuant to division (B)(1) of section 21445
5139.43 of the Revised Code. Subject to exceptions prescribed in 21446
section 5139.43 of the Revised Code that may apply to the 21447
disbursement, the department shall disburse the state subsidy 21448
funds to which a county is entitled in a lump sum payment that 21449
shall be made in July of each calendar year. 21450

(3) Upon an order of the juvenile court that serves a county 21451
and subject to appropriation by the board of county commissioners 21452
of that county, a county treasurer shall disburse from the 21453
county's felony delinquent care and custody fund the state subsidy 21454
funds granted to the county pursuant to this section for use only 21455
in accordance with this section, the applicable provisions of 21456
section 5139.43 of the Revised Code, and the county's approved 21457

annual grant agreement and application for funding. 21458

(4) The moneys in a county's felony delinquent care and 21459
custody fund that represent state subsidy funds granted pursuant 21460
to this section are subject to appropriation by the board of 21461
county commissioners of the county; shall be disbursed by the 21462
county treasurer as required by division (C)(3) of this section; 21463
shall be used in the manners referred to in division (C)(3) of 21464
this section; shall not revert to the county general fund at the 21465
end of any fiscal year; shall carry over in the felony delinquent 21466
care and custody fund from the end of any fiscal year to the next 21467
fiscal year; shall be in addition to, and shall not be used to 21468
reduce, any usual annual increase in county funding that the 21469
juvenile court is eligible to receive or the current level of 21470
county funding of the juvenile court and of any programs, care, or 21471
services for alleged or adjudicated delinquent children, unruly 21472
children, or juvenile traffic offenders or for children who are at 21473
risk of becoming delinquent children, unruly children, or juvenile 21474
traffic offenders; and shall not be used to pay for the care and 21475
custody of felony delinquents who are in the care and custody of an 21476
institution pursuant to a commitment, recommitment, or revocation 21477
of a release on parole by the juvenile court of that county or who 21478
are in the care and custody of a community corrections facility 21479
pursuant to a placement by the department with the consent of the 21480
juvenile court as described in division (E) of section 5139.36 of 21481
the Revised Code. 21482

(5) As a condition of the continued receipt of state subsidy 21483
funds pursuant to this section, each county and the juvenile court 21484
that serves each county that receives an annual grant pursuant to 21485
this section shall comply with divisions (B)(3)(b), (c), and (d) 21486
of section 5139.43 of the Revised Code. 21487

Sec. 5145.18. Any printing or binding performed in a state 21488

correctional institution may be performed for the use of the 21489
institution, the departments of mental health, ~~mental retardation~~ 21490
~~and~~ developmental disabilities, and rehabilitation and correction, 21491
the department of public safety in connection with the 21492
registration of motor vehicles, and for any other purpose 21493
authorized by division (B) of section 5145.03 and by sections 21494
5145.16 and 5145.161 of the Revised Code. 21495

Sec. 5153.16. (A) Except as provided in section 2151.422 of 21496
the Revised Code, in accordance with rules adopted under section 21497
5153.166 of the Revised Code, and on behalf of children in the 21498
county whom the public children services agency considers to be in 21499
need of public care or protective services, the public children 21500
services agency shall do all of the following: 21501

(1) Make an investigation concerning any child alleged to be 21502
an abused, neglected, or dependent child; 21503

(2) Enter into agreements with the parent, guardian, or other 21504
person having legal custody of any child, or with the department 21505
of job and family services, department of mental health, 21506
department of ~~mental retardation~~ and developmental disabilities, 21507
other department, any certified organization within or outside the 21508
county, or any agency or institution outside the state, having 21509
legal custody of any child, with respect to the custody, care, or 21510
placement of any child, or with respect to any matter, in the 21511
interests of the child, provided the permanent custody of a child 21512
shall not be transferred by a parent to the public children 21513
services agency without the consent of the juvenile court; 21514

(3) Accept custody of children committed to the public 21515
children services agency by a court exercising juvenile 21516
jurisdiction; 21517

(4) Provide such care as the public children services agency 21518
considers to be in the best interests of any child adjudicated to 21519

be an abused, neglected, or dependent child the agency finds to be 21520
in need of public care or service; 21521

(5) Provide social services to any unmarried girl adjudicated 21522
to be an abused, neglected, or dependent child who is pregnant 21523
with or has been delivered of a child; 21524

(6) Make available to the bureau for children with medical 21525
handicaps of the department of health at its request any 21526
information concerning a crippled child found to be in need of 21527
treatment under sections 3701.021 to 3701.028 of the Revised Code 21528
who is receiving services from the public children services 21529
agency; 21530

(7) Provide temporary emergency care for any child considered 21531
by the public children services agency to be in need of such care, 21532
without agreement or commitment; 21533

(8) Find certified foster homes, within or outside the 21534
county, for the care of children, including handicapped children 21535
from other counties attending special schools in the county; 21536

(9) Subject to the approval of the board of county 21537
commissioners and the state department of job and family services, 21538
establish and operate a training school or enter into an agreement 21539
with any municipal corporation or other political subdivision of 21540
the county respecting the operation, acquisition, or maintenance 21541
of any children's home, training school, or other institution for 21542
the care of children maintained by such municipal corporation or 21543
political subdivision; 21544

(10) Acquire and operate a county children's home, establish, 21545
maintain, and operate a receiving home for the temporary care of 21546
children, or procure certified foster homes for this purpose; 21547

(11) Enter into an agreement with the trustees of any 21548
district children's home, respecting the operation of the district 21549
children's home in cooperation with the other county boards in the 21550

district; 21551

(12) Cooperate with, make its services available to, and act 21552
as the agent of persons, courts, the department of job and family 21553
services, the department of health, and other organizations within 21554
and outside the state, in matters relating to the welfare of 21555
children, except that the public children services agency shall 21556
not be required to provide supervision of or other services 21557
related to the exercise of parenting time rights granted pursuant 21558
to section 3109.051 or 3109.12 of the Revised Code or 21559
companionship or visitation rights granted pursuant to section 21560
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 21561
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 21562
a common pleas court, pursuant to division (E)(6) of section 21563
3113.31 of the Revised Code, requires the provision of supervision 21564
or other services related to the exercise of the parenting time 21565
rights or companionship or visitation rights; 21566

(13) Make investigations at the request of any superintendent 21567
of schools in the county or the principal of any school concerning 21568
the application of any child adjudicated to be an abused, 21569
neglected, or dependent child for release from school, where such 21570
service is not provided through a school attendance department; 21571

(14) Administer funds provided under Title IV-E of the 21572
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 21573
amended, in accordance with rules adopted under section 5101.141 21574
of the Revised Code; 21575

(15) In addition to administering Title IV-E adoption 21576
assistance funds, enter into agreements to make adoption 21577
assistance payments under section 5153.163 of the Revised Code; 21578

(16) Implement a system of safety and risk assessment, in 21579
accordance with rules adopted by the director of job and family 21580
services, to assist the public children services agency in 21581

determining the risk of abuse or neglect to a child; 21582

(17) Enter into a plan of cooperation with the board of 21583
county commissioners under section 307.983 of the Revised Code and 21584
comply with each fiscal agreement the board enters into under 21585
section 307.98 of the Revised Code that include family services 21586
duties of public children services agencies and contracts the 21587
board enters into under sections 307.981 and 307.982 of the 21588
Revised Code that affect the public children services agency; 21589

(18) Make reasonable efforts to prevent the removal of an 21590
alleged or adjudicated abused, neglected, or dependent child from 21591
the child's home, eliminate the continued removal of the child 21592
from the child's home, or make it possible for the child to return 21593
home safely, except that reasonable efforts of that nature are not 21594
required when a court has made a determination under division 21595
(A)(2) of section 2151.419 of the Revised Code; 21596

(19) Make reasonable efforts to place the child in a timely 21597
manner in accordance with the permanency plan approved under 21598
division (E) of section 2151.417 of the Revised Code and to 21599
complete whatever steps are necessary to finalize the permanent 21600
placement of the child; 21601

(20) Administer a Title IV-A program identified under 21602
division (A)(4)(c) or (f) of section 5101.80 of the Revised Code 21603
that the department of job and family services provides for the 21604
public children services agency to administer under the 21605
department's supervision pursuant to section 5101.801 of the 21606
Revised Code; 21607

(21) Administer the kinship permanency incentive program 21608
created under section 5101.802 of the Revised Code under the 21609
supervision of the director of job and family services; 21610

(22) Provide independent living services pursuant to sections 21611
2151.81 to 2151.84 of the Revised Code. 21612

(B) The public children services agency shall use the system
implemented pursuant to division (A)(16) of this section in
connection with an investigation undertaken pursuant to division
(F)(1) of section 2151.421 of the Revised Code to assess both of
the following:

(1) The ongoing safety of the child;

(2) The appropriateness of the intensity and duration of the
services provided to meet child and family needs throughout the
duration of a case.

(C) Except as provided in section 2151.422 of the Revised
Code, in accordance with rules of the director of job and family
services, and on behalf of children in the county whom the public
children services agency considers to be in need of public care or
protective services, the public children services agency may do
the following:

(1) Provide or find, with other child serving systems,
specialized foster care for the care of children in a specialized
foster home, as defined in section 5103.02 of the Revised Code,
certified under section 5103.03 of the Revised Code;

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of
this section, contract with the following for the purpose of
assisting the agency with its duties:

(i) County departments of job and family services;

(ii) Boards of alcohol, drug addiction, and mental health
services;

(iii) County boards of mental retardation and developmental
disabilities;

(iv) Regional councils of political subdivisions established
under Chapter 167. of the Revised Code;

(v) Private and government providers of services;

(vi) Managed care organizations and prepaid health plans. 21643

(b) A public children services agency contract under division 21644
(C)(2)(a) of this section regarding the agency's duties under 21645
section 2151.421 of the Revised Code may not provide for the 21646
entity under contract with the agency to perform any service not 21647
authorized by the department's rules. 21648

(c) Only a county children services board appointed under 21649
section 5153.03 of the Revised Code that is a public children 21650
services agency may contract under division (C)(2)(a) of this 21651
section. If an entity specified in division (B) or (C) of section 21652
5153.02 of the Revised Code is the public children services agency 21653
for a county, the board of county commissioners may enter into 21654
contracts pursuant to section 307.982 of the Revised Code 21655
regarding the agency's duties. 21656

Sec. 5511.03. The director of transportation shall examine 21657
the existing highway facilities serving the several hospitals, 21658
educational institutions, and correctional and other similar 21659
institutions belonging to the state, and located outside municipal 21660
corporations. Where ~~he~~ the director finds that any such state 21661
institution is not located on a state highway or connected with a 21662
highway by a suitable road, affording in its present condition 21663
adequate transportation facilities to those having occasion to 21664
visit such institution, ~~he~~ the director may establish a state 21665
highway leading to such institution from a convenient point on an 21666
existing highway. Where ~~he~~ the director finds that any such 21667
institution is not served by adequate highway facilities 21668
connecting it with the railroad delivery point from which it 21669
principally obtains fuel, provisions, and supplies, ~~he~~ the 21670
director may establish a highway connecting such institution and 21671
railroad delivery point. Limitations imposed on the mileage of 21672
state highways shall not apply to highways established under this 21673

section. 21674

The director may construct at state expense all highways 21675
established under authority of this section and pay the entire 21676
cost thereof from the state highway operating fund. Such highways 21677
shall be maintained by the department of transportation and the 21678
cost shall be paid from the highway operating fund of the 21679
department. 21680

