

As Introduced

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

H. B. No. 621

Representatives Stewart, J., Strahorn

—

A BILL

To amend sections 101.37, 109.57, 109.572, 117.102, 1
121.36, 121.37, 124.11, 124.23, 124.241, 124.38, 2
135.801, 135.802, 135.803, 140.03, 140.05, 3
145.297, 305.14, 307.10, 307.86, 309.10, 319.16, 4
325.19, 329.06, 1751.01, 1751.02, 2108.521, 5
2151.421, 3109.18, 3301.07, 3301.52, 3301.53, 6
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3317.01, 3317.02, 3317.024, 3317.03, 3317.032, 8
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3701.93, 3701.932, 3701.933, 4109.06, 4141.29, 13
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5126.55, 5126.57, 5126.58, 5126.59, 5126.61,	48
5126.62, 5126.99, 5153.16, 5153.99, 5543.011,	49
5705.091, 5705.14, 5705.191, 5705.222, 5705.28,	50
5705.44, 5735.142, and 5815.28; to enact section	51
5126.011 of the Revised Code; to amend Sections	52
269.20.40, 269.20.80, 269.20.90, 269.30.50,	53
337.30.30, 337.30.40, 337.30.60, and 337.40.30 of	54
Am. Sub. H.B. 119 of the 127th General Assembly,	55
to amend Section 337.30.43 of Am. Sub. H.B. 119 of	56
the 127th General Assembly, as subsequently	57

amended, to amend Section 201.60.30 of H.B. 496 of 58
the 127th General Assembly, and to amend Section 59
231.20.30 of Am. Sub. H.B. 562 of the 127th 60
General Assembly to change the name of county 61
boards of mental retardation and developmental 62
disabilities to county boards of developmental 63
disabilities and to make similar name changes for 64
certain county funds. 65

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

Section 1. That sections 101.37, 109.57, 109.572, 117.102, 66
121.36, 121.37, 124.11, 124.23, 124.241, 124.38, 135.801, 135.802, 67
135.803, 140.03, 140.05, 145.297, 305.14, 307.10, 307.86, 309.10, 68
319.16, 325.19, 329.06, 1751.01, 1751.02, 2108.521, 2151.421, 69
3109.18, 3301.07, 3301.52, 3301.53, 3301.55, 3301.57, 3301.58, 70
3314.022, 3314.99, 3317.01, 3317.02, 3317.024, 3317.03, 3317.032, 71
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3319.99, 3323.01, 3323.02, 3323.021, 3323.03, 3323.04, 3323.05, 73
3323.09, 3323.091, 3323.12, 3323.141, 3323.142, 3326.99, 3701.93, 74
3701.932, 3701.933, 4109.06, 4141.29, 4511.21, 4511.75, 5101.35, 75
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5123.047, 5123.048, 5123.049, 5123.0411, 5123.0412, 5123.0413, 78
5123.0416, 5123.081, 5123.082, 5123.16, 5123.166, 5123.169, 79
5123.171, 5123.172, 5123.18, 5123.19, 5123.191, 5123.211, 80
5123.351, 5123.36, 5123.37, 5123.371, 5123.372, 5123.373, 81
5123.374, 5123.375, 5123.38, 5123.41, 5123.47, 5123.50, 5123.52, 82
5123.542, 5123.60, 5123.602, 5123.61, 5123.611, 5123.613, 83
5123.614, 5123.63, 5123.64, 5123.71, 5123.711, 5123.74, 5126.01, 84
5126.02, 5126.021, 5126.022, 5126.023, 5126.024, 5126.025, 85
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5126.04, 5126.041, 5126.042, 5126.044, 5126.045, 5126.046, 91
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5126.07, 5126.071, 5126.08, 5126.081, 5126.082, 5126.09, 5126.10, 94
5126.11, 5126.12, 5126.121, 5126.13, 5126.14, 5126.15, 5126.18, 95
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5126.28, 5126.281, 5126.29, 5126.30, 5126.31, 5126.311, 5126.313, 98
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5126.43, 5126.45, 5126.46, 5126.47, 5126.49, 5126.50, 5126.54, 100
5126.55, 5126.57, 5126.58, 5126.59, 5126.61, 5126.62, 5126.99, 101
5153.16, 5153.99, 5543.011, 5705.091, 5705.14, 5705.191, 5705.222, 102
5705.28, 5705.44, 5735.142, and 5815.28 be amended and section 103
5126.011 of the Revised Code be enacted to read as follows: 104

Sec. 101.37. (A) There is hereby created the joint council on 105
mental retardation and developmental disabilities. The joint 106
council shall consist of three members of the house of 107
representatives appointed by the speaker of the house of 108
representatives, not more than two of whom shall be members of the 109
same political party, three members of the senate appointed by the 110
president of the senate, not more than two of whom shall be 111
members of the same political party, and the director of mental 112
retardation and developmental disabilities. At least one member of 113
the joint council appointed by the speaker of the house of 114
representatives and at least one member appointed by the president 115
of the senate shall be a member of the house or senate committee 116
with primary responsibility for appropriation issues and at least 117
one member appointed by the speaker and at least one member 118

appointed by the president shall be a member of the house or 119
senate committee with primary responsibility for human services 120
issues. 121

Members of the joint council shall be reimbursed for their 122
actual and necessary expenses incurred in the performance of their 123
official duties, provided that reimbursement for such expenses 124
shall not exceed limits imposed upon the department of mental 125
retardation and developmental disabilities by administrative rules 126
regulating travel within this state. Members shall receive no 127
other compensation. 128

The joint council shall organize itself within fifteen days 129
after the commencement of each regular session of the general 130
assembly by electing a chairperson and vice-chairperson. The joint 131
council may meet upon the call of the chairperson, the director, 132
or on the request of any three members. 133

Members of the joint council who are appointed from the 134
general assembly shall serve until the expiration of their terms 135
in the general assembly. Any vacancies occurring among the general 136
assembly members of the joint council shall be filled in the 137
manner of the original appointment. 138

(B) The joint council shall do all of the following: 139

(1) Appoint the original members of the citizen's advisory 140
council at any institution under the control of the department of 141
mental retardation and developmental disabilities that is created 142
after November 15, 1981; 143

(2) Make final determinations in any dispute between the 144
director of mental retardation and developmental disabilities and 145
a citizen's advisory council concerning the appointment of members 146
to the citizen's advisory council, as provided for in section 147
5123.092 of the Revised Code; 148

(3) Receive reports from citizen's advisory councils on or 149

before the thirty-first day of January of each year, as required 150
by section 5123.093 of the Revised Code; 151

(4) Receive reports as appropriate concerning extenuating 152
circumstances at institutions under the control of the department 153
of mental retardation and developmental disabilities; 154

(5) Conduct reviews and make recommendations to the director 155
of mental retardation and developmental disabilities with respect 156
to any disputes between the department of mental retardation and 157
developmental disabilities and entities that have entered into 158
contracts with the department for the provision of protective 159
services to individuals with mental retardation or developmental 160
disabilities; 161

(6) Provide the director of mental retardation and 162
developmental disabilities with advice on legislative and fiscal 163
issues affecting the department of mental retardation and 164
developmental disabilities, county boards of ~~mental retardation~~ 165
~~and~~ developmental disabilities, persons with mental retardation or 166
developmental disabilities, and providers of services to persons 167
with mental retardation or developmental disabilities and on 168
related issues the director requests the joint council to address; 169

(7) On behalf of the director of mental retardation and 170
developmental disabilities, advocate to the general assembly 171
legislative issues about which the joint council has provided 172
advice to the director. 173

(C) Reports and any correspondence received by the joint 174
council shall be deposited with the legislative service 175
commission, which shall retain them for not less than three years 176
after the date of deposit. 177

Sec. 109.57. (A)(1) The superintendent of the bureau of 178
criminal identification and investigation shall procure from 179

wherever procurable and file for record photographs, pictures, 180
descriptions, fingerprints, measurements, and other information 181
that may be pertinent of all persons who have been convicted of 182
committing within this state a felony, any crime constituting a 183
misdemeanor on the first offense and a felony on subsequent 184
offenses, or any misdemeanor described in division (A)(1)(a), 185
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 186
of all children under eighteen years of age who have been 187
adjudicated delinquent children for committing within this state 188
an act that would be a felony or an offense of violence if 189
committed by an adult or who have been convicted of or pleaded 190
guilty to committing within this state a felony or an offense of 191
violence, and of all well-known and habitual criminals. The person 192
in charge of any county, multicounty, municipal, municipal-county, 193
or multicounty-municipal jail or workhouse, community-based 194
correctional facility, halfway house, alternative residential 195
facility, or state correctional institution and the person in 196
charge of any state institution having custody of a person 197
suspected of having committed a felony, any crime constituting a 198
misdemeanor on the first offense and a felony on subsequent 199
offenses, or any misdemeanor described in division (A)(1)(a), 200
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or 201
having custody of a child under eighteen years of age with respect 202
to whom there is probable cause to believe that the child may have 203
committed an act that would be a felony or an offense of violence 204
if committed by an adult shall furnish such material to the 205
superintendent of the bureau. Fingerprints, photographs, or other 206
descriptive information of a child who is under eighteen years of 207
age, has not been arrested or otherwise taken into custody for 208
committing an act that would be a felony or an offense of violence 209
who is not in any other category of child specified in this 210
division, if committed by an adult, has not been adjudicated a 211
delinquent child for committing an act that would be a felony or 212

an offense of violence if committed by an adult, has not been 213
convicted of or pleaded guilty to committing a felony or an 214
offense of violence, and is not a child with respect to whom there 215
is probable cause to believe that the child may have committed an 216
act that would be a felony or an offense of violence if committed 217
by an adult shall not be procured by the superintendent or 218
furnished by any person in charge of any county, multicounty, 219
municipal, municipal-county, or multicounty-municipal jail or 220
workhouse, community-based correctional facility, halfway house, 221
alternative residential facility, or state correctional 222
institution, except as authorized in section 2151.313 of the 223
Revised Code. 224

(2) Every clerk of a court of record in this state, other 225
than the supreme court or a court of appeals, shall send to the 226
superintendent of the bureau a weekly report containing a summary 227
of each case involving a felony, involving any crime constituting 228
a misdemeanor on the first offense and a felony on subsequent 229
offenses, involving a misdemeanor described in division (A)(1)(a), 230
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 231
or involving an adjudication in a case in which a child under 232
eighteen years of age was alleged to be a delinquent child for 233
committing an act that would be a felony or an offense of violence 234
if committed by an adult. The clerk of the court of common pleas 235
shall include in the report and summary the clerk sends under this 236
division all information described in divisions (A)(2)(a) to (f) 237
of this section regarding a case before the court of appeals that 238
is served by that clerk. The summary shall be written on the 239
standard forms furnished by the superintendent pursuant to 240
division (B) of this section and shall include the following 241
information: 242

(a) The incident tracking number contained on the standard 243
forms furnished by the superintendent pursuant to division (B) of 244

this section;	245
(b) The style and number of the case;	246
(c) The date of arrest, offense, summons, or arraignment;	247
(d) The date that the person was convicted of or pleaded	248
guilty to the offense, adjudicated a delinquent child for	249
committing the act that would be a felony or an offense of	250
violence if committed by an adult, found not guilty of the	251
offense, or found not to be a delinquent child for committing an	252
act that would be a felony or an offense of violence if committed	253
by an adult, the date of an entry dismissing the charge, an entry	254
declaring a mistrial of the offense in which the person is	255
discharged, an entry finding that the person or child is not	256
competent to stand trial, or an entry of a nolle prosequi, or the	257
date of any other determination that constitutes final resolution	258
of the case;	259
(e) A statement of the original charge with the section of	260
the Revised Code that was alleged to be violated;	261
(f) If the person or child was convicted, pleaded guilty, or	262
was adjudicated a delinquent child, the sentence or terms of	263
probation imposed or any other disposition of the offender or the	264
delinquent child.	265
If the offense involved the disarming of a law enforcement	266
officer or an attempt to disarm a law enforcement officer, the	267
clerk shall clearly state that fact in the summary, and the	268
superintendent shall ensure that a clear statement of that fact is	269
placed in the bureau's records.	270
(3) The superintendent shall cooperate with and assist	271
sheriffs, chiefs of police, and other law enforcement officers in	272
the establishment of a complete system of criminal identification	273
and in obtaining fingerprints and other means of identification of	274
all persons arrested on a charge of a felony, any crime	275

constituting a misdemeanor on the first offense and a felony on 276
subsequent offenses, or a misdemeanor described in division 277
(A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the 278
Revised Code and of all children under eighteen years of age 279
arrested or otherwise taken into custody for committing an act 280
that would be a felony or an offense of violence if committed by 281
an adult. The superintendent also shall file for record the 282
fingerprint impressions of all persons confined in a county, 283
multicounty, municipal, municipal-county, or multicounty-municipal 284
jail or workhouse, community-based correctional facility, halfway 285
house, alternative residential facility, or state correctional 286
institution for the violation of state laws and of all children 287
under eighteen years of age who are confined in a county, 288
multicounty, municipal, municipal-county, or multicounty-municipal 289
jail or workhouse, community-based correctional facility, halfway 290
house, alternative residential facility, or state correctional 291
institution or in any facility for delinquent children for 292
committing an act that would be a felony or an offense of violence 293
if committed by an adult, and any other information that the 294
superintendent may receive from law enforcement officials of the 295
state and its political subdivisions. 296

(4) The superintendent shall carry out Chapter 2950. of the 297
Revised Code with respect to the registration of persons who are 298
convicted of or plead guilty to a sexually oriented offense or a 299
child-victim oriented offense and with respect to all other duties 300
imposed on the bureau under that chapter. 301

(5) The bureau shall perform centralized recordkeeping 302
functions for criminal history records and services in this state 303
for purposes of the national crime prevention and privacy compact 304
set forth in section 109.571 of the Revised Code and is the 305
criminal history record repository as defined in that section for 306
purposes of that compact. The superintendent or the 307

superintendent's designee is the compact officer for purposes of 308
that compact and shall carry out the responsibilities of the 309
compact officer specified in that compact. 310

(B) The superintendent shall prepare and furnish to every 311
county, multicounty, municipal, municipal-county, or 312
multicounty-municipal jail or workhouse, community-based 313
correctional facility, halfway house, alternative residential 314
facility, or state correctional institution and to every clerk of 315
a court in this state specified in division (A)(2) of this section 316
standard forms for reporting the information required under 317
division (A) of this section. The standard forms that the 318
superintendent prepares pursuant to this division may be in a 319
tangible format, in an electronic format, or in both tangible 320
formats and electronic formats. 321

(C)(1) The superintendent may operate a center for 322
electronic, automated, or other data processing for the storage 323
and retrieval of information, data, and statistics pertaining to 324
criminals and to children under eighteen years of age who are 325
adjudicated delinquent children for committing an act that would 326
be a felony or an offense of violence if committed by an adult, 327
criminal activity, crime prevention, law enforcement, and criminal 328
justice, and may establish and operate a statewide communications 329
network to gather and disseminate information, data, and 330
statistics for the use of law enforcement agencies and for other 331
uses specified in this division. The superintendent may gather, 332
store, retrieve, and disseminate information, data, and statistics 333
that pertain to children who are under eighteen years of age and 334
that are gathered pursuant to sections 109.57 to 109.61 of the 335
Revised Code together with information, data, and statistics that 336
pertain to adults and that are gathered pursuant to those 337
sections. 338

(2) The superintendent or the superintendent's designee shall 339

gather information of the nature described in division (C)(1) of 340
this section that pertains to the offense and delinquency history 341
of a person who has been convicted of, pleaded guilty to, or been 342
adjudicated a delinquent child for committing a sexually oriented 343
offense or a child-victim oriented offense for inclusion in the 344
state registry of sex offenders and child-victim offenders 345
maintained pursuant to division (A)(1) of section 2950.13 of the 346
Revised Code and in the internet database operated pursuant to 347
division (A)(13) of that section and for possible inclusion in the 348
internet database operated pursuant to division (A)(11) of that 349
section. 350

(3) In addition to any other authorized use of information, 351
data, and statistics of the nature described in division (C)(1) of 352
this section, the superintendent or the superintendent's designee 353
may provide and exchange the information, data, and statistics 354
pursuant to the national crime prevention and privacy compact as 355
described in division (A)(5) of this section. 356

(D) The information and materials furnished to the 357
superintendent pursuant to division (A) of this section and 358
information and materials furnished to any board or person under 359
division (F) or (G) of this section are not public records under 360
section 149.43 of the Revised Code. The superintendent or the 361
superintendent's designee shall gather and retain information so 362
furnished under division (A) of this section that pertains to the 363
offense and delinquency history of a person who has been convicted 364
of, pleaded guilty to, or been adjudicated a delinquent child for 365
committing a sexually oriented offense or a child-victim oriented 366
offense for the purposes described in division (C)(2) of this 367
section. 368

(E) The attorney general shall adopt rules, in accordance 369
with Chapter 119. of the Revised Code, setting forth the procedure 370
by which a person may receive or release information gathered by 371

the superintendent pursuant to division (A) of this section. A 372
reasonable fee may be charged for this service. If a temporary 373
employment service submits a request for a determination of 374
whether a person the service plans to refer to an employment 375
position has been convicted of or pleaded guilty to an offense 376
listed in division (A)(1), (3), (4), (5), or (6) of section 377
109.572 of the Revised Code, the request shall be treated as a 378
single request and only one fee shall be charged. 379

(F)(1) As used in division (F)(2) of this section, "head 380
start agency" means an entity in this state that has been approved 381
to be an agency for purposes of subchapter II of the "Community 382
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 383
as amended. 384

(2)(a) In addition to or in conjunction with any request that 385
is required to be made under section 109.572, 2151.86, 3301.32, 386
3301.541, 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 387
5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 388
Code or that is made under section 3314.41, 3319.392, or 3326.25 389
of the Revised Code, the board of education of any school 390
district; the director of mental retardation and developmental 391
disabilities; any county board of ~~mental retardation and~~ 392
developmental disabilities; any entity under contract with a 393
county board of ~~mental retardation and~~ developmental disabilities; 394
the chief administrator of any chartered nonpublic school; the 395
chief administrator of any home health agency; the chief 396
administrator of or person operating any child day-care center, 397
type A family day-care home, or type B family day-care home 398
licensed or certified under Chapter 5104. of the Revised Code; the 399
administrator of any type C family day-care home certified 400
pursuant to Section 1 of Sub. H.B. 62 of the 121st general 401
assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general 402
assembly; the chief administrator of any head start agency; the 403

executive director of a public children services agency; a private 404
company described in section 3314.41, 3319.392, or 3326.25 of the 405
Revised Code; or an employer described in division (J)(2) of 406
section 3327.10 of the Revised Code may request that the 407
superintendent of the bureau investigate and determine, with 408
respect to any individual who has applied for employment in any 409
position after October 2, 1989, or any individual wishing to apply 410
for employment with a board of education may request, with regard 411
to the individual, whether the bureau has any information gathered 412
under division (A) of this section that pertains to that 413
individual. On receipt of the request, the superintendent shall 414
determine whether that information exists and, upon request of the 415
person, board, or entity requesting information, also shall 416
request from the federal bureau of investigation any criminal 417
records it has pertaining to that individual. The superintendent 418
or the superintendent's designee also may request criminal history 419
records from other states or the federal government pursuant to 420
the national crime prevention and privacy compact set forth in 421
section 109.571 of the Revised Code. Within thirty days of the 422
date that the superintendent receives a request, the 423
superintendent shall send to the board, entity, or person a report 424
of any information that the superintendent determines exists, 425
including information contained in records that have been sealed 426
under section 2953.32 of the Revised Code, and, within thirty days 427
of its receipt, shall send the board, entity, or person a report 428
of any information received from the federal bureau of 429
investigation, other than information the dissemination of which 430
is prohibited by federal law. 431

(b) When a board of education is required to receive 433
information under this section as a prerequisite to employment of 434
an individual pursuant to section 3319.39 of the Revised Code, it 435
may accept a certified copy of records that were issued by the 436

bureau of criminal identification and investigation and that are 437
presented by an individual applying for employment with the 438
district in lieu of requesting that information itself. In such a 439
case, the board shall accept the certified copy issued by the 440
bureau in order to make a photocopy of it for that individual's 441
employment application documents and shall return the certified 442
copy to the individual. In a case of that nature, a district only 443
shall accept a certified copy of records of that nature within one 444
year after the date of their issuance by the bureau. 445

(3) The state board of education may request, with respect to 446
any individual who has applied for employment after October 2, 447
1989, in any position with the state board or the department of 448
education, any information that a school district board of 449
education is authorized to request under division (F)(2) of this 450
section, and the superintendent of the bureau shall proceed as if 451
the request has been received from a school district board of 452
education under division (F)(2) of this section. 453

(4) When the superintendent of the bureau receives a request 454
for information under section 3319.291 of the Revised Code, the 455
superintendent shall proceed as if the request has been received 456
from a school district board of education under division (F)(2) of 457
this section. 458

(5) When a recipient of a classroom reading improvement grant 459
paid under section 3301.86 of the Revised Code requests, with 460
respect to any individual who applies to participate in providing 461
any program or service funded in whole or in part by the grant, 462
the information that a school district board of education is 463
authorized to request under division (F)(2)(a) of this section, 464
the superintendent of the bureau shall proceed as if the request 465
has been received from a school district board of education under 466
division (F)(2)(a) of this section. 467

(G) In addition to or in conjunction with any request that is 468

required to be made under section 3701.881, 3712.09, 3721.121, or 469
3722.151 of the Revised Code with respect to an individual who has 470
applied for employment in a position that involves providing 471
direct care to an older adult, the chief administrator of a home 472
health agency, hospice care program, home licensed under Chapter 473
3721. of the Revised Code, adult day-care program operated 474
pursuant to rules adopted under section 3721.04 of the Revised 475
Code, or adult care facility may request that the superintendent 476
of the bureau investigate and determine, with respect to any 477
individual who has applied after January 27, 1997, for employment 478
in a position that does not involve providing direct care to an 479
older adult, whether the bureau has any information gathered under 480
division (A) of this section that pertains to that individual. 481

In addition to or in conjunction with any request that is 482
required to be made under section 173.27 of the Revised Code with 483
respect to an individual who has applied for employment in a 484
position that involves providing ombudsperson services to 485
residents of long-term care facilities or recipients of 486
community-based long-term care services, the state long-term care 487
ombudsperson, ombudsperson's designee, or director of health may 488
request that the superintendent investigate and determine, with 489
respect to any individual who has applied for employment in a 490
position that does not involve providing such ombudsperson 491
services, whether the bureau has any information gathered under 492
division (A) of this section that pertains to that applicant. 493

In addition to or in conjunction with any request that is 494
required to be made under section 173.394 of the Revised Code with 495
respect to an individual who has applied for employment in a 496
position that involves providing direct care to an individual, the 497
chief administrator of a community-based long-term care agency may 498
request that the superintendent investigate and determine, with 499
respect to any individual who has applied for employment in a 500

position that does not involve providing direct care, whether the 501
bureau has any information gathered under division (A) of this 502
section that pertains to that applicant. 503

On receipt of a request under this division, the 504
superintendent shall determine whether that information exists 505
and, on request of the individual requesting information, shall 506
also request from the federal bureau of investigation any criminal 507
records it has pertaining to the applicant. The superintendent or 508
the superintendent's designee also may request criminal history 509
records from other states or the federal government pursuant to 510
the national crime prevention and privacy compact set forth in 511
section 109.571 of the Revised Code. Within thirty days of the 512
date a request is received, the superintendent shall send to the 513
requester a report of any information determined to exist, 514
including information contained in records that have been sealed 515
under section 2953.32 of the Revised Code, and, within thirty days 516
of its receipt, shall send the requester a report of any 517
information received from the federal bureau of investigation, 518
other than information the dissemination of which is prohibited by 519
federal law. 520

(H) Information obtained by a government entity or person 521
under this section is confidential and shall not be released or 522
disseminated. 523

(I) The superintendent may charge a reasonable fee for 524
providing information or criminal records under division (F)(2) or 525
(G) of this section. 526

(J) As used in this section, "sexually oriented offense" and 527
"child-victim oriented offense" have the same meanings as in 528
section 2950.01 of the Revised Code. 529

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 530
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 531

a completed form prescribed pursuant to division (C)(1) of this 532
section, and a set of fingerprint impressions obtained in the 533
manner described in division (C)(2) of this section, the 534
superintendent of the bureau of criminal identification and 535
investigation shall conduct a criminal records check in the manner 536
described in division (B) of this section to determine whether any 537
information exists that indicates that the person who is the 538
subject of the request previously has been convicted of or pleaded 539
guilty to any of the following: 540

(a) A violation of section 2903.01, 2903.02, 2903.03, 541
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 542
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 543
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 544
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 545
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 546
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 547
2925.06, or 3716.11 of the Revised Code, felonious sexual 548
penetration in violation of former section 2907.12 of the Revised 549
Code, a violation of section 2905.04 of the Revised Code as it 550
existed prior to July 1, 1996, a violation of section 2919.23 of 551
the Revised Code that would have been a violation of section 552
2905.04 of the Revised Code as it existed prior to July 1, 1996, 553
had the violation been committed prior to that date, or a 554
violation of section 2925.11 of the Revised Code that is not a 555
minor drug possession offense; 556

(b) A violation of an existing or former law of this state, 557
any other state, or the United States that is substantially 558
equivalent to any of the offenses listed in division (A)(1)(a) of 559
this section. 560

(2) On receipt of a request pursuant to section 5123.081 of 561
the Revised Code with respect to an applicant for employment in 562
any position with the department of mental retardation and 563

developmental disabilities, pursuant to section 5126.28 of the 564
Revised Code with respect to an applicant for employment in any 565
position with a county board of ~~mental retardation and~~ 566
developmental disabilities, or pursuant to section 5126.281 of the 567
Revised Code with respect to an applicant for employment in a 568
direct services position with an entity contracting with a county 569
board for employment, a completed form prescribed pursuant to 570
division (C)(1) of this section, and a set of fingerprint 571
impressions obtained in the manner described in division (C)(2) of 572
this section, the superintendent of the bureau of criminal 573
identification and investigation shall conduct a criminal records 574
check. The superintendent shall conduct the criminal records check 575
in the manner described in division (B) of this section to 576
determine whether any information exists that indicates that the 577
person who is the subject of the request has been convicted of or 578
pleaded guilty to any of the following: 579

(a) A violation of section 2903.01, 2903.02, 2903.03, 580
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 581
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 582
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 583
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 584
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 585
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 586
2925.03, or 3716.11 of the Revised Code; 587

(b) An existing or former municipal ordinance or law of this 588
state, any other state, or the United States that is substantially 589
equivalent to any of the offenses listed in division (A)(2)(a) of 590
this section. 591

(3) On receipt of a request pursuant to section 173.27, 592
173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a 593
completed form prescribed pursuant to division (C)(1) of this 594
section, and a set of fingerprint impressions obtained in the 595

manner described in division (C)(2) of this section, the 596
superintendent of the bureau of criminal identification and 597
investigation shall conduct a criminal records check with respect 598
to any person who has applied for employment in a position for 599
which a criminal records check is required by those sections. The 600
superintendent shall conduct the criminal records check in the 601
manner described in division (B) of this section to determine 602
whether any information exists that indicates that the person who 603
is the subject of the request previously has been convicted of or 604
pleaded guilty to any of the following: 605

(a) A violation of section 2903.01, 2903.02, 2903.03, 606
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 607
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 608
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 609
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 610
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 611
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 612
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 613
2925.22, 2925.23, or 3716.11 of the Revised Code; 614

(b) An existing or former law of this state, any other state, 615
or the United States that is substantially equivalent to any of 616
the offenses listed in division (A)(3)(a) of this section. 617

(4) On receipt of a request pursuant to section 3701.881 of 618
the Revised Code with respect to an applicant for employment with 619
a home health agency as a person responsible for the care, 620
custody, or control of a child, a completed form prescribed 621
pursuant to division (C)(1) of this section, and a set of 622
fingerprint impressions obtained in the manner described in 623
division (C)(2) of this section, the superintendent of the bureau 624
of criminal identification and investigation shall conduct a 625
criminal records check. The superintendent shall conduct the 626
criminal records check in the manner described in division (B) of 627

this section to determine whether any information exists that 628
indicates that the person who is the subject of the request 629
previously has been convicted of or pleaded guilty to any of the 630
following: 631

(a) A violation of section 2903.01, 2903.02, 2903.03, 632
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 633
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 634
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 635
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 636
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 637
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 638
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 639
violation of section 2925.11 of the Revised Code that is not a 640
minor drug possession offense; 641

(b) An existing or former law of this state, any other state, 642
or the United States that is substantially equivalent to any of 643
the offenses listed in division (A)(4)(a) of this section. 644

(5) On receipt of a request pursuant to section 5111.032, 645
5111.033, or 5111.034 of the Revised Code, a completed form 646
prescribed pursuant to division (C)(1) of this section, and a set 647
of fingerprint impressions obtained in the manner described in 648
division (C)(2) of this section, the superintendent of the bureau 649
of criminal identification and investigation shall conduct a 650
criminal records check. The superintendent shall conduct the 651
criminal records check in the manner described in division (B) of 652
this section to determine whether any information exists that 653
indicates that the person who is the subject of the request 654
previously has been convicted of, has pleaded guilty to, or has 655
been found eligible for intervention in lieu of conviction for any 656
of the following: 657

(a) A violation of section 2903.01, 2903.02, 2903.03, 658
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 659

2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 660
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 661
2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 662
2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 663
2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 664
2913.40, 2913.43, 2913.47, 2913.48, 2913.49, 2913.51, 2917.11, 665
2919.12, 2919.22, 2919.24, 2919.25, 2921.13, 2921.36, 2923.02, 666
2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 667
2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, or 668
3716.11 of the Revised Code, felonious sexual penetration in 669
violation of former section 2907.12 of the Revised Code, a 670
violation of section 2905.04 of the Revised Code as it existed 671
prior to July 1, 1996, a violation of section 2919.23 of the 672
Revised Code that would have been a violation of section 2905.04 673
of the Revised Code as it existed prior to July 1, 1996, had the 674
violation been committed prior to that date; 675

(b) An existing or former law of this state, any other state, 676
or the United States that is substantially equivalent to any of 677
the offenses listed in division (A)(5)(a) of this section. 678

(6) On receipt of a request pursuant to section 3701.881 of 679
the Revised Code with respect to an applicant for employment with 680
a home health agency in a position that involves providing direct 681
care to an older adult, a completed form prescribed pursuant to 682
division (C)(1) of this section, and a set of fingerprint 683
impressions obtained in the manner described in division (C)(2) of 684
this section, the superintendent of the bureau of criminal 685
identification and investigation shall conduct a criminal records 686
check. The superintendent shall conduct the criminal records check 687
in the manner described in division (B) of this section to 688
determine whether any information exists that indicates that the 689
person who is the subject of the request previously has been 690
convicted of or pleaded guilty to any of the following: 691

(a) A violation of section 2903.01, 2903.02, 2903.03, 692
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 693
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 694
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 695
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 696
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 697
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 698
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 699
2925.22, 2925.23, or 3716.11 of the Revised Code; 700

(b) An existing or former law of this state, any other state, 701
or the United States that is substantially equivalent to any of 702
the offenses listed in division (A)(6)(a) of this section. 703

(7) When conducting a criminal records check upon a request 704
pursuant to section 3319.39 of the Revised Code for an applicant 705
who is a teacher, in addition to the determination made under 706
division (A)(1) of this section, the superintendent shall 707
determine whether any information exists that indicates that the 708
person who is the subject of the request previously has been 709
convicted of or pleaded guilty to any offense specified in section 710
3319.31 of the Revised Code. 711

(8) On receipt of a request pursuant to section 2151.86 of 712
the Revised Code, a completed form prescribed pursuant to division 713
(C)(1) of this section, and a set of fingerprint impressions 714
obtained in the manner described in division (C)(2) of this 715
section, the superintendent of the bureau of criminal 716
identification and investigation shall conduct a criminal records 717
check in the manner described in division (B) of this section to 718
determine whether any information exists that indicates that the 719
person who is the subject of the request previously has been 720
convicted of or pleaded guilty to any of the following: 721

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 722
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 723

2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 724
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 725
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 726
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 727
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 728
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 729
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 730
of the Revised Code, a violation of section 2905.04 of the Revised 731
Code as it existed prior to July 1, 1996, a violation of section 732
2919.23 of the Revised Code that would have been a violation of 733
section 2905.04 of the Revised Code as it existed prior to July 1, 734
1996, had the violation been committed prior to that date, a 735
violation of section 2925.11 of the Revised Code that is not a 736
minor drug possession offense, two or more OVI or OVUAC violations 737
committed within the three years immediately preceding the 738
submission of the application or petition that is the basis of the 739
request, or felonious sexual penetration in violation of former 740
section 2907.12 of the Revised Code; 741

(b) A violation of an existing or former law of this state, 742
any other state, or the United States that is substantially 743
equivalent to any of the offenses listed in division (A)(8)(a) of 744
this section. 745

(9) Upon receipt of a request pursuant to section 5104.012 or 746
5104.013 of the Revised Code, a completed form prescribed pursuant 747
to division (C)(1) of this section, and a set of fingerprint 748
impressions obtained in the manner described in division (C)(2) of 749
this section, the superintendent of the bureau of criminal 750
identification and investigation shall conduct a criminal records 751
check in the manner described in division (B) of this section to 752
determine whether any information exists that indicates that the 753
person who is the subject of the request has been convicted of or 754
pleaded guilty to any of the following: 755

(a) A violation of section 2903.01, 2903.02, 2903.03, 756
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 757
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 758
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 759
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 760
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 761
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 762
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 763
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 764
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 765
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 766
3716.11 of the Revised Code, felonious sexual penetration in 767
violation of former section 2907.12 of the Revised Code, a 768
violation of section 2905.04 of the Revised Code as it existed 769
prior to July 1, 1996, a violation of section 2919.23 of the 770
Revised Code that would have been a violation of section 2905.04 771
of the Revised Code as it existed prior to July 1, 1996, had the 772
violation been committed prior to that date, a violation of 773
section 2925.11 of the Revised Code that is not a minor drug 774
possession offense, a violation of section 2923.02 or 2923.03 of 775
the Revised Code that relates to a crime specified in this 776
division, or a second violation of section 4511.19 of the Revised 777
Code within five years of the date of application for licensure or 778
certification. 779

(b) A violation of an existing or former law of this state, 780
any other state, or the United States that is substantially 781
equivalent to any of the offenses or violations described in 782
division (A)(9)(a) of this section. 783

(10) Upon receipt of a request pursuant to section 5153.111 784
of the Revised Code, a completed form prescribed pursuant to 785
division (C)(1) of this section, and a set of fingerprint 786
impressions obtained in the manner described in division (C)(2) of 787

this section, the superintendent of the bureau of criminal 788
identification and investigation shall conduct a criminal records 789
check in the manner described in division (B) of this section to 790
determine whether any information exists that indicates that the 791
person who is the subject of the request previously has been 792
convicted of or pleaded guilty to any of the following: 793

(a) A violation of section 2903.01, 2903.02, 2903.03, 794
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 795
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 796
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 797
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 798
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 799
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 800
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 801
felonious sexual penetration in violation of former section 802
2907.12 of the Revised Code, a violation of section 2905.04 of the 803
Revised Code as it existed prior to July 1, 1996, a violation of 804
section 2919.23 of the Revised Code that would have been a 805
violation of section 2905.04 of the Revised Code as it existed 806
prior to July 1, 1996, had the violation been committed prior to 807
that date, or a violation of section 2925.11 of the Revised Code 808
that is not a minor drug possession offense; 809

(b) A violation of an existing or former law of this state, 810
any other state, or the United States that is substantially 811
equivalent to any of the offenses listed in division (A)(10)(a) of 812
this section. 813

(11) On receipt of a request for a criminal records check 814
from an individual pursuant to section 4749.03 or 4749.06 of the 815
Revised Code, accompanied by a completed copy of the form 816
prescribed in division (C)(1) of this section and a set of 817
fingerprint impressions obtained in a manner described in division 818
(C)(2) of this section, the superintendent of the bureau of 819

criminal identification and investigation shall conduct a criminal 820
records check in the manner described in division (B) of this 821
section to determine whether any information exists indicating 822
that the person who is the subject of the request has been 823
convicted of or pleaded guilty to a felony in this state or in any 824
other state. If the individual indicates that a firearm will be 825
carried in the course of business, the superintendent shall 826
require information from the federal bureau of investigation as 827
described in division (B)(2) of this section. The superintendent 828
shall report the findings of the criminal records check and any 829
information the federal bureau of investigation provides to the 830
director of public safety. 831

(12) On receipt of a request pursuant to section 1321.37, 832
1322.03, 1322.031, or 4763.05 of the Revised Code, a completed 833
form prescribed pursuant to division (C)(1) of this section, and a 834
set of fingerprint impressions obtained in the manner described in 835
division (C)(2) of this section, the superintendent of the bureau 836
of criminal identification and investigation shall conduct a 837
criminal records check with respect to any person who has applied 838
for a license, permit, or certification from the department of 839
commerce or a division in the department. The superintendent shall 840
conduct the criminal records check in the manner described in 841
division (B) of this section to determine whether any information 842
exists that indicates that the person who is the subject of the 843
request previously has been convicted of or pleaded guilty to any 844
of the following: a violation of section 2913.02, 2913.11, 845
2913.31, 2913.51, or 2925.03 of the Revised Code; any other 846
criminal offense involving theft, receiving stolen property, 847
embezzlement, forgery, fraud, passing bad checks, money 848
laundering, or drug trafficking, or any criminal offense involving 849
money or securities, as set forth in Chapters 2909., 2911., 2913., 850
2915., 2921., 2923., and 2925. of the Revised Code; or any 851
existing or former law of this state, any other state, or the 852