The directors of transportation, mental health, ~~mental~~ 21681
~~retardation and~~ developmental disabilities, and rehabilitation and 21682
correction may cooperate in the establishment, construction, 21683
reconstruction, maintenance, and repair of roads within the limits 21684
of state institutions. The cost shall be paid from funds 21685
appropriated for highway purposes and from the funds appropriated 21686
to the department of mental health, department of ~~mental~~ 21687
~~retardation and~~ developmental disabilities, or the department of 21688
rehabilitation and correction for capital improvements or 21689
maintenance in such proportion as may be agreed upon by the 21690
directors of transportation, mental health, ~~mental retardation and~~ 21691
developmental disabilities, and rehabilitation and correction. 21692

Sec. 5815.28. (A) As used in this section: 21693

(1) "Ascertainable standard" includes a standard in a trust 21694
instrument requiring the trustee to provide for the care, comfort, 21695
maintenance, welfare, education, or general well-being of the 21696
beneficiary. 21697

(2) "Disability" means any substantial, medically 21698
determinable impairment that can be expected to result in death or 21699
that has lasted or can be expected to last for a continuous period 21700
of at least twelve months, except that "disability" does not 21701
include an impairment that is the result of abuse of alcohol or 21702
drugs. 21703

(3) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code. 21704
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(4) "Supplemental services" means services specified by rule of the department of mental health under section 5119.01 of the Revised Code or the department of ~~mental retardation and~~ developmental disabilities under section 5123.04 of the Revised Code that are provided to an individual with a disability in addition to services the individual is eligible to receive under programs authorized by federal or state law. 21706
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(B) Any person may create a trust under this section to provide funding for supplemental services for the benefit of another individual who meets either of the following conditions: 21713
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(1) The individual has a physical or mental disability and is eligible to receive services through the department of ~~mental retardation and~~ developmental disabilities or a county board of mental retardation and developmental disabilities; 21716
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(2) The individual has a mental disability and is eligible to receive services through the department of mental health or a board of alcohol, drug addiction, and mental health services. 21720
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The trust may confer discretion upon the trustee and may contain specific instructions or conditions governing the exercise of the discretion. 21723
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(C) The general division of the court of common pleas and the probate court of the county in which the beneficiary of a trust authorized by division (B) of this section resides or is confined have concurrent original jurisdiction to hear and determine actions pertaining to the trust. In any action pertaining to the trust in a court of common pleas or probate court and in any appeal of the action, all of the following apply to the trial or appellate court: 21726
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(1) The court shall render determinations consistent with the 21734

testator's or other settlor's intent in creating the trust, as 21735
evidenced by the terms of the trust instrument. 21736

(2) The court may order the trustee to exercise discretion 21737
that the trust instrument confers upon the trustee only if the 21738
instrument contains specific instructions or conditions governing 21739
the exercise of that discretion and the trustee has failed to 21740
comply with the instructions or conditions. In issuing an order 21741
pursuant to this division, the court shall require the trustee to 21742
exercise the trustee's discretion only in accordance with the 21743
instructions or conditions. 21744

(3) The court may order the trustee to maintain the trust and 21745
distribute assets in accordance with rules adopted by the director 21746
of mental health under section 5119.01 of the Revised Code or the 21747
director of ~~mental retardation and~~ developmental disabilities 21748
under section 5123.04 of the Revised Code if the trustee has 21749
failed to comply with such rules. 21750

(D) To the extent permitted by federal law and subject to the 21751
provisions of division (C)(2) of this section pertaining to the 21752
enforcement of specific instructions or conditions governing a 21753
trustee's discretion, a trust authorized by division (B) of this 21754
section that confers discretion upon the trustee shall not be 21755
considered an asset or resource of the beneficiary, the 21756
beneficiary's estate, the settlor, or the settlor's estate and 21757
shall be exempt from the claims of creditors, political 21758
subdivisions, the state, other governmental entities, and other 21759
claimants against the beneficiary, the beneficiary's estate, the 21760
settlor, or the settlor's estate, including claims based on 21761
provisions of Chapters 5111., 5121., or 5123. of the Revised Code 21762
and claims sought to be satisfied by way of a civil action, 21763
subrogation, execution, garnishment, attachment, judicial sale, or 21764
other legal process, if all of the following apply: 21765

(1) At the time the trust is created, the trust principal 21766

does not exceed the maximum amount determined under division (E) 21767
of this section; 21768

(2) The trust instrument contains a statement of the 21769
settlor's intent, or otherwise clearly evidences the settlor's 21770
intent, that the beneficiary does not have authority to compel the 21771
trustee under any circumstances to furnish the beneficiary with 21772
minimal or other maintenance or support, to make payments from the 21773
principal of the trust or from the income derived from the 21774
principal, or to convert any portion of the principal into cash, 21775
whether pursuant to an ascertainable standard specified in the 21776
instrument or otherwise; 21777

(3) The trust instrument provides that trust assets can be 21778
used only to provide supplemental services, as defined by rule of 21779
the director of mental health under section 5119.01 of the Revised 21780
Code or the director of ~~mental retardation and~~ developmental 21781
disabilities under section 5123.04 of the Revised Code, to the 21782
beneficiary; 21783

(4) The trust is maintained and assets are distributed in 21784
accordance with rules adopted by the director of mental health 21785
under section 5119.01 of the Revised Code or the director of 21786
~~mental retardation and~~ developmental disabilities under section 21787
5123.04 of the Revised Code; 21788

(5) The trust instrument provides that on the death of the 21789
beneficiary, a portion of the remaining assets of the trust, which 21790
shall be not less than fifty per cent of such assets, will be 21791
deposited to the credit of the services fund for individuals with 21792
mental illness created by section 5119.17 of the Revised Code or 21793
the services fund for individuals with mental retardation and 21794
developmental disabilities created by section 5123.40 of the 21795
Revised Code. 21796

(E) In 1994, the trust principal maximum amount for a trust 21797

created under this section shall be two hundred thousand dollars. 21798
The maximum amount for a trust created under this section prior to 21799
November 11, 1994, may be increased to two hundred thousand 21800
dollars. 21801

In 1995, the maximum amount for a trust created under this 21802
section shall be two hundred two thousand dollars. Each year 21803
thereafter, the maximum amount shall be the prior year's amount 21804
plus two thousand dollars. 21805

(F) This section does not limit or otherwise affect the 21806
creation, validity, interpretation, or effect of any trust that is 21807
not created under this section. 21808

(G) Once a trustee takes action on a trust created by a 21809
settlor under this section and disburses trust funds on behalf of 21810
the beneficiary of the trust, then the trust may not be terminated 21811
or otherwise revoked by a particular event or otherwise without 21812
payment into the services fund created pursuant to section 5119.17 21813
or 5123.40 of the Revised Code of an amount that is equal to the 21814
disbursements made on behalf of the beneficiary for medical care 21815
by the state from the date the trust vests but that is not more 21816
than fifty per cent of the trust corpus. 21817

Sec. 5815.35. (A)(1) As used in this division, "fiduciary" 21818
means any person, association, or corporation, other than a 21819
trustee of a testamentary trust, an assignee or trustee for an 21820
insolvent debtor, or a guardian under Chapter 5905. of the Revised 21821
Code, that is appointed by and accountable to the probate court, 21822
and that is acting in a fiduciary capacity for another or charged 21823
with duties in relation to any property, interest, or estate for 21824
another's benefit. A fiduciary also includes an agency under 21825
contract with the department of ~~mental retardation and~~ 21826
developmental disabilities for the provision of protective service 21827
under sections 5123.55 to 5123.59 of the Revised Code, when 21828

appointed by and accountable to the probate court as a guardian or trustee for a mentally retarded or developmentally disabled person. 21829
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(2) A fiduciary who enters a contract as fiduciary on or after March 22, 1984, is not personally liable on that contract, unless the contract otherwise specifies, if the contract is within the fiduciary's authority and the fiduciary discloses that the contract is being entered into in a fiduciary capacity. In a contract, the words "fiduciary" or "as fiduciary" or other words that indicate one's fiduciary capacity following the name or signature of a fiduciary are sufficient disclosure for purposes of this division. 21832
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(B)(1) As used in this division, "partnership" includes a partnership composed of only general partners and a partnership composed of general and limited partners. 21841
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(2) Subject to division (D) of this section, an executor or administrator who acquires, in a fiduciary capacity, a general partnership interest upon the death of a general partner of a partnership is not personally liable for any debt, obligation, or liability of the partnership that arises from the executor's or administrator's actions, except as provided in this division, as a general partner, or for any debt, obligation, or liability of the partnership for which the executor or administrator otherwise would be personally liable because the executor or administrator holds the general partnership interest, if the executor or administrator discloses that the general partnership interest is held by the executor or administrator in a fiduciary capacity. This immunity does not apply if an executor or administrator causes loss or injury to a person who is not a partner in the partnership by a wrongful act or omission. This immunity is not available to an executor or administrator who holds a general partnership interest in a fiduciary capacity if the spouse or any 21844
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lineal descendants of the executor or administrator, or the 21861
executor or administrator other than in a fiduciary capacity, 21862
holds any interest in the partnership. 21863

A partnership certificate that is filed pursuant to Chapter 21864
1777. or another chapter of the Revised Code and that indicates 21865
that an executor or administrator holds a general partnership 21866
interest in a fiduciary capacity by the use following the name or 21867
signature of the executor or administrator of the words "executor 21868
under the will of (name of decedent)" or "administrator of the 21869
estate of (name of decedent)" or other words that indicate the 21870
executor's or administrator's fiduciary capacity constitutes a 21871
sufficient disclosure for purposes of this division. 21872

If a partnership certificate is not required to be filed 21873
pursuant to Chapter 1776. or 1777. or another chapter of the 21874
Revised Code, a sufficient disclosure for purposes of this 21875
division can be made by an executor or administrator if a 21876
certificate that satisfies the following requirements is filed 21877
with the recorder of the county in which the partnership's 21878
principal office or place of business is situated and with the 21879
recorder of each county in which the partnership owns real estate: 21880

(a) The certificate shall state in full the names of all 21882
persons holding interests in the partnership and their places of 21883
residence; 21884

(b) The certificate shall be signed by all persons who are 21885
general partners in the partnership, and shall be acknowledged by 21886
a person authorized to take acknowledgements of deeds; 21887

(c) The certificate shall use the words "executor under the 21888
will of (name of decedent)" or "administrator of the estate of 21889
(name of decedent)" or other words that indicate the executor's or 21890
administrator's fiduciary capacity, following the name or 21891

signature of the executor or administrator. 21892

A contract or other written instrument delivered to a party 21893
that contracts with the partnership in which an executor or 21894
administrator holds a general partnership interest in a fiduciary 21895
capacity, that indicates that the executor or administrator so 21896
holds the interest, constitutes a disclosure for purposes of this 21897
division with respect to transactions between the party and the 21898
partnership. If a disclosure has been made by a certificate in 21899
accordance with this division, a disclosure for purposes of this 21900
division with respect to such transactions exists regardless of 21901
whether a contract or other instrument indicates the executor or 21902
administrator holds the general partnership interest in a 21903
fiduciary capacity. 21904

If an executor or administrator acquires, in a fiduciary 21905
capacity, a general partnership interest, the decedent's estate is 21906
liable for debts, obligations, or liabilities of the partnership. 21907

(C) An estate that includes a general partnership interest is 21908
not liable for the debts, obligations, or liabilities of a 21909
partnership in which another estate has a general partnership 21910
interest, merely because the executor or administrator of the 21911
estates holds a general partnership interest in both of the 21912
partnerships in the executor's or administrator's fiduciary 21913
capacities. 21914

(D) Divisions (B) and (C) of this section apply to general 21915
partnership interests held by executors or administrators in their 21916
fiduciary capacities prior to and on or after March 22, 1984. If 21917
an appropriate disclosure is made pursuant to division (B) of this 21918
section, the immunity acquired under that division extends only to 21919
debts, obligations, and liabilities of the partnership arising on 21920
and after the date of the disclosure and to debts, obligations, 21921
and liabilities of the partnership that arose prior to the 21922
acquisition of the general partnership interest by the executor or 21923

administrator becoming a general partner. 21924

(E) The liability limitations in this section apply to 21925
fiduciaries as partners notwithstanding the broader personal 21926
liabilities otherwise imposed by any partnership law. 21927

(F) If an estate or other fund held by a fiduciary is 21928
identified as a partner, the reference is deemed to be to, and the 21929
partner is, the current executor, administrator, or other 21930
fiduciary of the estate or other fund and their successors as 21931
executors, administrators, or other fiduciaries. 21932

Section 2. That existing sections 9.239, 9.55, 101.37, 21933
101.39, 109.57, 109.572, 109.71, 109.77, 109.86, 121.02, 121.03, 21934
121.32, 121.36, 121.37, 123.01, 124.11, 124.27, 124.381, 125.602, 21935
125.603, 126.32, 127.16, 140.01, 140.03, 140.05, 145.012, 154.17, 21936
154.20, 173.03, 2108.521, 2109.01, 2109.04, 2111.01, 2111.02, 21937
2111.10, 2133.25, 2151.011, 2151.421, 2903.33, 2919.271, 2921.36, 21938
2921.38, 2930.061, 2935.03, 2945.37, 2945.371, 2945.38, 2945.39, 21939
2945.40, 2945.401, 2967.22, 3301.15, 3304.231, 3313.65, 3313.715, 21940
3323.01, 3323.021, 3323.03, 3323.04, 3323.07, 3323.09, 3323.091, 21941
3323.141, 3323.31, 3501.01, 3701.78, 3705.36, 3721.01, 3721.14, 21942
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5103.02, 5103.13, 5104.08, 5107.24, 5111.042, 5111.151, 5111.202, 21944
5111.203, 5111.211, 5111.251, 5111.291, 5111.65, 5111.677, 21945
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5111.875, 5111.876, 5111.8710, 5111.915, 5112.30, 5112.32, 21947
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5121.07, 5121.08, 5121.09, 5121.10, 5121.11, 5121.12, 5123.01, 21950
5123.012, 5123.02, 5123.021, 5123.03, 5123.031, 5123.032, 21951
5123.033, 5123.04, 5123.042, 5123.043, 5123.044, 5123.046, 21952
5123.047, 5123.048, 5123.049, 5123.0410, 5123.0411, 5123.0412, 21953
5123.0413, 5123.0414, 5123.0415, 5123.0416, 5123.0417, 5123.05, 21954

5123.051, 5123.06, 5123.07, 5123.08, 5123.081, 5123.082, 5123.083, 21955
5123.09, 5123.091, 5123.092, 5123.093, 5123.10, 5123.11, 5123.12, 21956
5123.122, 5123.13, 5123.14, 5123.15, 5123.16, 5123.161, 5123.162, 21957
5123.163, 5123.164, 5123.166, 5123.167, 5123.168, 5123.169, 21958
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5123.22, 5123.221, 5123.23, 5123.24, 5123.25, 5123.26, 5123.27, 21961
5123.28, 5123.29, 5123.30, 5123.31, 5123.33, 5123.34, 5123.35, 21962
5123.351, 5123.352, 5123.36, 5123.37, 5123.371, 5123.372, 21963
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5123.56, 5123.57, 5123.58, 5123.59, 5123.60, 5123.601, 5123.604, 21967
5123.61, 5123.611, 5123.612, 5123.613, 5123.614, 5123.63, 5123.64, 21968
5123.65, 5123.71, 5123.711, 5123.72, 5123.73, 5123.75, 5123.76, 21969
5123.801, 5123.81, 5123.811, 5123.82, 5123.85, 5123.86, 5123.89, 21970
5123.90, 5123.96, 5126.01, 5126.026, 5126.0210, 5126.0217, 21971
5126.0221, 5126.0223, 5126.0226, 5126.033, 5126.04, 5126.041, 21972
5126.042, 5126.044, 5126.045, 5126.046, 5126.05, 5126.051, 21973
5126.054, 5126.055, 5126.056, 5126.0510, 5126.0511, 5126.071, 21974
5126.08, 5126.081, 5126.082, 5126.10, 5126.11, 5126.12, 5126.121, 21975
5126.13, 5126.15, 5126.18, 5126.19, 5126.22, 5126.24, 5126.25, 21976
5126.251, 5126.252, 5126.27, 5126.28, 5126.281, 5126.29, 5126.31, 21977
5126.311, 5126.313, 5126.333, 5126.34, 5126.40, 5126.42, 5126.43, 21978
5139.08, 5139.34, 5145.18, 5153.16, 5511.03, 5815.28, and 5815.35 21979
and section 5123.011 of the Revised Code as it results from Am. 21980
Sub. S.B. 156 of the 119th General Assembly are hereby repealed. 21981

Section 3. That Sections 213.30, 293.30, 309.31.60, 21982
309.31.70, 335.40.10, 337.10, 337.20.10, 337.30.10, 337.30.20, 21983
337.30.30, 337.30.40, 337.30.60, 337.30.70, 337.30.80, 337.40.10, 21984
and 337.40.30 of Am. Sub. H.B. 119 of the 127th General Assembly 21985

be amended to read as follows:	21986
Sec. 213.30. UNIFIED LONG-TERM CARE BUDGET WORKGROUP	21987
(A) There is hereby created the Unified Long-Term Care Budget Workgroup. The Workgroup shall consist of the following members:	21988 21989
(1) The Director of Aging;	21990
(2) Consumer advocates, representatives of the provider community, and state policy makers, appointed by the Governor;	21991 21992
(3) Two members of the House of Representatives, one member from the majority party and one member from the minority party, appointed by the Speaker of the House of Representatives;	21993 21994 21995
(4) Two members of the Senate, one member from the majority party and one member from the minority party, appointed by the President of the Senate.	21996 21997 21998
The Director of Aging shall serve as the chairperson of the Workgroup.	21999 22000
(B) The Workgroup shall develop a unified long-term care budget that facilitates the following:	22001 22002
(1) Providing a consumer a choice of services that meet the consumer's health care needs and improve the consumer's quality of life;	22003 22004 22005
(2) Providing a continuum of services that meet the needs of a consumer throughout life;	22006 22007
(3) Consolidating policymaking authority and the associated budgets in a single entity to simplify the consumer's decision making and maximize the state's flexibility in meeting the consumer's needs;	22008 22009 22010 22011
(4) Assuring the state has a system that is cost effective and links disparate services across agencies and jurisdictions.	22012 22013

(C) The Workgroup shall submit a written implementation plan to the Governor, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, and the members of the Joint Legislative Committee on Medicaid Technology and Reform not later than June 1, 2008. The plan shall incorporate the following:

(1) Recommendations regarding the structure of the unified long-term care budget;

(2) A plan outlining how funds can be transferred among involved agencies in a fiscally neutral manner;

(3) Identification of the resources needed to implement the unified budget in a multiphase approach starting in fiscal year 2009;

(4) Success criteria and tools to measure progress against the success criteria.

The plan shall consider the recommendations of the Medicaid Administrative Study Council and the Ohio Commission to Reform Medicaid.

(D) In support of the Unified Long-Term Care Budget the following shall be established in the General Revenue Fund:

(1) In the Department of Aging, 490-423, Long-Term Care Budget - State;

(2) In the Department of Job and Family Services, 600-435, Long-Term Care Budget - State;

(3) In the Department of ~~Mental Retardation and~~ Developmental Disabilities, 322-406, Long-Term Care Budget - State;

(4) In the Department of Mental Health, 335-411, Long-Term Care Budget - State.

(E) On an annual basis, the Directors of Aging and Budget and

Management shall submit a written report to the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, and the members of the Joint Legislative Committee on Medicaid Technology and Reform describing the progress towards establishing, or if already established, the effectiveness of the unified long-term care budget.

(F) When the Governor creates the administration described in section 309.30.03 of this act for the Medicaid program, the Director of Budget and Management may do all of the following in support of the Workgroup's proposal:

(1) Transfer funds and appropriations currently appropriated to pay for Medicaid services to any appropriation item referenced in division (D) of this section;

(2) Transfer funds between appropriation items referenced in division (D) of this section;

(3) Develop a reporting mechanism to transparently show how the funds are being transferred and expended.

The Director shall obtain Controlling Board approval before transferring funds or appropriations under division (F) of this section.

(G) Before a proposal for a unified long-term care budget may be implemented, the Joint Legislative Committee on Medicaid Technology and Reform shall approve implementation of the proposal and submit the Committee's approval to the Governor.