United States that is substantially equivalent to those offenses. 853
854

(13) On receipt of a request for a criminal records check 855
from the treasurer of state under section 113.041 of the Revised 856
Code or from an individual under section 4701.08, 4715.101, 857
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 858
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 859
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 860
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 861
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 862
a completed form prescribed under division (C)(1) of this section 863
and a set of fingerprint impressions obtained in the manner 864
described in division (C)(2) of this section, the superintendent 865
of the bureau of criminal identification and investigation shall 866
conduct a criminal records check in the manner described in 867
division (B) of this section to determine whether any information 868
exists that indicates that the person who is the subject of the 869
request has been convicted of or pleaded guilty to any criminal 870
offense in this state or any other state. The superintendent shall 871
send the results of a check requested under section 113.041 of the 872
Revised Code to the treasurer of state and shall send the results 873
of a check requested under any of the other listed sections to the 874
licensing board specified by the individual in the request. 875
876

(14) On receipt of a request pursuant to section 1121.23, 877
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 878
Code, a completed form prescribed pursuant to division (C)(1) of 879
this section, and a set of fingerprint impressions obtained in the 880
manner described in division (C)(2) of this section, the 881
superintendent of the bureau of criminal identification and 882
investigation shall conduct a criminal records check in the manner 883
described in division (B) of this section to determine whether any 884

information exists that indicates that the person who is the 885
subject of the request previously has been convicted of or pleaded 886
guilty to any criminal offense under any existing or former law of 887
this state, any other state, or the United States. 888

(15) Not later than thirty days after the date the 889
superintendent receives a request of a type described in division 890
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), 891
or (14) of this section, the completed form, and the fingerprint 892
impressions, the superintendent shall send the person, board, or 893
entity that made the request any information, other than 894
information the dissemination of which is prohibited by federal 895
law, the superintendent determines exists with respect to the 896
person who is the subject of the request that indicates that the 897
person previously has been convicted of or pleaded guilty to any 898
offense listed or described in division (A)(1), (2), (3), (4), 899
(5), (6), (7), (8), (9), (10), (11), (12), or (14) of this 900
section, as appropriate. The superintendent shall send the person, 901
board, or entity that made the request a copy of the list of 902
offenses specified in division (A)(1), (2), (3), (4), (5), (6), 903
(7), (8), (9), (10), (11), (12), or (14) of this section, as 904
appropriate. If the request was made under section 3701.881 of the 905
Revised Code with regard to an applicant who may be both 906
responsible for the care, custody, or control of a child and 907
involved in providing direct care to an older adult, the 908
superintendent shall provide a list of the offenses specified in 909
divisions (A)(4) and (6) of this section. 910

Not later than thirty days after the superintendent receives 911
a request for a criminal records check pursuant to section 113.041 912
of the Revised Code, the completed form, and the fingerprint 913
impressions, the superintendent shall send the treasurer of state 914
any information, other than information the dissemination of which 915
is prohibited by federal law, the superintendent determines exist 916

with respect to the person who is the subject of the request that 917
indicates that the person previously has been convicted of or 918
pleaded guilty to any criminal offense in this state or any other 919
state. 920

(B) The superintendent shall conduct any criminal records 921
check requested under section 113.041, 121.08, 173.27, 173.394, 922
1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 1733.47, 923
1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 924
3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 925
4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 926
4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 927
4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 928
4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 929
4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 930
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as 931
follows: 932

(1) The superintendent shall review or cause to be reviewed 933
any relevant information gathered and compiled by the bureau under 934
division (A) of section 109.57 of the Revised Code that relates to 935
the person who is the subject of the request, including, if the 936
criminal records check was requested under section 113.041, 937
121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 938
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 939
4749.06, 4763.05, 5104.012, 5104.013, 5111.032, 5111.033, 940
5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 941
Code, any relevant information contained in records that have been 942
sealed under section 2953.32 of the Revised Code; 943

(2) If the request received by the superintendent asks for 944
information from the federal bureau of investigation, the 945
superintendent shall request from the federal bureau of 946
investigation any information it has with respect to the person 947
who is the subject of the request, including fingerprint-based 948

checks of national crime information databases as described in 42 949
U.S.C. 671 if the request is made pursuant to section 2151.86, 950
5104.012, or 5104.013 of the Revised Code or if any other Revised 951
Code section requires fingerprint-based checks of that nature, and 952
shall review or cause to be reviewed any information the 953
superintendent receives from that bureau. 954

(3) The superintendent or the superintendent's designee may 955
request criminal history records from other states or the federal 956
government pursuant to the national crime prevention and privacy 957
compact set forth in section 109.571 of the Revised Code. 958

(C)(1) The superintendent shall prescribe a form to obtain 959
the information necessary to conduct a criminal records check from 960
any person for whom a criminal records check is requested under 961
section 113.041 of the Revised Code or required by section 121.08, 962
173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 963
1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 964
3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 965
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 966
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 967
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 968
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 969
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 970
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 971
5126.281, or 5153.111 of the Revised Code. The form that the 972
superintendent prescribes pursuant to this division may be in a 973
tangible format, in an electronic format, or in both tangible and 974
electronic formats. 975

(2) The superintendent shall prescribe standard impression 976
sheets to obtain the fingerprint impressions of any person for 977
whom a criminal records check is requested under section 113.041 978
of the Revised Code or required by section 121.08, 173.27, 979
173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 980

1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 981
3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 982
4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 983
4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 984
4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 985
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 986
4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 987
5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 988
5153.111 of the Revised Code. Any person for whom a records check 989
is requested under or required by any of those sections shall 990
obtain the fingerprint impressions at a county sheriff's office, 991
municipal police department, or any other entity with the ability 992
to make fingerprint impressions on the standard impression sheets 993
prescribed by the superintendent. The office, department, or 994
entity may charge the person a reasonable fee for making the 995
impressions. The standard impression sheets the superintendent 996
prescribes pursuant to this division may be in a tangible format, 997
in an electronic format, or in both tangible and electronic 998
formats. 999

(3) Subject to division (D) of this section, the 1000
superintendent shall prescribe and charge a reasonable fee for 1001
providing a criminal records check requested under section 1002
113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1003
1315.141, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 1004
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 1005
4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 1006
4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 1007
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 1008
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 1009
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 1010
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 1011
5126.281, or 5153.111 of the Revised Code. The person making a 1012
criminal records request under any of those sections shall pay the 1013

fee prescribed pursuant to this division. A person making a 1014
request under section 3701.881 of the Revised Code for a criminal 1015
records check for an applicant who may be both responsible for the 1016
care, custody, or control of a child and involved in providing 1017
direct care to an older adult shall pay one fee for the request. 1018
In the case of a request under section 1121.23, 1155.03, 1163.05, 1019
1315.141, 1733.47, 1761.26, or 5111.032 of the Revised Code, the 1020
fee shall be paid in the manner specified in that section. 1021

(4) The superintendent of the bureau of criminal 1023
identification and investigation may prescribe methods of 1024
forwarding fingerprint impressions and information necessary to 1025
conduct a criminal records check, which methods shall include, but 1026
not be limited to, an electronic method. 1027

(D) A determination whether any information exists that 1028
indicates that a person previously has been convicted of or 1029
pleaded guilty to any offense listed or described in division 1030
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 1031
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), 1032
(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), or (A)(14) of this 1033
section, or that indicates that a person previously has been 1034
convicted of or pleaded guilty to any criminal offense in this 1035
state or any other state regarding a criminal records check of a 1036
type described in division (A)(13) of this section, and that is 1037
made by the superintendent with respect to information considered 1038
in a criminal records check in accordance with this section is 1039
valid for the person who is the subject of the criminal records 1040
check for a period of one year from the date upon which the 1041
superintendent makes the determination. During the period in which 1042
the determination in regard to a person is valid, if another 1043
request under this section is made for a criminal records check 1044
for that person, the superintendent shall provide the information 1045

that is the basis for the superintendent's initial determination 1046
at a lower fee than the fee prescribed for the initial criminal 1047
records check. 1048

(E) As used in this section: 1049

(1) "Criminal records check" means any criminal records check 1050
conducted by the superintendent of the bureau of criminal 1051
identification and investigation in accordance with division (B) 1052
of this section. 1053

(2) "Minor drug possession offense" has the same meaning as 1054
in section 2925.01 of the Revised Code. 1055

(3) "Older adult" means a person age sixty or older. 1056

(4) "OVI or OVUAC violation" means a violation of section 1057
4511.19 of the Revised Code or a violation of an existing or 1058
former law of this state, any other state, or the United States 1059
that is substantially equivalent to section 4511.19 of the Revised 1060
Code. 1061

Sec. 117.102. The auditor of state shall review the report of 1062
each school health and safety network inspection of a public 1063
school building and associated grounds submitted to the auditor of 1064
state under section 3701.932 of the Revised Code. The auditor of 1065
state may include references to any of the recommendations 1066
contained in the inspection report, as determined appropriate by 1067
the auditor of state, in any audit report of the school district, 1068
educational service center, county board of ~~mental-retardation and~~ 1069
developmental disabilities, or community school controlling the 1070
inspected building and grounds. 1071

As used in this section, "public school" has the same meaning 1072
as in section 3701.93 of the Revised Code. 1073

Sec. 121.36. (A) As used in this section, "home care 1074

dependent adult" means an individual who resides in a private home 1075
or other noninstitutional and unlicensed living arrangement, 1076
without the presence of a parent or guardian, but has health and 1077
safety needs that require the provision of regularly scheduled 1078
home care services to remain in the home or other living 1079
arrangement because one of the following is the case: 1080

(1) The individual is at least twenty-one years of age but 1081
less than sixty years of age and has a physical disability or 1082
mental impairment. 1083

(2) The individual is sixty years of age or older, regardless 1084
of whether the individual has a physical disability or mental 1085
impairment. 1086

(B) Except as provided in division (D) of this section, the 1087
departments of mental retardation and developmental disabilities, 1088
aging, job and family services, and health shall each implement 1089
this section with respect to all contracts entered into by the 1090
department for the provision of home care services to home care 1091
dependent adults that are paid for in whole or in part with 1092
federal, state, or local funds. Except as provided in division (D) 1093
of this section, each department shall also require all public and 1094
private entities that receive money from or through the department 1095
to comply with this section when entering into contracts for the 1096
provision of home care services to home care dependent adults that 1097
are paid for in whole or in part with federal, state, or local 1098
funds. Such entities may include county boards of ~~mental~~ 1099
~~retardation and~~ developmental disabilities, area agencies on 1100
aging, county departments of job and family services, and boards 1101
of health of city and general health districts. 1102

(C) Beginning one year after ~~the effective date of this~~ 1103
~~section~~ September 26, 2003, each contract subject to this section 1104
shall include terms requiring that the provider of home care 1105
services to home care dependent adults have a system in place that 1106

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

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

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

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

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

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

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

(D) In implementing this section, the departments shall 1138
exempt providers of home care services who are self-employed 1139
providers with no other employees or are otherwise considered by 1140
the departments not to be agency providers. The departments shall 1141
conduct a study on how the exempted providers may be made subject 1142
to the requirement of effectively monitoring whether home care 1143
services are being provided and have been provided at the proper 1144
location and time. Not later than two years after ~~the effective~~ 1145
~~date of this section~~ September 26, 2003, the departments shall 1146
prepare a report of their findings and recommendations. The report 1147
shall be submitted to the president of the senate and the speaker 1148
of the house of representatives. 1149

(E) The departments of mental retardation and developmental 1150
disabilities, aging, job and family services, and health shall 1151
each adopt rules as necessary to implement this section. The rules 1152
shall be adopted in accordance with Chapter 119. of the Revised 1153
Code. 1154

Sec. 121.37. (A)(1) There is hereby created the Ohio family 1155
and children first cabinet council. The council shall be composed 1156
of the superintendent of public instruction and the directors of 1157
youth services, job and family services, mental health, health, 1158
alcohol and drug addiction services, mental retardation and 1159
developmental disabilities, and budget and management. The 1160
chairperson of the council shall be the governor or the governor's 1161
designee and shall establish procedures for the council's internal 1162
control and management. 1163

The purpose of the cabinet council is to help families 1164
seeking government services. This section shall not be interpreted 1165
or applied to usurp the role of parents, but solely to streamline 1166
and coordinate existing government services for families seeking 1167
assistance for their children. 1168

- (2) In seeking to fulfill its purpose, the council may do any 1169
of the following: 1170
- (a) Advise and make recommendations to the governor and 1171
general assembly regarding the provision of services to children; 1172
- (b) Advise and assess local governments on the coordination 1173
of service delivery to children; 1174
- (c) Hold meetings at such times and places as may be 1175
prescribed by the council's procedures and maintain records of the 1176
meetings, except that records identifying individual children are 1177
confidential and shall be disclosed only as provided by law; 1178
- (d) Develop programs and projects, including pilot projects, 1179
to encourage coordinated efforts at the state and local level to 1180
improve the state's social service delivery system; 1181
- (e) Enter into contracts with and administer grants to county 1182
family and children first councils, as well as other county or 1183
multicounty organizations to plan and coordinate service delivery 1184
between state agencies and local service providers for families 1185
and children; 1186
- (f) Enter into contracts with and apply for grants from 1187
federal agencies or private organizations; 1188
- (g) Enter into interagency agreements to encourage 1189
coordinated efforts at the state and local level to improve the 1190
state's social service delivery system. The agreements may include 1191
provisions regarding the receipt, transfer, and expenditure of 1192
funds; 1193
- (h) Identify public and private funding sources for services 1194
provided to alleged or adjudicated unruly children and children 1195
who are at risk of being alleged or adjudicated unruly children, 1196
including regulations governing access to and use of the services; 1197
- (i) Collect information provided by local communities 1198

regarding successful programs for prevention, intervention, and 1199
treatment of unruly behavior, including evaluations of the 1200
programs; 1201

(j) Identify and disseminate publications regarding alleged 1202
or adjudicated unruly children and children who are at risk of 1203
being alleged or adjudicated unruly children and regarding 1204
programs serving those types of children; 1205

(k) Maintain an inventory of strategic planning facilitators 1206
for use by government or nonprofit entities that serve alleged or 1207
adjudicated unruly children or children who are at risk of being 1208
alleged or adjudicated unruly children. 1209

(3) The cabinet council shall provide for the following: 1210

(a) Reviews of service and treatment plans for children for 1211
which such reviews are requested; 1212

(b) Assistance as the council determines to be necessary to 1213
meet the needs of children referred by county family and children 1214
first councils; 1215

(c) Monitoring and supervision of a statewide, comprehensive, 1216
coordinated, multi-disciplinary, interagency system for infants 1217
and toddlers with developmental disabilities or delays and their 1218
families, as established pursuant to federal grants received and 1219
administered by the department of health for early intervention 1220
services under the "Individuals with Disabilities Education Act of 1221
2004," 20 U.S.C.A. 1400, as amended. 1222

(4) The cabinet council shall develop and implement the 1223
following: 1224

(a) An interagency process to select the indicators that will 1225
be used to measure progress toward increasing child well-being in 1226
the state and to update the indicators on an annual basis. The 1227
indicators shall focus on expectant parents and newborns thriving; 1228

infants and toddlers thriving; children being ready for school; 1229
children and youth succeeding in school; youth choosing healthy 1230
behaviors; and youth successfully transitioning into adulthood. 1231

(b) An interagency system to offer guidance and monitor 1232
progress toward increasing child well-being in the state and in 1233
each county; 1234

(c) An annual plan that identifies state-level agency efforts 1235
taken to ensure progress towards increasing child well-being in 1236
the state. 1237

On an annual basis, the cabinet council shall submit to the 1238
governor and the general assembly a report on the status of 1239
efforts to increase child well-being in the state. This report 1240
shall be made available to any other person on request. 1241

(B)(1) Each board of county commissioners shall establish a 1242
county family and children first council. The board may invite any 1243
local public or private agency or group that funds, advocates, or 1244
provides services to children and families to have a 1245
representative become a permanent or temporary member of its 1246
county council. Each county council must include the following 1247
individuals: 1248

(a) At least three individuals who are not employed by an 1249
agency represented on the council and whose families are or have 1250
received services from an agency represented on the council or 1251
another county's council. Where possible, the number of members 1252
representing families shall be equal to twenty per cent of the 1253
council's membership. 1254

(b) The director of the board of alcohol, drug addiction, and 1255
mental health services that serves the county, or, in the case of 1256
a county that has a board of alcohol and drug addiction services 1257
and a community mental health board, the directors of both boards. 1258
If a board of alcohol, drug addiction, and mental health services 1259

covers more than one county, the director may designate a person	1260
to participate on the county's council.	1261
(c) The health commissioner, or the commissioner's designee,	1262
of the board of health of each city and general health district in	1263
the county. If the county has two or more health districts, the	1264
health commissioner membership may be limited to the commissioners	1265
of the two districts with the largest populations.	1266
(d) The director of the county department of job and family	1267
services;	1268
(e) The executive director of the public children services	1269
agency;	1270
(f) The superintendent of the county board of mental	1271
retardation and developmental disabilities;	1272
(g) The superintendent of the city, exempted village, or	1273
local school district with the largest number of pupils residing	1274
in the county, as determined by the department of education, which	1275
shall notify each board of county commissioners of its	1276
determination at least biennially;	1277
(h) A school superintendent representing all other school	1278
districts with territory in the county, as designated at a	1279
biennial meeting of the superintendents of those districts;	1280
(i) A representative of the municipal corporation with the	1281
largest population in the county;	1282
(j) The president of the board of county commissioners or an	1283
individual designated by the board;	1284
(k) A representative of the regional office of the department	1285
of youth services;	1286
(l) A representative of the county's head start agencies, as	1287
defined in section 3301.32 of the Revised Code;	1288
(m) A representative of the county's early intervention	1289

collaborative established pursuant to the federal early 1290
intervention program operated under the "Individuals with 1291
Disabilities Education Act of 2004"; 1292

(n) A representative of a local nonprofit entity that funds, 1293
advocates, or provides services to children and families. 1294

Notwithstanding any other provision of law, the public 1295
members of a county council are not prohibited from serving on the 1296
council and making decisions regarding the duties of the council, 1297
including those involving the funding of joint projects and those 1298
outlined in the county's service coordination mechanism 1299
implemented pursuant to division (C) of this section. 1300

The cabinet council shall establish a state appeals process 1301
to resolve disputes among the members of a county council 1302
concerning whether reasonable responsibilities as members are 1303
being shared. The appeals process may be accessed only by a 1304
majority vote of the council members who are required to serve on 1305
the council. Upon appeal, the cabinet council may order that state 1306
funds for services to children and families be redirected to a 1307
county's board of county commissioners. 1308

The county's juvenile court judge senior in service or 1309
another judge of the juvenile court designated by the 1310
administrative judge or, where there is no administrative judge, 1311
by the judge senior in service shall serve as the judicial advisor 1312
to the county family and children first council. The judge may 1313
advise the county council on the court's utilization of resources, 1314
services, or programs provided by the entities represented by the 1315
members of the county council and how those resources, services, 1316
or programs assist the court in its administration of justice. 1317
Service of a judge as a judicial advisor pursuant to this section 1318
is a judicial function. 1319

(2) The purpose of the county council is to streamline and 1320

coordinate existing government services for families seeking 1321
services for their children. In seeking to fulfill its purpose, a 1322
county council shall provide for the following: 1323

(a) Referrals to the cabinet council of those children for 1324
whom the county council cannot provide adequate services; 1325

(b) Development and implementation of a process that annually 1326
evaluates and prioritizes services, fills service gaps where 1327
possible, and invents new approaches to achieve better results for 1328
families and children; 1329

(c) Participation in the development of a countywide, 1330
comprehensive, coordinated, multi-disciplinary, interagency system 1331
for infants and toddlers with developmental disabilities or delays 1332
and their families, as established pursuant to federal grants 1333
received and administered by the department of health for early 1334
intervention services under the "Individuals with Disabilities 1335
Education Act of 2004"; 1336

(d) Maintenance of an accountability system to monitor the 1337
county council's progress in achieving results for families and 1338
children; 1339

(e) Establishment of a mechanism to ensure ongoing input from 1340
a broad representation of families who are receiving services 1341
within the county system. 1342

(3) A county council shall develop and implement the 1343
following: 1344

(a) An interagency process to establish local indicators and 1345
monitor the county's progress toward increasing child well-being 1346
in the county; 1347

(b) An interagency process to identify local priorities to 1348
increase child well-being. The local priorities shall focus on 1349
expectant parents and newborns thriving; infants and toddlers 1350

thriving; children being ready for school; children and youth 1351
succeeding in school; youth choosing healthy behaviors; and youth 1352
successfully transitioning into adulthood and take into account 1353
the indicators established by the cabinet council under division 1354
(A)(4)(a) of this section. 1355

(c) An annual plan that identifies the county's interagency 1356
efforts to increase child well-being in the county. 1357

On an annual basis, the county council shall submit a report 1358
on the status of efforts by the county to increase child 1359
well-being in the county to the county's board of county 1360
commissioners and the cabinet council. This report shall be made 1361
available to any other person on request. 1362

(4)(a) Except as provided in division (B)(4)(b) of this 1363
section, a county council shall comply with the policies, 1364
procedures, and activities prescribed by the rules or interagency 1365
agreements of a state department participating on the cabinet 1366
council whenever the county council performs a function subject to 1367
those rules or agreements. 1368

(b) On application of a county council, the cabinet council 1369
may grant an exemption from any rules or interagency agreements of 1370
a state department participating on the council if an exemption is 1371
necessary for the council to implement an alternative program or 1372
approach for service delivery to families and children. The 1373
application shall describe the proposed program or approach and 1374
specify the rules or interagency agreements from which an 1375
exemption is necessary. The cabinet council shall approve or 1376
disapprove the application in accordance with standards and 1377
procedures it shall adopt. If an application is approved, the 1378
exemption is effective only while the program or approach is being 1379
implemented, including a reasonable period during which the 1380
program or approach is being evaluated for effectiveness. 1381

(5)(a) Each county council shall designate an administrative 1382
agent for the council from among the following public entities: 1383
the board of alcohol, drug addiction, and mental health services, 1384
including a board of alcohol and drug addiction or a community 1385
mental health board if the county is served by separate boards; 1386
the board of county commissioners; any board of health of the 1387
county's city and general health districts; the county department 1388
of job and family services; the county agency responsible for the 1389
administration of children services pursuant to section 5153.15 of 1390
the Revised Code; the county board of ~~mental retardation and~~ 1391
developmental disabilities; any of the county's boards of 1392
education or governing boards of educational service centers; or 1393
the county's juvenile court. Any of the foregoing public entities, 1394
other than the board of county commissioners, may decline to serve 1395
as the council's administrative agent. 1396

A county council's administrative agent shall serve as the 1397
council's appointing authority for any employees of the council. 1398
The council shall file an annual budget with its administrative 1399
agent, with copies filed with the county auditor and with the 1400
board of county commissioners, unless the board is serving as the 1401
council's administrative agent. The council's administrative agent 1402
shall ensure that all expenditures are handled in accordance with 1403
policies, procedures, and activities prescribed by state 1404
departments in rules or interagency agreements that are applicable 1405
to the council's functions. 1406

The administrative agent of a county council shall send 1407
notice of a member's absence if a member listed in division (B)(1) 1408
of this section has been absent from either three consecutive 1409
meetings of the county council or a county council subcommittee, 1410
or from one-quarter of such meetings in a calendar year, whichever 1411
is less. The notice shall be sent to the board of county 1412
commissioners that establishes the county council and, for the 1413

members listed in divisions (B)(1)(b), (c), (e), and (l) of this 1414
section, to the governing board overseeing the respective entity; 1415
for the member listed in division (B)(1)(f) of this section, to 1416
the county board of ~~mental retardation and~~ developmental 1417
disabilities that employs the superintendent; for a member listed 1418
in division (B)(1)(g) or (h) of this section, to the school board 1419
that employs the superintendent; for the member listed in division 1420
(B)(1)(i) of this section, to the mayor of the municipal 1421
corporation; for the member listed in division (B)(1)(k) of this 1422
section, to the director of youth services; and for the member 1423
listed in division (B)(1)(n), to that member's board of trustees. 1424

The administrative agent for a county council may do any of 1425
the following on behalf of the council: 1426

(i) Enter into agreements or administer contracts with public 1427
or private entities to fulfill specific council business. Such 1428
agreements and contracts are exempt from the competitive bidding 1429
requirements of section 307.86 of the Revised Code if they have 1430
been approved by the county council and they are for the purchase 1431
of family and child welfare or child protection services or other 1432
social or job and family services for families and children. The 1433
approval of the county council is not required to exempt 1434
agreements or contracts entered into under section 5139.34, 1435
5139.41, or 5139.43 of the Revised Code from the competitive 1436
bidding requirements of section 307.86 of the Revised Code. 1437

(ii) As determined by the council, provide financial 1438
stipends, reimbursements, or both, to family representatives for 1439
expenses related to council activity; 1440

(iii) Receive by gift, grant, devise, or bequest any moneys, 1441
lands, or other property for the purposes for which the council is 1442
established. The agent shall hold, apply, and dispose of the 1443
moneys, lands, or other property according to the terms of the 1444
gift, grant, devise, or bequest. Any interest or earnings shall be 1445

treated in the same manner and are subject to the same terms as 1446
the gift, grant, devise, or bequest from which it accrues. 1447

(b)(i) If the county council designates the board of county 1448
commissioners as its administrative agent, the board may, by 1449
resolution, delegate any of its powers and duties as 1450
administrative agent to an executive committee the board 1451
establishes from the membership of the county council. The board 1452
shall name to the executive committee at least the individuals 1453
described in divisions (B)(1)(b) to (h) of this section and may 1454
appoint the president of the board or another individual as the 1455
chair of the executive committee. The executive committee must 1456
include at least one family county council representative who does 1457
not have a family member employed by an agency represented on the 1458
council. 1459

(ii) The executive committee may, with the approval of the 1460
board, hire an executive director to assist the county council in 1461
administering its powers and duties. The executive director shall 1462
serve in the unclassified civil service at the pleasure of the 1463
executive committee. The executive director may, with the approval 1464
of the executive committee, hire other employees as necessary to 1465
properly conduct the county council's business. 1466

(iii) The board may require the executive committee to submit 1467
an annual budget to the board for approval and may amend or repeal 1468
the resolution that delegated to the executive committee its 1469
authority as the county council's administrative agent. 1470

(6) Two or more county councils may enter into an agreement 1471
to administer their county councils jointly by creating a regional 1472
family and children first council. A regional council possesses 1473
the same duties and authority possessed by a county council, 1474
except that the duties and authority apply regionally rather than 1475
to individual counties. Prior to entering into an agreement to 1476
create a regional council, the members of each county council to 1477

be part of the regional council shall meet to determine whether 1478
all or part of the members of each county council will serve as 1479
members of the regional council. 1480

(7) A board of county commissioners may approve a resolution 1481
by a majority vote of the board's members that requires the county 1482
council to submit a statement to the board each time the council 1483
proposes to enter into an agreement, adopt a plan, or make a 1484
decision, other than a decision pursuant to section 121.38 of the 1485
Revised Code, that requires the expenditure of funds for two or 1486
more families. The statement shall describe the proposed 1487
agreement, plan, or decision. 1488

Not later than fifteen days after the board receives the 1489
statement, it shall, by resolution approved by a majority of its 1490
members, approve or disapprove the agreement, plan, or decision. 1491
Failure of the board to pass a resolution during that time period 1492
shall be considered approval of the agreement, plan, or decision. 1493

An agreement, plan, or decision for which a statement is 1494
required to be submitted to the board shall be implemented only if 1495
it is approved by the board. 1496

(C) Each county shall develop a county service coordination 1497
mechanism. The county service coordination mechanism shall serve 1498
as the guiding document for coordination of services in the 1499
county. For children who also receive services under the help me 1500
grow program, the service coordination mechanism shall be 1501
consistent with rules adopted by the department of health under 1502
section 3701.61 of the Revised Code. All family service 1503
coordination plans shall be developed in accordance with the 1504
county service coordination mechanism. The mechanism shall be 1505
developed and approved with the participation of the county 1506
entities representing child welfare; mental retardation and 1507
developmental disabilities; alcohol, drug addiction, and mental 1508
health services; health; juvenile judges; education; the county 1509

family and children first council; and the county early 1510
intervention collaborative established pursuant to the federal 1511
early intervention program operated under the "Individuals with 1512
Disabilities Education Act of 2004." The county shall establish an 1513
implementation schedule for the mechanism. The cabinet council may 1514
monitor the implementation and administration of each county's 1515
service coordination mechanism. 1516

Each mechanism shall include all of the following: 1517

(1) A procedure for an agency, including a juvenile court, or 1518
a family voluntarily seeking service coordination, to refer the 1519
child and family to the county council for service coordination in 1520
accordance with the mechanism; 1521

(2) A procedure ensuring that a family and all appropriate 1522
staff from involved agencies, including a representative from the 1523
appropriate school district, are notified of and invited to 1524
participate in all family service coordination plan meetings; 1525

(3) A procedure that permits a family to initiate a meeting 1526
to develop or review the family's service coordination plan and 1527
allows the family to invite a family advocate, mentor, or support 1528
person of the family's choice to participate in any such meeting; 1529

(4) A procedure for ensuring that a family service 1530
coordination plan meeting is conducted for each child who receives 1531
service coordination under the mechanism and for whom an emergency 1532
out-of-home placement has been made or for whom a nonemergency 1533
out-of-home placement is being considered. The meeting shall be 1534
conducted within ten days of an emergency out-of-home placement. 1535
The meeting shall be conducted before a nonemergency out-of-home 1536
placement. The family service coordination plan shall outline how 1537
the county council members will jointly pay for services, where 1538
applicable, and provide services in the least restrictive 1539
environment. 1540

(5) A procedure for monitoring the progress and tracking the 1541
outcomes of each service coordination plan requested in the county 1542
including monitoring and tracking children in out-of-home 1543
placements to assure continued progress, appropriateness of 1544
placement, and continuity of care after discharge from placement 1545
with appropriate arrangements for housing, treatment, and 1546
education. 1547

(6) A procedure for protecting the confidentiality of all 1548
personal family information disclosed during service coordination 1549
meetings or contained in the comprehensive family service 1550
coordination plan. 1551

(7) A procedure for assessing the needs and strengths of any 1552
child or family that has been referred to the council for service 1553
coordination, including a child whose parent or custodian is 1554
voluntarily seeking services, and for ensuring that parents and 1555
custodians are afforded the opportunity to participate; 1556

(8) A procedure for development of a family service 1557
coordination plan described in division (D) of this section; 1558

(9) A local dispute resolution process to serve as the 1559
process that must be used first to resolve disputes among the 1560
agencies represented on the county council concerning the 1561
provision of services to children, including children who are 1562
abused, neglected, dependent, unruly, alleged unruly, or 1563
delinquent children and under the jurisdiction of the juvenile 1564
court and children whose parents or custodians are voluntarily 1565
seeking services. The local dispute resolution process shall 1566
comply with sections 121.38, 121.381, and 121.382 of the Revised 1567
Code. The local dispute resolution process shall be used to 1568
resolve disputes between a child's parents or custodians and the 1569
county council regarding service coordination. The county council 1570
shall inform the parents or custodians of their right to use the 1571
dispute resolution process. Parents or custodians shall use 1572

existing local agency grievance procedures to address disputes not 1573
involving service coordination. The dispute resolution process is 1574
in addition to and does not replace other rights or procedures 1575
that parents or custodians may have under other sections of the 1576
Revised Code. 1577

The cabinet council shall adopt rules in accordance with 1578
Chapter 119. of the Revised Code establishing an administrative 1579
review process to address problems that arise concerning the 1580
operation of a local dispute resolution process. 1581

Nothing in division (C)(4) of this section shall be 1582
interpreted as overriding or affecting decisions of a juvenile 1583
court regarding an out-of-home placement, long-term placement, or 1584
emergency out-of-home placement. 1585

(D) Each county shall develop a family service coordination 1586
plan that does all of the following: 1587

(1) Designates service responsibilities among the various 1588
state and local agencies that provide services to children and 1589
their families, including children who are abused, neglected, 1590
dependent, unruly, or delinquent children and under the 1591
jurisdiction of the juvenile court and children whose parents or 1592
custodians are voluntarily seeking services; 1593

(2) Designates an individual, approved by the family, to 1594
track the progress of the family service coordination plan, 1595
schedule reviews as necessary, and facilitate the family service 1596
coordination plan meeting process; 1597

(3) Ensures that assistance and services to be provided are 1598
responsive to the strengths and needs of the family, as well as 1599
the family's culture, race, and ethnic group, by allowing the 1600
family to offer information and suggestions and participate in 1601
decisions. Identified assistance and services shall be provided in 1602
the least restrictive environment possible. 1603

(4) Includes a process for dealing with a child who is 1604
alleged to be an unruly child. The process shall include methods 1605
to divert the child from the juvenile court system; 1606

(5) Includes timelines for completion of goals specified in 1607
the plan with regular reviews scheduled to monitor progress toward 1608
those goals; 1609

(6) Includes a plan for dealing with short-term crisis 1610
situations and safety concerns. 1611

(E)(1) The process provided for under division (D)(4) of this 1612
section may include, but is not limited to, the following: 1613

(a) Designation of the person or agency to conduct the 1614
assessment of the child and the child's family as described in 1615
division (C)(7) of this section and designation of the instrument 1616
or instruments to be used to conduct the assessment; 1617

(b) An emphasis on the personal responsibilities of the child 1618
and the parental responsibilities of the parents, guardian, or 1619
custodian of the child; 1620

(c) Involvement of local law enforcement agencies and 1621
officials. 1622

(2) The method to divert a child from the juvenile court 1623
system that must be included in the service coordination process 1624
may include, but is not limited to, the following: 1625

(a) The preparation of a complaint under section 2151.27 of 1626
the Revised Code alleging that the child is an unruly child and 1627
notifying the child and the parents, guardian, or custodian that 1628
the complaint has been prepared to encourage the child and the 1629
parents, guardian, or custodian to comply with other methods to 1630
divert the child from the juvenile court system; 1631

(b) Conducting a meeting with the child, the parents, 1632
guardian, or custodian, and other interested parties to determine 1633

the appropriate methods to divert the child from the juvenile court system; 1634
1635

(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; 1636
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(d) A program to provide a mentor to the child or the parents, guardian, or custodian; 1640
1641

(e) A program to provide parenting education to the parents, guardian, or custodian; 1642
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(f) An alternative school program for children who are truant from school, repeatedly disruptive in school, or suspended or expelled from school; 1644
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1646

(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. 1647
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(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. 1651
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Sec. 124.11. The civil service of the state and the several counties, cities, civil service townships, city health districts, general health districts, and city school districts of the state shall be divided into the unclassified service and the classified service. 1657
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(A) The unclassified service shall comprise the following positions, which shall not be included in the classified service, 1662
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and which shall be exempt from all examinations required by this	1664
chapter:	1665
(1) All officers elected by popular vote or persons appointed	1666
to fill vacancies in those offices;	1667
(2) All election officers as defined in section 3501.01 of	1668
the Revised Code;	1669
(3)(a) The members of all boards and commissions, and heads	1670
of principal departments, boards, and commissions appointed by the	1671
governor or by and with the governor's consent;	1672
(b) The heads of all departments appointed by a board of	1673
county commissioners;	1674
(c) The members of all boards and commissions and all heads	1675
of departments appointed by the mayor, or, if there is no mayor,	1676
such other similar chief appointing authority of any city or city	1677
school district;	1678
Except as otherwise provided in division (A)(17) or (C) of	1679
this section, this chapter does not exempt the chiefs of police	1680
departments and chiefs of fire departments of cities or civil	1681
service townships from the competitive classified service.	1682
(4) The members of county or district licensing boards or	1683
commissions and boards of revision, and not more than five deputy	1684
county auditors;	1685
(5) All officers and employees elected or appointed by either	1686
or both branches of the general assembly, and employees of the	1687
city legislative authority engaged in legislative duties;	1688
(6) All commissioned, warrant, and noncommissioned officers	1689
and enlisted persons in the Ohio organized militia, including	1690
military appointees in the adjutant general's department;	1691
(7)(a) All presidents, business managers, administrative	1692
officers, superintendents, assistant superintendents, principals,	1693

deans, assistant deans, instructors, teachers, and such employees 1694
as are engaged in educational or research duties connected with 1695
the public school system, colleges, and universities, as 1696
determined by the governing body of the public school system, 1697
colleges, and universities; 1698

(b) The library staff of any library in the state supported 1699
wholly or in part at public expense. 1700

(8) Four clerical and administrative support employees for 1701
each of the elective state officers, four clerical and 1702
administrative support employees for each board of county 1703
commissioners and one such employee for each county commissioner, 1704
and four clerical and administrative support employees for other 1705
elective officers and each of the principal appointive executive 1706
officers, boards, or commissions, except for civil service 1707
commissions, that are authorized to appoint such clerical and 1708
administrative support employees; 1709

(9) The deputies and assistants of state agencies authorized 1710
to act for and on behalf of the agency, or holding a fiduciary or 1711
administrative relation to that agency and those persons employed 1712
by and directly responsible to elected county officials or a 1713
county administrator and holding a fiduciary or administrative 1714
relationship to such elected county officials or county 1715
administrator, and the employees of such county officials whose 1716
fitness would be impracticable to determine by competitive 1717
examination, provided that division (A)(9) of this section shall 1718
not affect those persons in county employment in the classified 1719
service as of September 19, 1961. Nothing in division (A)(9) of 1720
this section applies to any position in a county department of job 1721
and family services created pursuant to Chapter 329. of the 1722
Revised Code. 1723

(10) Bailiffs, constables, official stenographers, and 1724
commissioners of courts of record, deputies of clerks of the 1725

courts of common pleas who supervise or who handle public moneys 1726
or secured documents, and such officers and employees of courts of 1727
record and such deputies of clerks of the courts of common pleas 1728
as the director of administrative services finds it impracticable 1729
to determine their fitness by competitive examination; 1730

(11) Assistants to the attorney general, special counsel 1731
appointed or employed by the attorney general, assistants to 1732
county prosecuting attorneys, and assistants to city directors of 1733
law; 1734

(12) Such teachers and employees in the agricultural 1735
experiment stations; such students in normal schools, colleges, 1736
and universities of the state who are employed by the state or a 1737
political subdivision of the state in student or intern 1738
classifications; and such unskilled labor positions as the 1739
director of administrative services or any municipal civil service 1740
commission may find it impracticable to include in the competitive 1741
classified service; provided such exemptions shall be by order of 1742
the commission or the director, duly entered on the record of the 1743
commission or the director with the reasons for each such 1744
exemption; 1745

(13) Any physician or dentist who is a full-time employee of 1746
the department of mental health, the department of mental 1747
retardation and developmental disabilities, or an institution 1748
under the jurisdiction of either department; and physicians who 1749
are in residency programs at the institutions; 1750

(14) Up to twenty positions at each institution under the 1751
jurisdiction of the department of mental health or the department 1752
of mental retardation and developmental disabilities that the 1753
department director determines to be primarily administrative or 1754
managerial; and up to fifteen positions in any division of either 1755
department, excluding administrative assistants to the director 1756
and division chiefs, which are within the immediate staff of a 1757

division chief and which the director determines to be primarily	1758
and distinctively administrative and managerial;	1759
(15) Noncitizens of the United States employed by the state,	1760
or its counties or cities, as physicians or nurses who are duly	1761
licensed to practice their respective professions under the laws	1762
of this state, or medical assistants, in mental or chronic disease	1763
hospitals, or institutions;	1764
(16) Employees of the governor's office;	1765
(17) Fire chiefs and chiefs of police in civil service	1766
townships appointed by boards of township trustees under section	1767
505.38 or 505.49 of the Revised Code;	1768
(18) Executive directors, deputy directors, and program	1769
directors employed by boards of alcohol, drug addiction, and	1770
mental health services under Chapter 340. of the Revised Code, and	1771
secretaries of the executive directors, deputy directors, and	1772
program directors;	1773
(19) Superintendents, and management employees as defined in	1774
section 5126.20 of the Revised Code, of county boards of mental	1775
retardation and developmental disabilities;	1776
(20) Physicians, nurses, and other employees of a county	1777
hospital who are appointed pursuant to sections 339.03 and 339.06	1778
of the Revised Code;	1779
(21) The executive director of the state medical board, who	1780
is appointed pursuant to division (B) of section 4731.05 of the	1781
Revised Code;	1782
(22) County directors of job and family services as provided	1783
in section 329.02 of the Revised Code and administrators appointed	1784
under section 329.021 of the Revised Code;	1785
(23) A director of economic development who is hired pursuant	1786
to division (A) of section 307.07 of the Revised Code;	1787

(24) Chiefs of construction and compliance, of operations and maintenance, and of licensing and certification in the division of industrial compliance in the department of commerce;

(25) The executive director of a county transit system appointed under division (A) of section 306.04 of the Revised Code;

(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.