Sec. 293.30. ABSTINENCE AND ADOPTION EDUCATION

The foregoing appropriation item 440-425, Abstinence and Adoption Education, shall be used for abstinence and adoption education. The Director of Health shall develop guidelines for the establishment of abstinence and adoption education programs for

teenagers with the purpose of decreasing unplanned pregnancies and 22074
abortion. 22075

HEALTHY OHIO 22076

Of the foregoing appropriation item 440-437, Healthy Ohio, 22077
\$100,000 in each fiscal year shall be allocated to the Center for 22078
Closing Health Gaps to help with disparities in minority health. 22079

Of the foregoing appropriation item 440-437, Healthy Ohio, 22080
\$500,000 in each fiscal year shall be used to support 22081
evidence-based programs for diabetes management and prevention, 22082
utilizing proven behavior change strategies leading to improved 22083
levels of routine physical activity and healthy eating habits. The 22084
program shall provide screening for diabetes, and for those 22085
determined to be at highest risk for diabetes, education on 22086
diabetes, diabetes management, physical activity and eating 22087
habits, and opportunities for monitored physical activity for 22088
adults and families. Grants shall be provided to, but not limited 22089
to, the Ohio YMCA State Alliance in collaboration with other 22090
community organizations. Each program shall include post program 22091
measurements, including, but not limited to, blood sugar testing, 22092
participant satisfaction surveys, and participant retention. 22093

BREAST AND CERVICAL CANCER SCREENING 22094

The foregoing appropriation item 440-438, Breast and Cervical 22095
Cancer Screening, may be used for breast and cervical cancer 22096
screenings and services as permitted under the National Breast and 22097
Cervical Cancer Early Detection Project. 22098

HIV/AIDS PREVENTION/TREATMENT 22099

Of the foregoing appropriation item 440-444, AIDS Prevention 22100
and Treatment, not more than \$6.7 million in each fiscal year 22101
shall be used to assist persons with HIV/AIDS in acquiring 22102
HIV-related medications. 22103

INFECTIOUS DISEASE PREVENTION	22104
The foregoing appropriation item 440-446, Infectious Disease Prevention, shall be used for the purchase of drugs for sexually transmitted diseases.	22105 22106 22107
HELP ME GROW	22108
Of the foregoing appropriation item 440-459, Help Me Grow, \$10,423,397 in fiscal year 2008 and \$13,741,847 in fiscal year 2009 shall be used by the Department of Health to distribute subsidies to counties to implement the Help Me Grow Program.	22109 22110 22111 22112
Appropriation item 440-459, Help Me Grow, may be used in conjunction with Temporary Assistance for Needy Families from the Department of Job and Family Services, Early Intervention funding from the Department of Mental Retardation and Developmental Disabilities, and in conjunction with other early childhood funds and services to promote the optimal development of young children.	22113 22114 22115 22116 22117 22118
Local contracts shall be developed between local departments of job and family services and family and children first councils for the administration of TANF funding for the Help Me Grow Program.	22119 22120 22121
The Department of Health shall enter into an interagency agreement with the Department of Education, Department of Mental Retardation and Developmental Disabilities, Department of Job and Family Services, and Department of Mental Health to ensure that all early childhood programs and initiatives are coordinated and school linked.	22122 22123 22124 22125 22126 22127
Of the foregoing appropriation item 440-459, Help Me Grow, \$500,000 in fiscal year 2008 and \$300,000 in fiscal year 2009 shall be used for the establishment of the Autism Diagnosis Education Pilot Program. Not later than December 31, 2008, the Director of Health shall compile and submit to the Governor and the General Assembly a written report describing the action taken under the Autism Diagnosis Education Pilot Program since the effective date of this section. Not later than December 31, 2009,	22128 22129 22130 22131 22132 22133 22134 22135

the Director shall compile and submit to the Governor and the 22136
General Assembly a written report describing the action taken 22137
under the Pilot Program since December 31, 2008. 22138

TARGETED HEALTH CARE SERVICES OVER 21 22139

In each fiscal year, of the foregoing appropriation item 22140
440-507, Targeted Health Care Services Over 21, \$731,023 shall be 22141
used to administer the cystic fibrosis program and implement the 22142
Hemophilia Insurance Premium Payment Program. These funds also may 22143
be used, to the extent that funding is available, to provide up to 22144
18 in-patient hospital days for participants in the cystic 22145
fibrosis program. The Department shall expend all of these 22146
earmarked funds. 22147

Of the foregoing appropriation item 440-507, Targeted Health 22148
Care Services Over 21, \$900,000 in each fiscal year shall be used 22149
to provide essential medications and to pay the copayments for 22150
drugs approved by the Department of Health and covered by Medicare 22151
Part D that are dispensed to Bureau for Children with Medical 22152
Handicaps (BCMh) participants for the cystic fibrosis program. 22153
These funds also may be used, to the extent that funding is 22154
available, to provide up to 18 in-patient hospital days for 22155
participants in the cystic fibrosis program. The Department shall 22156
expend all of these earmarked funds. 22157

UNCOMPENSATED CARE AND EMERGENCY MEDICAL 22158

The foregoing appropriation item 440-511, Uncompensated Care 22159
and Emergency Medical Assistance, shall be used to fund programs 22160
that provide health care without ability to pay. This is not an 22161
entitlement program and services are offered only to the extent 22162
that funding is available. 22163

MATERNAL CHILD HEALTH BLOCK GRANT 22164

Of the foregoing appropriation item 440-601, Maternal Child 22165
Health Block Grant (Fund 320), \$2,091,299 shall be used in each 22166

fiscal year for the purposes of abstinence and adoption education. 22167
The Director of Health shall develop guidelines for the 22168
establishment of abstinence and adoption education programs for 22169
teenagers with the purpose of decreasing unplanned pregnancies and 22170
abortion. 22171

GENETICS SERVICES 22172

The foregoing appropriation item 440-608, Genetics Services 22173
(Fund 4D6), shall be used by the Department of Health to 22174
administer programs authorized by sections 3701.501 and 3701.502 22175
of the Revised Code. None of these funds shall be used to counsel 22176
or refer for abortion, except in the case of a medical emergency. 22177

FEE SUPPORTED PROGRAMS 22178

Of the foregoing appropriation item 440-647, Fee Supported 22179
Programs (Fund 470), \$50,000 in fiscal year 2008 shall be used by 22180
the Department to make hospital performance information available 22181
on a web site as required in section 3727.391 of the Revised Code. 22182
22183

MEDICALLY HANDICAPPED CHILDREN AUDIT 22184

The Medically Handicapped Children Audit Fund (Fund 477) 22185
shall receive revenue from audits of hospitals and recoveries from 22186
third-party payers. Moneys may be expended for payment of audit 22187
settlements and for costs directly related to obtaining recoveries 22188
from third-party payers and for encouraging Medically Handicapped 22189
Children's Program recipients to apply for third-party benefits. 22190
Moneys also may be expended for payments for diagnostic and 22191
treatment services on behalf of medically handicapped children, as 22192
defined in division (A) of section 3701.022 of the Revised Code, 22193
and Ohio residents who are twenty-one or more years of age and who 22194
are suffering from cystic fibrosis or hemophilia. Moneys may also 22195
be expended for administrative expenses incurred in operating the 22196
Medically Handicapped Children's Program. 22197

TRANSFER FROM STATE FIRE MARSHAL'S FUND (FUND 546) TO THE 22198
POISON CONTROL FUND (FUND 5CB) IN THE DEPARTMENT OF HEALTH 22199

Notwithstanding section 3737.71 of the Revised Code, on July 22200
1, 2007, or as soon as possible thereafter, the Director of Budget 22201
and Management shall transfer \$150,000 cash from the State Fire 22202
Marshal's Fund (Fund 546) in the Department of Commerce to the 22203
Poison Control Fund (Fund 5CB) in the Department of Health. 22204
Notwithstanding section 3737.71 of the Revised Code, on July 1, 22205
2008, or as soon as possible thereafter, the Director of Budget 22206
and Management shall transfer \$150,000 cash from the State Fire 22207
Marshal's Fund (Fund 546) in the Department of Commerce to the 22208
Poison Control Fund (Fund 5CB) in the Department of Health. 22209

POISON CONTROL CENTERS 22210

Of the foregoing appropriation item 440-640, Poison Control 22211
Centers, in each fiscal year, the poison control centers in the 22212
municipal corporations of Cleveland, Cincinnati, and Columbus 22213
shall each receive an allocation of \$50,000. 22214

SEWAGE TREATMENT SYSTEM INNOVATION 22215

Any revenues deposited to the credit of the Sewage Treatment 22216
System Innovation Fund (Fund 5CJ) in accordance with Section 22217
120.02 of this act are hereby appropriated to appropriation item 22218
440-654, Sewage Treatment System Innovation, in the fiscal year in 22219
which the revenues are received. On July 1, 2008, or as soon as 22220
possible thereafter, the Department of Health shall certify to the 22221
Director of Budget and Management the total fiscal year 2008 22222
unencumbered appropriations in appropriation item 440-654, Sewage 22223
Treatment System Innovation. The Department of Health may direct 22224
the Director of Budget and Management to transfer an amount not to 22225
exceed the total fiscal year 2008 unencumbered appropriations to 22226
fiscal year 2009 for use in appropriation item 440-654, Sewage 22227
Treatment System Innovation. Additional appropriation authority 22228

equal to the amount certified by the Department of Health is 22229
hereby appropriated to appropriation item 440-654, Sewage 22230
Treatment System Innovation, in fiscal year 2009. 22231

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND 22232
PERMIT FUND 22233

The Director of Budget and Management, pursuant to a plan 22234
submitted by the Department of Health, or as otherwise determined 22235
by the Director of Budget and Management, shall set a schedule to 22236
transfer cash from the Liquor Control Fund (Fund 043) to the 22237
Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating 22238
needs of the Alcohol Testing and Permit program. 22239

The Director of Budget and Management shall transfer to the 22240
Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control 22241
Fund (Fund 043) created in section 4301.12 of the Revised Code 22242
such amounts at such times as determined by the transfer schedule. 22243

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS 22244

The foregoing appropriation item 440-607, Medically 22245
Handicapped Children - County Assessments (Fund 666), shall be 22246
used to make payments under division (E) of section 3701.023 of 22247
the Revised Code. 22248

Sec. 309.31.60. TRANSFER OF FUNDS TO THE DEPARTMENT OF ~~MENTAL~~ 22249
~~RETARDATION AND~~ DEVELOPMENTAL DISABILITIES 22250

The Department of Job and Family Services shall transfer, 22251
through intrastate transfer vouchers, cash from Fund 4K1, ICF/MR 22252
Bed Assessments, to Fund 4K8, Home and Community-Based Services, 22253
in the Department of ~~Mental Retardation and~~ Developmental 22254
Disabilities. The amount transferred shall equal \$12,000,000 in 22255
each fiscal year. The transfer may occur on a quarterly basis or 22256
on a schedule developed and agreed to by both departments. 22257

Sec. 309.31.70. FUNDING FOR TRANSITION WAIVER SERVICES 22258

Notwithstanding any limitations contained in sections 5112.31 22259
and 5112.37 of the Revised Code, in each fiscal year, cash from 22260
Fund 4K1, ICF/MR Bed Assessments, in excess of the amounts needed 22261
for transfers to Fund 4K8, Home and Community-Based Services, in 22262
the Department of ~~Mental Retardation and~~ Developmental 22263
Disabilities, may be used by the Department of Job and Family 22264
Services to cover costs of care provided to participants in a 22265
waiver with an ICF/MR level of care requirement administered by 22266
the Department of Job and Family Services. 22267

Sec. 335.40.10. BEHAVIORAL HEALTH SERVICES - CHILDREN 22268

The foregoing appropriation item 335-404, Behavioral Health 22269
Services-Children, shall be used to provide behavioral health 22270
services for children and their families. Behavioral health 22271
services include mental health and alcohol and other drug 22272
treatment services and other necessary supports. 22273

Of the foregoing appropriation item 335-404, Behavioral 22274
Health Services-Children, an amount up to \$4.5 million in fiscal 22275
year 2008 and \$5.5 million in fiscal year 2009 shall be 22276
distributed to local Alcohol, Drug Addiction, and Mental Health 22277
Boards; Community Mental Health Boards; and Alcohol and Drug 22278
Addiction Boards, based upon a distribution formula and guidance 22279
defined by a team of state and local stakeholders appointed by the 22280
Ohio Family and Children First Cabinet Council. This team shall 22281
include, but not be limited to, all of the following: 22282

(A) At least one representative from each of the Departments 22283
of Alcohol and Drug Addiction Services, Mental Health, Education, 22284
Health, Job and Family Services, ~~Mental Retardation and~~ 22285
Developmental Disabilities, and the Department of Youth Services; 22286

(B) At least one person representing local public children's 22287

services agencies;	22288
(C) At least one person representing juvenile courts;	22289
(D) At least one person representing local Alcohol, Drug Addiction, and Mental Health Boards; Community Mental Health Boards; and Alcohol and Drug Addiction Boards;	22290 22291 22292
(E) At least one person representing local Family and Children First Council Coordinators;	22293 22294
(F) At least one family representative.	22295
Funds may be used to support the following services and activities as determined by local Alcohol, Drug Addiction, and Mental Health Boards; Community Mental Health Boards; and Alcohol and Drug Addiction Boards and local family and children first councils and aligned with county service coordination mechanism as described in division (C) of section 121.37 of the Revised Code:	22296 22297 22298 22299 22300 22301
(A) Mental health services provided by the Ohio Department of Mental Health certified agencies and alcohol and other drug services provided by Department of Alcohol and Drug Addiction Services certified agencies;	22302 22303 22304 22305
(B) Services and supports for children and their families that further the implementation of their individual service plans;	22306 22307
(C) Treatment services in out-of-home settings, including residential facilities, when other alternatives are not available or feasible;	22308 22309 22310
(D) Administrative support for efforts associated with this initiative;	22311 22312
(E) These funds shall not be used to supplant existing efforts.	22313 22314
Of the foregoing appropriation item 335-404, Behavioral Health Services-Children, an amount up to \$1.0 million in fiscal year 2008 and \$1.0 million in fiscal year 2009 shall be used to	22315 22316 22317

support projects, as determined by the Ohio Family and Children
First Cabinet Council, in select areas around the state to focus
on improving behavioral health juvenile justice services.

Of the foregoing appropriation item 335-405, Family &
Children First, an amount up to \$500,000 in fiscal year 2008 and
\$500,000 in fiscal year 2009 shall be used for children for whom
the primary focus of treatment is not a mental health or alcohol
or drug addiction disorder and require services or supports to
assist those needs through the County Family and Children First
Council.

Of the foregoing appropriation item 335-404, Behavioral
Health Services - Children, an amount up to \$500,000 in each
fiscal year shall be used to provide behavioral health treatment
services for children from birth to age seven.

Sec. 337.10. ~~DMR DDD~~ DEPARTMENT OF ~~MENTAL RETARDATION AND~~
DEVELOPMENTAL DISABILITIES

Sec. 337.20.10. LEASE-RENTAL PAYMENTS

The foregoing appropriation item 320-415, Lease-Rental
Payments, shall be used to meet all payments at the time they are
required to be made during the period from July 1, 2007, to June
30, 2009, by the Department of ~~Mental Retardation and~~
Developmental Disabilities under leases and agreements made under
section 154.20 of the Revised Code. These appropriations are the
source of funds pledged for bond service charges or obligations
issued pursuant to Chapter 154. of the Revised Code.

Sec. 337.30.10. RESIDENTIAL AND SUPPORT SERVICES

The Department of ~~Mental Retardation and~~ Developmental
Disabilities may designate a portion of appropriation item
322-413, Residential and Support Services, for Sermak Class

Services used to implement the requirements of the agreement 22347
settling the ~~condemnee~~ consent decree in *Sermak v. Manuel*, Case 22348
No. c-2-80-220, United States District Court for the Southern 22349
District of Ohio, Eastern Division. 22350

Sec. 337.30.20. OTHER RESIDENTIAL AND SUPPORT SERVICE 22351
PROGRAMS 22352

Notwithstanding Chapters 5123. and 5126. of the Revised Code, 22353
the Department of ~~Mental Retardation and~~ Developmental 22354
Disabilities may develop residential and support service programs 22355
funded by appropriation item 322-413, Residential and Support 22356
Services, and the appropriation for supported living in 22357
appropriation item 322-501, County Board Subsidy, that enable 22358
persons with mental retardation and developmental disabilities to 22359
live in the community. Notwithstanding Chapter 5121. and section 22360
5123.122 of the Revised Code, the Department may waive the support 22361
collection requirements of those statutes for persons in community 22362
programs developed by the Department under this section. The 22363
Department shall adopt rules under Chapter 119. of the Revised 22364
Code or may use existing rules for the implementation of these 22365
programs. 22366

Sec. 337.30.30. MEDICAID WAIVER - STATE MATCH (GRF) 22367

Except as otherwise provided in section 5123.0416 of the 22368
Revised Code, the purposes for which the foregoing appropriation 22369
item 322-416, Medicaid Waiver - State Match, shall be used include 22370
the following: 22371

(A) Home and community-based waiver services under Title XIX 22372
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 22373
as amended. 22374

(B) To pay the nonfederal share of the cost of one or more 22375
new intermediate care facility for the mentally retarded certified 22376

beds, if the Director of ~~Mental Retardation and~~ Developmental 22377
Disabilities is required by ~~this act~~ Am. Sub. H.B. 119 of the 22378
127th General Assembly to transfer to the Director of Job and 22379
Family Services funds to pay such nonfederal share. 22380

Except as otherwise provided in section 5123.0416 of the 22381
Revised Code, the Department of ~~Mental Retardation and~~ 22382
Developmental Disabilities may designate a portion of 22383
appropriation item 322-416, Medicaid Waiver - State Match, to 22384
county boards of mental retardation and developmental disabilities 22385
that have greater need for various residential and support 22386
services because of a low percentage of residential and support 22387
services development in comparison to the number of individuals 22388
with mental retardation or developmental disabilities in the 22389
county. 22390

Sec. 337.30.40. STATE SUBSIDY TO COUNTY MR/DD BOARDS 22391

Except as otherwise provided in Section 337.40.30 of ~~this act~~ 22392
Am. Sub. H.B. 119 of the 127th General Assembly, the Department of 22393
~~Mental Retardation and~~ Developmental Disabilities shall use the 22394
foregoing appropriation item 322-501, County Boards Subsidy, to 22395
pay each county board of mental retardation and developmental 22396
disabilities in each fiscal year of the biennium an amount that is 22397
equal to the amount such board received in fiscal year 2007 from 22398
former appropriation items 322-417, Supported Living; 322-452, 22399
Service and Support Administration; and 322-501, County Boards 22400
Subsidies. 22401

Except as otherwise provided in section 5126.0511 of the 22402
Revised Code, county boards shall use the subsidy for early 22403
childhood services and adult services provided under section 22404
5126.05 of the Revised Code, service and support administration 22405
provided under section 5126.15 of the Revised Code, and supported 22406
living as defined in section 5126.01 of the Revised Code. 22407

In the event that the appropriation in appropriation item 22408
322-501, County Board Subsidy, for fiscal year 2008 or fiscal year 22409
2009 is greater than the subsidy paid by the Department for fiscal 22410
year 2007 from former appropriation items 332-417, Supported 22411
Living; 322-452, Services and Support Administration; and 322-501, 22412
County Boards Subsidies, the Department and county boards shall 22413
develop a formula for allocating the additional appropriation to 22414
each county board to support priorities determined by the 22415
Department and county boards. 22416

The Department shall distribute this subsidy to county boards 22417
in quarterly installments of equal amounts. The installments shall 22418
be made not later than the thirtieth day of September, the 22419
thirty-first day of December, the thirty-first day of March, and 22420
thirtieth day of June. 22421

The Department also may use the foregoing appropriation item 22422
322-501, County Boards Subsidy, to pay the nonfederal share of the 22423
cost of one or more new intermediate care facility for the 22424
mentally retarded certified beds, if the Director of ~~Mental~~ 22425
~~Retardation and~~ Developmental Disabilities is required by ~~this act~~ 22426
Am. Sub. H.B. 119 of the 127th General Assembly to transfer to the 22427
Director of Job and Family Services funds to pay such nonfederal 22428
share. 22429

Sec. 337.30.60. TARGETED CASE MANAGEMENT SERVICES 22430

County boards of mental retardation and developmental 22431
disabilities shall pay the nonfederal portion of targeted case 22432
management costs to the Department of ~~Mental Retardation and~~ 22433
~~Developmental Disabilities~~. The Director of ~~Mental Retardation and~~ 22434
~~Developmental Disabilities~~ shall withhold any amount owed to the 22435
Department from subsequent disbursements from any appropriation 22436
item or money otherwise due to a nonpaying county. 22437

The Departments of ~~Mental Retardation and~~ Developmental 22438

Disabilities and Job and Family Services may enter into an 22439
interagency agreement under which the Department of ~~Mental~~ 22440
~~Retardation and~~ Developmental Disabilities shall pay the 22441
Department of Job and Family Services the nonfederal portion of 22442
the cost of targeted case management services paid by county 22443
boards and the Department of Job and Family Services shall pay the 22444
total cost of targeted case management claims. 22445

Sec. 337.30.70. TRANSFER TO PROGRAM FEE FUND 22446

On July 1, 2007, or as soon as possible thereafter, the 22447
Director of ~~Mental Retardation and~~ Developmental Disabilities 22448
shall certify to the Director of Budget and Management the amount 22449
of cash that has been deposited into Fund 4B5, 22450
Conference/Training, pursuant to sections 5123.19 and 5126.25 of 22451
the Revised Code, less the amount that has been expended from Fund 22452
4B5 to operate the Certification and Registration Program 22453
established under section 5126.25 of the Revised Code and to 22454
license and inspect residential facilities as outlined in section 22455
5123.19 of the Revised Code. The certified amount shall not 22456
include amounts deposited into Fund 4B5 for training and 22457
conferences conducted by the Department of ~~Mental Retardation and~~ 22458
Developmental Disabilities. Upon receipt of the certification, the 22459
Director of Budget and Management shall transfer cash equal to the 22460
amount certified and all associated liabilities and obligations to 22461
Fund 5EV, Program Fee Fund, in the Department of ~~Mental~~ 22462
~~Retardation and~~ Developmental Disabilities. 22463

Sec. 337.30.80. DEVELOPMENTAL CENTER BILLING FOR SERVICES 22464

Developmental centers of the Department of ~~Mental Retardation~~ 22465
~~and~~ Developmental Disabilities may provide services to persons 22466
with mental retardation or developmental disabilities living in 22467
the community or to providers of services to these persons. The 22468

Department may develop a method for recovery of all costs 22469
associated with the provisions of these services. 22470

Sec. 337.40.10. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER 22471
PHARMACY PROGRAMS 22472

The Department of ~~Mental Retardation and~~ Developmental 22473
Disabilities shall pay the Department of Job and Family Services 22474
quarterly, through intrastate transfer voucher, the nonfederal 22475
share of Medicaid prescription drug claim costs for all 22476
developmental centers paid by the Department of Job and Family 22477
Services. 22478

Sec. 337.40.30. NONFEDERAL SHARE OF NEW ICF/MR BEDS 22479

(A) As used in this section, "intermediate care facility for 22480
the mentally retarded" has the same meaning as in section 5111.20 22481
of the Revised Code. 22482

(B) If one or more new beds obtain certification as an 22483
intermediate care facility for the mentally retarded bed on or 22484
after July 1, 2007, the Director of ~~Mental Retardation and~~ 22485
Developmental Disabilities shall transfer funds to the Department 22486
of Job and Family Services to pay the nonfederal share of the cost 22487
under the Medicaid Program for those beds. Except as otherwise 22488
provided in section 5123.0416 of the Revised Code, the Director 22489
shall use only the following funds for the transfer: 22490