(27) Employees of the department of agriculture employed under section 901.09 of the Revised Code;

(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;

(29) Employees who receive intermittent or temporary appointments under division (B) of section 124.30 of the Revised Code;

(30) Employees appointed to administrative staff positions for which an appointing authority is given specific statutory authority to set compensation;

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

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

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

(1) The competitive class shall include all positions and employments in the state and the counties, cities, city health districts, general health districts, and city school districts of the state, and, upon the creation by the board of trustees of a civil service township of a township civil service commission, all positions in a civil service township police or fire department having ten or more full-time paid employees, for which it is practicable to determine the merit and fitness of applicants by competitive examinations. Appointments shall be made to, or

employment shall be given in, all positions in the competitive 1850
class that are not filled by promotion, reinstatement, transfer, 1851
or reduction, as provided in this chapter, and the rules of the 1852
director of administrative services, by appointment from those 1853
certified to the appointing officer in accordance with this 1854
chapter. 1855

(2) The unskilled labor class shall include ordinary 1856
unskilled laborers. Vacancies in the labor class for positions in 1857
service of the state shall be filled by appointment from lists of 1858
applicants registered by the director. Vacancies in the labor 1859
class for all other positions shall be filled by appointment from 1860
lists of applicants registered by a commission. The director or 1861
the commission, as applicable, by rule, shall require an applicant 1862
for registration in the labor class to furnish evidence or take 1863
tests as the director or commission considers proper with respect 1864
to age, residence, physical condition, ability to labor, honesty, 1865
sobriety, industry, capacity, and experience in the work or 1866
employment for which application is made. Laborers who fulfill the 1867
requirements shall be placed on the eligible list for the kind of 1868
labor or employment sought, and preference shall be given in 1869
employment in accordance with the rating received from that 1870
evidence or in those tests. Upon the request of an appointing 1871
officer, stating the kind of labor needed, the pay and probable 1872
length of employment, and the number to be employed, the director 1873
or commission, as applicable, shall certify from the highest on 1874
the list double the number to be employed; from this number, the 1875
appointing officer shall appoint the number actually needed for 1876
the particular work. If more than one applicant receives the same 1877
rating, priority in time of application shall determine the order 1878
in which their names shall be certified for appointment. 1879

(C) A municipal or civil service township civil service 1880
commission may place volunteer firefighters who are paid on a 1881

fee-for-service basis in either the classified or the unclassified 1882
civil service. 1883

(D) This division does not apply to persons in the 1884
unclassified service who have the right to resume positions in the 1885
classified service under sections 4121.121, 5119.071, 5120.07, 1886
5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the 1887
Revised Code. 1888

An appointing authority whose employees are paid directly by 1889
warrant of the director of budget and management may appoint a 1890
person who holds a certified position in the classified service 1891
within the appointing authority's agency to a position in the 1892
unclassified service within that agency. A person appointed 1893
pursuant to this division to a position in the unclassified 1894
service shall retain the right to resume the position and status 1895
held by the person in the classified service immediately prior to 1896
the person's appointment to the position in the unclassified 1897
service, regardless of the number of positions the person held in 1898
the unclassified service. An employee's right to resume a position 1899
in the classified service may only be exercised when an appointing 1900
authority demotes the employee to a pay range lower than the 1901
employee's current pay range or revokes the employee's appointment 1902
to the unclassified service. An employee forfeits the right to 1903
resume a position in the classified service when the employee is 1904
removed from the position in the unclassified service due to 1905
incompetence, inefficiency, dishonesty, drunkenness, immoral 1906
conduct, insubordination, discourteous treatment of the public, 1907
neglect of duty, violation of this chapter or the rules of the 1908
director of administrative services, any other failure of good 1909
behavior, any other acts of misfeasance, malfeasance, or 1910
nonfeasance in office, or conviction of a felony. An employee also 1911
forfeits the right to resume a position in the classified service 1912
upon transfer to a different agency. 1913

Reinstatement to a position in the classified service shall 1914
be to a position substantially equal to that position in the 1915
classified service held previously, as certified by the director 1916
of administrative services. If the position the person previously 1917
held in the classified service has been placed in the unclassified 1918
service or is otherwise unavailable, the person shall be appointed 1919
to a position in the classified service within the appointing 1920
authority's agency that the director of administrative services 1921
certifies is comparable in compensation to the position the person 1922
previously held in the classified service. Service in the position 1923
in the unclassified service shall be counted as service in the 1924
position in the classified service held by the person immediately 1925
prior to the person's appointment to the position in the 1926
unclassified service. When a person is reinstated to a position in 1927
the classified service as provided in this division, the person is 1928
entitled to all rights, status, and benefits accruing to the 1929
position in the classified service during the person's time of 1930
service in the position in the unclassified service. 1931

Sec. 124.23. (A) All applicants for positions and places in 1932
the classified service shall be subject to examination, except for 1933
applicants for positions as professional or certified service and 1934
paraprofessional employees of county boards of ~~mental retardation~~ 1935
~~and~~ developmental disabilities, who shall be hired in the manner 1936
provided in section 124.241 of the Revised Code. 1937

(B) Any examination administered under this section shall be 1938
public and be open to all citizens of the United States and those 1939
persons who have legally declared their intentions of becoming 1940
United States citizens, within certain limitations to be 1941
determined by the director of administrative services as to 1942
citizenship, age, experience, education, health, habit, and moral 1943
character. Any person who has completed service in the uniformed 1944
services, who has been honorably discharged from the uniformed 1945

services or transferred to the reserve with evidence of 1946
satisfactory service, and who is a resident of this state and any 1947
member of the national guard or a reserve component of the armed 1948
forces of the United States who has completed more than one 1949
hundred eighty days of active duty service pursuant to an 1950
executive order of the president of the United States or an act of 1951
the congress of the United States may file with the director a 1952
certificate of service or honorable discharge, and, upon this 1953
filing, the person shall receive additional credit of twenty per 1954
cent of the person's total grade given in the regular examination 1955
in which the person receives a passing grade. 1956

As used in this division, "service in the uniformed services" 1957
and "uniformed services" have the same meanings as in the 1958
"Uniformed Services Employment and Reemployment Rights Act of 1959
1994," 108 Stat. 3149, 38 U.S.C.A. 4303. 1960

(C) An examination may include an evaluation of such factors 1961
as education, training, capacity, knowledge, manual dexterity, and 1962
physical or psychological fitness. An examination shall consist of 1963
one or more tests in any combination. Tests may be written, oral, 1964
physical, demonstration of skill, or an evaluation of training and 1965
experiences and shall be designed to fairly test the relative 1966
capacity of the persons examined to discharge the particular 1967
duties of the position for which appointment is sought. Tests may 1968
include structured interviews, assessment centers, work 1969
simulations, examinations of knowledge, skills, and abilities, and 1970
any other acceptable testing methods. If minimum or maximum 1971
requirements are established for any examination, they shall be 1972
specified in the examination announcement. 1973

(D) The director of administrative services shall have 1974
control of all examinations, except as otherwise provided in 1975
sections 124.01 to 124.64 of the Revised Code. No questions in any 1976
examination shall relate to political or religious opinions or 1977

affiliations. No credit for seniority, efficiency, or any other 1978
reason shall be added to an applicant's examination grade unless 1979
the applicant achieves at least the minimum passing grade on the 1980
examination without counting that extra credit. 1981

(E) Except as otherwise provided in sections 124.01 to 124.64 1982
of the Revised Code, the director of administrative services shall 1983
give reasonable notice of the time, place, and general scope of 1984
every competitive examination for appointment to a position in the 1985
civil service. The director shall send written, printed, or 1986
electronic notices of every examination to be conducted in the 1987
state classified service to each agency of the type the director 1988
of job and family services specifies and, in the case of a county 1989
in which no such agency is located, to the clerk of the court of 1990
common pleas of that county and to the clerk of each city located 1991
within that county. Those notices shall be posted in conspicuous 1992
public places in the designated agencies or the courthouse, and 1993
city hall of the cities, of the counties in which no designated 1994
agency is located for at least two weeks preceding any examination 1995
involved, and in a conspicuous place in the office of the director 1996
of administrative services for at least two weeks preceding any 1997
examination involved. In case of examinations limited by the 1998
director to a district, county, city, or department, the director 1999
shall provide by rule for adequate publicity of an examination in 2000
the district, county, city, or department within which competition 2001
is permitted. 2002

Sec. 124.241. As used in this section, "professional 2003
employee" has the same meaning as in section 5126.20 of the 2004
Revised Code and "registered service employee" means a service 2005
employee, as defined in section 5126.20 of the Revised Code, who 2006
is registered under section 5126.25 of the Revised Code. 2007

County boards of ~~mental retardation~~ and developmental 2008

disabilities may hire professional employees and registered 2009
service employees in the classified service on the basis of the 2010
candidates' qualifications rather than on the basis of the results 2011
of an examination administered by the director of administrative 2012
services pursuant to section 124.23 of the Revised Code. 2013

Sec. 124.38. Each of the following shall be entitled for each 2014
completed eighty hours of service to sick leave of four and 2015
six-tenths hours with pay: 2016

(A) Employees in the various offices of the county, 2017
municipal, and civil service township service, other than 2018
superintendents and management employees, as defined in section 2019
5126.20 of the Revised Code, of county boards of ~~mental~~ 2020
~~retardation and~~ developmental disabilities; 2021

(B) Employees of any state college or university; 2022

(C) Employees of any board of education for whom sick leave 2023
is not provided by section 3319.141 of the Revised Code. 2024

Employees may use sick leave, upon approval of the 2025
responsible administrative officer of the employing unit, for 2026
absence due to personal illness, pregnancy, injury, exposure to 2027
contagious disease that could be communicated to other employees, 2028
and illness, injury, or death in the employee's immediate family. 2029
Unused sick leave shall be cumulative without limit. When sick 2030
leave is used, it shall be deducted from the employee's credit on 2031
the basis of one hour for every one hour of absence from 2032
previously scheduled work. 2033

The previously accumulated sick leave of an employee who has 2034
been separated from the public service shall be placed to the 2035
employee's credit upon the employee's re-employment in the public 2036
service, provided that the re-employment takes place within ten 2037
years of the date on which the employee was last terminated from 2038

public service. This ten-year period shall be tolled for any 2039
period during which the employee holds elective public office, 2040
whether by election or by appointment. 2041

An employee who transfers from one public agency to another 2042
shall be credited with the unused balance of the employee's 2043
accumulated sick leave up to the maximum of the sick leave 2044
accumulation permitted in the public agency to which the employee 2045
transfers. 2046

The appointing authorities of the various offices of the 2047
county service may permit all or any part of a person's accrued 2048
but unused sick leave acquired during service with any regional 2049
council of government established in accordance with Chapter 167. 2050
of the Revised Code to be credited to the employee upon a transfer 2051
as if the employee were transferring from one public agency to 2052
another under this section. 2053

The appointing authority of each employing unit shall require 2054
an employee to furnish a satisfactory written, signed statement to 2055
justify the use of sick leave. If medical attention is required, a 2056
certificate stating the nature of the illness from a licensed 2057
physician shall be required to justify the use of sick leave. 2058
Falsification of either a written, signed statement or a 2059
physician's certificate shall be grounds for disciplinary action, 2060
including dismissal. 2061

This section does not interfere with existing unused sick 2062
leave credit in any agency of government where attendance records 2063
are maintained and credit has been given employees for unused sick 2064
leave. 2065

Notwithstanding this section or any other section of the 2066
Revised Code, any appointing authority of a county office, 2067
department, commission, board, or body may, upon notification to 2068
the board of county commissioners, establish alternative schedules 2069

of sick leave for employees of the appointing authority for whom 2070
the state employment relations board has not established an 2071
appropriate bargaining unit pursuant to section 4117.06 of the 2072
Revised Code, as long as the alternative schedules are not 2073
inconsistent with the provisions of at least one collective 2074
bargaining agreement covering other employees of that appointing 2075
authority, if such a collective bargaining agreement exists. If no 2076
such collective bargaining agreement exists, an appointing 2077
authority may, upon notification to the board of county 2078
commissioners, establish an alternative schedule of sick leave for 2079
its employees that does not diminish the sick leave benefits 2080
granted by this section. 2081

Sec. 135.801. (A) As used in sections 135.801 to 135.803 of 2082
the Revised Code, "eligible lending institution," "eligible 2083
organization," "investing authority," "residential facility," and 2084
"residential facility linked deposit program" have the same 2085
meanings as in section 5126.51 of the Revised Code. 2086

(B) The board of county commissioners may adopt a resolution 2087
implementing a residential facility linked deposit program under 2088
sections 5126.51 to 5126.62 of the Revised Code if it finds each 2089
of the following: 2090

(1) The county board of ~~mental retardation and~~ developmental 2091
disabilities has adopted a resolution under section 5126.49 of the 2092
Revised Code. 2093

(2) There is a shortage of residential facilities in the 2094
county for individuals with mental retardation or developmental 2095
disabilities. 2096

(3) Eligible organizations, otherwise willing and able to 2097
develop residential facilities in the county, have been unable to 2098
do so because of high interest rates. 2099

(4) Placement of residential facility linked deposits will 2100
assist in financing the development of residential facilities in 2101
the county that otherwise would not be developed because of high 2102
interest rates. 2103

(5) Public moneys of the county are available for purposes of 2104
the residential facility linked deposit program. 2105

(6) At least one eligible lending institution has an office 2106
located within the territorial limits of the county into which the 2107
board may deposit the public moneys of the county. 2108

Sec. 135.802. The board of county commissioners shall include 2109
each of the following in a resolution implementing a residential 2110
facility linked deposit program under sections 5126.51 to 5126.62 2111
of the Revised Code: 2112

(A) Specific findings of fact justifying implementation of 2113
the residential facility linked deposit program in the county; 2114

(B) Guidelines to be followed by the county board of ~~mental~~ 2115
~~retardation and~~ developmental disabilities in establishing 2116
standards under section 5126.49 of the Revised Code for approving 2117
applications for linked deposit loans; 2118

(C) Instructions to the county's investing authority as 2119
necessary for the placement and monitoring of, and for reporting 2120
with regard to, residential facility linked deposits under 2121
sections 5126.59 to 5126.61 of the Revised Code; 2122

(D) Any information the board requires an applicant for a 2123
residential facility linked deposit loan to provide to the county 2124
board of ~~mental retardation and~~ developmental disabilities that 2125
would not otherwise be provided to that board by the applicant 2126
pursuant to sections 5126.51 to 5126.62 of the Revised Code. 2127

The board shall transmit a certified copy of the resolution 2128
to the county board of ~~mental retardation and~~ developmental 2129

disabilities and the county's investing authority, unless the 2130
board is itself that authority. 2131

Sec. 135.803. On receiving a resolution from the county board 2132
of ~~mental retardation and~~ developmental disabilities approving 2133
under section 5126.55 of the Revised Code development of a 2134
proposed residential facility, the board of county commissioners 2135
shall determine whether public moneys of the county are available 2136
for a residential facility linked deposit and shall certify to the 2137
county board of ~~mental retardation and~~ developmental disabilities 2138
either that public moneys are available or that public moneys are 2139
not available. If public moneys are not available the 2140
certification shall indicate the date, if any, on which the board 2141
of county commissioners anticipates that public moneys will be 2142
available. 2143

Sec. 140.03. (A) Two or more hospital agencies may enter into 2144
agreements for the acquisition, construction, reconstruction, 2145
rehabilitation, remodeling, renovating, enlarging, equipping, and 2146
furnishing of hospital facilities, or the management, operation, 2147
occupancy, use, maintenance, and repair of hospital facilities, or 2148
for participation in programs, projects, activities, and services 2149
useful to, connected with, supplementing, or otherwise related to 2150
the services provided by, or the operation of, hospital facilities 2151
operated by one or more participating hospital agencies, including 2152
any combination of such purposes, all in such manner as to promote 2153
the public purpose stated in section 140.02 of the Revised Code. A 2154
city health district; general health district; board of alcohol, 2155
drug addiction, and mental health services; county board of ~~mental~~ 2156
~~retardation and~~ developmental disabilities; the department of 2157
mental health; the department of mental retardation and 2158
developmental disabilities; or any public body engaged in the 2159
education or training of health professions personnel may join in 2160

any such agreement for purposes related to its authority under 2161
laws applicable to it, and as such a participant shall be 2162
considered a public hospital agency or hospital agency for the 2163
purposes of this section. 2164

(B) An agreement entered into under authority of this section 2165
shall, where appropriate, provide for: 2166

(1) The manner in which the title to the hospital facilities, 2167
including the sites and interest in real estate pertaining 2168
thereto, is to be held, transferred, or disposed of; 2169

(2) Unless provided for by lease pursuant to section 140.05 2170
of the Revised Code, the method by which such hospital facilities 2171
are to be acquired, constructed, or otherwise improved and by 2172
which they shall be managed, occupied, maintained, and repaired, 2173
including the designation of one of the hospital agencies to have 2174
charge of the details of acquisition, construction, or improvement 2175
pursuant to the contracting procedures prescribed under the law 2176
applicable to one of the participating public hospital agencies; 2177

(3) The management or administration of any such programs, 2178
projects, activities, or services, which may include management or 2179
administration by one of said hospital agencies or a board or 2180
agency thereof; 2181

(4) Annual, or more frequent, reports to the participating 2182
hospital agencies as to the revenues and receipts pertaining to 2183
the subject of the agreement, the expenditures thereof, the status 2184
and application of other funds contributed under such agreement, 2185
and such other matters as may be specified by or pursuant to such 2186
agreement; 2187

(5) The manner of apportionment or sharing of costs of 2188
hospital facilities, any other applicable costs of management, 2189
operation, maintenance, and repair of hospital facilities, and 2190
costs for the programs, projects, activities, and services forming 2191

the subject of the agreement, which apportionment or sharing may 2192
be prescribed in fixed amounts, or determined by ratios, formulas, 2193
or otherwise, and paid as service charges, rentals, or in such 2194
other manner as provided in the agreement, and may include amounts 2195
sufficient to meet the bond service charges and other payments and 2196
deposits required under the bond proceedings for obligations 2197
issued to pay costs of hospital facilities. A hospital agency may 2198
commit itself to make such payments at least for so long as any 2199
such obligations are outstanding. In the apportionment, different 2200
classes of costs or expenses may be apportioned to one or more, 2201
all or less than all, of the participating hospital agencies as 2202
determined under such agreement. 2203

(C) An agreement entered into under authority of this section 2204
may provide for: 2205

(1) An orderly process for making determinations or advising 2206
as to planning, execution, implementation, and operation, which 2207
may include designating one of the hospital agencies, or a board 2208
thereof, for any of such purposes, provisions for a committee, 2209
board, or commission, and for representation thereon, or as may 2210
otherwise be provided; 2211

(2) Securing necessary personnel, including participation of 2212
personnel from the respective hospital agencies; 2213

(3) Standards or conditions for the admission or 2214
participation of patients and physicians; 2215

(4) Conditions for admittance of other hospital agencies to 2216
participation under the agreement; 2217

(5) Fixing or establishing the method of determining charges 2218
to be made for particular services; 2219

(6) The manner of amending, supplementing, terminating, or 2220
withdrawal or removal of any party from, the agreement, and the 2221
term of the agreement, or an indefinite term; 2222

(7) Designation of the applicants for or recipients of any federal, state, or other aid, assistance, or loans available by reason of any activities conducted under the agreement;	2223 2224 2225
(8) Designation of one or more of the participating hospital agencies to maintain, prepare, and submit, on behalf of all parties to the agreement, any or all records and reports with regard to the activities conducted under the agreement;	2226 2227 2228 2229
(9) Any incidental use of the hospital facilities, or services thereof, by participating public hospital agencies for any of their lawful purposes, which incidental use does not impair the character of the facilities as hospital facilities for any purpose of this chapter;	2230 2231 2232 2233 2234
(10) Such other matters as the parties thereto may agree upon for the purposes of division (A) of this section.	2235 2236
(D) For the purpose of paying or contributing its share under an agreement made under this section, a public hospital agency may:	2237 2238 2239
(1) Expend any moneys from its general fund, and from any other funds not otherwise restricted by law, but including funds for permanent improvements of hospital facilities of such public hospital agency where the contribution is to be made toward the costs of hospital facilities under the agreement, and including funds derived from levies for, or receipts available for, operating expenses of hospital facilities or services of such public hospital agency where the contribution or payment is to be made toward operating expenses of the hospital facilities or services under the agreement or for the services provided thereby;	2240 2241 2242 2243 2244 2245 2246 2247 2248 2249
(2) Issue obligations under Chapter 133. or section 140.06, 339.14, 339.15, 513.12, or 3345.12 of the Revised Code, or Section 3 of Article XVIII, Ohio Constitution, if applicable to such public hospital agency, to pay costs of hospital facilities, or	2250 2251 2252 2253

issue obligations under any other provision of law authorizing 2254
such public hospital agency to issue obligations for any costs of 2255
hospital facilities; 2256

(3) Levy taxes under Chapter 5705. or section 513.13 or 2257
3709.29 of the Revised Code, if applicable to such public hospital 2258
agency, provided that the purpose of such levy may include the 2259
provision of funds for either or both permanent improvements and 2260
current expenses if required for the contribution or payment of 2261
such hospital agency under such agreement, and each such public 2262
hospital agency may issue notes in anticipation of any such levy, 2263
pursuant to the procedures provided in section 5705.191 of the 2264
Revised Code if the levy is solely for current expenses, and in 2265
section 5705.193 of the Revised Code if the levy is all or in part 2266
for permanent improvements; 2267

(4) Contribute real and personal property or interest therein 2268
without necessity for competitive bidding or public auction on 2269
disposition of such property. 2270

(E) Any funds provided by public hospital agencies that are 2271
parties to an agreement entered into under this section shall be 2272
transferred to and placed in a separate fund or funds of such 2273
participating public hospital agency as is designated under the 2274
agreement. The funds shall be applied for the purposes provided in 2275
such agreement and are subject to audit. Pursuant to any 2276
determinations to be made under such agreement, the funds shall be 2277
deposited, invested, and disbursed under the provisions of law 2278
applicable to the public hospital agency in whose custody the 2279
funds are held. This division is subject to the provisions of any 2280
applicable bond proceedings under section 133.08, 140.06, 339.15, 2281
or 3345.12 of the Revised Code or Section 3 of Article XVIII, Ohio 2282
Constitution. The records and reports of such public hospital 2283
agency under Chapter 117. of the Revised Code and sections 3702.51 2284
to 3702.62 of the Revised Code, with respect to the funds shall be 2285

sufficient without necessity for reports thereon by the other 2286
public hospital agencies participating under such agreement. 2287

(F)(1) Prior to its entry into any such agreement, the public 2288
hospital agency must determine, and set forth in a resolution or 2289
ordinance, that the contribution to be made by it under such 2290
agreement will be fair consideration for value and benefit to be 2291
derived by it under such agreement and that the agreement will 2292
promote the public purpose stated in section 140.02 of the Revised 2293
Code. 2294

(2) If the agreement is with a board of county commissioners, 2295
board of county hospital trustees, or county hospital commission 2296
and is an initial agreement for the acquisition or operation of a 2297
county hospital operated by a board of county hospital trustees 2298
under section 339.06 of the Revised Code, the governing body of 2299
the public hospital agency shall submit the agreement, accompanied 2300
by the resolution or ordinance, to the board of county 2301
commissioners for review pursuant to section 339.091 of the 2302
Revised Code. The agreement may be entered into only if the board 2303
of county commissioners adopts a resolution under that section. 2304
The requirements of division (F)(2) of this section do not apply 2305
to the agreement if one or more hospitals classified as general 2306
hospitals by the public health council under section 3701.07 of 2307
the Revised Code are operating in the same county as the county 2308
hospital. 2309

Sec. 140.05. (A)(1) A public hospital agency may lease any 2310
hospital facility to one or more hospital agencies for use as a 2311
hospital facility, or to one or more city or general health 2312
districts; boards of alcohol, drug addiction, and mental health 2313
services; county boards of ~~mental retardation and~~ developmental 2314
disabilities; the department of mental health; or the department 2315
of mental retardation and developmental disabilities, for uses 2316

which they are authorized to make thereof under the laws 2317
applicable to them, or any combination of them, and they may lease 2318
such facilities to or from a hospital agency for such uses, upon 2319
such terms and conditions as are agreed upon by the parties. Such 2320
lease may be for a term of fifty years or less and may provide for 2321
an option of the lessee to renew for a term of fifty years or 2322
less, as therein set forth. Prior to entering into such lease, the 2323
governing body of any public hospital agency granting such lease 2324
must determine, and set forth in a resolution or ordinance, that 2325
such lease will promote the public purpose stated in section 2326
140.02 of the Revised Code and that the lessor public hospital 2327
agency will be duly benefited thereby. 2328

(2) If the lease is with a board of county commissioners, 2329
board of county hospital trustees, or county hospital commission 2330
and is an agreement for the initial lease of a county hospital 2331
operated by a board of county hospital trustees under section 2332
339.06 of the Revised Code, the governing body of the public 2333
hospital agency shall submit the agreement, accompanied by the 2334
resolution or ordinance, to the board of county commissioners for 2335
review pursuant to section 339.091 of the Revised Code. The 2336
agreement may be entered into only if the board of county 2337
commissioners adopts a resolution under that section. The 2338
requirements of division (A)(2) of this section do not apply to 2339
the lease if one or more hospitals classified as general hospitals 2340
by the public health council under section 3701.07 of the Revised 2341
Code are operating in the same county as the county hospital. 2342

(B) Any lease entered into pursuant to this section shall 2343
provide that in the event that the lessee fails faithfully and 2344
efficiently to administer, maintain, and operate such leased 2345
facilities as hospital facilities, or fails to provide the 2346
services thereof without regard to race, creed, color, or national 2347
origin, or fails to require that any hospital agency using such 2348

facilities or the services thereof shall not discriminate by 2349
reason of race, creed, color, or national origin, after an 2350
opportunity to be heard upon written charges, said lease may be 2351
terminated at the time, in the manner and with consequences 2352
therein provided. If any such lease does not contain terms to the 2353
effect provided in this division, it shall nevertheless be deemed 2354
to contain such terms which shall be implemented as determined by 2355
the governing body of the lessor. 2356

(C) Such lease may provide for rentals commencing at any time 2357
agreed upon, or advance rental, and continuing for such period 2358
therein provided, notwithstanding and without diminution, rebate, 2359
or setoff by reason of time of availability of the hospital 2360
facility for use, delays in construction, failure of completion, 2361
damage or destruction of the hospital facilities, or for any other 2362
reason. 2363

(D) Such lease may provide for the sale or transfer of title 2364
of the leased facilities pursuant to an option to purchase, 2365
lease-purchase, or installment purchase upon terms therein 2366
provided or to be determined as therein provided, which may 2367
include provision for the continued use thereof as a hospital 2368
facility for some reasonable period, taking into account efficient 2369
useful life and other factors, as is provided therein. 2370

(E) Such lease may be entered as part of or in connection 2371
with an agreement pursuant to section 140.03 of the Revised Code. 2372
Any hospital facilities which are the subject of an agreement 2373
entered into under section 140.03 of the Revised Code may be 2374
leased pursuant to this section. 2375

(F) If land acquired by a public hospital agency for a 2376
hospital facility is adjacent to an existing hospital facility 2377
owned by another hospital agency, the public hospital agency may, 2378
in connection with such acquisition or the leasing of such land 2379
and hospital facilities thereon to one or more hospital agencies, 2380

enter into an agreement with the hospital agency which owns such 2381
adjacent hospital facility for the use of common walls in the 2382
construction, operation, or maintenance of hospital facilities of 2383
the public hospital agency. For the purpose of construction, 2384
operation, or maintenance of hospital facilities, a public 2385
hospital agency may acquire by purchase, gift, lease, lease with 2386
option to purchase, lease-purchase, or installment purchase, 2387
easement deed, or other agreement, real estate and interests in 2388
real estate, including rights to use space over, under or upon 2389
real property owned by others, and support, access, common wall, 2390
and other rights in connection therewith. Any public hospital 2391
agency or other political subdivision or any public agency, board, 2392
commission, institution, body, or instrumentality may grant such 2393
real estate, interests, or rights to any hospital agency upon such 2394
terms as are agreed upon without necessity for competitive bidding 2395
or public auction. 2396

Sec. 145.297. (A) As used in this section, "employing unit" 2397
means: 2398

(1) A municipal corporation, agency of a municipal 2399
corporation designated by the legislative authority, park 2400
district, conservancy district, sanitary district, health 2401
district, township, department of a township designated by the 2402
board of township trustees, metropolitan housing authority, public 2403
library, county law library, union cemetery, joint hospital, or 2404
other political subdivision or unit of local government. 2405

(2) With respect to state employees, any entity of the state 2406
including any department, agency, institution of higher education, 2407
board, bureau, commission, council, office, or administrative body 2408
or any part of such entity that is designated by the entity as an 2409
employing unit. 2410

(3)(a) With respect to employees of a board of alcohol, drug 2411

addiction, and mental health services, that board. 2412

(b) With respect to employees of a county board of ~~mental~~ 2413
~~retardation and~~ developmental disabilities, that board. 2414

(c) With respect to other county employees, the county or any 2415
county agency designated by the board of county commissioners. 2416

(4) In the case of an employee whose employing unit is in 2417
question, the employing unit is the unit through whose payroll the 2418
employee is paid. 2419

(B) An employing unit may establish a retirement incentive 2420
plan for its eligible employees. In the case of a county or county 2421
agency, decisions on whether to establish a retirement incentive 2422
plan for any employees other than employees of a board of alcohol, 2423
drug addiction, and mental health services or county board of 2424
~~mental retardation and~~ developmental disabilities and on the terms 2425
of the plan shall be made by the board of county commissioners. In 2426
the case of a municipal corporation or an agency of a municipal 2427
corporation, decisions on whether to establish a retirement 2428
incentive plan and on the terms of the plan shall be made by the 2429
legislative authority. 2430

All terms of a retirement incentive plan shall be in writing. 2431

A retirement incentive plan shall provide for purchase by the 2432
employing unit of service credit for eligible employees who elect 2433
to participate in the plan and for payment by the employing unit 2434
of the entire cost of the service credit purchased. 2435

Every retirement incentive plan shall remain in effect for at 2436
least one year. The employing unit shall give employees at least 2437
thirty days' notice before terminating the plan. 2438

Every retirement incentive plan shall include provisions for 2439
the timely and impartial resolution of grievances and disputes 2440
arising under the plan. 2441

No employing unit shall have more than one retirement 2442
incentive plan in effect at any time. 2443

(C) Any classified or unclassified employee of the employing 2444
unit who is a member of the public employees retirement system 2445
shall be eligible to participate in the retirement incentive plan 2446
established by the employee's employing unit if the employee meets 2447
the following criteria: 2448

(1) The employee is not any of the following: 2449

(a) An elected official; 2450

(b) A member of a board or commission; 2451

(c) A person elected to serve a term of fixed length; 2452

(d) A person appointed to serve a term of fixed length, other 2453
than a person appointed and employed by the person's employing 2454
unit. 2455

(2) The employee is or will be eligible to retire under 2456
section 145.32, 145.34, 145.37, or division (A) of section 145.33 2457
of the Revised Code on or before the date of termination of the 2458
retirement incentive plan. Service credit to be purchased for the 2459
employee under the retirement incentive plan shall be included in 2460
making such determination. 2461

(3) The employee agrees to retire under section 145.32, 2462
145.34, 145.37, or division (A) of section 145.33 of the Revised 2463
Code within ninety days after receiving notice from the public 2464
employees retirement system that service credit has been purchased 2465
for the employee under this section. 2466

Participation in the plan shall be available to all eligible 2467
employees except that the employing unit may limit the number of 2468
participants in the plan to a specified percentage of its 2469
employees who are members of the public employees retirement 2470
system on the date the plan goes into effect. The percentage shall 2471

not be less than five per cent of such employees. If participation 2472
is limited, employees with more total service credit have the 2473
right to elect to participate before employees with less total 2474
service credit. In the case of employees with the same total 2475
service credit, employees with a greater length of service with 2476
the employing unit have the right to elect to participate before 2477
employees with less service with the employing unit. Employees 2478
with less than eighteen months of service with the employing unit 2479
have the right to elect to participate only after all other 2480
eligible employees have been given the opportunity to elect to 2481
participate. For the purpose of determining which employees may 2482
participate in a plan, total service credit includes service 2483
credit purchased by the employee under this chapter after the date 2484
on which the plan is established. 2485

A retirement incentive plan that limits participation may 2486
provide that an employee who does not notify the employing unit of 2487
the employee's decision to participate in the plan within a 2488
specified period of time will lose priority to participate in the 2489
plan ahead of other employees with less seniority. The time given 2490
to an employee to elect to participate ahead of other employees 2491
shall not be less than thirty days after the employee receives 2492
written notice that the employee may participate in the plan. 2493

(D) A retirement incentive plan shall provide for purchase of 2494
the same amount of service credit for each participating employee, 2495
except that the employer may not purchase more service credit for 2496
any employee than the lesser of the following: 2497

(1) Five years of service credit; 2498

(2) An amount of service credit equal to one-fifth of the 2499
total service credited to the participant under this chapter, 2500
exclusive of service credit purchased under this section. 2501

For each year of service credit purchased under this section, 2502

the employing unit shall pay an amount equal to the additional 2503
liability resulting from the purchase of that year of service 2504
credit, as determined by an actuary employed by the public 2505
employees retirement board. 2506

(E) Upon the election by an eligible employee to participate 2507
in the retirement incentive plan, the employee and the employing 2508
unit shall agree upon a date for payment or contracting for 2509
payment in installments to the public employees retirement system 2510
of the cost of the service credit to be purchased. The employing 2511
unit shall submit to the public employees retirement system a 2512
written request for a determination of the cost of the service 2513
credit, and within forty-five days after receiving the request, 2514
the board shall give the employing unit written notice of the 2515
cost. 2516

The employing unit shall pay or contract to pay in 2517
installments the cost of the service credit to be purchased to the 2518
public employees retirement system on the date agreed to by the 2519
employee and the employing unit. The payment shall be made in 2520
accordance with rules adopted by the public employees retirement 2521
board. The rules may provide for payment in installments and for 2522
crediting the purchased credit to the employee's account upon the 2523
employer's contracting to pay the cost in installments. The board 2524
shall notify the member when the member is credited with service 2525
purchased under this section. If the employee does not retire 2526
within ninety days after receiving notice that the employee has 2527
been credited with the purchased service credit, the system shall 2528
refund to the employing unit the amount paid for the service 2529
credit. 2530

No payment made to the public employees retirement system 2531
under this section shall affect any payment required by section 2532
145.48 of the Revised Code. 2533

Sec. 305.14. (A) The court of common pleas, upon the 2534
application of the prosecuting attorney and the board of county 2535
commissioners, may authorize the board to employ legal counsel to 2536
assist the prosecuting attorney, the board, or any other county 2537
officer in any matter of public business coming before such board 2538
or officer, and in the prosecution or defense of any action or 2539
proceeding in which such board or officer is a party or has an 2540
interest, in its official capacity. 2541

(B) The board of county commissioners may also employ legal 2542
counsel, as provided in section 309.09 of the Revised Code, to 2543
represent it in any matter of public business coming before such 2544
board, and in the prosecution or defense of any action or 2545
proceeding in which such board is a party or has an interest, in 2546
its official capacity. 2547

(C) Notwithstanding division (A) of this section and except 2548
as provided in division (D) of this section, a county board of 2549
~~mental retardation and~~ developmental disabilities or a public 2550
children services agency may, without the authorization of the 2551
court of common pleas, employ legal counsel to advise it or to 2552
represent it or any of its members or employees in any matter of 2553
public business coming before the board or agency or in the 2554
prosecution or defense of any action or proceeding in which the 2555
board or agency in its official capacity, or a board or agency 2556
member or employee in the member's or employee's official 2557
capacity, is a party or has an interest. 2558

(D)(1) In any legal proceeding in which the prosecuting 2559
attorney is fully able to perform the prosecuting attorney's 2560
statutory duty to represent the county board of ~~mental retardation~~ 2561
~~and~~ developmental disabilities or public children services agency 2562
without conflict of interest, the board or agency shall employ 2563
other counsel only with the written consent of the prosecuting 2564

attorney. In any legal proceeding in which the prosecuting attorney is unable, for any reason, to represent the board or agency, the prosecuting attorney shall so notify the board or agency, and, except as provided in division (D)(2) of this section, the board or agency may then employ counsel for the proceeding without further permission from any authority.