(1) Funds appropriated to the Department of ~~Mental~~ 22491
~~Retardation and~~ Developmental Disabilities in appropriation item 22492
322-416, Medicaid Waiver - State Match; 22493

(2) Funds appropriated to the Department in appropriation 22494
item 322-501, County Boards Subsidies. 22495

(C) If the beds are located in a county served by a county 22496
board of mental retardation and developmental disabilities that 22497

initiates or supports the beds' certification, the funds that the 22498
Director transfers under division (B) of this section shall be 22499
funds that the Director has allocated to the county board serving 22500
the county in which the beds are located unless the amount of the 22501
allocation is insufficient to pay the entire nonfederal share of 22502
the cost under the Medicaid Program for those beds. If the 22503
allocation is insufficient, the Director shall use as much of such 22504
funds allocated to other counties as is needed to make up the 22505
difference. 22506

Section 4. That existing Sections 213.30, 293.30, 309.31.60, 22507
309.31.70, 335.40.10, 337.10, 337.20.10, 337.30.10, 337.30.20, 22508
337.30.30, 337.30.40, 337.30.60, 337.30.70, 337.30.80, 337.40.10, 22509
and 337.40.30 of Am. Sub. H.B. 119 of the 127th General Assembly 22510
are hereby repealed. 22511

Section 5. That Sections 337.30.43, 337.40, and 337.40.15 of 22512
Am. Sub. H.B. 119 of the 127th General Assembly, as amended by Am. 22513
Sub. H.B. 562 of the 127th General Assembly, be amended to read as 22514
follows: 22515

Sec. 337.30.43. TAX EQUITY 22516

Notwithstanding section 5126.18 of the Revised Code, for 22517
fiscal year 2009, if the Department of ~~Mental Retardation and~~ 22518
Developmental Disabilities determines that sufficient funds are 22519
available, the Department shall use the foregoing appropriation 22520
item 322-503, Tax Equity, to pay each county board of mental 22521
retardation and developmental disabilities an amount that is equal 22522
to the amount the board received for fiscal year 2008. If the 22523
Department determines that there are not sufficient funds 22524
available in the appropriation item for this purpose, the 22525
Department shall pay to each county board an amount that is 22526
proportionate to the amount the board received for fiscal year 22527

2008. Proportionality shall be determined by dividing the total 22528
tax equity payments distributed to county boards for fiscal year 22529
2008 by the tax equity payment a county board received for fiscal 22530
year 2008. 22531

Sec. 337.40. RESIDENTIAL FACILITIES 22532

General Revenue Fund 22533

GRF 323-321 Developmental Center \$ 102,796,851 \$ 102,796,851 22534
and Residential
Facilities Operation
Expenses

TOTAL GRF General Revenue Fund \$ 102,796,851 \$ 102,796,851 22535

General Services Fund Group 22536

152 323-609 Developmental Center \$ 912,177 \$ 912,177 22537
and Residential
Operating Services

TOTAL GSF General Services 22538

Fund Group \$ 912,177 \$ 912,177 22539

Federal Special Revenue Fund Group 22540

3A4 323-605 Developmental Center \$ 136,299,536 \$ 137,555,308 22541
and Residential
Facility Services and
Support

TOTAL FED Federal Special Revenue 22542

Fund Group \$ 136,299,536 \$ 137,555,308 22543

State Special Revenue Fund Group 22544

221 322-620 Supplement Service \$ 150,000 \$ 150,000 22545
Trust

489 323-632 Developmental Center \$ 14,543,764 \$ 14,671,616 22546
Direct Care Support

TOTAL SSR State Special Revenue 22547

Fund Group	\$	14,693,764	\$	14,821,616	22548
TOTAL ALL RESIDENTIAL FACILITIES					22549
BUDGET FUND GROUPS	\$	254,702,328	\$	256,085,952	22550
DEPARTMENT TOTAL					22551
GENERAL REVENUE FUND	\$	369,669,156	\$	389,282,941	22552
DEPARTMENT TOTAL					22553
GENERAL SERVICES FUND GROUP	\$	1,172,177	\$	1,022,177	22554
DEPARTMENT TOTAL					22555
FEDERAL SPECIAL REVENUE FUND GROUP	\$	610,780,538	\$	658,082,406	22556
DEPARTMENT TOTAL					22557
STATE SPECIAL REVENUE FUND GROUP	\$	192,359,213	\$	205,307,651	22558
TOTAL DEPARTMENT OF MENTAL					22559
RETARDATION AND DEVELOPMENTAL					22560
DISABILITIES	\$	1,173,981,084	\$	1,253,695,175	22561

Sec. 337.40.15. GALLIPOLIS DEVELOPMENTAL CENTER PILOT PROGRAM 22563
22564

The Director of ~~Mental Retardation and~~ Developmental 22565
Disabilities shall establish a pilot program during calendar year 22566
2009 under which the Gallipolis Developmental Center operates an 22567
intermediate care facility for the mentally retarded with eight 22568
beds at a site separate from the grounds of the developmental 22569
center. The Gallipolis Developmental Center may operate the 22570
intermediate care facility for the mentally retarded 22571
notwithstanding section 5123.196 of the Revised Code. Money shall 22572
be expended on the pilot program beginning in the first half of 22573
calendar year 2009. 22574

The Director of ~~Mental Retardation and~~ Developmental 22575
Disabilities and the Director of Job and Family Services shall 22576
provide the Gallipolis Developmental Center technical assistance 22577
regarding the pilot program. 22578

The Director of ~~Mental Retardation and~~ Developmental 22579

Disabilities shall conduct an evaluation of the pilot program, 22580
including an evaluation of the quality and effectiveness of the 22581
services the Gallipolis Developmental Center provides under the 22582
pilot program. The Director shall submit a report of the 22583
evaluation to the Governor and the General Assembly not later than 22584
April 1, 2010. The Director shall include in the report 22585
recommendations regarding the continuation of the pilot program 22586
and whether other developmental centers should be permitted to 22587
establish and operate intermediate care facilities for the 22588
mentally retarded at sites separate from the grounds of the 22589
developmental centers. 22590

Section 6. That existing Sections 337.30.43, 337.40, and 22591
337.40.15 of Am. Sub. H.B. 119 of the 127th General Assembly, as 22592
amended by Am. Sub. H.B. 562 of the 127th General Assembly, are 22593
hereby repealed. 22594

Section 7. That Sections 201.60.30, 209.60.40, 209.60.50, and 22595
501.40 of H.B. 496 of the 127th General Assembly be amended to 22596
read as follows: 22597

Reappropriations

Sec. 201.60.30. ~~DMR DDD DEPARTMENT OF MENTAL RETARDATION AND~~ 22598
DEVELOPMENTAL DISABILITIES 22599

STATEWIDE PROJECTS 22600

C59000	Asbestos Abatement	\$	999,637	22601
C59004	Community Assistance Projects	\$	1,202,040	22602
C59019	North Olmsted Welcome House	\$	100,000	22603
C59020	Kamp Dovetail Project at Rocky Fork Lake	\$	100,000	22604
	State Park			
C59022	Razing of Buildings	\$	80,595	22605
C59024	Telecommunications Systems Improvement	\$	774,454	22606
C59029	Emergency Generator Replacement	\$	1,049,606	22607

C59034	Statewide Developmental Centers	\$	5,479,662	22608
C59050	Emergency Improvements	\$	634,970	22609
Total Statewide and Central Office Projects		\$	10,420,964	22610
COMMUNITY ASSISTANCE PROJECTS				22611
The foregoing appropriation item C59004, Community Assistance				22612
Projects, may be used to provide community assistance funds for				22613
the construction or renovation of facilities for day programs or				22614
residential programs that provide services to persons eligible for				22615
services from the Department of Mental Retardation and				22616
Developmental Disabilities or county boards of mental retardation				22617
and developmental disabilities. Any funds provided to nonprofit				22618
agencies for the construction or renovation of facilities for				22619
persons eligible for services from the Department of Mental				22620
Retardation and Developmental Disabilities and county boards of				22621
mental retardation and developmental disabilities are subject to				22622
the prevailing wage provisions in section 176.05 of the Revised				22623
Code.				22624
Notwithstanding any other provision of law to the contrary,				22625
of the foregoing appropriation item C59004, Community Assistance				22626
Projects, \$75,000 shall be used for the Hanson Home.				22627
STATEWIDE DEVELOPMENTAL CENTERS				22628
CAMBRIDGE DEVELOPMENTAL CENTER				22629
C59005	Residential Renovations - CAMDC	\$	41,398	22630
C59023	HVAC Renovations - Residential Buildings	\$	1,000	22631
C59025	Cambridge HVAC Upgrade - Activity Center	\$	3,538	22632
C59046	Utility Upgrade Centerwide	\$	5,960	22633
Total Cambridge Developmental Center		\$	51,896	22634
COLUMBUS DEVELOPMENTAL CENTER				22635
C59036	Columbus Developmental Center	\$	8,162	22636
Total Columbus Developmental Center		\$	8,162	22637
GALLIPOLIS DEVELOPMENTAL CENTER				22638
C59027	HVAC Replacements	\$	4,873	22639

C59037	Gallipolis Developmental Center	\$	21,849	22640
	Total Gallipolis Developmental Center	\$	26,722	22641
	MONTGOMERY DEVELOPMENTAL CENTER			22642
C59038	Montgomery Developmental Center	\$	43,634	22643
	Total Montgomery Developmental Center	\$	43,634	22644
	MOUNT VERNON DEVELOPMENTAL CENTER			22645
C59039	Mount Vernon Developmental Center	\$	160,353	22646
	Total Mount Vernon Developmental Center	\$	160,353	22647
	NORTHWEST OHIO DEVELOPMENTAL CENTER			22648
C59030	Replace Chiller	\$	8,535	22649
C59040	Northwest Ohio Developmental Center	\$	11,171	22650
	Total Northwest Ohio Developmental Center	\$	19,706	22651
	SOUTHWEST OHIO DEVELOPMENTAL CENTER			22652
C59016	Residential Renovation - HVAC Upgrade	\$	23,075	22653
C59041	Southwest Ohio Developmental Center	\$	14,566	22654
C59048	Renovation Program and Support Services Building	\$	3,900	22655
	Total Southwest Ohio Developmental Center	\$	41,541	22656
	TIFFIN DEVELOPMENTAL CENTER			22657
C59026	Roof and Exterior Renovations	\$	19,666	22658
C59043	Tiffin Developmental Center	\$	20,696	22659
	Total Tiffin Developmental Center	\$	40,362	22660
	WARRENSVILLE DEVELOPMENTAL CENTER			22661
C59017	Residential Renovations - WDC	\$	5,057	22662
C59021	Water Line Replacement - WDC	\$	16,267	22663
C59031	ADA Compliance - WDC	\$	3,628	22664
C59044	Warrensville Developmental Center	\$	29,860	22665
	Total Warrensville Developmental Center	\$	54,812	22666
	YOUNGSTOWN DEVELOPMENTAL CENTER			22667
C59045	Youngstown Developmental Center	\$	24,400	22668
	Total Youngstown Developmental Center	\$	24,400	22669
	TOTAL Department of Mental Retardation			22670
	and Developmental Disabilities	\$	10,892,552	22671

fifteen years) lease of the real property or other capital 22704
facility to be improved, renovated, constructed, or acquired and 22705
has entered into a joint or cooperative use agreement, approved by 22706
the Department of Mental Health, Department of ~~Mental Retardation~~ 22707
~~and~~ Developmental Disabilities, or Department of Alcohol and Drug 22708
Addiction Services, whichever is applicable, with the governmental 22709
agency for that agency's use of and right to use the capital 22710
facilities to be financed and, if applicable, improved, the value 22711
of such use or right to use being, as determined by the parties, 22712
reasonably related to the amount of the appropriation. 22713

(B) In the case of capital facilities referred to in division 22714
(A)(2) of this section, the joint or cooperative use agreement 22715
shall include, as a minimum, provisions that: 22716

(1) Specify the extent and nature of that joint or 22717
cooperative use, extending for not fewer than fifteen years, with 22718
the value of such use or right to use to be, as determined by the 22719
parties and approved by the applicable department, reasonably 22720
related to the amount of the appropriation; 22721

(2) Provide for pro rata reimbursement to the state should 22722
the arrangement for joint or cooperative use by a governmental 22723
agency be terminated; and 22724

(3) Provide that procedures to be followed during the capital 22725
improvement process will comply with appropriate applicable state 22726
statutes and rules, including provisions of ~~this act~~ H.B. 496 of 22727
the 127th General Assembly. 22728

Sec. 501.40. AGENCY ADMINISTRATION OF CAPITAL FACILITIES 22729
PROJECTS 22730

Notwithstanding sections 123.01 and 123.15 of the Revised 22731
Code, the Director of Administrative Services may authorize the 22732
Departments of Mental Health, ~~Mental Retardation and~~ Developmental 22733

Disabilities, Alcohol and Drug Addiction Services, Agriculture, 22734
Job and Family Services, Rehabilitation and Correction, Youth 22735
Services, Public Safety, Transportation, the Ohio Veterans' Home, 22736
and the Rehabilitation Services Commission to administer any 22737
capital facilities projects when the estimated cost, including 22738
design fees, construction, equipment, and contingency amounts, is 22739
less than \$1,500,000. Requests for authorization to administer 22740
capital facilities projects shall be made in writing to the 22741
Director of Administrative Services by the respective state agency 22742
within sixty days after the effective date of the act in which the 22743
General Assembly initially makes an appropriation for the project. 22744
Upon the release of funds for such projects by the Controlling 22745
Board or the Director of Budget and Management, the agency may 22746
administer the capital project or projects for which agency 22747
administration has been authorized without the supervision, 22748
control, or approval of the Director of Administrative Services. 22749

A state agency authorized by the Director of Administrative 22750
Services to administer capital facilities projects pursuant to 22751
this section shall comply with the applicable procedures and 22752
guidelines established in Chapter 153. of the Revised Code. 22753

Section 8. That existing Sections 201.60.30, 209.60.40, 22754
209.60.50, and 501.40 of H.B. 496 of the 127th General Assembly 22755
are hereby repealed. 22756

Section 9. That Sections 231.20.30, 231.30.10, 231.30.20, 22757
253.10, and 751.10 of Am. Sub. H.B. 562 of the 127th General 22758
Assembly be amended to read as follows: 22759

Appropriations

Sec. 231.20.30. ~~DMR DDD~~ DEPARTMENT OF ~~MENTAL RETARDATION AND~~ 22760
DEVELOPMENTAL DISABILITIES 22761
STATEWIDE AND CENTRAL OFFICE PROJECTS 22762

C59004	Community Assistance Projects	\$	13,301,537	22763
C59022	Razing of Buildings	\$	200,000	22764
C59024	Telecommunications	\$	400,000	22765
C59029	Generator Replacement	\$	1,000,000	22766
C59034	Statewide Developmental Centers	\$	4,294,237	22767
C59050	Emergency Improvements	\$	500,000	22768
C59051	Energy Conservation	\$	500,000	22769
C59052	Guernsey County MRDD Boiler Replacement	\$	275,000	22770
C59053	Magnolia Clubhouse	\$	250,000	22771
C59054	Recreation Unlimited Life Center - Delaware	\$	150,000	22772
C59055	Camp McKinley Improvements	\$	30,000	22773
C59056	The Hope Learning Center	\$	250,000	22774
C59057	North Olmstead Welcome House	\$	150,000	22775
	Total Statewide and Central Office Projects	\$	21,300,774	22776
	TOTAL Department of Mental Retardation and Developmental Disabilities	\$	21,300,774	22777
	TOTAL Mental Health Facilities Improvement Fund	\$	127,330,774	22778

COMMUNITY ASSISTANCE PROJECTS 22779

The foregoing appropriation item C59004, Community Assistance 22780
 Projects, may be used to provide community assistance funds for 22781
 the development, purchase, construction, or renovation of 22782
 facilities for day programs or residential programs that provide 22783
 services to persons eligible for services from the Department of 22784
~~Mental Retardation and~~ Developmental Disabilities or county boards 22785
 of mental retardation and developmental disabilities. Any funds 22786
 provided to nonprofit agencies for the construction or renovation 22787
 of facilities for persons eligible for services from the 22788
 Department of ~~Mental Retardation and~~ Developmental Disabilities 22789
 and county boards of mental retardation and developmental 22790
 disabilities shall be governed by the prevailing wage provisions 22791
 in section 176.05 of the Revised Code. 22792

Sec. 231.30.10. The foregoing appropriations for the 22793
Department of Mental Health, C58001, Community Assistance 22794
Projects, and the Department of ~~Mental Retardation and~~ 22795
Developmental Disabilities, C59004, Community Assistance Projects, 22796
may be used for facilities constructed or to be constructed 22797
pursuant to Chapter 340., 3793., 5119., 5123., or 5126. of the 22798
Revised Code or the authority granted by section 154.20 of the 22799
Revised Code and the rules issued pursuant to those chapters and 22800
shall be distributed by the Department of Mental Health and the 22801
Department of ~~Mental Retardation and~~ Developmental Disabilities, 22802
all subject to Controlling Board approval. 22803

Sec. 231.30.20. (A) No capital improvement appropriations 22804
made in Sections 231.10.10 to 231.30.10 of ~~this act~~ Am. Sub. H.B. 22805
562 of the 127th General Assembly shall be released for planning 22806
or for improvement, renovation, or construction or acquisition of 22807
capital facilities if a governmental agency, as defined in section 22808
154.01 of the Revised Code, does not own the real property that 22809
constitutes the capital facilities or on which the capital 22810
facilities are or will be located. This restriction does not apply 22811
in any of the following circumstances: 22812

(1) The governmental agency has a long-term (at least fifteen 22813
years) lease of, or other interest (such as an easement) in, the 22814
real property. 22815

(2) In the case of an appropriation for capital facilities 22816
that, because of their unique nature or location, will be owned or 22817
be part of facilities owned by a separate nonprofit organization 22818
and made available to the governmental agency for its use or 22819
operated by the nonprofit organization under contract with the 22820
governmental agency, the nonprofit organization either owns or has 22821
a long-term (at least fifteen years) lease of the real property or 22822
other capital facility to be improved, renovated, constructed, or 22823

acquired and has entered into a joint or cooperative use 22824
agreement, approved by the Department of Mental Health or the 22825
Department of ~~Mental Retardation and~~ Developmental Disabilities, 22826
whichever is applicable, with the governmental agency for that 22827
agency's use of and right to use the capital facilities to be 22828
financed and, if applicable, improved, the value of such use or 22829
right to use being, as determined by the parties, reasonably 22830
related to the amount of the appropriation. 22831

(B) In the case of capital facilities referred to in division 22832
(A)(2) of this section, the joint or cooperative use agreement 22833
shall include, at a minimum, provisions that: 22834

(1) Specify the extent and nature of that joint or 22835
cooperative use, extending for not fewer than fifteen years, with 22836
the value of such use or right to use to be, as determined by the 22837
parties and approved by the approving department, reasonably 22838
related to the amount of the appropriation; 22839

(2) Provide for pro rata reimbursement to the state should 22840
the arrangement for joint or cooperative use by a governmental 22841
agency be terminated; 22842

(3) Provide that procedures to be followed during the capital 22843
improvement process will comply with applicable state statutes and 22844
rules, including the provisions of ~~this act~~ Am. Sub. H.B. 562 of 22845
the 127th General Assembly. 22846

Sec. 253.10. AGENCY ADMINISTRATION OF CAPITAL FACILITIES 22847
PROJECTS 22848

Notwithstanding sections 123.01 and 123.15 of the Revised 22849
Code, the Director of Administrative Services may authorize the 22850
Departments of Mental Health, ~~Mental Retardation and~~ Developmental 22851
Disabilities, Agriculture, Job and Family Services, Rehabilitation 22852
and Correction, Youth Services, Public Safety, Transportation, and 22853

the Ohio Veterans' Home to administer any capital facilities 22854
projects, the estimated cost of which, including design fees, 22855
construction, equipment, and contingency amounts, is less than 22856
\$1,500,000. Requests for authorization to administer capital 22857
facilities projects shall be made in writing to the Director of 22858
Administrative Services by the applicable state agency within 22859
sixty days after the effective date of the section of law in which 22860
the General Assembly initially makes an appropriation for the 22861
project. Upon the release of funds for the projects by the 22862
Controlling Board or the Director of Budget and Management, the 22863
agency may administer the capital project or projects for which 22864
agency administration has been authorized without the supervision, 22865
control, or approval of the Director of Administrative Services. 22866

A state agency authorized by the Director of Administrative 22867
Services to administer capital facilities projects pursuant to 22868
this section shall comply with the applicable procedures and 22869
guidelines established in Chapter 153. of the Revised Code. 22870

Sec. 751.10. ICF/MR CONVERSION 22871

(A) As used in this section, "home and community-based 22872
services" has the same meaning as in section 5123.01 of the 22873
Revised Code. 22874

(B) For each quarter of fiscal year 2009, the Director of 22875
~~Mental Retardation and~~ Developmental Disabilities shall certify to 22876
the Director of Budget and Management the estimated amount to be 22877
transferred from the Department of Job and Family Services to the 22878
Department of ~~Mental Retardation and~~ Developmental Disabilities 22879
for the provision of home and community-based services made 22880
available by the slots sought under section 5111.877 of the 22881
Revised Code. On receipt of the certification from the Director of 22882
~~Mental Retardation and~~ Developmental Disabilities, the Director of 22883
Budget and Management may do one or more of the following: 22884