(2) A public children services agency that receives money from the county general revenue fund must obtain the permission of the board of county commissioners of the county served by the agency before employing counsel under division (C) of this section.

Sec. 307.10. (A) No sale of real property, or lease of real property used or to be used for the purpose of airports, landing fields, or air navigational facilities, or parts thereof, as provided by section 307.09 of the Revised Code shall be made unless it is authorized by a resolution adopted by a majority of the board of county commissioners. When a sale of real property as provided by section 307.09 of the Revised Code is authorized, the board may either deed the property to the highest responsible bidder, after advertisement once a week for four consecutive weeks in a newspaper of general circulation in the county or offer the real property for sale at a public auction, after giving at least thirty days' notice of the auction by publication in a newspaper of general circulation in the county. The board may reject any and all bids. The board may, as it considers best, sell real property pursuant to this section as an entire tract or in parcels. The board, by resolution adopted by a majority of the board, may lease real property, in accordance with division (A) of section 307.09 of the Revised Code, without advertising for bids.

(B) The board, by resolution, may transfer real property in fee simple belonging to the county and not needed for public use

to the United States government, to the state or any department or 2596
agency thereof, to municipal corporations or other political 2597
subdivisions of the state, or to the county board of ~~mental~~ 2598
~~retardation~~ and developmental disabilities, for public purposes 2599
upon the terms and in the manner that it may determine to be in 2600
the best interests of the county, without advertising for bids. 2601
The board shall execute a deed or other proper instrument when 2602
such a transfer is approved. 2603

(C) The board, by resolution adopted by a majority of the 2604
board, may grant leases, rights, or easements to the United States 2605
government, to the state or any department or agency thereof, or 2606
to municipal corporations and other political subdivisions of the 2607
state, or to privately owned electric light and power companies, 2608
natural gas companies, or telephone or telegraph companies for 2609
purposes of rendering their several public utilities services, in 2610
accordance with division (B) of section 307.09 of the Revised 2611
Code, without advertising for bids. When such grant of lease, 2612
right, or easement is authorized, a deed or other proper 2613
instrument therefor shall be executed by the board. 2614

Sec. 307.86. Anything to be purchased, leased, leased with an 2615
option or agreement to purchase, or constructed, including, but 2616
not limited to, any product, structure, construction, 2617
reconstruction, improvement, maintenance, repair, or service, 2618
except the services of an accountant, architect, attorney at law, 2619
physician, professional engineer, construction project manager, 2620
consultant, surveyor, or appraiser, by or on behalf of the county 2621
or contracting authority, as defined in section 307.92 of the 2622
Revised Code, at a cost in excess of twenty-five thousand dollars, 2623
except as otherwise provided in division (D) of section 713.23 and 2624
in sections 9.48, 125.04, 125.60 to 125.6012, 307.022, 307.041, 2625
307.861, 339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 2626
5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall 2627

be obtained through competitive bidding. However, competitive 2628
bidding is not required when any of the following applies: 2629

(A) The board of county commissioners, by a unanimous vote of 2630
its members, makes a determination that a real and present 2631
emergency exists, and that determination and the reasons for it 2632
are entered in the minutes of the proceedings of the board, when 2633
either of the following applies: 2634

(1) The estimated cost is less than fifty thousand dollars. 2635

(2) There is actual physical disaster to structures, radio 2636
communications equipment, or computers. 2637

For purposes of this division, "unanimous vote" means all 2638
three members of a board of county commissioners when all three 2639
members are present, or two members of the board if only two 2640
members, constituting a quorum, are present. 2641

Whenever a contract of purchase, lease, or construction is 2642
exempted from competitive bidding under division (A)(1) of this 2643
section because the estimated cost is less than fifty thousand 2644
dollars, but the estimated cost is twenty-five thousand dollars or 2645
more, the county or contracting authority shall solicit informal 2646
estimates from no fewer than three persons who could perform the 2647
contract, before awarding the contract. With regard to each such 2648
contract, the county or contracting authority shall maintain a 2649
record of such estimates, including the name of each person from 2650
whom an estimate is solicited. The county or contracting authority 2651
shall maintain the record for the longer of at least one year 2652
after the contract is awarded or the amount of time the federal 2653
government requires. 2654

(B)(1) The purchase consists of supplies or a replacement or 2655
supplemental part or parts for a product or equipment owned or 2656
leased by the county, and the only source of supply for the 2657
supplies, part, or parts is limited to a single supplier. 2658

(2) The purchase consists of services related to information 2659
technology, such as programming services, that are proprietary or 2660
limited to a single source. 2661

(C) The purchase is from the federal government, the state, 2662
another county or contracting authority of another county, or a 2663
board of education, township, or municipal corporation. 2664

(D) The purchase is made by a county department of job and 2665
family services under section 329.04 of the Revised Code and 2666
consists of family services duties or workforce development 2667
activities or is made by a county board of ~~mental retardation and~~ 2668
developmental disabilities under section 5126.05 of the Revised 2669
Code and consists of program services, such as direct and 2670
ancillary client services, child care, case management services, 2671
residential services, and family resource services. 2672

(E) The purchase consists of criminal justice services, 2673
social services programs, family services, or workforce 2674
development activities by the board of county commissioners from 2675
nonprofit corporations or associations under programs funded by 2676
the federal government or by state grants. 2677

(F) The purchase consists of any form of an insurance policy 2678
or contract authorized to be issued under Title XXXIX of the 2679
Revised Code or any form of health care plan authorized to be 2680
issued under Chapter 1751. of the Revised Code, or any combination 2681
of such policies, contracts, plans, or services that the 2682
contracting authority is authorized to purchase, and the 2683
contracting authority does all of the following: 2684

(1) Determines that compliance with the requirements of this 2685
section would increase, rather than decrease, the cost of the 2686
purchase; 2687

(2) Requests issuers of the policies, contracts, plans, or 2688
services to submit proposals to the contracting authority, in a 2689

form prescribed by the contracting authority, setting forth the 2690
coverage and cost of the policies, contracts, plans, or services 2691
as the contracting authority desires to purchase; 2692

(3) Negotiates with the issuers for the purpose of purchasing 2693
the policies, contracts, plans, or services at the best and lowest 2694
price reasonably possible. 2695

(G) The purchase consists of computer hardware, software, or 2696
consulting services that are necessary to implement a computerized 2697
case management automation project administered by the Ohio 2698
prosecuting attorneys association and funded by a grant from the 2699
federal government. 2700

(H) Child care services are purchased for provision to county 2701
employees. 2702

(I)(1) Property, including land, buildings, and other real 2703
property, is leased for offices, storage, parking, or other 2704
purposes, and all of the following apply: 2705

(a) The contracting authority is authorized by the Revised 2706
Code to lease the property. 2707

(b) The contracting authority develops requests for proposals 2708
for leasing the property, specifying the criteria that will be 2709
considered prior to leasing the property, including the desired 2710
size and geographic location of the property. 2711

(c) The contracting authority receives responses from 2712
prospective lessors with property meeting the criteria specified 2713
in the requests for proposals by giving notice in a manner 2714
substantially similar to the procedures established for giving 2715
notice under section 307.87 of the Revised Code. 2716

(d) The contracting authority negotiates with the prospective 2717
lessors to obtain a lease at the best and lowest price reasonably 2718
possible considering the fair market value of the property and any 2719

relocation and operational costs that may be incurred during the 2720
period the lease is in effect. 2721

(2) The contracting authority may use the services of a real 2722
estate appraiser to obtain advice, consultations, or other 2723
recommendations regarding the lease of property under this 2724
division. 2725

(J) The purchase is made pursuant to section 5139.34 or 2726
sections 5139.41 to 5139.46 of the Revised Code and is of programs 2727
or services that provide case management, treatment, or prevention 2728
services to any felony or misdemeanor delinquent, unruly youth, 2729
or status offender under the supervision of the juvenile court, 2730
including, but not limited to, community residential care, day 2731
treatment, services to children in their home, or electronic 2732
monitoring. 2733

(K) The purchase is made by a public children services agency 2734
pursuant to section 307.92 or 5153.16 of the Revised Code and 2735
consists of family services, programs, or ancillary services that 2736
provide case management, prevention, or treatment services for 2737
children at risk of being or alleged to be abused, neglected, or 2738
dependent children. 2739

(L) The purchase is to obtain the services of emergency 2740
medical service organizations under a contract made by the board 2741
of county commissioners pursuant to section 307.05 of the Revised 2742
Code with a joint emergency medical services district. 2743

(M) The county contracting authority determines that the use 2744
of competitive sealed proposals would be advantageous to the 2745
county and the contracting authority complies with section 307.862 2746
of the Revised Code. 2747

Any issuer of policies, contracts, plans, or services listed 2748
in division (F) of this section and any prospective lessor under 2749
division (I) of this section may have the issuer's or prospective 2750

lessor's name and address, or the name and address of an agent, 2751
placed on a special notification list to be kept by the 2752
contracting authority, by sending the contracting authority that 2753
name and address. The contracting authority shall send notice to 2754
all persons listed on the special notification list. Notices shall 2755
state the deadline and place for submitting proposals. The 2756
contracting authority shall mail the notices at least six weeks 2757
prior to the deadline set by the contracting authority for 2758
submitting proposals. Every five years the contracting authority 2759
may review this list and remove any person from the list after 2760
mailing the person notification of that action. 2761

Any contracting authority that negotiates a contract under 2762
division (F) of this section shall request proposals and negotiate 2763
with issuers in accordance with that division at least every three 2764
years from the date of the signing of such a contract, unless the 2765
parties agree upon terms for extensions or renewals of the 2766
contract. Such extension or renewal periods shall not exceed six 2767
years from the date the initial contract is signed. 2768

Any real estate appraiser employed pursuant to division (I) 2769
of this section shall disclose any fees or compensation received 2770
from any source in connection with that employment. 2771

Sec. 309.10. Sections 309.08 and 309.09 of the Revised Code 2772
do not prevent a school board from employing counsel to represent 2773
it, but when counsel is employed, the counsel shall be paid by the 2774
school board from the school fund. Sections 309.08 and 309.09 of 2775
the Revised Code do not prevent a county board of ~~mental~~ 2776
~~retardation and~~ developmental disabilities from employing counsel 2777
to represent it, but that counsel shall be employed in accordance 2778
with division (C) of section 305.14 and paid in accordance with 2779
division (A)(7) of section 5126.05 of the Revised Code. 2780

Sections 309.08 and 309.09 of the Revised Code do not prevent 2781

a board of county hospital trustees from employing counsel with 2782
the approval of the county commissioners to bring legal action for 2783
the collection of delinquent accounts of the hospital, but when 2784
counsel is employed, the counsel shall be paid from the hospital's 2785
funds. Sections 309.08 and 309.09 of the Revised Code do not 2786
prevent a board of library trustees from employing counsel to 2787
represent it, but when counsel is employed, the counsel shall be 2788
paid from the library's funds. Sections 309.08 and 309.09 of the 2789
Revised Code do not prevent the appointment and employment of 2790
assistants, clerks, and stenographers to assist the prosecuting 2791
attorney as provided in sections 309.01 to 309.16 of the Revised 2792
Code, or the appointment by the court of common pleas or the court 2793
of appeals of an attorney to assist the prosecuting attorney in 2794
the trial of a criminal cause pending in that court, or the board 2795
of county commissioners from paying for those services. 2796

Sec. 319.16. The county auditor shall issue warrants, 2797
including electronic warrants authorizing direct deposit for 2798
payment of county obligations in accordance with division (F) of 2799
section 9.37 of the Revised Code, on the county treasurer for all 2800
moneys payable from the county treasury, upon presentation of the 2801
proper order or voucher and evidentiary matter for the moneys, and 2802
keep a record of all such warrants showing the number, date of 2803
issue, amount for which drawn, in whose favor, for what purpose, 2804
and on what fund. The auditor shall not issue a warrant for the 2805
payment of any claim against the county, unless it is allowed by 2806
the board of county commissioners, except where the amount due is 2807
fixed by law or is allowed by an officer or tribunal, including a 2808
county board of mental health or county board of ~~mental~~ 2809
~~retardation and~~ developmental disabilities, so authorized by law. 2810
If the auditor questions the validity of an expenditure that is 2811
within available appropriations and for which a proper order or 2812
voucher and evidentiary matter is presented, the auditor shall 2813

notify the board, officer, or tribunal who presented the voucher. 2814
If the board, officer, or tribunal determines that the expenditure 2815
is valid and the auditor continues to refuse to issue the 2816
appropriate warrant on the county treasury, a writ of mandamus may 2817
be sought. The court shall issue a writ of mandamus for issuance 2818
of the warrant if the court determines that the claim is valid. 2819

Evidentiary matter includes original invoices, receipts, 2820
bills and checks, and legible copies of contracts. 2821

Sec. 325.19. (A)(1) The granting of vacation leave under 2822
division (A)(1) of this section is subject to divisions (A)(2) and 2823
(3) of this section. Each full-time employee in the several 2824
offices and departments of the county service, including full-time 2825
hourly rate employees, after service of one year with the county 2826
or any political subdivision of the state, shall have earned and 2827
will be due upon the attainment of the first year of employment, 2828
and annually thereafter, eighty hours of vacation leave with full 2829
pay. One year of service shall be computed on the basis of 2830
twenty-six biweekly pay periods. A full-time county employee with 2831
eight or more years of service with the county or any political 2832
subdivision of the state shall have earned and is entitled to one 2833
hundred twenty hours of vacation leave with full pay. A full-time 2834
county employee with fifteen or more years of service with the 2835
county or any political subdivision of the state shall have earned 2836
and is entitled to one hundred sixty hours of vacation leave with 2837
full pay. A full-time county employee with twenty-five years of 2838
service with the county or any political subdivision of the state 2839
shall have earned and is entitled to two hundred hours of vacation 2840
leave with full pay. Such vacation leave shall accrue to the 2841
employee at the rate of three and one-tenth hours each biweekly 2842
period for those entitled to eighty hours per year; four and 2843
six-tenths hours each biweekly period for those entitled to one 2844
hundred twenty hours per year; six and two-tenths hours each 2845

biweekly period for those entitled to one hundred sixty hours per 2846
year; and seven and seven-tenths hours each biweekly period for 2847
those entitled to two hundred hours per year. 2848

The appointing authorities of the offices and departments of 2849
the county service may permit all or any part of a person's prior 2850
service with any regional council of government established in 2851
accordance with Chapter 167. of the Revised Code to be considered 2852
service with the county or a political subdivision of the state 2853
for the purpose of determining years of service under this 2854
division. 2855

(2) Full-time employees granted vacation leave under division 2856
(A)(1) of this section who render any standard of service other 2857
than forty hours per week as described in division (J) of this 2858
section and who are in active pay status in a biweekly pay period, 2859
shall accrue a number of hours of vacation leave during each such 2860
pay period that bears the same ratio to the number of hours 2861
specified in division (A)(1) of this section as their number of 2862
hours which are accepted as full-time in active pay status, 2863
excluding overtime hours, bears to eighty hours. 2864

(3) Full-time employees granted vacation leave under division 2865
(A)(1) of this section who are in active pay status in a biweekly 2866
pay period for less than eighty hours or the number of hours of 2867
service otherwise accepted as full-time by their employing office 2868
or department shall accrue a number of hours of vacation leave 2869
during that pay period that bears the same ratio to the number of 2870
hours specified in division (A)(1) of this section as their number 2871
of hours in active pay status, excluding overtime hours, bears to 2872
eighty or the number of hours of service accepted as full-time, 2873
whichever is applicable. 2874

(B) A board of county commissioners, by resolution, may grant 2875
vacation leave with full pay to part-time county employees. A 2876
part-time county employee shall be eligible for vacation leave 2877

with full pay upon the attainment of the first year of employment, 2878
and annually thereafter. The ratio between the hours worked and 2879
the vacation hours awarded to a part-time employee shall be the 2880
same as the ratio between the hours worked and the vacation hours 2881
earned by a full-time employee as provided for in this section. 2882

(C) Days specified as holidays in section 124.19 of the 2883
Revised Code shall not be charged to an employee's vacation leave. 2884
Vacation leave shall be taken by the employee during the year in 2885
which it accrued and prior to the next recurrence of the 2886
anniversary date of the employee's employment, provided that the 2887
appointing authority may, in special and meritorious cases, permit 2888
such employee to accumulate and carry over the employee's vacation 2889
leave to the following year. No vacation leave shall be carried 2890
over for more than three years. An employee is entitled to 2891
compensation, at the employee's current rate of pay, for the 2892
prorated portion of any earned but unused vacation leave for the 2893
current year to the employee's credit at time of separation, and 2894
in addition shall be compensated for any unused vacation leave 2895
accrued to the employee's credit, with the permission of the 2896
appointing authority, for the three years immediately preceding 2897
the last anniversary date of employment. 2898

(D)(1) In addition to vacation leave, a full-time county 2899
employee is entitled to eight hours of holiday pay for New Year's 2900
day, Martin Luther King day, Washington-Lincoln day, Memorial day, 2901
Independence day, Labor day, Columbus day, Veterans' day, 2902
Thanksgiving day, and Christmas day, of each year. Except as 2903
provided in division (D)(2) of this section, holidays shall occur 2904
on the days specified in section 1.14 of the Revised Code. If any 2905
of those holidays fall on Saturday, the Friday immediately 2906
preceding shall be observed as the holiday. If any of those 2907
holidays fall on Sunday, the Monday immediately succeeding shall 2908
be observed as the holiday. If an employee's work schedule is 2909

other than Monday through Friday, the employee is entitled to 2910
holiday pay for holidays observed on the employee's day off 2911
regardless of the day of the week on which they are observed. 2912

(2)(a) When a classified employee of a county board of ~~mental~~ 2913
~~retardation~~ and developmental disabilities works at a site 2914
maintained by a government entity other than the board, such as a 2915
public school, the board may adjust the employee's holiday 2916
schedule to conform to the schedule adopted by the government 2917
entity. Under an adjusted holiday schedule, an employee shall 2918
receive the number of hours of holiday pay granted under division 2919
(D)(1) of this section. 2920

(b) Pursuant to division (J)(6) of section 339.06 of the 2921
Revised Code, a county hospital may observe Martin Luther King 2922
day, Washington-Lincoln day, Columbus day, and Veterans' day on 2923
days other than those specified in section 1.14 of the Revised 2924
Code. 2925

(E) In the case of the death of a county employee, the unused 2926
vacation leave and unpaid overtime to the credit of the employee 2927
shall be paid in accordance with section 2113.04 of the Revised 2928
Code, or to the employee's estate. 2929

(F) Notwithstanding this section or any other section of the 2930
Revised Code, any appointing authority of a county office, 2931
department, commission, board, or body may, upon notification to 2932
the board of county commissioners, establish alternative schedules 2933
of vacation leave and holidays for employees of the appointing 2934
authority for whom the state employment relations board has not 2935
established an appropriate bargaining unit pursuant to section 2936
4117.06 of the Revised Code, as long as the alternative schedules 2937
are not inconsistent with the provisions of at least one 2938
collective bargaining agreement covering other employees of that 2939
appointing authority, if such an agreement exists. If no such 2940
collective bargaining agreement exists, an appointing authority, 2941

upon notification to the board of county commissioners, may 2942
establish an alternative schedule of vacation leave and holidays 2943
for its employees that does not diminish the vacation leave and 2944
holiday benefits granted by this section. 2945

(G) The employees of a county children services board that 2946
establishes vacation benefits under section 5153.12 of the Revised 2947
Code are exempt from division (A) of this section. 2948

(H) The provisions of this section do not apply to 2949
superintendents and management employees of county boards of 2950
~~mental retardation and~~ developmental disabilities. 2951

(I) Division (A) of this section does not apply to an 2952
employee of a county board of ~~mental retardation and~~ developmental 2953
disabilities who works at, or provides transportation services to 2954
pupils of, a special education program provided by the county 2955
board pursuant to division (A)(4) of section 5126.05 of the 2956
Revised Code, if the employee's employment is based on a school 2957
year and the employee is not subject to a contract with the county 2958
board that provides for division (A) of this section to apply to 2959
the employee. 2960

(J) As used in this section: 2961

(1) "Full-time employee" means an employee whose regular 2962
hours of service for a county total forty hours per week, or who 2963
renders any other standard of service accepted as full-time by an 2964
office, department, or agency of county service. 2965

(2) "Part-time employee" means an employee whose regular 2966
hours of service for a county total less than forty hours per 2967
week, or who renders any other standard of service accepted as 2968
part-time by an office, department, or agency of county service, 2969
and whose hours of county service total at least five hundred 2970
twenty hours annually. 2971

(3) "Management employee" has the same meaning as in section 2972

5126.20 of the Revised Code. 2973

Sec. 329.06. (A) Except as provided in division (C) of this 2974
section and section 6301.08 of the Revised Code, the board of 2975
county commissioners shall establish a county family services 2976
planning committee. The board shall appoint a member to represent 2977
the county department of job and family services; an employee in 2978
the classified civil service of the county department of job and 2979
family services, if there are any such employees; and a member to 2980
represent the public. The board shall appoint other individuals to 2981
the committee in such a manner that the committee's membership is 2982
broadly representative of the groups of individuals and the public 2983
and private entities that have an interest in the family services 2984
provided in the county. The board shall make appointments in a 2985
manner that reflects the ethnic and racial composition of the 2986
county. The following groups and entities may be represented on 2987
the committee: 2988

(1) Consumers of family services; 2989

(2) The public children services agency; 2990

(3) The child support enforcement agency; 2991

(4) The county family and children first council; 2992

(5) Public and private colleges and universities; 2993

(6) Public entities that provide family services, including 2994
boards of health, boards of education, the county board of ~~mental~~ 2995
~~retardation~~ and developmental disabilities, and the board of 2996
alcohol, drug addiction, and mental health services that serves 2997
the county; 2998

(7) Private nonprofit and for-profit entities that provide 2999
family services in the county or that advocate for consumers of 3000
family services in the county, including entities that provide 3001
services to or advocate for victims of domestic violence; 3002

(8) Labor organizations;	3003
(9) Any other group or entity that has an interest in the family services provided in the county, including groups or entities that represent any of the county's business, urban, and rural sectors.	3004 3005 3006 3007
(B) The county family services planning committee shall do all of the following:	3008 3009
(1) Serve as an advisory body to the board of county commissioners with regard to the family services provided in the county, including assistance under Chapters 5107. and 5108. of the Revised Code, publicly funded child care under Chapter 5104. of the Revised Code, and social services provided under section 5101.46 of the Revised Code;	3010 3011 3012 3013 3014 3015
(2) At least once a year, review and analyze the county department of job and family services' implementation of the programs established under Chapters 5107. and 5108. of the Revised Code. In its review, the committee shall use information available to it to examine all of the following:	3016 3017 3018 3019 3020
(a) Return of assistance groups to participation in either program after ceasing to participate;	3021 3022
(b) Teen pregnancy rates among the programs' participants;	3023
(c) The other types of assistance the programs' participants receive, including medical assistance under Chapter 5111. of the Revised Code, publicly funded child care under Chapter 5104. of the Revised Code, food stamp benefits under section 5101.54 of the Revised Code, and energy assistance under Chapter 5117. of the Revised Code;	3024 3025 3026 3027 3028 3029
(d) Other issues the committee considers appropriate.	3030
The committee shall make recommendations to the board of county commissioners and county department of job and family	3031 3032

services regarding the committee's findings.	3033
(3) Conduct public hearings on proposed county profiles for the provision of social services under section 5101.46 of the Revised Code;	3034 3035 3036
(4) At the request of the board, make recommendations and provide assistance regarding the family services provided in the county;	3037 3038 3039
(5) At any other time the committee considers appropriate, consult with the board and make recommendations regarding the family services provided in the county. The committee's recommendations may address the following:	3040 3041 3042 3043
(a) Implementation and administration of family service programs;	3044 3045
(b) Use of federal, state, and local funds available for family service programs;	3046 3047
(c) Establishment of goals to be achieved by family service programs;	3048 3049
(d) Evaluation of the outcomes of family service programs;	3050
(e) Any other matter the board considers relevant to the provision of family services.	3051 3052
(C) If there is a committee in existence in a county on October 1, 1997, that the board of county commissioners determines is capable of fulfilling the responsibilities of a county family services planning committee, the board may designate the committee as the county's family services planning committee and the committee shall serve in that capacity.	3053 3054 3055 3056 3057 3058
Sec. 1751.01. As used in this chapter:	3059
(A)(1) "Basic health care services" means the following services when medically necessary:	3060 3061

(a) Physician's services, except when such services are supplemental under division (B) of this section;	3062 3063
(b) Inpatient hospital services;	3064
(c) Outpatient medical services;	3065
(d) Emergency health services;	3066
(e) Urgent care services;	3067
(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;	3068 3069
(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental illnesses;	3070 3071 3072
(h) Preventive health care services, including, but not limited to, voluntary family planning services, infertility services, periodic physical examinations, prenatal obstetrical care, and well-child care;	3073 3074 3075 3076
(i) Routine patient care for patients enrolled in an eligible cancer clinical trial pursuant to section 3923.80 of the Revised Code.	3077 3078 3079
"Basic health care services" does not include experimental procedures.	3080 3081
Except as provided by divisions (A)(2) and (3) of this section in connection with the offering of coverage for diagnostic and treatment services for biologically based mental illnesses, a health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5	3082 3083 3084 3085 3086 3087 3088 3089 3090 3091

U.S.C.A. 8905, or to the coverage of medicaid recipients, or to 3092
the coverage of participants of the children's buy-in program, or 3093
to the coverage of beneficiaries under any federal health care 3094
program regulated by a federal regulatory body, or to the coverage 3095
of beneficiaries under any contract covering officers or employees 3096
of the state that has been entered into by the department of 3097
administrative services. 3098

(2) A health insuring corporation may offer coverage for 3099
diagnostic and treatment services for biologically based mental 3100
illnesses without offering coverage for all other basic health 3101
care services. A health insuring corporation may offer coverage 3102
for diagnostic and treatment services for biologically based 3103
mental illnesses alone or in combination with one or more 3104
supplemental health care services. However, a health insuring 3105
corporation that offers coverage for any other basic health care 3106
service shall offer coverage for diagnostic and treatment services 3107
for biologically based mental illnesses in combination with the 3108
offer of coverage for all other listed basic health care services. 3109

(3) A health insuring corporation that offers coverage for 3110
basic health care services is not required to offer coverage for 3111
diagnostic and treatment services for biologically based mental 3112
illnesses in combination with the offer of coverage for all other 3113
listed basic health care services if all of the following apply: 3114

(a) The health insuring corporation submits documentation 3115
certified by an independent member of the American academy of 3116
actuaries to the superintendent of insurance showing that incurred 3117
claims for diagnostic and treatment services for biologically 3118
based mental illnesses for a period of at least six months 3119
independently caused the health insuring corporation's costs for 3120
claims and administrative expenses for the coverage of basic 3121
health care services to increase by more than one per cent per 3122
year. 3123

(b) The health insuring corporation submits a signed letter 3124
from an independent member of the American academy of actuaries to 3125
the superintendent of insurance opining that the increase in costs 3126
described in division (A)(3)(a) of this section could reasonably 3127
justify an increase of more than one per cent in the annual 3128
premiums or rates charged by the health insuring corporation for 3129
the coverage of basic health care services. 3130

(c) The superintendent of insurance makes the following 3131
determinations from the documentation and opinion submitted 3132
pursuant to divisions (A)(3)(a) and (b) of this section: 3133

(i) Incurred claims for diagnostic and treatment services for 3134
biologically based mental illnesses for a period of at least six 3135
months independently caused the health insuring corporation's 3136
costs for claims and administrative expenses for the coverage of 3137
basic health care services to increase by more than one per cent 3138
per year. 3139

(ii) The increase in costs reasonably justifies an increase 3140
of more than one per cent in the annual premiums or rates charged 3141
by the health insuring corporation for the coverage of basic 3142
health care services. 3143

Any determination made by the superintendent under this 3144
division is subject to Chapter 119. of the Revised Code. 3145

(B)(1) "Supplemental health care services" means any health 3146
care services other than basic health care services that a health 3147
insuring corporation may offer, alone or in combination with 3148
either basic health care services or other supplemental health 3149
care services, and includes: 3150

(a) Services of facilities for intermediate or long-term 3151
care, or both; 3152

(b) Dental care services; 3153

(c) Vision care and optometric services including lenses and frames;	3154 3155
(d) Podiatric care or foot care services;	3156
(e) Mental health services, excluding diagnostic and treatment services for biologically based mental illnesses;	3157 3158
(f) Short-term outpatient evaluative and crisis-intervention mental health services;	3159 3160
(g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;	3161 3162
(h) Home health services;	3163
(i) Prescription drug services;	3164
(j) Nursing services;	3165
(k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;	3166 3167
(l) Physical therapy services;	3168
(m) Chiropractic services;	3169
(n) Any other category of services approved by the superintendent of insurance.	3170 3171
(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.	3172 3173 3174 3175 3176
(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.	3177 3178 3179 3180 3181
(D) "Biologically based mental illnesses" means	3182

schizophrenia, schizoaffective disorder, major depressive 3183
disorder, bipolar disorder, paranoia and other psychotic 3184
disorders, obsessive-compulsive disorder, and panic disorder, as 3185
these terms are defined in the most recent edition of the 3186
diagnostic and statistical manual of mental disorders published by 3187
the American psychiatric association. 3188

(E) "Children's buy-in program" has the same meaning as in 3189
section 5101.5211 of the Revised Code. 3190

(F) "Closed panel plan" means a health care plan that 3191
requires enrollees to use participating providers. 3192

(G) "Compensation" means remuneration for the provision of 3193
health care services, determined on other than a fee-for-service 3194
or discounted-fee-for-service basis. 3195

(H) "Contractual periodic prepayment" means the formula for 3196
determining the premium rate for all subscribers of a health 3197
insuring corporation. 3198

(I) "Corporation" means a corporation formed under Chapter 3199
1701. or 1702. of the Revised Code or the similar laws of another 3200
state. 3201

(J) "Emergency health services" means those health care 3202
services that must be available on a seven-days-per-week, 3203
twenty-four-hours-per-day basis in order to prevent jeopardy to an 3204
enrollee's health status that would occur if such services were 3205
not received as soon as possible, and includes, where appropriate, 3206
provisions for transportation and indemnity payments or service 3207
agreements for out-of-area coverage. 3208

(K) "Enrollee" means any natural person who is entitled to 3209
receive health care benefits provided by a health insuring 3210
corporation. 3211

(L) "Evidence of coverage" means any certificate, agreement, 3212

policy, or contract issued to a subscriber that sets out the 3213
coverage and other rights to which such person is entitled under a 3214
health care plan. 3215

(M) "Health care facility" means any facility, except a 3216
health care practitioner's office, that provides preventive, 3217
diagnostic, therapeutic, acute convalescent, rehabilitation, 3218
mental health, mental retardation, intermediate care, or skilled 3219
nursing services. 3220

(N) "Health care services" means basic, supplemental, and 3221
specialty health care services. 3222

(O) "Health delivery network" means any group of providers or 3223
health care facilities, or both, or any representative thereof, 3224
that have entered into an agreement to offer health care services 3225
in a panel rather than on an individual basis. 3226

(P) "Health insuring corporation" means a corporation, as 3227
defined in division (I) of this section, that, pursuant to a 3228
policy, contract, certificate, or agreement, pays for, reimburses, 3229
or provides, delivers, arranges for, or otherwise makes available, 3230
basic health care services, supplemental health care services, or 3231
specialty health care services, or a combination of basic health 3232
care services and either supplemental health care services or 3233
specialty health care services, through either an open panel plan 3234
or a closed panel plan. 3235

"Health insuring corporation" does not include a limited 3236
liability company formed pursuant to Chapter 1705. of the Revised 3237
Code, an insurer licensed under Title XXXIX of the Revised Code if 3238
that insurer offers only open panel plans under which all 3239
providers and health care facilities participating receive their 3240
compensation directly from the insurer, a corporation formed by or 3241
on behalf of a political subdivision or a department, office, or 3242
institution of the state, or a public entity formed by or on 3243

behalf of a board of county commissioners, a county board of 3244
~~mental retardation and~~ developmental disabilities, an alcohol and 3245
drug addiction services board, a board of alcohol, drug addiction, 3246
and mental health services, or a community mental health board, as 3247
those terms are used in Chapters 340. and 5126. of the Revised 3248
Code. Except as provided by division (D) of section 1751.02 of the 3249
Revised Code, or as otherwise provided by law, no board, 3250
commission, agency, or other entity under the control of a 3251
political subdivision may accept insurance risk in providing for 3252
health care services. However, nothing in this division shall be 3253
construed as prohibiting such entities from purchasing the 3254
services of a health insuring corporation or a third-party 3255
administrator licensed under Chapter 3959. of the Revised Code. 3256

(Q) "Intermediary organization" means a health delivery 3257
network or other entity that contracts with licensed health 3258
insuring corporations or self-insured employers, or both, to 3259
provide health care services, and that enters into contractual 3260
arrangements with other entities for the provision of health care 3261
services for the purpose of fulfilling the terms of its contracts 3262
with the health insuring corporations and self-insured employers. 3263

(R) "Intermediate care" means residential care above the 3264
level of room and board for patients who require personal 3265
assistance and health-related services, but who do not require 3266
skilled nursing care. 3267

(S) "Medicaid" has the same meaning as in section 5111.01 of 3268
the Revised Code. 3269

(T) "Medical record" means the personal information that 3270
relates to an individual's physical or mental condition, medical 3271
history, or medical treatment. 3272

(U) "Medicare" means the program established under Title 3273
XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 3274

1395, as amended. 3275

(V)(1) "Open panel plan" means a health care plan that 3276
provides incentives for enrollees to use participating providers 3277
and that also allows enrollees to use providers that are not 3278
participating providers. 3279

(2) No health insuring corporation may offer an open panel 3280
plan, unless the health insuring corporation is also licensed as 3281
an insurer under Title XXXIX of the Revised Code, the health 3282
insuring corporation, on June 4, 1997, holds a certificate of 3283
authority or license to operate under Chapter 1736. or 1740. of 3284
the Revised Code, or an insurer licensed under Title XXXIX of the 3285
Revised Code is responsible for the out-of-network risk as 3286
evidenced by both an evidence of coverage filing under section 3287
1751.11 of the Revised Code and a policy and certificate filing 3288
under section 3923.02 of the Revised Code. 3289

(W) "Panel" means a group of providers or health care 3290
facilities that have joined together to deliver health care 3291
services through a contractual arrangement with a health insuring 3292
corporation, employer group, or other payor. 3293

(X) "Person" has the same meaning as in section 1.59 of the 3294
Revised Code, and, unless the context otherwise requires, includes 3295
any insurance company holding a certificate of authority under 3296
Title XXXIX of the Revised Code, any subsidiary and affiliate of 3297
an insurance company, and any government agency. 3298

(Y) "Premium rate" means any set fee regularly paid by a 3299
subscriber to a health insuring corporation. A "premium rate" does 3300
not include a one-time membership fee, an annual administrative 3301
fee, or a nominal access fee, paid to a managed health care system 3302
under which the recipient of health care services remains solely 3303
responsible for any charges accessed for those services by the 3304
provider or health care facility. 3305

(Z) "Primary care provider" means a provider that is 3306
designated by a health insuring corporation to supervise, 3307
coordinate, or provide initial care or continuing care to an 3308
enrollee, and that may be required by the health insuring 3309
corporation to initiate a referral for specialty care and to 3310
maintain supervision of the health care services rendered to the 3311
enrollee. 3312

(AA) "Provider" means any natural person or partnership of 3313
natural persons who are licensed, certified, accredited, or 3314
otherwise authorized in this state to furnish health care 3315
services, or any professional association organized under Chapter 3316
1785. of the Revised Code, provided that nothing in this chapter 3317
or other provisions of law shall be construed to preclude a health 3318
insuring corporation, health care practitioner, or organized 3319
health care group associated with a health insuring corporation 3320
from employing certified nurse practitioners, certified nurse 3321
anesthetists, clinical nurse specialists, certified nurse 3322
midwives, dietitians, physician assistants, dental assistants, 3323
dental hygienists, optometric technicians, or other allied health 3324
personnel who are licensed, certified, accredited, or otherwise 3325
authorized in this state to furnish health care services. 3326

(BB) "Provider sponsored organization" means a corporation, 3327
as defined in division (I) of this section, that is at least 3328
eighty per cent owned or controlled by one or more hospitals, as 3329
defined in section 3727.01 of the Revised Code, or one or more 3330
physicians licensed to practice medicine or surgery or osteopathic 3331
medicine and surgery under Chapter 4731. of the Revised Code, or 3332
any combination of such physicians and hospitals. Such control is 3333
presumed to exist if at least eighty per cent of the voting rights 3334
or governance rights of a provider sponsored organization are 3335
directly or indirectly owned, controlled, or otherwise held by any 3336
combination of the physicians and hospitals described in this 3337

division. 3338

(CC) "Solicitation document" means the written materials 3339
provided to prospective subscribers or enrollees, or both, and 3340
used for advertising and marketing to induce enrollment in the 3341
health care plans of a health insuring corporation. 3342

(DD) "Subscriber" means a person who is responsible for 3343
making payments to a health insuring corporation for participation 3344
in a health care plan, or an enrollee whose employment or other 3345
status is the basis of eligibility for enrollment in a health 3346
insuring corporation. 3347

(EE) "Urgent care services" means those health care services 3348
that are appropriately provided for an unforeseen condition of a 3349
kind that usually requires medical attention without delay but 3350
that does not pose a threat to the life, limb, or permanent health 3351
of the injured or ill person, and may include such health care 3352
services provided out of the health insuring corporation's 3353
approved service area pursuant to indemnity payments or service 3354
agreements. 3355

Sec. 1751.02. (A) Notwithstanding any law in this state to 3356
the contrary, any corporation, as defined in section 1751.01 of 3357
the Revised Code, may apply to the superintendent of insurance for 3358
a certificate of authority to establish and operate a health 3359
insuring corporation. If the corporation applying for a 3360
certificate of authority is a foreign corporation domiciled in a 3361
state without laws similar to those of this chapter, the 3362
corporation must form a domestic corporation to apply for, obtain, 3363
and maintain a certificate of authority under this chapter. 3364

(B) No person shall establish, operate, or perform the 3365
services of a health insuring corporation in this state without 3366
obtaining a certificate of authority under this chapter. 3367

(C) Except as provided by division (D) of this section, no political subdivision or department, office, or institution of this state, or corporation formed by or on behalf of any political subdivision or department, office, or institution of this state, shall establish, operate, or perform the services of a health insuring corporation. Nothing in this section shall be construed to preclude a board of county commissioners, a county board of ~~mental retardation and~~ developmental disabilities, an alcohol and drug addiction services board, a board of alcohol, drug addiction, and mental health services, or a community mental health board, or a public entity formed by or on behalf of any of these boards, from using managed care techniques in carrying out the board's or public entity's duties pursuant to the requirements of Chapters 307., 329., 340., and 5126. of the Revised Code. However, no such board or public entity may operate so as to compete in the private sector with health insuring corporations holding certificates of authority under this chapter.

(D) A corporation formed by or on behalf of a publicly owned, operated, or funded hospital or health care facility may apply to the superintendent for a certificate of authority under division (A) of this section to establish and operate a health insuring corporation.

(E) A health insuring corporation shall operate in this state in compliance with this chapter and Chapter 1753. of the Revised Code, and with sections 3702.51 to 3702.62 of the Revised Code, and shall operate in conformity with its filings with the superintendent under this chapter, including filings made pursuant to sections 1751.03, 1751.11, 1751.12, and 1751.31 of the Revised Code.

(F) An insurer licensed under Title XXXIX of the Revised Code need not obtain a certificate of authority as a health insuring corporation to offer an open panel plan as long as the providers

and health care facilities participating in the open panel plan 3400
receive their compensation directly from the insurer. If the 3401
providers and health care facilities participating in the open 3402
panel plan receive their compensation from any person other than 3403
the insurer, or if the insurer offers a closed panel plan, the 3404
insurer must obtain a certificate of authority as a health 3405
insuring corporation. 3406

(G) An intermediary organization need not obtain a 3407
certificate of authority as a health insuring corporation, 3408
regardless of the method of reimbursement to the intermediary 3409
organization, as long as a health insuring corporation or a 3410
self-insured employer maintains the ultimate responsibility to 3411
assure delivery of all health care services required by the 3412
contract between the health insuring corporation and the 3413
subscriber and the laws of this state or between the self-insured 3414
employer and its employees. 3415

Nothing in this section shall be construed to require any 3416
health care facility, provider, health delivery network, or 3417
intermediary organization that contracts with a health insuring 3418
corporation or self-insured employer, regardless of the method of 3419
reimbursement to the health care facility, provider, health 3420
delivery network, or intermediary organization, to obtain a 3421
certificate of authority as a health insuring corporation under 3422
this chapter, unless otherwise provided, in the case of contracts 3423
with a self-insured employer, by operation of the "Employee 3424
Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 3425
1001, as amended. 3426

(H) Any health delivery network doing business in this state, 3427
including any health delivery network that is functioning as an 3428
intermediary organization doing business in this state, that is 3429
not required to obtain a certificate of authority under this 3430
chapter shall certify to the superintendent annually, not later 3431

than the first day of July, and shall provide a statement signed 3432
by the highest ranking official which includes the following 3433
information: 3434

(1) The health delivery network's full name and the address 3435
of its principal place of business; 3436

(2) A statement that the health delivery network is not 3437
required to obtain a certificate of authority under this chapter 3438
to conduct its business. 3439

(I) The superintendent shall not issue a certificate of 3440
authority to a health insuring corporation that is a provider 3441
sponsored organization unless all health care plans to be offered 3442
by the health insuring corporation provide basic health care 3443
services. Substantially all of the physicians and hospitals with 3444
ownership or control of the provider sponsored organization, as 3445
defined in section 1751.01 of the Revised Code, shall also be 3446
participating providers for the provision of basic health care 3447
services for health care plans offered by the provider sponsored 3448
organization. If a health insuring corporation that is a provider 3449
sponsored organization offers health care plans that do not 3450
provide basic health care services, the health insuring 3451
corporation shall be deemed, for purposes of section 1751.35 of 3452
the Revised Code, to have failed to substantially comply with this 3453
chapter. 3454

Except as specifically provided in this division and in 3455
division (A) of section 1751.28 of the Revised Code, the 3456
provisions of this chapter shall apply to all health insuring 3457
corporations that are provider sponsored organizations in the same 3458
manner that these provisions apply to all health insuring 3459
corporations that are not provider sponsored organizations. 3460

(J) Nothing in this section shall be construed to apply to 3461
any multiple employer welfare arrangement operating pursuant to 3462

Chapter 1739. of the Revised Code. 3463

(K) Any person who violates division (B) of this section, and 3464
any health delivery network that fails to comply with division (H) 3465
of this section, is subject to the penalties set forth in section 3466
1751.45 of the Revised Code. 3467

Sec. 2108.521. (A) If a mentally retarded person or a 3468
developmentally disabled person dies, if the department of mental 3469
retardation and developmental disabilities or a county board of 3470
~~mental retardation and~~ developmental disabilities has a good faith 3471
reason to believe that the deceased person's death occurred under 3472
suspicious circumstances, if the coroner was apprised of the 3473
circumstances of the death, and if the coroner after being so 3474
apprised of the circumstances declines to conduct an autopsy, the 3475
department or the board may file a petition in a court of common 3476
pleas seeking an order authorizing an autopsy or post-mortem 3477
examination under this section. 3478

(B) Upon the filing of a petition under division (A) of this 3479
section, the court may conduct, but is not required to conduct, a 3480
hearing on the petition. The court may determine whether to grant 3481
the petition without a hearing. The department or board, and all 3482
other interested parties, may submit information and statements to 3483
the court that are relevant to the petition, and, if the court 3484
conducts a hearing, may present evidence and testimony at the 3485
hearing. The court shall order the requested autopsy or 3486
post-mortem examination if it finds that, under the circumstances, 3487
the department or board has demonstrated a need for the autopsy or 3488
post-mortem examination. The court shall order an autopsy or 3489
post-mortem examination in the circumstances specified in this 3490
division regardless of whether any consent has been given, or has 3491
been given and withdrawn, under section 2108.50 of the Revised 3492
Code, and regardless of whether any information was presented to 3493

the coroner pursuant to section 313.131 of the Revised Code or to 3494
the court under this section regarding an autopsy being contrary 3495
to the deceased person's religious beliefs. 3496

(C) An autopsy or post-mortem examination ordered under this 3497
section may be performed upon the body of the deceased person by a 3498
licensed physician or surgeon. The court may identify in the order 3499
the person who is to perform the autopsy or post-mortem 3500
examination. If an autopsy or post-mortem examination is ordered 3501
under this section, the department or board that requested the 3502
autopsy or examination shall pay the physician or surgeon who 3503
performs the autopsy or examination for costs and expenses 3504
incurred in performing the autopsy or examination. 3505

Sec. 2151.421. (A)(1)(a) No person described in division 3506
(A)(1)(b) of this section who is acting in an official or 3507
professional capacity and knows, or has reasonable cause to 3508
suspect based on facts that would cause a reasonable person in a 3509
similar position to suspect, that a child under eighteen years of 3510
age or a mentally retarded, developmentally disabled, or 3511
physically impaired child under twenty-one years of age has 3512
suffered or faces a threat of suffering any physical or mental 3513
wound, injury, disability, or condition of a nature that 3514
reasonably indicates abuse or neglect of the child shall fail to 3515
immediately report that knowledge or reasonable cause to suspect 3516
to the entity or persons specified in this division. Except as 3517
provided in section 5120.173 of the Revised Code, the person 3518
making the report shall make it to the public children services 3519
agency or a municipal or county peace officer in the county in 3520
which the child resides or in which the abuse or neglect is 3521
occurring or has occurred. In the circumstances described in 3522
section 5120.173 of the Revised Code, the person making the report 3523
shall make it to the entity specified in that section. 3524

(b) Division (A)(1)(a) of this section applies to any person 3525
who is an attorney; physician, including a hospital intern or 3526
resident; dentist; podiatrist; practitioner of a limited branch of 3527
medicine as specified in section 4731.15 of the Revised Code; 3528
registered nurse; licensed practical nurse; visiting nurse; other 3529
health care professional; licensed psychologist; licensed school 3530
psychologist; independent marriage and family therapist or 3531
marriage and family therapist; speech pathologist or audiologist; 3532
coroner; administrator or employee of a child day-care center; 3533
administrator or employee of a residential camp or child day camp; 3534
administrator or employee of a certified child care agency or 3535
other public or private children services agency; school teacher; 3536
school employee; school authority; person engaged in social work 3537
or the practice of professional counseling; agent of a county 3538
humane society; person, other than a cleric, rendering spiritual 3539
treatment through prayer in accordance with the tenets of a 3540
well-recognized religion; employee of a county department of job 3541
and family services who is a professional and who works with 3542
children and families; superintendent, board member, or employee 3543
of a county board of ~~mental-retardation~~ developmental 3544
disabilities; investigative agent contracted with by a county 3545
board of ~~mental-retardation~~ developmental disabilities; employee 3546
of the department of mental retardation and developmental 3547
disabilities; employee of a facility or home that provides respite 3548
care in accordance with section 5123.171 of the Revised Code; 3549
employee of a home health agency; employee of an entity that 3550
provides homemaker services; a person performing the duties of an 3551
assessor pursuant to Chapter 3107. or 5103. of the Revised Code; 3552
or third party employed by a public children services agency to 3553
assist in providing child or family related services. 3554

(2) Except as provided in division (A)(3) of this section, an 3555
attorney or a physician is not required to make a report pursuant 3556
to division (A)(1) of this section concerning any communication 3557

the attorney or physician receives from a client or patient in an 3558
attorney-client or physician-patient relationship, if, in 3559
accordance with division (A) or (B) of section 2317.02 of the 3560
Revised Code, the attorney or physician could not testify with 3561
respect to that communication in a civil or criminal proceeding. 3562

(3) The client or patient in an attorney-client or 3563
physician-patient relationship described in division (A)(2) of 3564
this section is deemed to have waived any testimonial privilege 3565
under division (A) or (B) of section 2317.02 of the Revised Code 3566
with respect to any communication the attorney or physician 3567
receives from the client or patient in that attorney-client or 3568
physician-patient relationship, and the attorney or physician 3569
shall make a report pursuant to division (A)(1) of this section 3570
with respect to that communication, if all of the following apply: 3571

(a) The client or patient, at the time of the communication, 3572
is either a child under eighteen years of age or a mentally 3573
retarded, developmentally disabled, or physically impaired person 3574
under twenty-one years of age. 3575

(b) The attorney or physician knows, or has reasonable cause 3576
to suspect based on facts that would cause a reasonable person in 3577
similar position to suspect, as a result of the communication or 3578
any observations made during that communication, that the client 3579
or patient has suffered or faces a threat of suffering any 3580
physical or mental wound, injury, disability, or condition of a 3581
nature that reasonably indicates abuse or neglect of the client or 3582
patient. 3583

(c) The abuse or neglect does not arise out of the client's 3584
or patient's attempt to have an abortion without the notification 3585
of her parents, guardian, or custodian in accordance with section 3586
2151.85 of the Revised Code. 3587

(4)(a) No cleric and no person, other than a volunteer, 3588

designated by any church, religious society, or faith acting as a 3589
leader, official, or delegate on behalf of the church, religious 3590
society, or faith who is acting in an official or professional 3591
capacity, who knows, or has reasonable cause to believe based on 3592
facts that would cause a reasonable person in a similar position 3593
to believe, that a child under eighteen years of age or a mentally 3594
retarded, developmentally disabled, or physically impaired child 3595
under twenty-one years of age has suffered or faces a threat of 3596
suffering any physical or mental wound, injury, disability, or 3597
condition of a nature that reasonably indicates abuse or neglect 3598
of the child, and who knows, or has reasonable cause to believe 3599
based on facts that would cause a reasonable person in a similar 3600
position to believe, that another cleric or another person, other 3601
than a volunteer, designated by a church, religious society, or 3602
faith acting as a leader, official, or delegate on behalf of the 3603
church, religious society, or faith caused, or poses the threat of 3604
causing, the wound, injury, disability, or condition that 3605
reasonably indicates abuse or neglect shall fail to immediately 3606
report that knowledge or reasonable cause to believe to the entity 3607
or persons specified in this division. Except as provided in 3608
section 5120.173 of the Revised Code, the person making the report 3609
shall make it to the public children services agency or a 3610
municipal or county peace officer in the county in which the child 3611
resides or in which the abuse or neglect is occurring or has 3612
occurred. In the circumstances described in section 5120.173 of 3613
the Revised Code, the person making the report shall make it to 3614
the entity specified in that section. 3615

(b) Except as provided in division (A)(4)(c) of this section, 3616
a cleric is not required to make a report pursuant to division 3617
(A)(4)(a) of this section concerning any communication the cleric 3618
receives from a penitent in a cleric-penitent relationship, if, in 3619
accordance with division (C) of section 2317.02 of the Revised 3620
Code, the cleric could not testify with respect to that 3621

communication in a civil or criminal proceeding. 3622

(c) The penitent in a cleric-penitent relationship described 3623
in division (A)(4)(b) of this section is deemed to have waived any 3624
testimonial privilege under division (C) of section 2317.02 of the 3625
Revised Code with respect to any communication the cleric receives 3626
from the penitent in that cleric-penitent relationship, and the 3627
cleric shall make a report pursuant to division (A)(4)(a) of this 3628
section with respect to that communication, if all of the 3629
following apply: 3630

(i) The penitent, at the time of the communication, is either 3631
a child under eighteen years of age or a mentally retarded, 3632
developmentally disabled, or physically impaired person under 3633
twenty-one years of age. 3634

(ii) The cleric knows, or has reasonable cause to believe 3635
based on facts that would cause a reasonable person in a similar 3636
position to believe, as a result of the communication or any 3637
observations made during that communication, the penitent has 3638
suffered or faces a threat of suffering any physical or mental 3639
wound, injury, disability, or condition of a nature that 3640
reasonably indicates abuse or neglect of the penitent. 3641

(iii) The abuse or neglect does not arise out of the 3642
penitent's attempt to have an abortion performed upon a child 3643
under eighteen years of age or upon a mentally retarded, 3644
developmentally disabled, or physically impaired person under 3645
twenty-one years of age without the notification of her parents, 3646
guardian, or custodian in accordance with section 2151.85 of the 3647
Revised Code. 3648

(d) Divisions (A)(4)(a) and (c) of this section do not apply 3649
in a cleric-penitent relationship when the disclosure of any 3650
communication the cleric receives from the penitent is in 3651
violation of the sacred trust. 3652

(e) As used in divisions (A)(1) and (4) of this section, 3653
"cleric" and "sacred trust" have the same meanings as in section 3654
2317.02 of the Revised Code. 3655

(B) Anyone who knows, or has reasonable cause to suspect 3656
based on facts that would cause a reasonable person in similar 3657
circumstances to suspect, that a child under eighteen years of age 3658
or a mentally retarded, developmentally disabled, or physically 3659
impaired person under twenty-one years of age has suffered or 3660
faces a threat of suffering any physical or mental wound, injury, 3661
disability, or other condition of a nature that reasonably 3662
indicates abuse or neglect of the child may report or cause 3663
reports to be made of that knowledge or reasonable cause to 3664
suspect to the entity or persons specified in this division. 3665
Except as provided in section 5120.173 of the Revised Code, a 3666
person making a report or causing a report to be made under this 3667
division shall make it or cause it to be made to the public 3668
children services agency or to a municipal or county peace 3669
officer. In the circumstances described in section 5120.173 of the 3670
Revised Code, a person making a report or causing a report to be 3671
made under this division shall make it or cause it to be made to 3672
the entity specified in that section. 3673

(C) Any report made pursuant to division (A) or (B) of this 3674
section shall be made forthwith either by telephone or in person 3675
and shall be followed by a written report, if requested by the 3676
receiving agency or officer. The written report shall contain: 3677

(1) The names and addresses of the child and the child's 3678
parents or the person or persons having custody of the child, if 3679
known; 3680

(2) The child's age and the nature and extent of the child's 3681
injuries, abuse, or neglect that is known or reasonably suspected 3682
or believed, as applicable, to have occurred or of the threat of 3683
injury, abuse, or neglect that is known or reasonably suspected or 3684

believed, as applicable, to exist, including any evidence of 3685
previous injuries, abuse, or neglect; 3686

(3) Any other information that might be helpful in 3687
establishing the cause of the injury, abuse, or neglect that is 3688
known or reasonably suspected or believed, as applicable, to have 3689
occurred or of the threat of injury, abuse, or neglect that is 3690
known or reasonably suspected or believed, as applicable, to 3691
exist. 3692

Any person, who is required by division (A) of this section 3693
to report child abuse or child neglect that is known or reasonably 3694
suspected or believed to have occurred, may take or cause to be 3695
taken color photographs of areas of trauma visible on a child and, 3696
if medically indicated, cause to be performed radiological 3697
examinations of the child. 3698

(D) As used in this division, "children's advocacy center" 3699
and "sexual abuse of a child" have the same meanings as in section 3700
2151.425 of the Revised Code. 3701

(1) When a municipal or county peace officer receives a 3702
report concerning the possible abuse or neglect of a child or the 3703
possible threat of abuse or neglect of a child, upon receipt of 3704
the report, the municipal or county peace officer who receives the 3705
report shall refer the report to the appropriate public children 3706
services agency. 3707

(2) When a public children services agency receives a report 3708
pursuant to this division or division (A) or (B) of this section, 3709
upon receipt of the report, the public children services agency 3710
shall do both of the following: 3711

(a) Comply with section 2151.422 of the Revised Code; 3712

(b) If the county served by the agency is also served by a 3713
children's advocacy center and the report alleges sexual abuse of 3714
a child or another type of abuse of a child that is specified in 3715

the memorandum of understanding that creates the center as being 3716
within the center's jurisdiction, comply regarding the report with 3717
the protocol and procedures for referrals and investigations, with 3718
the coordinating activities, and with the authority or 3719
responsibility for performing or providing functions, activities, 3720
and services stipulated in the interagency agreement entered into 3721
under section 2151.428 of the Revised Code relative to that 3722
center. 3723

(E) No township, municipal, or county peace officer shall 3724
remove a child about whom a report is made pursuant to this 3725
section from the child's parents, stepparents, or guardian or any 3726
other persons having custody of the child without consultation 3727
with the public children services agency, unless, in the judgment 3728
of the officer, and, if the report was made by physician, the 3729
physician, immediate removal is considered essential to protect 3730
the child from further abuse or neglect. The agency that must be 3731
consulted shall be the agency conducting the investigation of the 3732
report as determined pursuant to section 2151.422 of the Revised 3733
Code. 3734

(F)(1) Except as provided in section 2151.422 of the Revised 3735
Code or in an interagency agreement entered into under section 3736
2151.428 of the Revised Code that applies to the particular 3737
report, the public children services agency shall investigate, 3738
within twenty-four hours, each report of child abuse or child 3739
neglect that is known or reasonably suspected or believed to have 3740
occurred and of a threat of child abuse or child neglect that is 3741
known or reasonably suspected or believed to exist that is 3742
referred to it under this section to determine the circumstances 3743
surrounding the injuries, abuse, or neglect or the threat of 3744
injury, abuse, or neglect, the cause of the injuries, abuse, 3745
neglect, or threat, and the person or persons responsible. The 3746
investigation shall be made in cooperation with the law 3747

enforcement agency and in accordance with the memorandum of 3748
understanding prepared under division (J) of this section. A 3749
representative of the public children services agency shall, at 3750
the time of initial contact with the person subject to the 3751
investigation, inform the person of the specific complaints or 3752
allegations made against the person. The information shall be 3753
given in a manner that is consistent with division (H)(1) of this 3754
section and protects the rights of the person making the report 3755
under this section. 3756

A failure to make the investigation in accordance with the 3757
memorandum is not grounds for, and shall not result in, the 3758
dismissal of any charges or complaint arising from the report or 3759
the suppression of any evidence obtained as a result of the report 3760
and does not give, and shall not be construed as giving, any 3761
rights or any grounds for appeal or post-conviction relief to any 3762
person. The public children services agency shall report each case 3763
to the uniform statewide automated child welfare information 3764
system that the department of job and family services shall 3765
maintain in accordance with section 5101.13 of the Revised Code. 3766
The public children services agency shall submit a report of its 3767
investigation, in writing, to the law enforcement agency. 3768

(2) The public children services agency shall make any 3769
recommendations to the county prosecuting attorney or city 3770
director of law that it considers necessary to protect any 3771
children that are brought to its attention. 3772

(G)(1)(a) Except as provided in division (H)(3) of this 3773
section, anyone or any hospital, institution, school, health 3774
department, or agency participating in the making of reports under 3775
division (A) of this section, anyone or any hospital, institution, 3776
school, health department, or agency participating in good faith 3777
in the making of reports under division (B) of this section, and 3778
anyone participating in good faith in a judicial proceeding 3779

resulting from the reports, shall be immune from any civil or 3780
criminal liability for injury, death, or loss to person or 3781
property that otherwise might be incurred or imposed as a result 3782
of the making of the reports or the participation in the judicial 3783
proceeding. 3784

(b) Notwithstanding section 4731.22 of the Revised Code, the 3785
physician-patient privilege shall not be a ground for excluding 3786
evidence regarding a child's injuries, abuse, or neglect, or the 3787
cause of the injuries, abuse, or neglect in any judicial 3788
proceeding resulting from a report submitted pursuant to this 3789
section. 3790

(2) In any civil or criminal action or proceeding in which it 3791
is alleged and proved that participation in the making of a report 3792
under this section was not in good faith or participation in a 3793
judicial proceeding resulting from a report made under this 3794
section was not in good faith, the court shall award the 3795
prevailing party reasonable attorney's fees and costs and, if a 3796
civil action or proceeding is voluntarily dismissed, may award 3797
reasonable attorney's fees and costs to the party against whom the 3798
civil action or proceeding is brought. 3799

(H)(1) Except as provided in divisions (H)(4) and (M) of this 3800
section, a report made under this section is confidential. The 3801
information provided in a report made pursuant to this section and 3802
the name of the person who made the report shall not be released 3803
for use, and shall not be used, as evidence in any civil action or 3804
proceeding brought against the person who made the report. In a 3805
criminal proceeding, the report is admissible in evidence in 3806
accordance with the Rules of Evidence and is subject to discovery 3807
in accordance with the Rules of Criminal Procedure. 3808

(2) No person shall permit or encourage the unauthorized 3809
dissemination of the contents of any report made under this 3810
section. 3811

(3) A person who knowingly makes or causes another person to 3812
make a false report under division (B) of this section that 3813
alleges that any person has committed an act or omission that 3814
resulted in a child being an abused child or a neglected child is 3815
guilty of a violation of section 2921.14 of the Revised Code. 3816

(4) If a report is made pursuant to division (A) or (B) of 3817
this section and the child who is the subject of the report dies 3818
for any reason at any time after the report is made, but before 3819
the child attains eighteen years of age, the public children 3820
services agency or municipal or county peace officer to which the 3821
report was made or referred, on the request of the child fatality 3822
review board, shall submit a summary sheet of information 3823
providing a summary of the report to the review board of the 3824
county in which the deceased child resided at the time of death. 3825
On the request of the review board, the agency or peace officer 3826
may, at its discretion, make the report available to the review 3827
board. If the county served by the public children services agency 3828
is also served by a children's advocacy center and the report of 3829
alleged sexual abuse of a child or another type of abuse of a 3830
child is specified in the memorandum of understanding that creates 3831
the center as being within the center's jurisdiction, the agency 3832
or center shall perform the duties and functions specified in this 3833
division in accordance with the interagency agreement entered into 3834
under section 2151.428 of the Revised Code relative to that 3835
advocacy center. 3836

(5) A public children services agency shall advise a person 3837
alleged to have inflicted abuse or neglect on a child who is the 3838
subject of a report made pursuant to this section, including a 3839
report alleging sexual abuse of a child or another type of abuse 3840
of a child referred to a children's advocacy center pursuant to an 3841
interagency agreement entered into under section 2151.428 of the 3842
Revised Code, in writing of the disposition of the investigation. 3843

The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

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

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

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

(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 3874
department of job and family services, the county department of 3875
job and family services; 3876

(h) The county humane society; 3877

(i) If the public children services agency participated in 3878
the execution of a memorandum of understanding under section 3879
2151.426 of the Revised Code establishing a children's advocacy 3880
center, each participating member of the children's advocacy 3881
center established by the memorandum. 3882

(2) A memorandum of understanding shall set forth the normal 3883
operating procedure to be employed by all concerned officials in 3884
the execution of their respective responsibilities under this 3885
section and division (C) of section 2919.21, division (B)(1) of 3886
section 2919.22, division (B) of section 2919.23, and section 3887
2919.24 of the Revised Code and shall have as two of its primary 3888
goals the elimination of all unnecessary interviews of children 3889
who are the subject of reports made pursuant to division (A) or 3890
(B) of this section and, when feasible, providing for only one 3891
interview of a child who is the subject of any report made 3892
pursuant to division (A) or (B) of this section. A failure to 3893
follow the procedure set forth in the memorandum by the concerned 3894
officials is not grounds for, and shall not result in, the 3895
dismissal of any charges or complaint arising from any reported 3896
case of abuse or neglect or the suppression of any evidence 3897
obtained as a result of any reported child abuse or child neglect 3898
and does not give, and shall not be construed as giving, any 3899
rights or any grounds for appeal or post-conviction relief to any 3900
person. 3901

(3) A memorandum of understanding shall include all of the 3902
following: 3903

(a) The roles and responsibilities for handling emergency and 3904

nonemergency cases of abuse and neglect; 3905

(b) Standards and procedures to be used in handling and 3906
coordinating investigations of reported cases of child abuse and 3907
reported cases of child neglect, methods to be used in 3908
interviewing the child who is the subject of the report and who 3909
allegedly was abused or neglected, and standards and procedures 3910
addressing the categories of persons who may interview the child 3911
who is the subject of the report and who allegedly was abused or 3912
neglected. 3913

(4) If a public children services agency participated in the 3914
execution of a memorandum of understanding under section 2151.426 3915
of the Revised Code establishing a children's advocacy center, the 3916
agency shall incorporate the contents of that memorandum in the 3917
memorandum prepared pursuant to this section. 3918

(5) The clerk of the court of common pleas in the county may 3919
sign the memorandum of understanding prepared under division 3920
(J)(1) of this section. If the clerk signs the memorandum of 3921
understanding, the clerk shall execute all relevant 3922
responsibilities as required of officials specified in the 3923
memorandum. 3924

(K)(1) Except as provided in division (K)(4) of this section, 3925
a person who is required to make a report pursuant to division (A) 3926
of this section may make a reasonable number of requests of the 3927
public children services agency that receives or is referred the 3928
report, or of the children's advocacy center that is referred the 3929
report if the report is referred to a children's advocacy center 3930
pursuant to an interagency agreement entered into under section 3931
2151.428 of the Revised Code, to be provided with the following 3932
information: 3933

(a) Whether the agency or center has initiated an 3934
investigation of the report; 3935

(b) Whether the agency or center is continuing to investigate the report;	3936 3937
(c) Whether the agency or center is otherwise involved with the child who is the subject of the report;	3938 3939
(d) The general status of the health and safety of the child who is the subject of the report;	3940 3941
(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.	3942 3943 3944
(2) A person may request the information specified in division (K)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.	3945 3946 3947 3948
When a municipal or county peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (K)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.	3949 3950 3951 3952 3953 3954 3955 3956 3957
Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (K)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.	3958 3959 3960 3961 3962 3963 3964 3965
(3) A request made pursuant to division (K)(1) of this	3966

section is not a substitute for any report required to be made 3967
pursuant to division (A) of this section. 3968

(4) If an agency other than the agency that received or was 3969
referred the report is conducting the investigation of the report 3970
pursuant to section 2151.422 of the Revised Code, the agency 3971
conducting the investigation shall comply with the requirements of 3972
division (K) of this section. 3973

(L) The director of job and family services shall adopt rules 3974
in accordance with Chapter 119. of the Revised Code to implement 3975
this section. The department of job and family services may enter 3976
into a plan of cooperation with any other governmental entity to 3977
aid in ensuring that children are protected from abuse and 3978
neglect. The department shall make recommendations to the attorney 3979
general that the department determines are necessary to protect 3980
children from child abuse and child neglect. 3981

(M)(1) As used in this division: 3982

(a) "Out-of-home care" includes a nonchartered nonpublic 3983
school if the alleged child abuse or child neglect, or alleged 3984
threat of child abuse or child neglect, described in a report 3985
received by a public children services agency allegedly occurred 3986
in or involved the nonchartered nonpublic school and the alleged 3987
perpetrator named in the report holds a certificate, permit, or 3988
license issued by the state board of education under section 3989
3301.071 or Chapter 3319. of the Revised Code. 3990

(b) "Administrator, director, or other chief administrative 3991
officer" means the superintendent of the school district if the 3992
out-of-home care entity subject to a report made pursuant to this 3993
section is a school operated by the district. 3994

(2) No later than the end of the day following the day on 3995
which a public children services agency receives a report of 3996
alleged child abuse or child neglect, or a report of an alleged 3997

threat of child abuse or child neglect, that allegedly occurred in 3998
or involved an out-of-home care entity, the agency shall provide 3999
written notice of the allegations contained in and the person 4000
named as the alleged perpetrator in the report to the 4001
administrator, director, or other chief administrative officer of 4002
the out-of-home care entity that is the subject of the report 4003
unless the administrator, director, or other chief administrative 4004
officer is named as an alleged perpetrator in the report. If the 4005
administrator, director, or other chief administrative officer of 4006
an out-of-home care entity is named as an alleged perpetrator in a 4007
report of alleged child abuse or child neglect, or a report of an 4008
alleged threat of child abuse or child neglect, that allegedly 4009
occurred in or involved the out-of-home care entity, the agency 4010
shall provide the written notice to the owner or governing board 4011
of the out-of-home care entity that is the subject of the report. 4012
The agency shall not provide witness statements or police or other 4013
investigative reports. 4014

(3) No later than three days after the day on which a public 4015
children services agency that conducted the investigation as 4016
determined pursuant to section 2151.422 of the Revised Code makes 4017
a disposition of an investigation involving a report of alleged 4018
child abuse or child neglect, or a report of an alleged threat of 4019
child abuse or child neglect, that allegedly occurred in or 4020
involved an out-of-home care entity, the agency shall send written 4021
notice of the disposition of the investigation to the 4022
administrator, director, or other chief administrative officer and 4023
the owner or governing board of the out-of-home care entity. The 4024
agency shall not provide witness statements or police or other 4025
investigative reports. 4026

Sec. 3109.18. (A)(1) A board of county commissioners may 4027
establish a child abuse and child neglect prevention advisory 4028
board or may designate the county family and children first 4029

council to serve as the child abuse and child neglect prevention 4030
advisory board. The boards of county commissioners of two or more 4031
contiguous counties may instead form a multicounty district to be 4032
served by a child abuse and child neglect prevention advisory 4033
board or may designate a regional family and children first 4034
council to serve as the district child abuse and child neglect 4035
prevention advisory board. Each advisory board shall meet at least 4036
twice a year. 4037

(2) The county auditor is hereby designated as the auditor 4038
and fiscal officer of the advisory board. In the case of a 4039
multicounty district, the boards of county commissioners that 4040
formed the district shall designate the auditor of one of the 4041
counties as the auditor and fiscal officer of the advisory board. 4042

(B) Each county that establishes an advisory board or, in a 4043
multicounty district, the auditor who has been designated as the 4044
auditor and fiscal officer of the advisory board, shall establish 4045
a fund in the county treasury known as the county or district 4046
children's trust fund. The auditor shall deposit all funds 4047
received from the children's trust fund board into that fund, and 4048
the auditor shall distribute money from the fund at the request of 4049
the advisory board. 4050

(C) Each January, the board of county commissioners of a 4051
county that has established an advisory board or, in a multicounty 4052
district, the board of county commissioners of the county served 4053
by the auditor who has been designated as the auditor and fiscal 4054
officer for the advisory board, shall appropriate the amount 4055
described in division (B)(2) of section 3109.17 of the Revised 4056
Code for distribution by the advisory board to child abuse and 4057
child neglect prevention programs. 4058

(D)(1) Except in the case of a county or regional family and 4059
children first council that is designated to serve as a child 4060
abuse and child neglect prevention advisory board, each advisory 4061

board shall consist of an odd number of members from both the public and private sectors, including all of the following:

- (a) A representative of an agency responsible for the administration of children's services in the county or district;
- (b) A provider of alcohol or drug addiction services or a representative of a board of alcohol, drug addiction, and mental health services that serves the county or district;
- (c) A provider of mental health services or a representative of a board of alcohol, drug addiction, and mental health services that serves the county or district;
- (d) A representative of a county board of ~~mental retardation~~ and developmental disabilities that serves the county or district;
- (e) A representative of the educational community appointed by the superintendent of the school district with largest enrollment in the county or multicounty district.