	22885
(1) Reduce GRF appropriation item 600-525, Health Care/Medicaid, in the Department of Job and Family Services, by the estimated amount for providing the home and community-based services and increase GRF appropriation item 322-416, Medicaid Waiver - State Match, in the Department of Mental Retardation and Developmental Disabilities, by the state share of the estimated amount for the provision of the home and community-based services;	22886 22887 22888 22889 22890 22891 22892 22893
(2) Increase appropriation item 322-639, Medicaid Waiver - Federal, in the Department of Mental Retardation and Developmental Disabilities, by the federal share amount of the estimated amount for the provision of the home and community-based services;	22894 22895 22896 22897
(3) Increase appropriation item 600-655, Interagency Reimbursement, in the Department of Job and Family Services, by the federal share of the estimated amount for the provision of the home and community-based services.	22898 22899 22900 22901
Section 10. That existing Sections 231.20.30, 231.30.10, 231.30.20, 253.10, and 751.10 of Am. Sub. H.B. 562 of the 127th General Assembly are hereby repealed.	22902 22903 22904
Section 11. That Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly, as most recently amended by Am. Sub. H.B. 100 of the 127th General Assembly, be amended to read as follows:	22905 22906 22907
Sec. 4. The following agencies shall be retained pursuant to division (D) of section 101.83 of the Revised Code and shall expire on December 31, 2010:	22908 22909 22910
REVISIED CODE	22911
OR	
UNCODIFIED	22912

AGENCY NAME	SECTION	
		22913
Administrator, Interstate Compact on Mental Health	5119.50	22914
Administrator, Interstate Compact on Placement of Children	5103.20	22915
		22916
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12	22917
Advisory Boards to the EPA for Air Pollution	121.13	22918
Advisory Boards to the EPA for Water Pollution	121.13	22919
Advisory Committee of the State Veterinary Medical Licensing Board	4741.03(D)(3)	22920
Advisory Committee on Livestock Exhibitions	901.71	22921
Advisory Council on Amusement Ride Safety	1711.51	22922
Advisory Board of Directors for Prison Labor	5145.162	22923
Advisory Council for Each Wild, Scenic, or Recreational River Area	1517.18	22924
Advisory Councils or Boards for State Departments	107.18 or 121.13	22925
Advisory Group to the Ohio Water Resources Council	1521.19(C)	22926
Alzheimer's Disease Task Force	173.04(F)	22927
AMBER Alert Advisory Committee	5502.521	22928
Apprenticeship Council	4139.02	22929
Armory Board of Control	5911.09	22930
Automated Title Processing Board	4505.09(C)(1)	22931
Banking Commission	1123.01	22932
Board of Directors of the Ohio Health Reinsurance Program	3924.08	22933
Board of Voting Machine Examiners	3506.05(B)	22934
Brain Injury Advisory Committee	3304.231	22935
Capitol Square Review and Advisory Board	105.41	22936
Child Support Guideline Advisory Council	3119.024	22937
Children's Trust Fund Board	3109.15	22938
Citizens Advisory Committee (BMV)	4501.025	22939
Citizen's Advisory Councils (Dept. of Mental	5123.092	22940

Retardation and Developmental Disabilities)		
Clean Ohio Trail Advisory Board	1519.06	22941
Coastal Resources Advisory Council	1506.12	22942
Commission on African-American Males	4112.12	22943
Commission on Hispanic-Latino Affairs	121.31	22944
Commission on Minority Health	3701.78	22945
Committee on Prescriptive Governance	4723.49	22946
Commodity Advisory Commission	926.32	22947
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	22948
Community Oversight Council	3311.77	22949
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA	22950
Continuing Education Committee (for Sheriffs)	109.80	22951
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14	22952
Council on Alcohol and Drug Addiction Services	3793.09	22953
Council on Unreclaimed Strip Mined Lands	1513.29	22954
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34	22955
County Sheriffs' Standard Car-Marking and Uniform Commission	311.25	22956
Credit Union Council	1733.329	22957
Criminal Sentencing Advisory Committee	181.22	22958
Day-Care Advisory Council	5104.08	22959
Dentist Loan Repayment Advisory Board	3702.92	22960
Development Financing Advisory Council	122.40	22961
Education Commission of the States (Interstate Compact for Education)	3301.48	22962
Electrical Safety Inspector Advisory Committee	3783.08	22963
Emergency Response Commission	3750.02	22964

Engineering Experiment Station Advisory Committee	3335.27	22965
Environmental Education Council	3745.21	22966
EPA Advisory Boards or Councils	121.13	22967
Farmland Preservation Advisory Board	901.23	22968
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05	22969
Financial Planning & Supervision Commission for School District	3316.05	22970
Forestry Advisory Council	1503.40	22971
Governance Authority for a State University or College	3345.75	22972
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77	22973
Governor's Council on People with Disabilities	3303.41	22974
Governor's Residence Advisory Commission	107.40	22975
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	22976
Gubernatorial Transition Committee	107.29	22977
Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA	22978
Hemophilia Advisory Subcommittee	3701.0210	22979
Housing Trust Fund Advisory Committee	175.25	22980
Industrial Commission Nominating Council	4121.04	22981
Industrial Technology and Enterprise Advisory Council	122.29	22982
Infant Hearing Screening Subcommittee	3701.507	22983
Insurance Agent Education Advisory Council	3905.483	22984
Interagency Council on Hispanic/Latino Affairs	121.32(J)	22985
Interstate Mining Commission (Interstate Mining Compact)	1514.30	22986
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35	22987

Joint Council on MR/DD <u>Developmental Disabilities</u>	101.37	22988
Joint Select Committee on Volume Cap	133.021	22989
Labor-Management Government Advisory Council	4121.70	22990
Legal Rights Service Commission	5123.60	22991
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	22992
Maternal and Child Health Council	3701.025	22993
Medically Handicapped Children's Medical Advisory Council	3701.025	22994
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361	22995
Military Activation Task Force	5902.15	22996
Milk Sanitation Board	917.03	22997
Mine Subsidence Insurance Governing Board	3929.51	22998
Minority Development Financing Board	122.72	22999
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	23000
Multidisciplinary Council	3746.03	23001
Muskingum River Advisory Council	1501.25	23002
National Museum of Afro-American History and Culture Planning Committee	149.303	23003
Ohio Advisory Council for the Aging	173.03	23004
Ohio Aerospace & Defense Advisory Council	122.98	23005
Ohio Arts Council	3379.02	23006
Ohio Business Gateway Steering Committee	5703.57	23007
Ohio Cemetery Dispute Resolution Commission	4767.05	23008
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)	23009
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03	23010
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	23011
Ohio Commission on Dispute Resolution and Conflict	179.02	23012

Management

Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA	23013
Ohio Community Service Council	121.40	23014
Ohio Council for Interstate Adult Offender Supervision	5149.22	23015
Ohio Cultural Facilities Commission	3383.02	23016
Ohio Developmental Disabilities Council	5123.35	23017
Ohio Expositions Commission	991.02	23018
Ohio Family and Children First Cabinet Council	121.37	23019
Ohio Geology Advisory Council	1505.11	23020
Ohio Grape Industries Committee	924.51	23021
Ohio Hepatitis C Advisory Commission	3701.92	23022
Ohio Historic Site Preservation Advisory Board	149.301	23023
Ohio Historical Society Board of Trustees	149.30	23024
Ohio Judicial Conference	105.91	23025
Ohio Lake Erie Commission	1506.21	23026
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA	23027
Ohio Medical Quality Foundation	3701.89	23028
Ohio Parks and Recreation Council	1541.40	23029
Ohio Peace Officer Training Commission	109.71	23030
Ohio Public Defender Commission	120.01	23031
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA	23032

Ohio Quarter Horse Development Commission	3769.086	23033
Ohio Small Government Capital Improvements Commission	164.02	23034
Ohio Soil and Water Conservation Commission	1515.02	23035
Ohio Standardbred Development Commission	3769.085	23036
Ohio Steel Industry Advisory Council	122.97	23037
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	23038
Ohio Thoroughbred Racing Advisory Committee	3769.084	23039
Ohio Tuition Trust Authority	3334.03	23040
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	23041
Ohio Vendors Representative Committee	3304.34	23042
Ohio War Orphans Scholarship Board	5910.02	23043
Ohio Water Advisory Council	1521.031	23044
Ohio Water Resources Council	1521.19	23045
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62	23046
Oil and Gas Commission	1509.35	23047
Operating Committee, Agricultural Commodity Marketing Programs	924.07	23048
Organized Crime Investigations Commission	177.01	23049
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81	23050
Physician Loan Repayment Advisory Board	3702.81	23051
Power Siting Board	4906.02	23052
Prequalification Review Board	5525.07	23053
Private Water Systems Advisory Council	3701.346	23054
Public Employment Risk Reduction Advisory Commission	4167.02	23055
Public Health Council	3701.33	23056
Public Utilities Commission Nominating Council	4901.021	23057
Public Utility Property Tax Study Committee	5727.85	23058

Radiation Advisory Council	3748.20	23059
Reclamation Commission	1513.05	23060
Recreation and Resources Commission	1501.04	23061
Recycling and Litter Prevention Advisory Council	1502.04	23062
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	23063
Savings & Loans Associations & Savings Banks Board	1181.16	23064
Schools and Ministerial Lands Divestiture Committee	501.041	23065
Second Chance Trust Fund Advisory Committee	2108.17	23066
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	23067
Solid Waste Management Advisory Council	3734.51	23068
State Agency Coordinating Group	1521.19	23069
State Board of Emergency Medical Services Subcommittees	4765.04	23070
State Council of Uniform State Laws	105.21	23071
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32	23072
State Criminal Sentencing Commission	181.21	23073
State Fire Commission	3737.81	23074
State Racing Commission	3769.02	23075
State Victims Assistance Advisory Committee	109.91	23076
Student Tuition Recovery Authority	3332.081	23077
Tax Credit Authority	122.17	23078
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35	23079
Technical Advisory Council on Oil and Gas	1509.38	23080
Transportation Review Advisory Council	5512.07	23081
Unemployment Compensation Review Commission	4141.06	23082
Unemployment Compensation Advisory Council	4141.08	23083
Utility Radiological Safety Board	4937.02	23084

Vehicle Management Commission	125.833	23085
Veterans Advisory Committee	5902.02(K)	23086
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02	23087
Water and Sewer Commission	1525.11(C)	23088
Waterways Safety Council	1547.73	23089
Wildlife Council	1531.03	23090
Workers' Compensation Board of Directors	4121.123	23091
Nominating Committee		

Section 12. That existing Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly, as most recently amended by Am. Sub. H.B. 100 of the 127th General Assembly, is hereby repealed.

Section 13. 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 following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 109.57 of the Revised Code as amended by both Sub. H.B. 428 and Sub. S.B. 163 of the 127th General Assembly.

Section 109.572 of the Revised Code as amended by Sub. H.B. 195, Sub. H.B. 545, and Sub. S.B. 247, all of the 127th General Assembly.

Section 109.77 of the Revised Code as amended by Am. Sub. H.B. 490, Sub. H.B. 545, and H.B. 675, all of the 124th General Assembly.

Section 121.37 of the Revised Code as amended by both Sub. H.B. 289 and Am. Sub. H.B. 530 of the 126th General Assembly.

Section 2151.421 of the Revised Code as amended by both Am.	23113
H.B. 314 and Sub. S.B. 163 of the 127th General Assembly.	23114
Section 5126.04 of the Revised Code as amended by both Am.	23115
Sub. H.B. 119 and Am. Sub. H.B. 214 of the 127th General Assembly.	23116
Section 5815.35 of the Revised Code as amended by both Sub.	23117
H.B. 332 and Sub. H.B. 499 of the 127th General Assembly.	23118