(2) The following groups and entities may be represented on the advisory board:

- (a) Parent groups;
- (b) Juvenile justice officials;
- (c) Pediatricians, health department nurses, and other representatives of the medical community;
- (d) School personnel;
- (e) Counselors and social workers;
- (f) Head start agencies;
- (g) Child care providers;
- (h) Other persons with demonstrated knowledge in programs for children.

(3) Of the members first appointed, at least one shall serve

for a term of three years, at least one for a term of two years, 4090
and at least one for a term of one year. Thereafter, each member 4091
shall serve a term of three years. Each member shall serve until 4092
the member's successor is appointed. All vacancies on the board 4093
shall be filled for the balance of the unexpired term in the same 4094
manner as the original appointment. 4095

(E) Each child abuse and child neglect prevention advisory 4096
board may incur reasonable costs not to exceed five per cent of 4097
the funds allocated to the county or district under section 4098
3109.17 of the Revised Code, for the purpose of carrying out the 4099
functions of the advisory board. 4100

(F) Each child abuse and child neglect prevention advisory 4101
board shall do all of the following: 4102

(1) For each fiscal biennium, develop a local allocation plan 4103
for the purpose of preventing child abuse and child neglect and 4104
submit the plan to the children's trust fund board on or before 4105
the first day of April preceding the fiscal year for which the 4106
plan is developed; 4107

(2) Provide effective public notice, as defined by the 4108
children's trust fund board in the state plan or, if the board 4109
does not define the term in the state plan, as defined in rules 4110
adopted by the department of job and family services, to potential 4111
applicants about the availability of funds from the children's 4112
trust fund, including an estimate of the amount of money available 4113
for grants within each county or district, the date of at least 4114
one public hearing, information on obtaining a copy of the grant 4115
application form, and the deadline for submitting grant 4116
applications; 4117

(3) Review all applications received using criteria specified 4118
in the state plan adopted by the board under section 3109.17 of 4119
the Revised Code; 4120

(4) Consistent with the local allocation plan developed 4121
pursuant to division (F)(1) of this section, make grants to child 4122
abuse and child neglect prevention programs. 4123

(5) Establish any reporting requirements for grant 4124
recipients, in addition to those specified by the children's trust 4125
fund board, and for children's advocacy centers for which funds 4126
are used in accordance with section 3109.172 of the Revised Code. 4127

(G) A member of a child abuse and child neglect prevention 4128
advisory board shall not participate in the development of a local 4129
allocation plan under division (F)(1) of this section if it is 4130
reasonable to expect that the member's judgment could be affected 4131
by the member's own financial, business, property, or personal 4132
interest or other conflict of interest. For purposes of this 4133
division, "conflict of interest" means the taking of any action 4134
that violates any applicable provision of Chapter 102. or 2921. of 4135
the Revised Code. Questions relating to the existence of a 4136
conflict of interest pertaining to Chapter 2921. of the Revised 4137
Code shall be submitted by the advisory board to the local 4138
prosecuting attorney for resolution. Questions relating to the 4139
existence of a conflict of interest pertaining to Chapter 102. of 4140
the Revised Code shall be submitted by the advisory board to the 4141
Ohio ethics commission for resolution. 4142

(H) Each advisory board shall assist the children's trust 4143
fund board in monitoring programs that receive money from the 4144
children's trust fund and shall perform such other duties for the 4145
local administration of the children's trust fund as the 4146
children's trust fund board requires. 4147

(I) A children's advocacy center for which a child abuse and 4148
child neglect prevention advisory board uses any amount out of the 4149
funds allocated to the advisory board under section 3109.172 of 4150
the Revised Code, as start-up costs for the establishment and 4151
operation of the center, shall use the moneys so received only for 4152

establishment and operation of the center in accordance with 4153
sections 2151.425 to 2151.428 of the Revised Code. Any other 4154
person or entity that is a recipient of a grant from the 4155
children's trust fund shall use the grant funds only to fund 4156
primary and secondary child abuse and child neglect prevention 4157
programs. Any grant funds that are not spent by the recipient of 4158
the funds within the time specified by the terms of the grant 4159
shall be returned to the county treasurer. Any grant funds 4160
returned that are not redistributed by the advisory board within 4161
the state fiscal year in which they are received shall be returned 4162
to the treasurer of state. The treasurer of state shall deposit 4163
such unspent moneys into the children's trust fund to be spent for 4164
purposes consistent with the state plan adopted under section 4165
3109.17 of the Revised Code. 4166

(J) Applications for grants from the children's trust fund 4167
shall be made to the advisory board on forms prescribed by the 4168
children's trust fund board. 4169

(K)(1) Each children's advocacy center for which a child 4170
abuse and child neglect prevention advisory board uses any amount 4171
out of the funds allocated to the advisory board under section 4172
3109.172 of the Revised Code, as start-up costs for the 4173
establishment and operation of the center, and each other person 4174
or entity that is a recipient of a children's trust fund grant 4175
from an advisory board shall file with the advisory board a copy 4176
of a semi-annual and an annual report that includes the 4177
information required by the children's trust fund board. 4178

(2) Each advisory board shall file with the children's trust 4179
fund board, not later than the fifteenth day of August following 4180
the year for which the report is written, a copy of an annual 4181
report regarding the county or district local allocation plan that 4182
contains the information required by the children's trust fund 4183
board, and regarding the advisory board's use of any amount out of 4184

the funds allocated to the advisory board under section 3109.172 4185
of the Revised Code as start-up costs for the establishment and 4186
operation of a children's advocacy center. 4187

Sec. 3301.07. The state board of education shall exercise 4188
under the acts of the general assembly general supervision of the 4189
system of public education in the state. In addition to the powers 4190
otherwise imposed on the state board under the provisions of law, 4191
the board shall have the following powers: 4192

(A) Exercise policy forming, planning, and evaluative 4193
functions for the public schools of the state, and for adult 4194
education, except as otherwise provided by law; 4195

(B) Exercise leadership in the improvement of public 4196
education in this state, and administer the educational policies 4197
of this state relating to public schools, and relating to 4198
instruction and instructional material, building and equipment, 4199
transportation of pupils, administrative responsibilities of 4200
school officials and personnel, and finance and organization of 4201
school districts, educational service centers, and territory. 4202
Consultative and advisory services in such matters shall be 4203
provided by the board to school districts and educational service 4204
centers of this state. The board also shall develop a standard of 4205
financial reporting which shall be used by all school districts 4206
and educational service centers to make their financial 4207
information available to the public in a format understandable by 4208
the average citizen and provide year-to-year comparisons for at 4209
least five years. The format shall show, among other things, 4210
district and educational service center revenue by source; 4211
expenditures for salaries, wages, and benefits of employees, 4212
showing such amounts separately for classroom teachers, other 4213
employees required to hold licenses issued pursuant to sections 4214
3319.22 to 3319.31 of the Revised Code, and all other employees; 4215

expenditures other than for personnel, by category, including 4216
utilities, textbooks and other educational materials, equipment, 4217
permanent improvements, pupil transportation, extracurricular 4218
athletics, and other extracurricular activities; and per pupil 4219
expenditures. 4220

(C) Administer and supervise the allocation and distribution 4221
of all state and federal funds for public school education under 4222
the provisions of law, and may prescribe such systems of 4223
accounting as are necessary and proper to this function. It may 4224
require county auditors and treasurers, boards of education, 4225
educational service center governing boards, treasurers of such 4226
boards, teachers, and other school officers and employees, or 4227
other public officers or employees, to file with it such reports 4228
as it may prescribe relating to such funds, or to the management 4229
and condition of such funds. 4230

(D) Formulate and prescribe minimum standards to be applied 4231
to all elementary and secondary schools in this state for the 4232
purpose of requiring a general education of high quality. Such 4233
standards shall provide adequately for: the licensing of teachers, 4234
administrators, and other professional personnel and their 4235
assignment according to training and qualifications; efficient and 4236
effective instructional materials and equipment, including library 4237
facilities; the proper organization, administration, and 4238
supervision of each school, including regulations for preparing 4239
all necessary records and reports and the preparation of a 4240
statement of policies and objectives for each school; buildings, 4241
grounds, health and sanitary facilities and services; admission of 4242
pupils, and such requirements for their promotion from grade to 4243
grade as will assure that they are capable and prepared for the 4244
level of study to which they are certified; requirements for 4245
graduation; and such other factors as the board finds necessary. 4246

In the formulation and administration of such standards for 4247

nonpublic schools the board shall also consider the particular 4248
needs, methods and objectives of those schools, provided they do 4249
not conflict with the provision of a general education of a high 4250
quality and provided that regular procedures shall be followed for 4251
promotion from grade to grade of pupils who have met the 4252
educational requirements prescribed. 4253

(E) May require as part of the health curriculum information 4254
developed under section 2108.15 of the Revised Code promoting the 4255
donation of anatomical gifts pursuant to Chapter 2108. of the 4256
Revised Code and may provide the information to high schools, 4257
educational service centers, and joint vocational school district 4258
boards of education; 4259

(F) Prepare and submit annually to the governor and the 4260
general assembly a report on the status, needs, and major problems 4261
of the public schools of the state, with recommendations for 4262
necessary legislative action and a ten-year projection of the 4263
state's public and nonpublic school enrollment, by year and by 4264
grade level; 4265

(G) Prepare and submit to the director of budget and 4266
management the biennial budgetary requests of the state board of 4267
education, for its agencies and for the public schools of the 4268
state; 4269

(H) Cooperate with federal, state, and local agencies 4270
concerned with the health and welfare of children and youth of the 4271
state; 4272

(I) Require such reports from school districts and 4273
educational service centers, school officers, and employees as are 4274
necessary and desirable. The superintendents and treasurers of 4275
school districts and educational service centers shall certify as 4276
to the accuracy of all reports required by law or state board or 4277
state department of education rules to be submitted by the 4278

district or educational service center and which contain 4279
information necessary for calculation of state funding. Any 4280
superintendent who knowingly falsifies such report shall be 4281
subject to license revocation pursuant to section 3319.31 of the 4282
Revised Code. 4283

(J) In accordance with Chapter 119. of the Revised Code, 4284
adopt procedures, standards, and guidelines for the education of 4285
children with disabilities pursuant to Chapter 3323. of the 4286
Revised Code, including procedures, standards, and guidelines 4287
governing programs and services operated by county boards of 4288
~~mental retardation and~~ developmental disabilities pursuant to 4289
section 3323.09 of the Revised Code; 4290

(K) For the purpose of encouraging the development of special 4291
programs of education for academically gifted children, employ 4292
competent persons to analyze and publish data, promote research, 4293
advise and counsel with boards of education, and encourage the 4294
training of teachers in the special instruction of gifted 4295
children. The board may provide financial assistance out of any 4296
funds appropriated for this purpose to boards of education and 4297
educational service center governing boards for developing and 4298
conducting programs of education for academically gifted children. 4299

(L) Require that all public schools emphasize and encourage, 4300
within existing units of study, the teaching of energy and 4301
resource conservation as recommended to each district board of 4302
education by leading business persons involved in energy 4303
production and conservation, beginning in the primary grades; 4304

(M) Formulate and prescribe minimum standards requiring the 4305
use of phonics as a technique in the teaching of reading in grades 4306
kindergarten through three. In addition, the state board shall 4307
provide in-service training programs for teachers on the use of 4308
phonics as a technique in the teaching of reading in grades 4309
kindergarten through three. 4310

(N) Develop and modify as necessary a state plan for 4311
technology to encourage and promote the use of technological 4312
advancements in educational settings. 4313

The board may adopt rules necessary for carrying out any 4314
function imposed on it by law, and may provide rules as are 4315
necessary for its government and the government of its employees, 4316
and may delegate to the superintendent of public instruction the 4317
management and administration of any function imposed on it by 4318
law. It may provide for the appointment of board members to serve 4319
on temporary committees established by the board for such purposes 4320
as are necessary. Permanent or standing committees shall not be 4321
created. 4322

Sec. 3301.52. As used in sections 3301.52 to 3301.59 of the 4323
Revised Code: 4324

(A) "Preschool program" means either of the following: 4325

(1) A child care program for preschool children that is 4326
operated by a school district board of education or an eligible 4327
nonpublic school. 4328

(2) A child care program for preschool children age three or 4329
older that is operated by a county ~~MR/DD~~ DD board. 4330

(B) "Preschool child" or "child" means a child who has not 4331
entered kindergarten and is not of compulsory school age. 4332

(C) "Parent, guardian, or custodian" means the person or 4333
government agency that is or will be responsible for a child's 4334
school attendance under section 3321.01 of the Revised Code. 4335

(D) "Superintendent" means the superintendent of a school 4336
district or the chief administrative officer of an eligible 4337
nonpublic school. 4338

(E) "Director" means the director, head teacher, elementary 4339
principal, or site administrator who is the individual on site and 4340

responsible for supervision of a preschool program. 4341

(F) "Preschool staff member" means a preschool employee whose 4342
primary responsibility is care, teaching, or supervision of 4343
preschool children. 4344

(G) "Nonteaching employee" means a preschool program or 4345
school child program employee whose primary responsibilities are 4346
duties other than care, teaching, and supervision of preschool 4347
children or school children. 4348

(H) "Eligible nonpublic school" means a nonpublic school 4349
chartered as described in division (B)(8) of section 5104.02 of 4350
the Revised Code or chartered by the state board of education for 4351
any combination of grades one through twelve, regardless of 4352
whether it also offers kindergarten. 4353

(I) "County ~~MR/DD~~ DD board" means a county board of ~~mental~~ 4354
~~retardation and~~ developmental disabilities. 4355

(J) "School child program" means a child care program for 4356
only school children that is operated by a school district board 4357
of education, county ~~MR/DD~~ DD board, or eligible nonpublic school. 4358

(K) "School child" and "child care" have the same meanings as 4359
in section 5104.01 of the Revised Code. 4360

(L) "School child program staff member" means an employee 4361
whose primary responsibility is the care, teaching, or supervision 4362
of children in a school child program. 4363

Sec. 3301.53. (A) The state board of education, in 4364
consultation with the director of job and family services, shall 4365
formulate and prescribe by rule adopted under Chapter 119. of the 4366
Revised Code minimum standards to be applied to preschool programs 4367
operated by school district boards of education, county ~~MR/DD~~ DD 4368
boards, or eligible nonpublic schools. The rules shall include the 4369
following: 4370

- (1) Standards ensuring that the preschool program is located 4371
in a safe and convenient facility that accommodates the enrollment 4372
of the program, is of the quality to support the growth and 4373
development of the children according to the program objectives, 4374
and meets the requirements of section 3301.55 of the Revised Code; 4375
- (2) Standards ensuring that supervision, discipline, and 4376
programs will be administered according to established objectives 4377
and procedures; 4378
- (3) Standards ensuring that preschool staff members and 4379
nonteaching employees are recruited, employed, assigned, 4380
evaluated, and provided inservice education without discrimination 4381
on the basis of age, color, national origin, race, or sex; and 4382
that preschool staff members and nonteaching employees are 4383
assigned responsibilities in accordance with written position 4384
descriptions commensurate with their training and experience; 4385
- (4) A requirement that boards of education intending to 4386
establish a preschool program demonstrate a need for a preschool 4387
program prior to establishing the program; 4388
- (5) Requirements that children participating in preschool 4389
programs have been immunized to the extent considered appropriate 4390
by the state board to prevent the spread of communicable disease; 4391
- (6) Requirements that the parents of preschool children 4392
complete the emergency medical authorization form specified in 4393
section 3313.712 of the Revised Code. 4394
- (B) The state board of education in consultation with the 4395
director of job and family services shall ensure that the rules 4396
adopted by the state board under sections 3301.52 to 3301.58 of 4397
the Revised Code are consistent with and meet or exceed the 4398
requirements of Chapter 5104. of the Revised Code with regard to 4399
child day-care centers. The state board and the director of job 4400
and family services shall review all such rules at least once 4401

every five years. 4402

(C) The state board of education, in consultation with the 4403
director of job and family services, shall adopt rules for school 4404
child programs that are consistent with and meet or exceed the 4405
requirements of the rules adopted for school child day-care 4406
centers under Chapter 5104. of the Revised Code. 4407

Sec. 3301.55. (A) A school district, county ~~MR/DD~~ DD board, 4408
or eligible nonpublic school operating a preschool program shall 4409
house the program in buildings that meet the following 4410
requirements: 4411

(1) The building is operated by the district, county ~~MR/DD~~ DD 4412
board, or eligible nonpublic school and has been approved by the 4413
division of industrial compliance in the department of commerce or 4414
a certified municipal, township, or county building department for 4415
the purpose of operating a program for preschool children. Any 4416
such structure shall be constructed, equipped, repaired, altered, 4417
and maintained in accordance with applicable provisions of 4418
Chapters 3781. and 3791. and with rules adopted by the board of 4419
building standards under Chapter 3781. of the Revised Code for the 4420
safety and sanitation of structures erected for this purpose. 4421

(2) The building is in compliance with fire and safety laws 4422
and regulations as evidenced by reports of annual school fire and 4423
safety inspections as conducted by appropriate local authorities. 4424

(3) The school is in compliance with rules established by the 4425
state board of education regarding school food services. 4426

(4) The facility includes not less than thirty-five square 4427
feet of indoor space for each child in the program. Safe play 4428
space, including both indoor and outdoor play space, totaling not 4429
less than sixty square feet for each child using the space at any 4430
one time, shall be regularly available and scheduled for use. 4431

(5) First aid facilities and space for temporary placement or 4432
isolation of injured or ill children are provided. 4433

(B) Each school district, county ~~MR/DD~~ DD board, or eligible 4434
nonpublic school that operates, or proposes to operate, a 4435
preschool program shall submit a building plan including all 4436
information specified by the state board of education to the board 4437
not later than the first day of September of the school year in 4438
which the program is to be initiated. The board shall determine 4439
whether the buildings meet the requirements of this section and 4440
section 3301.53 of the Revised Code, and notify the superintendent 4441
of its determination. If the board determines, on the basis of the 4442
building plan or any other information, that the buildings do not 4443
meet those requirements, it shall cause the buildings to be 4444
inspected by the department of education. The department shall 4445
make a report to the superintendent specifying any aspects of the 4446
building that are not in compliance with the requirements of this 4447
section and section 3301.53 of the Revised Code and the time 4448
period that will be allowed the district, county ~~MR/DD~~ DD board, 4449
or school to meet the requirements. 4450

Sec. 3301.57. (A) For the purpose of improving programs, 4451
facilities, and implementation of the standards promulgated by the 4452
state board of education under section 3301.53 of the Revised 4453
Code, the state department of education shall provide consultation 4454
and technical assistance to school districts, county ~~MR/DD~~ DD 4455
boards, and eligible nonpublic schools operating preschool 4456
programs or school child programs, and inservice training to 4457
preschool staff members, school child program staff members, and 4458
nonteaching employees. 4459

(B) The department and the school district board of 4460
education, county ~~MR/DD~~ DD board, or eligible nonpublic school 4461
shall jointly monitor each preschool program and each school child 4462

program. 4463

If the program receives any grant or other funding from the 4464
state or federal government, the department annually shall monitor 4465
all reports on attendance, financial support, and expenditures 4466
according to provisions for use of the funds. 4467

(C) The department of education, at least twice during every 4468
twelve-month period of operation of a preschool program or a 4469
licensed school child program, shall inspect the program and 4470
provide a written inspection report to the superintendent of the 4471
school district, county ~~MR/DD~~ DD board, or eligible nonpublic 4472
school. At least one inspection shall be unannounced, and all 4473
inspections may be unannounced. No person shall interfere with any 4474
inspection conducted pursuant to this division or to the rules 4475
adopted pursuant to sections 3301.52 to 3301.59 of the Revised 4476
Code. 4477

Upon receipt of any complaint that a preschool program or a 4478
licensed school child program is out of compliance with the 4479
requirements in sections 3301.52 to 3301.59 of the Revised Code or 4480
the rules adopted under those sections, the department shall 4481
investigate and may inspect the program. 4482

(D) If a preschool program or a licensed school child program 4483
is determined to be out of compliance with the requirements of 4484
sections 3301.52 to 3301.59 of the Revised Code or the rules 4485
adopted under those sections, the department of education shall 4486
notify the appropriate superintendent, county ~~MR/DD~~ DD board, or 4487
eligible nonpublic school in writing regarding the nature of the 4488
violation, what must be done to correct the violation, and by what 4489
date the correction must be made. If the correction is not made by 4490
the date established by the department, it may commence action 4491
under Chapter 119. of the Revised Code to close the program or to 4492
revoke the license of the program. If a program does not comply 4493
with an order to cease operation issued in accordance with Chapter 4494

119. of the Revised Code, the department shall notify the attorney 4495
general, the prosecuting attorney of the county in which the 4496
program is located, or the city attorney, village solicitor, or 4497
other chief legal officer of the municipal corporation in which 4498
the program is located that the program is operating in violation 4499
of sections 3301.52 to 3301.59 of the Revised Code or the rules 4500
adopted under those sections and in violation of an order to cease 4501
operation issued in accordance with Chapter 119. of the Revised 4502
Code. Upon receipt of the notification, the attorney general, 4503
prosecuting attorney, city attorney, village solicitor, or other 4504
chief legal officer shall file a complaint in the court of common 4505
pleas of the county in which the program is located requesting the 4506
court to issue an order enjoining the program from operating. The 4507
court shall grant the requested injunctive relief upon a showing 4508
that the program named in the complaint is operating in violation 4509
of sections 3301.52 to 3301.59 of the Revised Code or the rules 4510
adopted under those sections and in violation of an order to cease 4511
operation issued in accordance with Chapter 119. of the Revised 4512
Code. 4513

(E) The department of education shall prepare an annual 4514
report on inspections conducted under this section. The report 4515
shall include the number of inspections conducted, the number and 4516
types of violations found, and the steps taken to address the 4517
violations. The department shall file the report with the 4518
governor, the president and minority leader of the senate, and the 4519
speaker and minority leader of the house of representatives on or 4520
before the first day of January of each year, beginning in 1999. 4521

Sec. 3301.58. (A) The department of education is responsible 4522
for the licensing of preschool programs and school child programs 4523
and for the enforcement of sections 3301.52 to 3301.59 of the 4524
Revised Code and of any rules adopted under those sections. No 4525
school district board of education, county ~~MR/DD~~ DD board, or 4526

eligible nonpublic school shall operate, establish, manage, 4527
conduct, or maintain a preschool program without a license issued 4528
under this section. A school district board of education, county 4529
~~MR/DD~~ DD board, or eligible nonpublic school may obtain a license 4530
under this section for a school child program. The school district 4531
board of education, county ~~MR/DD~~ DD board, or eligible nonpublic 4532
school shall post the current license for each preschool program 4533
and licensed school child program it operates, establishes, 4534
manages, conducts, or maintains in a conspicuous place in the 4535
preschool program or licensed school child program that is 4536
accessible to parents, custodians, or guardians and employees and 4537
staff members of the program at all times when the program is in 4538
operation. 4539

(B) Any school district board of education, county ~~MR/DD~~ DD 4540
board, or eligible nonpublic school that desires to operate, 4541
establish, manage, conduct, or maintain a preschool program shall 4542
apply to the department of education for a license on a form that 4543
the department shall prescribe by rule. Any school district board 4544
of education, county ~~MR/DD~~ DD board, or eligible nonpublic school 4545
that desires to obtain a license for a school child program shall 4546
apply to the department for a license on a form that the 4547
department shall prescribe by rule. The department shall provide 4548
at no charge to each applicant for a license under this section a 4549
copy of the requirements under sections 3301.52 to 3301.59 of the 4550
Revised Code and any rules adopted under those sections. The 4551
department shall mail application forms for the renewal of a 4552
license at least one hundred twenty days prior to the date of the 4553
expiration of the license, and the application for renewal of a 4554
license shall be filed with the department at least sixty days 4555
before the date of the expiration of the existing license. The 4556
department may establish application fees by rule adopted under 4557
Chapter 119. of the Revised Code, and all applicants for a license 4558
shall pay any fee established by the department at the time of 4559

making an application for a license. All fees collected pursuant 4560
to this section shall be paid into the state treasury to the 4561
credit of the general revenue fund. 4562

(C) Upon the filing of an application for a license, the 4563
department of education shall investigate and inspect the 4564
preschool program or school child program to determine the license 4565
capacity for each age category of children of the program and to 4566
determine whether the program complies with sections 3301.52 to 4567
3301.59 of the Revised Code and any rules adopted under those 4568
sections. When, after investigation and inspection, the department 4569
of education is satisfied that sections 3301.52 to 3301.59 of the 4570
Revised Code and any rules adopted under those sections are 4571
complied with by the applicant, the department of education shall 4572
issue the program a provisional license as soon as practicable in 4573
the form and manner prescribed by the rules of the department. The 4574
provisional license shall be valid for six months from the date of 4575
issuance unless revoked. 4576

(D) The department of education shall investigate and inspect 4577
a preschool program or school child program that has been issued a 4578
provisional license at least once during operation under the 4579
provisional license. If, after the investigation and inspection, 4580
the department of education determines that the requirements of 4581
sections 3301.52 to 3301.59 of the Revised Code and any rules 4582
adopted under those sections are met by the provisional licensee, 4583
the department of education shall issue a license that is 4584
effective for two years from the date of the issuance of the 4585
provisional license. 4586

(E) Upon the filing of an application for the renewal of a 4587
license by a preschool program or school child program, the 4588
department of education shall investigate and inspect the 4589
preschool program or school child program. If the department of 4590
education determines that the requirements of sections 3301.52 to 4591

3301.59 of the Revised Code and any rules adopted under those 4592
sections are met by the applicant, the department of education 4593
shall renew the license for two years from the date of the 4594
expiration date of the previous license. 4595

(F) The license or provisional license shall state the name 4596
of the school district board of education, county ~~MR/DD~~ DD board, 4597
or eligible nonpublic school that operates the preschool program 4598
or school child program and the license capacity of the program. 4599
The license shall include any other information required by 4600
section 5104.03 of the Revised Code for the license of a child 4601
day-care center. 4602

(G) The department of education may revoke the license of any 4603
preschool program or school child program that is not in 4604
compliance with the requirements of sections 3301.52 to 3301.59 of 4605
the Revised Code and any rules adopted under those sections. 4606

(H) If the department of education revokes a license or 4607
refuses to renew a license to a program, the department shall not 4608
issue a license to the program within two years from the date of 4609
the revocation or refusal. All actions of the department with 4610
respect to licensing preschool programs and school child programs 4611
shall be in accordance with Chapter 119. of the Revised Code. 4612

Sec. 3314.022. The governing authority of any community 4613
school established under this chapter may contract with the 4614
governing authority of another community school, the board of 4615
education of a school district, the governing board of an 4616
educational service center, a county ~~MR/DD~~ DD board, or the 4617
administrative authority of a nonpublic school for provision of 4618
services for any disabled student enrolled at the school. Any 4619
school district board of education or educational service center 4620
governing board shall negotiate with a community school governing 4621
authority that seeks to contract for the provision of services for 4622

a disabled student under this section in the same manner as it 4623
would with the board of education of a school district that seeks 4624
to contract for such services. 4625

Sec. 3314.99. (A) Whoever violates division (F) of section 4626
3314.40 of the Revised Code shall be punished as follows: 4627

(1) Except as otherwise provided in division (A)(2) of this 4628
section, the person is guilty of a misdemeanor of the fourth 4629
degree. 4630

(2) The person is guilty of a misdemeanor of the first degree 4631
if both of the following conditions apply: 4632

(a) The employee who is the subject of the report that the 4633
person fails to submit was required to be reported for the 4634
commission or alleged commission of an act or offense involving 4635
the infliction on a child of any physical or mental wound, injury, 4636
disability, or condition of a nature that constitutes abuse or 4637
neglect of the child; 4638

(b) During the period between the violation of division (F) 4639
of section 3314.40 of the Revised Code and the conviction of or 4640
plea of guilty by the person for that violation, the employee who 4641
is the subject of the report that the person fails to submit 4642
inflicts on any child attending a school district, educational 4643
service center, public or nonpublic school, or county board of 4644
~~mental retardation and~~ developmental disabilities where the 4645
employee works any physical or mental wound, injury, disability, 4646
or condition of a nature that constitutes abuse or neglect of the 4647
child. 4648

(B) Whoever violates division (B) of section 3314.403 of the 4649
Revised Code is guilty of a misdemeanor of the first degree. 4650

Sec. 3317.01. As used in this section and section 3317.011 of 4651
the Revised Code, "school district," unless otherwise specified, 4652

means any city, local, exempted village, joint vocational, or 4653
cooperative education school district and any educational service 4654
center. 4655

This chapter shall be administered by the state board of 4656
education. The superintendent of public instruction shall 4657
calculate the amounts payable to each school district and shall 4658
certify the amounts payable to each eligible district to the 4659
treasurer of the district as provided by this chapter. As soon as 4660
possible after such amounts are calculated, the superintendent 4661
shall certify to the treasurer of each school district the 4662
district's adjusted charge-off increase, as defined in section 4663
5705.211 of the Revised Code. No moneys shall be distributed 4664
pursuant to this chapter without the approval of the controlling 4665
board. 4666

The state board of education shall, in accordance with 4667
appropriations made by the general assembly, meet the financial 4668
obligations of this chapter. 4669

Annually, the department of education shall calculate and 4670
report to each school district the district's total state and 4671
local funds for providing an adequate basic education to the 4672
district's nondisabled students, utilizing the determination in 4673
section 3317.012 of the Revised Code. In addition, the department 4674
shall calculate and report separately for each school district the 4675
district's total state and local funds for providing an adequate 4676
education for its students with disabilities, utilizing the 4677
determinations in both sections 3317.012 and 3317.013 of the 4678
Revised Code. 4679

Not later than the thirty-first day of August of each fiscal 4680
year, the department of education shall provide to each school 4681
district and county ~~MR/DD~~ DD board a preliminary estimate of the 4682
amount of funding that the department calculates the district will 4683
receive under each of divisions (C)(1) and (4) of section 3317.022 4684

of the Revised Code. No later than the first day of December of 4685
each fiscal year, the department shall update that preliminary 4686
estimate. 4687

Moneys distributed pursuant to this chapter shall be 4688
calculated and paid on a fiscal year basis, beginning with the 4689
first day of July and extending through the thirtieth day of June. 4690
The moneys appropriated for each fiscal year shall be distributed 4691
at least monthly to each school district unless otherwise provided 4692
for. The state board shall submit a yearly distribution plan to 4693
the controlling board at its first meeting in July. The state 4694
board shall submit any proposed midyear revision of the plan to 4695
the controlling board in January. Any year-end revision of the 4696
plan shall be submitted to the controlling board in June. If 4697
moneys appropriated for each fiscal year are distributed other 4698
than monthly, such distribution shall be on the same basis for 4699
each school district. 4700

The total amounts paid each month shall constitute, as nearly 4701
as possible, one-twelfth of the total amount payable for the 4702
entire year. 4703

Until fiscal year 2007, payments made during the first six 4704
months of the fiscal year may be based on an estimate of the 4705
amounts payable for the entire year. Payments made in the last six 4706
months shall be based on the final calculation of the amounts 4707
payable to each school district for that fiscal year. Payments 4708
made in the last six months may be adjusted, if necessary, to 4709
correct the amounts distributed in the first six months, and to 4710
reflect enrollment increases when such are at least three per 4711
cent. 4712

Beginning in fiscal year 2007, payments shall be calculated 4713
to reflect the biannual reporting of average daily membership. In 4714
fiscal year 2007 and in each fiscal year thereafter, annualized 4715
periodic payments for each school district shall be based on the 4716

district's final student counts verified by the superintendent of 4717
public instruction based on reports under section 3317.03 of the 4718
Revised Code, as adjusted, if so ordered, under division (K) of 4719
that section, as follows: 4720

the sum of one-half of the number of students verified 4721
and adjusted for the first full week in October 4722
plus one-half of the average of the numbers 4723
verified and adjusted for the first full week 4724
in October and for the first full week in February 4725

Except as otherwise provided, payments under this chapter 4726
shall be made only to those school districts in which: 4727

(A) The school district, except for any educational service 4728
center and any joint vocational or cooperative education school 4729
district, levies for current operating expenses at least twenty 4730
mills. Levies for joint vocational or cooperative education school 4731
districts or county school financing districts, limited to or to 4732
the extent apportioned to current expenses, shall be included in 4733
this qualification requirement. School district income tax levies 4734
under Chapter 5748. of the Revised Code, limited to or to the 4735
extent apportioned to current operating expenses, shall be 4736
included in this qualification requirement to the extent 4737
determined by the tax commissioner under division (D) of section 4738
3317.021 of the Revised Code. 4739

(B) The school year next preceding the fiscal year for which 4740
such payments are authorized meets the requirement of section 4741
3313.48 or 3313.481 of the Revised Code, with regard to the 4742
minimum number of days or hours school must be open for 4743
instruction with pupils in attendance, for individualized 4744
parent-teacher conference and reporting periods, and for 4745
professional meetings of teachers. This requirement shall be 4746
waived by the superintendent of public instruction if it had been 4747
necessary for a school to be closed because of disease epidemic, 4748

hazardous weather conditions, inoperability of school buses or 4749
other equipment necessary to the school's operation, damage to a 4750
school building, or other temporary circumstances due to utility 4751
failure rendering the school building unfit for school use, 4752
provided that for those school districts operating pursuant to 4753
section 3313.48 of the Revised Code the number of days the school 4754
was actually open for instruction with pupils in attendance and 4755
for individualized parent-teacher conference and reporting periods 4756
is not less than one hundred seventy-five, or for those school 4757
districts operating on a trimester plan the number of days the 4758
school was actually open for instruction with pupils in attendance 4759
not less than seventy-nine days in any trimester, for those school 4760
districts operating on a quarterly plan the number of days the 4761
school was actually open for instruction with pupils in attendance 4762
not less than fifty-nine days in any quarter, or for those school 4763
districts operating on a pentamester plan the number of days the 4764
school was actually open for instruction with pupils in attendance 4765
not less than forty-four days in any pentamester. 4766

A school district shall not be considered to have failed to 4767
comply with this division or section 3313.481 of the Revised Code 4768
because schools were open for instruction but either twelfth grade 4769
students were excused from attendance for up to three days or only 4770
a portion of the kindergarten students were in attendance for up 4771
to three days in order to allow for the gradual orientation to 4772
school of such students. 4773

The superintendent of public instruction shall waive the 4774
requirements of this section with reference to the minimum number 4775
of days or hours school must be in session with pupils in 4776
attendance for the school year succeeding the school year in which 4777
a board of education initiates a plan of operation pursuant to 4778
section 3313.481 of the Revised Code. The minimum requirements of 4779
this section shall again be applicable to such a district 4780

beginning with the school year commencing the second July 4781
succeeding the initiation of one such plan, and for each school 4782
year thereafter. 4783

A school district shall not be considered to have failed to 4784
comply with this division or section 3313.48 or 3313.481 of the 4785
Revised Code because schools were open for instruction but the 4786
length of the regularly scheduled school day, for any number of 4787
days during the school year, was reduced by not more than two 4788
hours due to hazardous weather conditions. 4789

(C) The school district has on file, and is paying in 4790
accordance with, a teachers' salary schedule which complies with 4791
section 3317.13 of the Revised Code. 4792

A board of education or governing board of an educational 4793
service center which has not conformed with other law and the 4794
rules pursuant thereto, shall not participate in the distribution 4795
of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 4796
3317.16, 3317.17, and 3317.19 of the Revised Code, except for good 4797
and sufficient reason established to the satisfaction of the state 4798
board of education and the state controlling board. 4799

All funds allocated to school districts under this chapter, 4800
except those specifically allocated for other purposes, shall be 4801
used to pay current operating expenses only. 4802

Sec. 3317.02. As used in this chapter: 4803

(A) Unless otherwise specified, "school district" means city, 4804
local, and exempted village school districts. 4805

(B) "Formula amount" means the base cost for the fiscal year 4806
specified in division (B)(4) of section 3317.012 of the Revised 4807
Code. 4808

(C) "FTE basis" means a count of students based on full-time 4809
equivalency, in accordance with rules adopted by the department of 4810

education pursuant to section 3317.03 of the Revised Code. In 4811
adopting its rules under this division, the department shall 4812
provide for counting any student in category one, two, three, 4813
four, five, or six special education ADM or in category one or two 4814
vocational education ADM in the same proportion the student is 4815
counted in formula ADM. 4816

(D) "Formula ADM" means, for a city, local, or exempted 4817
village school district, the final number verified by the 4818
superintendent of public instruction, based on the number reported 4819
pursuant to division (A) of section 3317.03 of the Revised Code, 4820
as adjusted, if so ordered, under division (K) of that section. 4821
"Formula ADM" means, for a joint vocational school district, the 4822
final number verified by the superintendent of public instruction, 4823
based on the number reported pursuant to division (D) of section 4824
3317.03 of the Revised Code, as adjusted, if so ordered, under 4825
division (K) of that section. Beginning in fiscal year 2007, for 4826
payments in which formula ADM is a factor, the formula ADM for 4827
each school district for the fiscal year is the sum of one-half of 4828
the number verified and adjusted for October of that fiscal year 4829
plus one-half of the average of the numbers verified and adjusted 4830
for October and February of that fiscal year. 4831

(E) "Three-year average formula ADM" means the average of 4833
formula ADMs for the preceding three fiscal years. 4834

(F)(1) "Category one special education ADM" means the average 4835
daily membership of children with disabilities receiving special 4836
education services for the disability specified in division (A) of 4837
section 3317.013 of the Revised Code and reported under division 4838
(B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code. 4839
Beginning in fiscal year 2007, the district's category one special 4840
education ADM for a fiscal year is the sum of one-half of the 4841
number reported for October of that fiscal year plus one-half of 4842

the average of the numbers reported for October and February of 4843
that fiscal year. 4844

(2) "Category two special education ADM" means the average 4845
daily membership of children with disabilities receiving special 4846
education services for those disabilities specified in division 4847
(B) of section 3317.013 of the Revised Code and reported under 4848
division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised 4849
Code. Beginning in fiscal year 2007, the district's category two 4850
special education ADM for a fiscal year is the sum of one-half of 4851
the number reported for October of that fiscal year plus one-half 4852
of the average of the numbers reported for October and February of 4853
that fiscal year. 4854

(3) "Category three special education ADM" means the average 4855
daily membership of students receiving special education services 4856
for those disabilities specified in division (C) of section 4857
3317.013 of the Revised Code, and reported under division (B)(7) 4858
or (D)(2)(d) of section 3317.03 of the Revised Code. Beginning in 4859
fiscal year 2007, the district's category three special education 4860
ADM for a fiscal year is the sum of one-half of the number 4861
reported for October of that fiscal year plus one-half of the 4862
average of the numbers reported for October and February of that 4863
fiscal year. 4864

(4) "Category four special education ADM" means the average 4865
daily membership of students receiving special education services 4866
for those disabilities specified in division (D) of section 4867
3317.013 of the Revised Code and reported under division (B)(8) or 4868
(D)(2)(e) of section 3317.03 of the Revised Code. Beginning in 4869
fiscal year 2007, the district's category four special education 4870
ADM for a fiscal year is the sum of one-half of the number 4871
reported for October of that fiscal year plus one-half of the 4872
average of the numbers reported for October and February of that 4873
fiscal year. 4874

(5) "Category five special education ADM" means the average 4875
daily membership of students receiving special education services 4876
for the disabilities specified in division (E) of section 3317.013 4877
of the Revised Code and reported under division (B)(9) or 4878
(D)(2)(f) of section 3317.03 of the Revised Code. Beginning in 4879
fiscal year 2007, the district's category five special education 4880
ADM for a fiscal year is the sum of one-half of the number 4881
reported for October of that fiscal year plus one-half of the 4882
average of the numbers reported for October and February of that 4883
fiscal year. 4884

(6) "Category six special education ADM" means the average 4885
daily membership of students receiving special education services 4886
for the disabilities specified in division (F) of section 3317.013 4887
of the Revised Code and reported under division (B)(10) or 4888
(D)(2)(g) of section 3317.03 of the Revised Code. Beginning in 4889
fiscal year 2007, the district's category six special education 4890
ADM for a fiscal year is the sum of one-half of the number 4891
reported for October of that fiscal year plus one-half of the 4892
average of the numbers reported for October and February of that 4893
fiscal year. 4894

(7) "Category one vocational education ADM" means the average 4895
daily membership of students receiving vocational education 4896
services described in division (A) of section 3317.014 of the 4897
Revised Code and reported under division (B)(11) or (D)(2)(h) of 4898
section 3317.03 of the Revised Code. Beginning in fiscal year 4899
2007, the district's category one vocational education ADM for a 4900
fiscal year is the sum of one-half of the number reported for 4901
October of that fiscal year plus one-half of the average of the 4902
numbers reported for October and February of that fiscal year. 4903

(8) "Category two vocational education ADM" means the average 4904
daily membership of students receiving vocational education 4905
services described in division (B) of section 3317.014 of the 4906

Revised Code and reported under division (B)(12) or (D)(2)(i) of 4907
section 3317.03 of the Revised Code. Beginning in fiscal year 4908
2007, the district's category two vocational education ADM for a 4909
fiscal year is the sum of one-half of the number reported for 4910
October of that fiscal year plus one-half of the average of the 4911
numbers reported for October and February of that fiscal year. 4912

(G) "Preschool child with a disability" means a child with a 4913
disability, as defined in section 3323.01 of the Revised Code, who 4914
is at least age three but is not of compulsory school age, as 4915
defined in section 3321.01 of the Revised Code, and who is not 4916
currently enrolled in kindergarten. 4917

(H) "County ~~MR/DD~~ DD board" means a county board of ~~mental~~ 4918
~~retardation and~~ developmental disabilities. 4919

(I) "Recognized valuation" means the amount calculated for a 4920
school district pursuant to section 3317.015 of the Revised Code. 4921

(J) "Transportation ADM" means the number of children 4922
reported under division (B)(13) of section 3317.03 of the Revised 4923
Code. 4924

(K) "Average efficient transportation use cost per student" 4925
means a statistical representation of transportation costs as 4926
calculated under division (D)(2) of section 3317.022 of the 4927
Revised Code. 4928

(L) "Taxes charged and payable" means the taxes charged and 4929
payable against real and public utility property after making the 4930
reduction required by section 319.301 of the Revised Code, plus 4931
the taxes levied against tangible personal property. 4932

(M) "Total taxable value" means the sum of the amounts 4933
certified for a city, local, exempted village, or joint vocational 4934
school district under divisions (A)(1) and (2) of section 3317.021 4935
of the Revised Code. 4936

(N) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.

(O) "Potential value" of a school district means the recognized valuation of a school district plus the tax exempt value of the district.

(P) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education and the office of budget and management for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

(Q) "Statewide median income" means the median district median income of all city, exempted village, and local school districts in the state.

(R) "Income factor" for a city, exempted village, or local school district means the quotient obtained by dividing that district's median income by the statewide median income.

(S) "Medically fragile child" means a child to whom all of the following apply:

(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical condition.

(2) The child requires the services of a registered nurse on a daily basis.

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility

for the mentally retarded. 4967

(T) A child may be identified as having an "other health 4968
impairment-major" if the child's condition meets the definition of 4969
"other health impaired" established in rules adopted by the state 4970
board of education prior to July 1, 2001, and if either of the 4971
following apply: 4972

(1) The child is identified as having a medical condition 4973
that is among those listed by the superintendent of public 4974
instruction as conditions where a substantial majority of cases 4975
fall within the definition of "medically fragile child." The 4976
superintendent of public instruction shall issue an initial list 4977
no later than September 1, 2001. 4978

(2) The child is determined by the superintendent of public 4979
instruction to be a medically fragile child. A school district 4980
superintendent may petition the superintendent of public 4981
instruction for a determination that a child is a medically 4982
fragile child. 4983

(U) A child may be identified as having an "other health 4984
impairment-minor" if the child's condition meets the definition of 4985
"other health impaired" established in rules adopted by the state 4986
board of education prior to July 1, 2001, but the child's 4987
condition does not meet either of the conditions specified in 4988
division (T)(1) or (2) of this section. 4989

(V) "State education aid" has the same meaning as in section 4990
5751.20 of the Revised Code. 4991

(W) "Property exemption value" means zero in fiscal year 4992
2006, and in fiscal year 2007 and each fiscal year thereafter, the 4993
amount certified for a school district under divisions (A)(6) and 4994
(7) of section 3317.021 of the Revised Code. 4995

(X) "Internet- or computer-based community school" has the 4996
same meaning as in section 3314.02 of the Revised Code. 4997

Sec. 3317.024. In addition to the moneys paid to eligible 4998
school districts pursuant to section 3317.022 of the Revised Code, 4999
moneys appropriated for the education programs in divisions (A) to 5000
(I), (K), (L), and (N) of this section shall be distributed to 5001
school districts meeting the requirements of section 3317.01 of 5002
the Revised Code; in the case of divisions (G) and (L) of this 5003
section, to educational service centers as provided in section 5004
3317.11 of the Revised Code; in the case of divisions (D) and (J) 5005
of this section, to county ~~MR/DD~~ DD boards; in the case of 5006
division (N) of this section, to joint vocational school 5007
districts; in the case of division (H) of this section, to 5008
cooperative education school districts; and in the case of 5009
division (M) of this section, to the institutions defined under 5010
section 3317.082 of the Revised Code providing elementary or 5011
secondary education programs to children other than children 5012
receiving special education under section 3323.091 of the Revised 5013
Code. The following shall be distributed monthly, quarterly, or 5014
annually as may be determined by the state board of education: 5015

(A) An amount for each island school district and each joint 5016
state school district for the operation of each high school and 5017
each elementary school maintained within such district and for 5018
capital improvements for such schools. Such amounts shall be 5019
determined on the basis of standards adopted by the state board of 5020
education. 5021

(B) An amount for each school district operating classes for 5022
children of migrant workers who are unable to be in attendance in 5023
an Ohio school during the entire regular school year. The amounts 5024
shall be determined on the basis of standards adopted by the state 5025
board of education, except that payment shall be made only for 5026
subjects regularly offered by the school district providing the 5027
classes. 5028

(C) An amount for each school district with guidance, 5029
testing, and counseling programs approved by the state board of 5030
education. The amount shall be determined on the basis of 5031
standards adopted by the state board of education. 5032

(D) An amount for the emergency purchase of school buses as 5033
provided for in section 3317.07 of the Revised Code; 5034

(E) An amount for each school district required to pay 5035
tuition for a child in an institution maintained by the department 5036
of youth services pursuant to section 3317.082 of the Revised 5037
Code, provided the child was not included in the calculation of 5038
the district's average daily membership for the preceding school 5039
year. 5040

(F) An amount for adult basic literacy education for each 5041
district participating in programs approved by the state board of 5042
education. The amount shall be determined on the basis of 5043
standards adopted by the state board of education. 5044

(G) An amount for the approved cost of transporting eligible 5045
pupils with disabilities attending a special education program 5046
approved by the department of education whom it is impossible or 5047
impractical to transport by regular school bus in the course of 5048
regular route transportation provided by the district or service 5049
center. No district or service center is eligible to receive a 5050
payment under this division for the cost of transporting any pupil 5051
whom it transports by regular school bus and who is included in 5052
the district's transportation ADM. The state board of education 5053
shall establish standards and guidelines for use by the department 5054
of education in determining the approved cost of such 5055
transportation for each district or service center. 5056

(H) An amount to each school district, including each 5057
cooperative education school district, pursuant to section 3313.81 5058
of the Revised Code to assist in providing free lunches to needy 5059

children and an amount to assist needy school districts in 5060
purchasing necessary equipment for food preparation. The amounts 5061
shall be determined on the basis of rules adopted by the state 5062
board of education. 5063

(I) An amount to each school district, for each pupil 5064
attending a chartered nonpublic elementary or high school within 5065
the district. The amount shall equal the amount appropriated for 5066
the implementation of section 3317.06 of the Revised Code divided 5067
by the average daily membership in grades kindergarten through 5068
twelve in nonpublic elementary and high schools within the state 5069
as determined during the first full week in October of each school 5070
year. 5071

(J) An amount for each county ~~MR/DD~~ DD board, distributed on 5072
the basis of standards adopted by the state board of education, 5073
for the approved cost of transportation required for children 5074
attending special education programs operated by the county ~~MR/DD~~ 5075
DD board under section 3323.09 of the Revised Code; 5076

(K) An amount for each school district that establishes a 5077
mentor teacher program that complies with rules of the state board 5078
of education. No school district shall be required to establish or 5079
maintain such a program in any year unless sufficient funds are 5080
appropriated to cover the district's total costs for the program. 5081

(L) An amount to each school district or educational service 5082
center for the total number of gifted units approved pursuant to 5083
section 3317.05 of the Revised Code. The amount for each such unit 5084
shall be the sum of the minimum salary for the teacher of the 5085
unit, calculated on the basis of the teacher's training level and 5086
years of experience pursuant to the salary schedule prescribed in 5087
the version of section 3317.13 of the Revised Code in effect prior 5088
to July 1, 2001, plus fifteen per cent of that minimum salary 5089
amount, plus two thousand six hundred seventy-eight dollars. 5090

(M) An amount to each institution defined under section 5091
3317.082 of the Revised Code providing elementary or secondary 5092
education to children other than children receiving special 5093
education under section 3323.091 of the Revised Code. This amount 5094
for any institution in any fiscal year shall equal the total of 5095
all tuition amounts required to be paid to the institution under 5096
division (A)(1) of section 3317.082 of the Revised Code. 5097

(N) A grant to each school district and joint vocational 5098
school district that operates a "graduation, reality, and 5099
dual-role skills" (GRADS) program for pregnant and parenting 5100
students that is approved by the department. The amount of the 5101
payment shall be the district's state share percentage, as defined 5102
in section 3317.022 or 3317.16 of the Revised Code, times the 5103
GRADS personnel allowance times the full-time-equivalent number of 5104
GRADS teachers approved by the department. The GRADS personnel 5105
allowance is \$47,555 in fiscal years 2008 and 2009. 5106

The state board of education or any other board of education 5107
or governing board may provide for any resident of a district or 5108
educational service center territory any educational service for 5109
which funds are made available to the board by the United States 5110
under the authority of public law, whether such funds come 5111
directly or indirectly from the United States or any agency or 5112
department thereof or through the state or any agency, department, 5113
or political subdivision thereof. 5114

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and 5115
(C) of this section, except as provided in division (A)(2)(h) of 5116
this section, any student enrolled in kindergarten more than half 5117
time shall be reported as one-half student under this section. 5118

(A) The superintendent of each city and exempted village 5119
school district and of each educational service center shall, for 5120
the schools under the superintendent's supervision, certify to the 5121

state board of education on or before the fifteenth day of October 5122
in each year for the first full school week in October the formula 5123
ADM. Beginning in fiscal year 2007, each superintendent also shall 5124
certify to the state board, for the schools under the 5125
superintendent's supervision, the formula ADM for the first full 5126
week in February. If a school under the superintendent's 5127
supervision is closed for one or more days during that week due to 5128
hazardous weather conditions or other circumstances described in 5129
the first paragraph of division (B) of section 3317.01 of the 5130
Revised Code, the superintendent may apply to the superintendent 5131
of public instruction for a waiver, under which the superintendent 5132
of public instruction may exempt the district superintendent from 5133
certifying the formula ADM for that school for that week and 5134
specify an alternate week for certifying the formula ADM of that 5135
school. 5136

The formula ADM shall consist of the average daily membership 5137
during such week of the sum of the following: 5138

(1) On an FTE basis, the number of students in grades 5139
kindergarten through twelve receiving any educational services 5140
from the district, except that the following categories of 5141
students shall not be included in the determination: 5142

(a) Students enrolled in adult education classes; 5143

(b) Adjacent or other district students enrolled in the 5144
district under an open enrollment policy pursuant to section 5145
3313.98 of the Revised Code; 5146

(c) Students receiving services in the district pursuant to a 5147
compact, cooperative education agreement, or a contract, but who 5148
are entitled to attend school in another district pursuant to 5149
section 3313.64 or 3313.65 of the Revised Code; 5150

(d) Students for whom tuition is payable pursuant to sections 5151
3317.081 and 3323.141 of the Revised Code; 5152

(e) Students receiving services in the district through a scholarship awarded under section 3310.41 of the Revised Code.	5153 5154
(2) On an FTE basis, except as provided in division (A)(2)(h) of this section, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:	5155 5156 5157 5158 5159 5160
(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;	5161 5162 5163 5164
(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;	5165 5166 5167
(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;	5168 5169 5170 5171 5172
(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;	5173 5174 5175
(e) An educational service center or cooperative education district;	5176 5177
(f) Another school district under a cooperative education agreement, compact, or contract;	5178 5179
(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	5180 5181
(h) An alternative public provider or a registered private	5182

provider with a scholarship awarded under section 3310.41 of the Revised Code. Each such scholarship student who is enrolled in kindergarten shall be counted as one full-time-equivalent student.

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As used in this section, "alternative public provider" and "registered private provider" have the same meanings as in section 3310.41 of the Revised Code.

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(i) A science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school.

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(3) Twenty per cent of the number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact;

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(4) The number of children with disabilities, other than preschool children with disabilities, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed by the district with a county ~~MR/DD~~ DD board, minus the number of such children placed with a county ~~MR/DD~~ DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.

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(5) Beginning in fiscal year 2007, in the case of the report submitted for the first full week in February, or the alternative week if specified by the superintendent of public instruction, the number of students reported under division (A)(1) or (2) of this

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section for the first full week of the preceding October but who 5214
since that week have received high school diplomas. 5215

(B) To enable the department of education to obtain the data 5216
needed to complete the calculation of payments pursuant to this 5217
chapter, in addition to the formula ADM, each superintendent shall 5218
report separately the following student counts for the same week 5219
for which formula ADM is certified: 5220

(1) The total average daily membership in regular day classes 5221
included in the report under division (A)(1) or (2) of this 5222
section for kindergarten, and each of grades one through twelve in 5223
schools under the superintendent's supervision; 5224

(2) The number of all preschool children with disabilities 5225
enrolled as of the first day of December in classes in the 5226
district that are eligible for approval under division (B) of 5227
section 3317.05 of the Revised Code and the number of those 5228
classes, which shall be reported not later than the fifteenth day 5229
of December, in accordance with rules adopted under that section; 5230

(3) The number of children entitled to attend school in the 5231
district pursuant to section 3313.64 or 3313.65 of the Revised 5232
Code who are: 5233

(a) Participating in a pilot project scholarship program 5234
established under sections 3313.974 to 3313.979 of the Revised 5235
Code as described in division (I)(2)(a) or (b) of this section; 5236

(b) Enrolled in a college under Chapter 3365. of the Revised 5237
Code, except when the student is enrolled in the college while 5238
also enrolled in a community school pursuant to Chapter 3314. or a 5239
science, technology, engineering, and mathematics school 5240
established under Chapter 3326. of the Revised Code; 5241

(c) Enrolled in an adjacent or other school district under 5242
section 3313.98 of the Revised Code; 5243

(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;	5244 5245 5246 5247 5248 5249
(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	5250 5251 5252 5253
(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	5254 5255
(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	5256 5257 5258
(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	5259 5260 5261
(i) Participating in a program operated by a county MR/DD <u>DD</u> board or a state institution;	5262 5263
(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school.	5264 5265 5266 5267
(4) The number of pupils enrolled in joint vocational schools;	5268 5269
(5) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category one disability described in division (A) of section 3317.013 of the	5270 5271 5272 5273

Revised Code;	5274
(6) The average daily membership of children with	5275
disabilities reported under division (A)(1) or (2) of this section	5276
receiving special education services for category two disabilities	5277
described in division (B) of section 3317.013 of the Revised Code;	5278
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(7) The average daily membership of children with	5280
disabilities reported under division (A)(1) or (2) of this section	5281
receiving special education services for category three	5282
disabilities described in division (C) of section 3317.013 of the	5283
Revised Code;	5284
(8) The average daily membership of children with	5285
disabilities reported under division (A)(1) or (2) of this section	5286
receiving special education services for category four	5287
disabilities described in division (D) of section 3317.013 of the	5288
Revised Code;	5289
(9) The average daily membership of children with	5290
disabilities reported under division (A)(1) or (2) of this section	5291
receiving special education services for the category five	5292
disabilities described in division (E) of section 3317.013 of the	5293
Revised Code;	5294
(10) The combined average daily membership of children with	5295
disabilities reported under division (A)(1) or (2) and under	5296
division (B)(3)(h) of this section receiving special education	5297
services for category six disabilities described in division (F)	5298
of section 3317.013 of the Revised Code, including children	5299
attending a special education program operated by an alternative	5300
public provider or a registered private provider with a	5301
scholarship awarded under section 3310.41 of the Revised Code;	5302
(11) The average daily membership of pupils reported under	5303
division (A)(1) or (2) of this section enrolled in category one	5304

vocational education programs or classes, described in division 5305
(A) of section 3317.014 of the Revised Code, operated by the 5306
school district or by another district, other than a joint 5307
vocational school district, or by an educational service center, 5308
excluding any student reported under division (B)(3)(e) of this 5309
section as enrolled in an internet- or computer-based community 5310
school, notwithstanding division (C) of section 3317.02 of the 5311
Revised Code and division (C)(3) of this section; 5312

(12) The average daily membership of pupils reported under 5313
division (A)(1) or (2) of this section enrolled in category two 5314
vocational education programs or services, described in division 5315
(B) of section 3317.014 of the Revised Code, operated by the 5316
school district or another school district, other than a joint 5317
vocational school district, or by an educational service center, 5318
excluding any student reported under division (B)(3)(e) of this 5319
section as enrolled in an internet- or computer-based community 5320
school, notwithstanding division (C) of section 3317.02 of the 5321
Revised Code and division (C)(3) of this section; 5322

(13) The average number of children transported by the school 5323
district on board-owned or contractor-owned and -operated buses, 5324
reported in accordance with rules adopted by the department of 5325
education; 5326

(14)(a) The number of children, other than preschool children 5327
with disabilities, the district placed with a county ~~MR/DD~~ DD 5328
board in fiscal year 1998; 5329

(b) The number of children with disabilities, other than 5330
preschool children with disabilities, placed with a county ~~MR/DD~~ 5331
DD board in the current fiscal year to receive special education 5332
services for the category one disability described in division (A) 5333
of section 3317.013 of the Revised Code; 5334

(c) The number of children with disabilities, other than 5335

preschool children with disabilities, placed with a county ~~MR/DD~~ 5336
~~DD~~ board in the current fiscal year to receive special education 5337
services for category two disabilities described in division (B) 5338
of section 3317.013 of the Revised Code; 5339

(d) The number of children with disabilities, other than 5340
preschool children with disabilities, placed with a county ~~MR/DD~~ 5341
~~DD~~ board in the current fiscal year to receive special education 5342
services for category three disabilities described in division (C) 5343
of section 3317.013 of the Revised Code; 5344

(e) The number of children with disabilities, other than 5345
preschool children with disabilities, placed with a county ~~MR/DD~~ 5346
~~DD~~ board in the current fiscal year to receive special education 5347
services for category four disabilities described in division (D) 5348
of section 3317.013 of the Revised Code; 5349

(f) The number of children with disabilities, other than 5350
preschool children with disabilities, placed with a county ~~MR/DD~~ 5351
~~DD~~ board in the current fiscal year to receive special education 5352
services for the category five disabilities described in division 5353
(E) of section 3317.013 of the Revised Code; 5354

(g) The number of children with disabilities, other than 5355
preschool children with disabilities, placed with a county ~~MR/DD~~ 5356
~~DD~~ board in the current fiscal year to receive special education 5357
services for category six disabilities described in division (F) 5358
of section 3317.013 of the Revised Code. 5359

(C)(1) Except as otherwise provided in this section for 5360
kindergarten students, the average daily membership in divisions 5361
(B)(1) to (12) of this section shall be based upon the number of 5362
full-time equivalent students. The state board of education shall 5363
adopt rules defining full-time equivalent students and for 5364
determining the average daily membership therefrom for the 5365
purposes of divisions (A), (B), and (D) of this section. 5366

(2) A student enrolled in a community school established 5367
under Chapter 3314. or a science, technology, engineering, and 5368
mathematics school established under Chapter 3326. of the Revised 5369
Code shall be counted in the formula ADM and, if applicable, the 5370
category one, two, three, four, five, or six special education ADM 5371
of the school district in which the student is entitled to attend 5372
school under section 3313.64 or 3313.65 of the Revised Code for 5373
the same proportion of the school year that the student is counted 5374
in the enrollment of the community school or the science, 5375
technology, engineering, and mathematics school for purposes of 5376
section 3314.08 or 3326.33 of the Revised Code. Notwithstanding 5377
the number of students reported pursuant to division (B)(3)(d), 5378
(e), or (j) of this section, the department may adjust the formula 5379
ADM of a school district to account for students entitled to 5380
attend school in the district under section 3313.64 or 3313.65 of 5381
the Revised Code who are enrolled in a community school or a 5382
science, technology, engineering, and mathematics school for only 5383
a portion of the school year. 5384

(3) No child shall be counted as more than a total of one 5385
child in the sum of the average daily memberships of a school 5386
district under division (A), divisions (B)(1) to (12), or division 5387
(D) of this section, except as follows: 5388

(a) A child with a disability described in section 3317.013 5389
of the Revised Code may be counted both in formula ADM and in 5390
category one, two, three, four, five, or six special education ADM 5391
and, if applicable, in category one or two vocational education 5392
ADM. As provided in division (C) of section 3317.02 of the Revised 5393
Code, such a child shall be counted in category one, two, three, 5394
four, five, or six special education ADM in the same proportion 5395
that the child is counted in formula ADM. 5396

(b) A child enrolled in vocational education programs or 5397
classes described in section 3317.014 of the Revised Code may be 5398

counted both in formula ADM and category one or two vocational 5399
education ADM and, if applicable, in category one, two, three, 5400
four, five, or six special education ADM. Such a child shall be 5401
counted in category one or two vocational education ADM in the 5402
same proportion as the percentage of time that the child spends in 5403
the vocational education programs or classes. 5404

(4) Based on the information reported under this section, the 5405
department of education shall determine the total student count, 5406
as defined in section 3301.011 of the Revised Code, for each 5407
school district. 5408

(D)(1) The superintendent of each joint vocational school 5409
district shall certify to the superintendent of public instruction 5410
on or before the fifteenth day of October in each year for the 5411
first full school week in October the formula ADM. Beginning in 5412
fiscal year 2007, each superintendent also shall certify to the 5413
state superintendent the formula ADM for the first full week in 5414
February. If a school operated by the joint vocational school 5415
district is closed for one or more days during that week due to 5416
hazardous weather conditions or other circumstances described in 5417
the first paragraph of division (B) of section 3317.01 of the 5418
Revised Code, the superintendent may apply to the superintendent 5419
of public instruction for a waiver, under which the superintendent 5420
of public instruction may exempt the district superintendent from 5421
certifying the formula ADM for that school for that week and 5422
specify an alternate week for certifying the formula ADM of that 5423
school. 5424

The formula ADM, except as otherwise provided in this 5425
division, shall consist of the average daily membership during 5426
such week, on an FTE basis, of the number of students receiving 5427
any educational services from the district, including students 5428
enrolled in a community school established under Chapter 3314. or 5429
a science, technology, engineering, and mathematics school 5430

established under Chapter 3326. of the Revised Code who are 5431
attending the joint vocational district under an agreement between 5432
the district board of education and the governing authority of the 5433
community school or the science, technology, engineering, and 5434
mathematics school and are entitled to attend school in a city, 5435
local, or exempted village school district whose territory is part 5436
of the territory of the joint vocational district. Beginning in 5437
fiscal year 2007, in the case of the report submitted for the 5438
first week in February, or the alternative week if specified by 5439
the superintendent of public instruction, the superintendent of 5440
the joint vocational school district may include the number of 5441
students reported under division (D)(1) of this section for the 5442
first full week of the preceding October but who since that week 5443
have received high school diplomas. 5444

The following categories of students shall not be included in 5446
the determination made under division (D)(1) of this section: 5447

(a) Students enrolled in adult education classes; 5448

(b) Adjacent or other district joint vocational students 5449
enrolled in the district under an open enrollment policy pursuant 5450
to section 3313.98 of the Revised Code; 5451

(c) Students receiving services in the district pursuant to a 5452
compact, cooperative education agreement, or a contract, but who 5453
are entitled to attend school in a city, local, or exempted 5454
village school district whose territory is not part of the 5455
territory of the joint vocational district; 5456

(d) Students for whom tuition is payable pursuant to sections 5457
3317.081 and 3323.141 of the Revised Code. 5458

(2) To enable the department of education to obtain the data 5459
needed to complete the calculation of payments pursuant to this 5460
chapter, in addition to the formula ADM, each superintendent shall 5461

report separately the average daily membership included in the 5462
report under division (D)(1) of this section for each of the 5463
following categories of students for the same week for which 5464
formula ADM is certified: 5465

(a) Students enrolled in each grade included in the joint 5466
vocational district schools; 5467

(b) Children with disabilities receiving special education 5468
services for the category one disability described in division (A) 5469
of section 3317.013 of the Revised Code; 5470

(c) Children with disabilities receiving special education 5471
services for the category two disabilities described in division 5472
(B) of section 3317.013 of the Revised Code; 5473

(d) Children with disabilities receiving special education 5474
services for category three disabilities described in division (C) 5475
of section 3317.013 of the Revised Code; 5476

(e) Children with disabilities receiving special education 5477
services for category four disabilities described in division (D) 5478
of section 3317.013 of the Revised Code; 5479

(f) Children with disabilities receiving special education 5480
services for the category five disabilities described in division 5481
(E) of section 3317.013 of the Revised Code; 5482

(g) Children with disabilities receiving special education 5483
services for category six disabilities described in division (F) 5484
of section 3317.013 of the Revised Code; 5485

(h) Students receiving category one vocational education 5486
services, described in division (A) of section 3317.014 of the 5487
Revised Code; 5488

(i) Students receiving category two vocational education 5489
services, described in division (B) of section 3317.014 of the 5490
Revised Code. 5491

The superintendent of each joint vocational school district 5492
shall also indicate the city, local, or exempted village school 5493
district in which each joint vocational district pupil is entitled 5494
to attend school pursuant to section 3313.64 or 3313.65 of the 5495
Revised Code. 5496

(E) In each school of each city, local, exempted village, 5497
joint vocational, and cooperative education school district there 5498
shall be maintained a record of school membership, which record 5499
shall accurately show, for each day the school is in session, the 5500
actual membership enrolled in regular day classes. For the purpose 5501
of determining average daily membership, the membership figure of 5502
any school shall not include any pupils except those pupils 5503
described by division (A) of this section. The record of 5504
membership for each school shall be maintained in such manner that 5505
no pupil shall be counted as in membership prior to the actual 5506
date of entry in the school and also in such manner that where for 5507
any cause a pupil permanently withdraws from the school that pupil 5508
shall not be counted as in membership from and after the date of 5509
such withdrawal. There shall not be included in the membership of 5510
any school any of the following: 5511

(1) Any pupil who has graduated from the twelfth grade of a 5512
public or nonpublic high school; 5513

(2) Any pupil who is not a resident of the state; 5514

(3) Any pupil who was enrolled in the schools of the district 5515
during the previous school year when tests were administered under 5516
section 3301.0711 of the Revised Code but did not take one or more 5517
of the tests required by that section and was not excused pursuant 5518
to division (C)(1) or (3) of that section; 5519

(4) Any pupil who has attained the age of twenty-two years, 5520
except for veterans of the armed services whose attendance was 5521
interrupted before completing the recognized twelve-year course of 5522

the public schools by reason of induction or enlistment in the 5523
armed forces and who apply for reenrollment in the public school 5524
system of their residence not later than four years after 5525
termination of war or their honorable discharge. 5526

If, however, any veteran described by division (E)(4) of this 5527
section elects to enroll in special courses organized for veterans 5528
for whom tuition is paid under the provisions of federal laws, or 5529
otherwise, that veteran shall not be included in average daily 5530
membership. 5531

Notwithstanding division (E)(3) of this section, the 5532
membership of any school may include a pupil who did not take a 5533
test required by section 3301.0711 of the Revised Code if the 5534
superintendent of public instruction grants a waiver from the 5535
requirement to take the test to the specific pupil and a parent is 5536
not paying tuition for the pupil pursuant to section 3313.6410 of 5537
the Revised Code. The superintendent may grant such a waiver only 5538
for good cause in accordance with rules adopted by the state board 5539
of education. 5540

Except as provided in divisions (B)(2) and (F) of this 5541
section, the average daily membership figure of any local, city, 5542
exempted village, or joint vocational school district shall be 5543
determined by dividing the figure representing the sum of the 5544
number of pupils enrolled during each day the school of attendance 5545
is actually open for instruction during the week for which the 5546
formula ADM is being certified by the total number of days the 5547
school was actually open for instruction during that week. For 5548
purposes of state funding, "enrolled" persons are only those 5549
pupils who are attending school, those who have attended school 5550
during the current school year and are absent for authorized 5551
reasons, and those children with disabilities currently receiving 5552
home instruction. 5553

The average daily membership figure of any cooperative 5554

education school district shall be determined in accordance with 5555
rules adopted by the state board of education. 5556

(F)(1) If the formula ADM for the first full school week in 5557
February is at least three per cent greater than that certified 5558
for the first full school week in the preceding October, the 5559
superintendent of schools of any city, exempted village, or joint 5560
vocational school district or educational service center shall 5561
certify such increase to the superintendent of public instruction. 5562
Such certification shall be submitted no later than the fifteenth 5563
day of February. For the balance of the fiscal year, beginning 5564
with the February payments, the superintendent of public 5565
instruction shall use the increased formula ADM in calculating or 5566
recalculating the amounts to be allocated in accordance with 5567
section 3317.022 or 3317.16 of the Revised Code. In no event shall 5568
the superintendent use an increased membership certified to the 5569
superintendent after the fifteenth day of February. Division 5570
(F)(1) of this section does not apply after fiscal year 2006. 5571

(2) If on the first school day of April the total number of 5572
classes or units for preschool children with disabilities that are 5573
eligible for approval under division (B) of section 3317.05 of the 5574
Revised Code exceeds the number of units that have been approved 5575
for the year under that division, the superintendent of schools of 5576
any city, exempted village, or cooperative education school 5577
district or educational service center shall make the 5578
certifications required by this section for that day. If the 5579
department determines additional units can be approved for the 5580
fiscal year within any limitations set forth in the acts 5581
appropriating moneys for the funding of such units, the department 5582
shall approve additional units for the fiscal year on the basis of 5583
such average daily membership. For each unit so approved, the 5584
department shall pay an amount computed in the manner prescribed 5585
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 5586

Code. 5587

(3) If a student attending a community school under Chapter 5588
3314. or a science, technology, engineering, and mathematics 5589
school established under Chapter 3326. of the Revised Code is not 5590
included in the formula ADM certified for the school district in 5591
which the student is entitled to attend school under section 5592
3313.64 or 3313.65 of the Revised Code, the department of 5593
education shall adjust the formula ADM of that school district to 5594
include the student in accordance with division (C)(2) of this 5595
section, and shall recalculate the school district's payments 5596
under this chapter for the entire fiscal year on the basis of that 5597
adjusted formula ADM. This requirement applies regardless of 5598
whether the student was enrolled, as defined in division (E) of 5599
this section, in the community school or the science, technology, 5600
engineering, and mathematics school during the week for which the 5601
formula ADM is being certified. 5602

(4) If a student awarded an educational choice scholarship is 5603
not included in the formula ADM of the school district from which 5604
the department deducts funds for the scholarship under section 5605
3310.08 of the Revised Code, the department shall adjust the 5606
formula ADM of that school district to include the student to the 5607
extent necessary to account for the deduction, and shall 5608
recalculate the school district's payments under this chapter for 5609
the entire fiscal year on the basis of that adjusted formula ADM. 5610
This requirement applies regardless of whether the student was 5611
enrolled, as defined in division (E) of this section, in the 5612
chartered nonpublic school, the school district, or a community 5613
school during the week for which the formula ADM is being 5614
certified. 5615

(G)(1)(a) The superintendent of an institution operating a 5616
special education program pursuant to section 3323.091 of the 5617
Revised Code shall, for the programs under such superintendent's 5618

supervision, certify to the state board of education, in the 5619
manner prescribed by the superintendent of public instruction, 5620
both of the following: 5621

(i) The average daily membership of all children with 5622
disabilities other than preschool children with disabilities 5623
receiving services at the institution for each category of 5624
disability described in divisions (A) to (F) of section 3317.013 5625
of the Revised Code; 5626

(ii) The average daily membership of all preschool children 5627
with disabilities in classes or programs approved annually by the 5628
department of education for unit funding under section 3317.05 of 5629
the Revised Code. 5630

(b) The superintendent of an institution with vocational 5631
education units approved under division (A) of section 3317.05 of 5632
the Revised Code shall, for the units under the superintendent's 5633
supervision, certify to the state board of education the average 5634
daily membership in those units, in the manner prescribed by the 5635
superintendent of public instruction. 5636

(2) The superintendent of each county ~~MR/DD~~ DD board that 5637
maintains special education classes under section 3317.20 of the 5638
Revised Code or units approved pursuant to section 3317.05 of the 5639
Revised Code shall do both of the following: 5640

(a) Certify to the state board, in the manner prescribed by 5641
the board, the average daily membership in classes under section 5642
3317.20 of the Revised Code for each school district that has 5643
placed children in the classes; 5644

(b) Certify to the state board, in the manner prescribed by 5645
the board, the number of all preschool children with disabilities 5646
enrolled as of the first day of December in classes eligible for 5647
approval under division (B) of section 3317.05 of the Revised 5648
Code, and the number of those classes. 5649

(3)(a) If on the first school day of April the number of 5650
classes or units maintained for preschool children with 5651
disabilities by the county ~~MR/DD~~ DD board that are eligible for 5652
approval under division (B) of section 3317.05 of the Revised Code 5653
is greater than the number of units approved for the year under 5654
that division, the superintendent shall make the certification 5655
required by this section for that day. 5656

(b) If the department determines that additional classes or 5657
units can be approved for the fiscal year within any limitations 5658
set forth in the acts appropriating moneys for the funding of the 5659
classes and units described in division (G)(3)(a) of this section, 5660
the department shall approve and fund additional units for the 5661
fiscal year on the basis of such average daily membership. For 5662
each unit so approved, the department shall pay an amount computed 5663
in the manner prescribed in sections 3317.052 and 3317.053 of the 5664
Revised Code. 5665

(H) Except as provided in division (I) of this section, when 5666
any city, local, or exempted village school district provides 5667
instruction for a nonresident pupil whose attendance is 5668
unauthorized attendance as defined in section 3327.06 of the 5669
Revised Code, that pupil's membership shall not be included in 5670
that district's membership figure used in the calculation of that 5671
district's formula ADM or included in the determination of any 5672
unit approved for the district under section 3317.05 of the 5673
Revised Code. The reporting official shall report separately the 5674
average daily membership of all pupils whose attendance in the 5675
district is unauthorized attendance, and the membership of each 5676
such pupil shall be credited to the school district in which the 5677
pupil is entitled to attend school under division (B) of section 5678
3313.64 or section 3313.65 of the Revised Code as determined by 5679
the department of education. 5680

(I)(1) A city, local, exempted village, or joint vocational 5681

school district admitting a scholarship student of a pilot project 5682
district pursuant to division (C) of section 3313.976 of the 5683
Revised Code may count such student in its average daily 5684
membership. 5685

(2) In any year for which funds are appropriated for pilot 5686
project scholarship programs, a school district implementing a 5687
state-sponsored pilot project scholarship program that year 5688
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 5689
count in average daily membership: 5690

(a) All children residing in the district and utilizing a 5691
scholarship to attend kindergarten in any alternative school, as 5692
defined in section 3313.974 of the Revised Code; 5693

(b) All children who were enrolled in the district in the 5694
preceding year who are utilizing a scholarship to attend any such 5695
alternative school. 5696

(J) The superintendent of each cooperative education school 5697
district shall certify to the superintendent of public 5698
instruction, in a manner prescribed by the state board of 5699
education, the applicable average daily memberships for all 5700
students in the cooperative education district, also indicating 5701
the city, local, or exempted village district where each pupil is 5702
entitled to attend school under section 3313.64 or 3313.65 of the 5703
Revised Code. 5704

(K) If the superintendent of public instruction determines 5705
that a component of the formula ADM certified or reported by a 5706
district superintendent, or other reporting entity, is not 5707
correct, the superintendent of public instruction may order that 5708
the formula ADM used for the purposes of payments under any 5709
section of Title XXXVIII of the Revised Code be adjusted in the 5710
amount of the error. 5711

Sec. 3317.032. (A) Each city, local, exempted village, and cooperative education school district, each educational service center, each county ~~MR/DD~~ DD board, and each institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, in accordance with procedures adopted by the state board of education, maintain a record of district membership of both of the following:

(1) All preschool children with disabilities in units approved under division (B) of section 3317.05 of the Revised Code;

(2) All preschool children with disabilities who are not in units approved under division (B) of section 3317.05 of the Revised Code but who are otherwise served by a special education program.

(B) The superintendent of each district, board, or institution subject to division (A) of this section shall certify to the state board of education, in accordance with procedures adopted by that board, membership figures of all preschool children with disabilities whose membership is maintained under division (A)(2) of this section. The figures certified under this division shall be used in the determination of the ADM used to compute funds for educational service center governing boards under section 3317.11 of the Revised Code.

Sec. 3317.05. (A) For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the department of education shall determine for each institution, by the last day of January of each year and based on information certified under section 3317.03 of the Revised Code, the number of vocational education units or fractions of units approved by the department on the basis of standards and rules adopted by the

state board of education. As used in this division, "institution" 5742
means an institution operated by a department specified in section 5743
3323.091 of the Revised Code and that provides vocational 5744
education programs under the supervision of the division of 5745
vocational education of the department that meet the standards and 5746
rules for these programs, including licensure of professional 5747
staff involved in the programs, as established by the state board. 5748
5749

(B) For the purpose of calculating payments under sections 5750
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 5751
department shall determine, based on information certified under 5752
section 3317.03 of the Revised Code, the following by the last day 5753
of January of each year for each educational service center, for 5754
each school district, including each cooperative education school 5755
district, for each institution eligible for payment under section 5756
3323.091 of the Revised Code, and for each county ~~MR/DD~~ DD board: 5757
the number of classes operated by the school district, service 5758
center, institution, or county ~~MR/DD~~ DD board for preschool 5759
children with disabilities, or fraction thereof, including in the 5760
case of a district or service center that is a funding agent, 5761
classes taught by a licensed teacher employed by that district or 5762
service center under section 3313.841 of the Revised Code, 5763
approved annually by the department on the basis of standards and 5764
rules adopted by the state board. 5765

(C) For the purpose of calculating payments under sections 5766
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 5767
department shall determine, based on information certified under 5768
section 3317.03 of the Revised Code, the following by the last day 5769
of January of each year for each school district, including each 5770
cooperative education school district, for each institution 5771
eligible for payment under section 3323.091 of the Revised Code, 5772
and for each county ~~MR/DD~~ DD board: the number of units for 5773

related services, as defined in section 3323.01 of the Revised Code, for preschool children with disabilities approved annually by the department on the basis of standards and rules adopted by the state board.

(D) All of the arithmetical calculations made under this section shall be carried to the second decimal place. The total number of units for school districts, service centers, and institutions approved annually under this section shall not exceed the number of units included in the estimate of cost for these units and appropriations made for them by the general assembly.

In the case of units for preschool children with disabilities described in division (B) of this section, the department shall approve only preschool units for children who are under age six on the thirtieth day of September of the academic year, or on the first day of August of the academic year if the school district in which the child is enrolled has adopted a resolution under division (A)(3) of section 3321.01 of the Revised Code, but not less than age three on the first day of December of the academic year, except that such a unit may include one or more children who are under age three or are age six or over on the applicable date, as reported under division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised Code, if such children have been admitted to the unit pursuant to rules of the state board. The number of units for county ~~MR/DD~~ DD boards and institutions eligible for payment under section 3323.091 of the Revised Code approved under this section shall not exceed the number that can be funded with appropriations made for such purposes by the general assembly.

No unit shall be approved under divisions (B) and (C) of this section unless a plan has been submitted and approved under Chapter 3323. of the Revised Code.

(E) The department shall approve units or fractions thereof

for gifted children on the basis of standards and rules adopted by 5806
the state board. 5807

Sec. 3317.051. (A)(1) Notwithstanding sections 3317.05 and 5808
3317.11 of the Revised Code, a unit funded pursuant to division 5809
(L) of section 3317.024 or division (A)(2) of section 3317.052 of 5810
the Revised Code shall not be approved for state funding in one 5811
school district, including any cooperative education school 5812
district or any educational service center, to the extent that 5813
such unit provides programs in or services to another district 5814
which receives payment pursuant to section 3317.04 of the Revised 5815
Code. 5816

(2) Any city, local, exempted village, or cooperative 5817
education school district or any educational service center may 5818
combine partial unit eligibility for programs for preschool 5819
children with disabilities pursuant to section 3317.05 of the 5820
Revised Code, and such combined partial units may be approved for 5821
state funding in one school district or service center. 5822

(B) After units have been initially approved for any fiscal 5823
year under section 3317.05 of the Revised Code, no unit shall be 5824
subsequently transferred from a school district or educational 5825
service center to another city, exempted village, local, or 5826
cooperative education school district or educational service 5827
center or to an institution or county ~~MR/DD~~ DD board solely for 5828
the purpose of reducing the financial obligations of the school 5829
district in a fiscal year it receives payment pursuant to section 5830
3317.04 of the Revised Code. 5831

Sec. 3317.052. As used in this section, "institution" means 5832
an institution operated by a department specified in division (A) 5833
of section 3323.091 of the Revised Code. 5834

(A)(1) The department of education shall pay each school 5835

district, educational service center, institution eligible for 5836
payment under section 3323.091 of the Revised Code, or county 5837
~~MR/DD~~ DD board an amount for the total of all classroom units for 5838
preschool children with disabilities approved under division (B) 5839
of section 3317.05 of the Revised Code. For each unit, the amount 5840
shall be the sum of the minimum salary for the teacher of the 5841
unit, calculated on the basis of the teacher's training level and 5842
years of experience pursuant to the salary schedule prescribed in 5843
the version of section 3317.13 of the Revised Code in effect prior 5844
to July 1, 2001, plus fifteen per cent of that minimum salary 5845
amount, and eight thousand twenty-three dollars. 5846

(2) The department shall pay each school district, 5847
educational service center, institution eligible for payment under 5848
section 3323.091 of the Revised Code, or county ~~MR/DD~~ DD board an 5849
amount for the total of all related services units for preschool 5850
children with disabilities approved under division (C) of section 5851
3317.05 of the Revised Code. For each such unit, the amount shall 5852
be the sum of the minimum salary for the teacher of the unit 5853
calculated on the basis of the teacher's training level and years 5854
of experience pursuant to the salary schedule prescribed in the 5855
version of section 3317.13 of the Revised Code in effect prior to 5856
July 1, 2001, fifteen per cent of that minimum salary amount, and 5857
two thousand one hundred thirty-two dollars. 5858

(B) If a school district, educational service center, or 5859
county ~~MR/DD~~ DD board has had additional units for preschool 5860
children with disabilities approved for the year under division 5861
(F)(2) or (G)(3) of section 3317.03 of the Revised Code, the 5862
district, educational service center, or board shall receive an 5863
additional amount during the last half of the fiscal year. For 5864
each district, center, or board, the additional amount for each 5865
unit shall equal fifty per cent of the amounts computed for the 5866
unit in the manner prescribed by division (A) of this section and 5867

division (C) of section 3317.053 of the Revised Code. 5868

(C) The department shall pay each institution approved for 5869
vocational education units under division (A) of section 3317.05 5870
of the Revised Code an amount for the total of all the units 5871
approved under that division. The amount for each unit shall be 5872
the sum of the minimum salary for the teacher of the unit, 5873
calculated on the basis of the teacher's training level and years 5874
of experience pursuant to the salary schedule prescribed in the 5875
version of section 3317.13 of the Revised Code in effect prior to 5876
July 1, 2001, plus fifteen per cent of that minimum salary amount, 5877
and nine thousand five hundred ten dollars. Each institution that 5878
receives units funds under this division annually shall report to 5879
the department on the delivery of services and the performance of 5880
students and any other information required by the department to 5881
evaluate the institution's vocational education program. 5882

Sec. 3317.07. The state board of education shall establish 5883
rules for the purpose of distributing subsidies for the purchase 5884
of school buses under division (D) of section 3317.024 of the 5885
Revised Code. 5886

No school bus subsidy payments shall be paid to any district 5887
unless such district can demonstrate that pupils residing more 5888
than one mile from the school could not be transported without 5889
such additional aid. 5890

The amount paid to a county ~~MR/DD~~ DD board for buses 5891
purchased for transportation of children in special education 5892
programs operated by the board shall be based on a per pupil 5893
allocation for eligible students. 5894

The amount paid to a school district for buses purchased for 5895
transportation of pupils with disabilities and nonpublic school 5896
pupils shall be determined by a per pupil allocation based on the 5897
number of special education and nonpublic school pupils for whom 5898

transportation is provided. 5899

The state board of education shall adopt a formula to 5900
determine the amount of payments that shall be distributed to 5901
school districts to purchase school buses for pupils other than 5902
pupils with disabilities or nonpublic school pupils. 5903

If any district or ~~MR/DD~~ county DD board obtains bus services 5904
for pupil transportation pursuant to a contract, such district or 5905
board may use payments received under this section to defray the 5906
costs of contracting for bus services in lieu of for purchasing 5907
buses. 5908

If the department of education determines that a county ~~MR/DD~~ 5909
DD board no longer needs a school bus because the board no longer 5910
transports children to a special education program operated by the 5911
board, or if the department determines that a school district no 5912
longer needs a school bus to transport pupils to a nonpublic 5913
school or special education program, the department may reassign a 5914
bus that was funded with payments provided pursuant to this 5915
section for the purpose of transporting such pupils. The 5916
department may reassign a bus to a county ~~MR/DD~~ DD board or school 5917
district that transports children to a special education program 5918
designated in the children's individualized education plans, or to 5919
a school district that transports pupils to a nonpublic school, 5920
and needs an additional school bus. 5921

Sec. 3317.15. (A) As used in this section, "child with a 5922
disability" has the same meaning as in section 3323.01 of the 5923
Revised Code. 5924

(B) Each city, exempted village, local, and joint vocational 5925
school district shall continue to comply with all requirements of 5926
federal statutes and regulations, the Revised Code, and rules 5927
adopted by the state board of education governing education of 5928
children with disabilities, including, but not limited to, 5929

requirements that children with disabilities be served by 5930
appropriately licensed or certificated education personnel. 5931

(C) Each city, exempted village, local, and joint vocational 5932
school district shall consult with the educational service center 5933
serving the county in which the school district is located and, if 5934
it elects to participate pursuant to section 5126.04 of the 5935
Revised Code, the county ~~MR/DD~~ DD board of that county, in 5936
providing services that serve the best interests of children with 5937
disabilities. 5938

(D) Each school district shall annually provide documentation 5939
to the department of education that it employs the appropriate 5940
number of licensed or certificated personnel to serve the 5941
district's students with disabilities. 5942

(E) The department annually shall audit a sample of school 5943
districts to ensure that children with disabilities are being 5944
appropriately reported. 5945

(F) Each school district shall provide speech-language 5946
pathology services at a ratio of one speech-language pathologist 5947
per two thousand students receiving any educational services from 5948
the district other than adult education. Each district shall 5949
provide school psychological services at a ratio of one school 5950
psychologist per two thousand five hundred students receiving any 5951
educational services from the district other than adult education. 5952
A district may obtain the services of speech-language pathologists 5953
and school psychologists by any means permitted by law, including 5954
contracting with an educational service center. If, however, a 5955
district is unable to obtain the services of the required number 5956
of speech-language pathologists or school psychologists, the 5957
district may request from the superintendent of public 5958
instruction, and the superintendent may grant, a waiver of this 5959
provision for a period of time established by the superintendent. 5960

Sec. 3317.20. This section does not apply to preschool 5961
children with disabilities. 5962

(A) As used in this section: 5963

(1) "Applicable weight" means the multiple specified in 5964
section 3317.013 of the Revised Code for a disability described in 5965
that section. 5966

(2) "Child's school district" means the school district in 5967
which a child is entitled to attend school pursuant to section 5968
3313.64 or 3313.65 of the Revised Code. 5969

(3) "State share percentage" means the state share percentage 5970
of the child's school district as defined in section 3317.022 of 5971
the Revised Code. 5972

(B) Except as provided in division (C) of this section, the 5973
department shall annually pay each county ~~MR/DD~~ DD board for each 5974
child with a disability, other than a preschool child with a 5975
disability, for whom the county ~~MR/DD~~ DD board provides special 5976
education and related services an amount equal to the formula 5977
amount + (state share percentage X formula amount X the applicable 5978
weight). 5979

(C) If any school district places with a county ~~MR/DD~~ DD 5980
board more children with disabilities than it had placed with a 5981
county ~~MR/DD~~ DD board in fiscal year 1998, the department shall 5982
not make a payment under division (B) of this section for the 5983
number of children exceeding the number placed in fiscal year 5984
1998. The department instead shall deduct from the district's 5985
payments under this chapter, and pay to the county ~~MR/DD~~ DD board, 5986
an amount calculated in accordance with the formula prescribed in 5987
division (B) of this section for each child over the number of 5988
children placed in fiscal year 1998. 5989

(D) The department shall calculate for each county ~~MR/DD~~ DD 5990

board receiving payments under divisions (B) and (C) of this 5991
section the following amounts: 5992

(1) The amount received by the county ~~MR/DD~~ DD board for 5993
approved special education and related services units, other than 5994
units for preschool children with disabilities, in fiscal year 5995
1998, divided by the total number of children served in the units 5996
that year; 5997

(2) The product of the quotient calculated under division 5998
(D)(1) of this section times the number of children for whom 5999
payments are made under divisions (B) and (C) of this section. 6000

If the amount calculated under division (D)(2) of this 6001
section is greater than the total amount calculated under 6002
divisions (B) and (C) of this section, the department shall pay 6003
the county ~~MR/DD~~ DD board one hundred per cent of the difference 6004
in addition to the payments under divisions (B) and (C) of this 6005
section. 6006

(E) Each county ~~MR/DD~~ DD board shall report to the 6007
department, in the manner specified by the department, the name of 6008
each child for whom the county ~~MR/DD~~ DD board provides special 6009
education and related services and the child's school district. 6010

(F)(1) For the purpose of verifying the accuracy of the 6011
payments under this section, the department may request from 6012
either of the following entities the data verification code 6013
assigned under division (D)(2) of section 3301.0714 of the Revised 6014
Code to any child who is placed with a county ~~MR/DD~~ DD board: 6015

(a) The child's school district; 6016

(b) The independent contractor engaged to create and maintain 6017
data verification codes. 6018

(2) Upon a request by the department under division (F)(1) of 6019
this section for the data verification code of a child, the 6020

child's school district shall submit that code to the department 6021
in the manner specified by the department. If the child has not 6022
been assigned a code, the district shall assign a code to that 6023
child and submit the code to the department by a date specified by 6024
the department. If the district does not assign a code to the 6025
child by the specified date, the department shall assign a code to 6026
the child. 6027

The department annually shall submit to each school district 6028
the name and data verification code of each child residing in the 6029
district for whom the department has assigned a code under this 6030
division. 6031

(3) The department shall not release any data verification 6032
code that it receives under division (F) of this section to any 6033
person except as provided by law. 6034

(G) Any document relative to special education and related 6035
services provided by a county ~~MR/DD~~ DD board that the department 6036
holds in its files that contains both a student's name or other 6037
personally identifiable information and the student's data 6038
verification code shall not be a public record under section 6039
149.43 of the Revised Code. 6040

Sec. 3319.22. (A)(1) The state board of education shall adopt 6041
rules establishing the standards and requirements for obtaining 6042
temporary, associate, provisional, and professional educator 6043
licenses of any categories, types, and levels the board elects to 6044
provide. However, no educator license shall be required for 6045
teaching children two years old or younger. 6046

(2) If the state board requires any examinations for educator 6047
licensure, the department of education shall provide the results 6048
of such examinations received by the department to the Ohio board 6049
of regents, in the manner and to the extent permitted by state and 6050
federal law. 6051

(B) Any rules the state board of education adopts, amends, or rescinds for educator licenses under this section, division (D) of section 3301.07 of the Revised Code, or any other law shall be adopted, amended, or rescinded under Chapter 119. of the Revised Code except as follows:

(1) Notwithstanding division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, in the case of the adoption of any rule or the amendment or rescission of any rule that necessitates institutions' offering teacher preparation programs that are approved by the state board of education under section 3319.23 of the Revised Code to revise the curriculum of those programs, the effective date shall not be as prescribed in division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code. Instead, the effective date of such rules, or the amendment or rescission of such rules, shall be the date prescribed by section 3319.23 of the Revised Code.

(2) Notwithstanding the authority to adopt, amend, or rescind emergency rules in division (F) of section 119.03 of the Revised Code, this authority shall not apply to the state board of education with regard to rules for educator licenses.

(C)(1) The rules adopted under this section establishing standards requiring additional coursework for the renewal of any educator license shall require a school district and a chartered nonpublic school to establish local professional development committees. In a nonpublic school, the chief administrative officer shall establish the committees in any manner acceptable to such officer. The committees established under this division shall determine whether coursework that a district or chartered nonpublic school teacher proposes to complete meets the requirement of the rules. The department of education shall provide technical assistance and support to committees as the committees incorporate the professional development standards

adopted by the state board of education pursuant to section 6084
3319.61 of the Revised Code into their review of coursework that 6085
is appropriate for license renewal. The rules shall establish a 6086
procedure by which a teacher may appeal the decision of a local 6087
professional development committee. 6088

(2) In any school district in which there is no exclusive 6089
representative established under Chapter 4117. of the Revised 6090
Code, the professional development committees shall be established 6091
as described in division (C)(2) of this section. 6092

Not later than the effective date of the rules adopted under 6093
this section, the board of education of each school district shall 6094
establish the structure for one or more local professional 6095
development committees to be operated by such school district. The 6096
committee structure so established by a district board shall 6097
remain in effect unless within thirty days prior to an anniversary 6098
of the date upon which the current committee structure was 6099
established, the board provides notice to all affected district 6100
employees that the committee structure is to be modified. 6101
Professional development committees may have a district-level or 6102
building-level scope of operations, and may be established with 6103
regard to particular grade or age levels for which an educator 6104
license is designated. 6105

Each professional development committee shall consist of at 6106
least three classroom teachers employed by the district, one 6107
principal employed by the district, and one other employee of the 6108
district appointed by the district superintendent. For committees 6109
with a building-level scope, the teacher and principal members 6110
shall be assigned to that building, and the teacher members shall 6111
be elected by majority vote of the classroom teachers assigned to 6112
that building. For committees with a district-level scope, the 6113
teacher members shall be elected by majority vote of the classroom 6114
teachers of the district, and the principal member shall be 6115

elected by a majority vote of the principals of the district, 6116
unless there are two or fewer principals employed by the district, 6117
in which case the one or two principals employed shall serve on 6118
the committee. If a committee has a particular grade or age level 6119
scope, the teacher members shall be licensed to teach such grade 6120
or age levels, and shall be elected by majority vote of the 6121
classroom teachers holding such a license and the principal shall 6122
be elected by all principals serving in buildings where any such 6123
teachers serve. The district superintendent shall appoint a 6124
replacement to fill any vacancy that occurs on a professional 6125
development committee, except in the case of vacancies among the 6126
elected classroom teacher members, which shall be filled by vote 6127
of the remaining members of the committee so selected. 6128

Terms of office on professional development committees shall 6129
be prescribed by the district board establishing the committees. 6130
The conduct of elections for members of professional development 6131
committees shall be prescribed by the district board establishing 6132
the committees. A professional development committee may include 6133
additional members, except that the majority of members on each 6134
such committee shall be classroom teachers employed by the 6135
district. Any member appointed to fill a vacancy occurring prior 6136
to the expiration date of the term for which a predecessor was 6137
appointed shall hold office as a member for the remainder of that 6138
term. 6139

The initial meeting of any professional development 6140
committee, upon election and appointment of all committee members, 6141
shall be called by a member designated by the district 6142
superintendent. At this initial meeting, the committee shall 6143
select a chairperson and such other officers the committee deems 6144
necessary, and shall adopt rules for the conduct of its meetings. 6145
Thereafter, the committee shall meet at the call of the 6146
chairperson or upon the filing of a petition with the district 6147

superintendent signed by a majority of the committee members 6148
calling for the committee to meet. 6149

(3) In the case of a school district in which an exclusive 6150
representative has been established pursuant to Chapter 4117. of 6151
the Revised Code, professional development committees shall be 6152
established in accordance with any collective bargaining agreement 6153
in effect in the district that includes provisions for such 6154
committees. 6155

If the collective bargaining agreement does not specify a 6156
different method for the selection of teacher members of the 6157
committees, the exclusive representative of the district's 6158
teachers shall select the teacher members. 6159

If the collective bargaining agreement does not specify a 6160
different structure for the committees, the board of education of 6161
the school district shall establish the structure, including the 6162
number of committees and the number of teacher and administrative 6163
members on each committee; the specific administrative members to 6164
be part of each committee; whether the scope of the committees 6165
will be district levels, building levels, or by type of grade or 6166
age levels for which educator licenses are designated; the lengths 6167
of terms for members; the manner of filling vacancies on the 6168
committees; and the frequency and time and place of meetings. 6169
However, in all cases, except as provided in division (C)(4) of 6170
this section, there shall be a majority of teacher members of any 6171
professional development committee, there shall be at least five 6172
total members of any professional development committee, and the 6173
exclusive representative shall designate replacement members in 6174
the case of vacancies among teacher members, unless the collective 6175
bargaining agreement specifies a different method of selecting 6176
such replacements. 6177

(4) Whenever an administrator's coursework plan is being 6178
discussed or voted upon, the local professional development 6179

committee shall, at the request of one of its administrative 6180
members, cause a majority of the committee to consist of 6181
administrative members by reducing the number of teacher members 6182
voting on the plan. 6183

(D)(1) The department of education, educational service 6184
centers, county boards of ~~mental retardation and~~ developmental 6185
disabilities, regional professional development centers, special 6186
education regional resource centers, college and university 6187
departments of education, head start programs, the eTech Ohio 6188
commission, and the Ohio education computer network may establish 6189
local professional development committees to determine whether the 6190
coursework proposed by their employees who are licensed or 6191
certificated under this section or section 3319.222 of the Revised 6192
Code meet the requirements of the rules adopted under this 6193
section. They may establish local professional development 6194
committees on their own or in collaboration with a school district 6195
or other agency having authority to establish them. 6196

Local professional development committees established by 6197
county boards of ~~mental retardation and~~ developmental disabilities 6198
shall be structured in a manner comparable to the structures 6199
prescribed for school districts in divisions (C)(2) and (3) of 6200
this section, as shall the committees established by any other 6201
entity specified in division (D)(1) of this section that provides 6202
educational services by employing or contracting for services of 6203
classroom teachers licensed or certificated under this section or 6204
section 3319.222 of the Revised Code. All other entities specified 6205
in division (D)(1) of this section shall structure their 6206
committees in accordance with guidelines which shall be issued by 6207
the state board. 6208

(2) Any public agency that is not specified in division 6209
(D)(1) of this section but provides educational services and 6210
employs or contracts for services of classroom teachers licensed 6211

or certificated under this section or section 3319.222 of the Revised Code may establish a local professional development committee, subject to the approval of the department of education. The committee shall be structured in accordance with guidelines issued by the state board.

Sec. 3319.99. (A) Whoever violates division (A) of section 3319.151 of the Revised Code is guilty of a minor misdemeanor.

(B) Whoever violates division (H)(1) of section 3319.311 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates division (F) of section 3319.313 of the Revised Code shall be punished as follows:

(1) Except as otherwise provided in division (C)(2) of this section, the person is guilty of a misdemeanor of the fourth degree.

(2) The person is guilty of a misdemeanor of the first degree if both of the following conditions apply:

(a) The employee who is the subject of the report that the person fails to submit was required to be reported for the commission or alleged commission of an act or offense involving the infliction on a child of any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child;

(b) During the period between the violation of division (F) of section 3319.313 of the Revised Code and the conviction of or plea of guilty by the person for that violation, the employee who is the subject of the report that the person fails to submit inflicts on any child attending a school district, educational service center, public or nonpublic school, or county board of ~~mental retardation and~~ developmental disabilities where the employee works any physical or mental wound, injury, disability,

or condition of a nature that constitutes abuse or neglect of the 6242
child. 6243

(D) Whoever violates division (B) or (D) of section 3319.317 6244
of the Revised Code is guilty of a misdemeanor of the first 6245
degree. 6246

Sec. 3323.01. As used in this chapter: 6247

(A) "Child with a disability" means a child who is at least 6248
three years of age and less than twenty-two years of age; who has 6249
mental retardation, a hearing impairment (including deafness), a 6250
speech or language impairment, a visual impairment (including 6251
blindness), a serious emotional disturbance, an orthopedic 6252
impairment, autism, traumatic brain injury, an other health 6253
impairment, a specific learning disability, deaf-blindness, or 6254
multiple disabilities; and who, by reason thereof, needs special 6255
education and related services. 6256

A "child with a disability" may include a child who is at 6257
least three years of age and less than six years of age; who is 6258
experiencing developmental delays, as defined by standards adopted 6259
by the state board of education and as measured by appropriate 6260
diagnostic instruments and procedures in one or more of the 6261
following areas: physical development, cognitive development, 6262
communication development, social or emotional development, or 6263
adaptive development; and who, by reason thereof, needs special 6264
education and related services. 6265

(B) "County ~~MR/DD~~ DD board" means a county board of ~~mental~~ 6266
~~retardation and~~ developmental disabilities. 6267

(C) "Free appropriate public education" means special 6268
education and related services that meet all of the following: 6269

(1) Are provided at public expense, under public supervision 6270
and direction, and without charge; 6271

(2) Meet the standards of the state board of education;	6272
(3) Include an appropriate preschool, elementary, or secondary education as otherwise provided by the law of this state;	6273 6274 6275
(4) Are provided for each child with a disability in conformity with the child's individualized education program.	6276 6277
(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.	6278 6279 6280
(E) "Individualized education program" or "IEP" means the written statement described in section 3323.011 of the Revised Code.	6281 6282 6283
(F) "Individualized education program team" or "IEP team" means a group of individuals composed of:	6284 6285
(1) The parents of a child with a disability;	6286
(2) At least one regular education teacher of the child, if the child is or may be participating in the regular education environment;	6287 6288 6289
(3) At least one special education teacher, or where appropriate, at least one special education provider of the child;	6290 6291
(4) A representative of the school district who meets all of the following:	6292 6293
(a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;	6294 6295 6296
(b) Is knowledgeable about the general education curriculum;	6297
(c) Is knowledgeable about the availability of resources of the school district.	6298 6299
(5) An individual who can interpret the instructional	6300

implications of evaluation results, who may be a member of the 6301
team as described in divisions (F)(2) to (4) of this section; 6302

(6) At the discretion of the parent or the school district, 6303
other individuals who have knowledge or special expertise 6304
regarding the child, including related services personnel as 6305
appropriate; 6306

(7) Whenever appropriate, the child with a disability. 6307

(G) "Instruction in braille reading and writing" means the 6308
teaching of the system of reading and writing through touch 6309
commonly known as standard English braille. 6310

(H) "Other educational agency" means a department, division, 6311
bureau, office, institution, board, commission, committee, 6312
authority, or other state or local agency, which is not a city, 6313
local, or exempted village school district or an agency 6314
administered by the department of mental retardation and 6315
developmental disabilities, that provides or seeks to provide 6316
special education or related services to children with 6317
disabilities. The term "other educational agency" includes a joint 6318
vocational school district. 6319

(I) "Parent" of a child with a disability, except as used in 6320
sections 3323.09 and 3323.141 of the Revised Code, means: 6321

(1) A natural or adoptive parent of a child but not a foster 6322
parent of a child; 6323

(2) A guardian, but not the state if the child is a ward of 6324
the state; 6325

(3) An individual acting in the place of a natural or 6326
adoptive parent, including a grandparent, stepparent, or other 6327
relative, with whom the child lives, or an individual who is 6328
legally responsible for the child's welfare; 6329

(4) An individual assigned to be a surrogate parent, provided 6330

the individual is not prohibited by this chapter from serving as a 6331
surrogate parent for a child. 6332

(J) "Preschool child with a disability" means a child with a 6333
disability who is at least three years of age but is not of 6334
compulsory school age, as defined under section 3321.01 of the 6335
Revised Code, and who is not currently enrolled in kindergarten. 6336

(K) "Related services" means transportation, and such 6337
developmental, corrective, and other supportive services 6338
(including speech-language pathology and audiology services, 6339
interpreting services, psychological services, physical and 6340
occupational therapy, recreation, including therapeutic 6341
recreation, school nurse services designed to enable a child with 6342
a disability to receive a free appropriate public education as 6343
described in the individualized education program of the child, 6344
counseling services, including rehabilitation counseling, 6345
orientation and mobility services, school health services, social 6346
work services in schools, and parent counseling and training, and 6347
medical services, except that such medical services shall be for 6348
diagnostic and evaluation purposes only) as may be required to 6349
assist a child with a disability to benefit from special 6350
education, and includes the early identification and assessment of 6351
disabling conditions in children. "Related services" does not 6352
include a medical device that is surgically implanted, or the 6353
replacement of such device. 6354

(L) "School district" means a city, local, or exempted 6355
village school district. 6356

(M) "School district of residence," as used in sections 6357
3323.09, 3323.091, 3323.13, and 3323.14 of the Revised Code, 6358
means: 6359

(1) The school district in which the child's natural or 6360
adoptive parents reside; 6361

(2) If the school district specified in division (M)(1) of this section cannot be determined, the last school district in which the child's natural or adoptive parents are known to have resided if the parents' whereabouts are unknown;

(3) If the school district specified in division (M)(2) of this section cannot be determined, the school district determined under section 2151.362 of the Revised Code, or if no district has been so determined, the school district as determined by the probate court of the county in which the child resides.

(4) Notwithstanding divisions (M)(1) to (3) of this section, if a school district is required by section 3313.65 of the Revised Code to pay tuition for a child, that district shall be the child's school district of residence.

(N) "Special education" means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability. "Special education" includes instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, including an early childhood education setting, and instruction in physical education.

(O) "Student with a visual impairment" means any person who is less than twenty-two years of age and who has a visual impairment as that term is defined in this section.

(P) "Transition services" means a coordinated set of activities for a child with a disability that meet all of the following:

(1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education; vocational education; integrated employment (including supported employment); continuing and adult education; adult

services; independent living; or community participation; 6393

(2) Is based on the individual child's needs, taking into 6394
account the child's strengths, preferences, and interests; 6395

(3) Includes instruction, related services, community 6396
experiences, the development of employment and other post-school 6397
adult living objectives, and, when appropriate, acquisition of 6398
daily living skills and functional vocational evaluation. 6399

"Transition services" for children with disabilities may be 6400
special education, if provided as specially designed instruction, 6401
or may be a related service, if required to assist a child with a 6402
disability to benefit from special education. 6403

(Q) "Visual impairment" for any individual means that one of 6404
the following applies to the individual: 6405

(1) The individual has a visual acuity of 20/200 or less in 6406
the better eye with correcting lenses or has a limited field of 6407
vision in the better eye such that the widest diameter subtends an 6408
angular distance of no greater than twenty degrees. 6409

(2) The individual has a medically indicated expectation of 6410
meeting the requirements of division (Q)(1) of this section over a 6411
period of time. 6412

(3) The individual has a medically diagnosed and medically 6413
uncorrectable limitation in visual functioning that adversely 6414
affects the individual's ability to read and write standard print 6415
at levels expected of the individual's peers of comparable ability 6416
and grade level. 6417

(R) "Ward of the state" has the same meaning as in section 6418
602(36) of the "Individuals with Disabilities Education 6419
Improvement Act of 2004," 20 U.S.C. 1401(36). 6420

Sec. 3323.02. As used in this section, "IDEIA" means the 6421
"Individuals with Disabilities Education Improvement Act of 2004," 6422

Pub. L. No. 108-446. 6423

It is the purpose of this chapter to ensure that all children 6424
with disabilities residing in this state who are at least three 6425
years of age and less than twenty-two years of age, including 6426
children with disabilities who have been suspended or expelled 6427
from school, have available to them a free appropriate public 6428
education. No school district, county ~~MR/DD~~ DD board, or other 6429
educational agency shall receive state or federal funds for 6430
special education and related services unless those services for 6431
children with disabilities are provided in accordance with IDEIA 6432
and related provisions of the Code of Federal Regulations, the 6433
provisions of this chapter, rules and standards adopted by the 6434
state board of education, and any procedures or guidelines issued 6435
by the superintendent of public instruction. Any options or 6436
discretion provided to the state by IDEIA may be exercised in 6437
state law or in rules or standards adopted by the state board of 6438
education. 6439

The state board of education shall establish rules or 6440
standards for the provision of special education and related 6441
services for all children with disabilities who are at least three 6442
years of age and less than twenty-two years of age residing in the 6443
state, regardless of the severity of their disabilities, including 6444
children with disabilities who have been suspended or expelled 6445
from school. The state law and the rules or standards of the state 6446
board of education may impose requirements that are not required 6447
by IDEIA or related provisions of the Code of Federal Regulations. 6448
The school district of residence is responsible, in all instances, 6449
for ensuring that the requirements of Part B of IDEIA are met for 6450
every eligible child in its jurisdiction, regardless of whether 6451
services are provided by another school district, other 6452
educational agency, or other agency, department, or entity, unless 6453
IDEIA or related provisions of the Code of Federal Regulations, 6454

another section of this chapter, or a rule adopted by the state 6455
board of education specifies that another school district, other 6456
educational agency, or other agency, department, or entity is 6457
responsible for ensuring compliance with Part B of IDEIA. 6458

Notwithstanding division (A)(4) of section 3301.53 of the 6459
Revised Code and any rules adopted pursuant to that section and 6460
division (A) of section 3313.646 of the Revised Code, a board of 6461
education of a school district may provide special education and 6462
related services for preschool children with disabilities in 6463
accordance with this chapter and section 3301.52, divisions (A)(1) 6464
to (3) and (A)(5) and (6) of section 3301.53, and sections 3301.54 6465
to 3301.59 of the Revised Code. 6466

The superintendent of public instruction may require any 6467
state or local agency to provide documentation that special 6468
education and related services for children with disabilities 6469
provided by the agency are in compliance with the requirements of 6470
this chapter. 6471

Not later than the first day of February of each year the 6472
superintendent of public instruction shall furnish the 6473
chairpersons of the education committees of the house of 6474
representatives and the senate with a report on the status of 6475
implementation of special education and related services for 6476
children with disabilities required by this chapter. The report 6477
shall include but shall not be limited to the following items: the 6478
most recent available figures on the number of children identified 6479
as children with disabilities and the number of identified 6480
children receiving special education and related services. The 6481
information contained in these reports shall be public 6482
information. 6483

Sec. 3323.021. As used in this section, "participating county 6484
~~MR/DD~~ DD board" means a county board of ~~mental retardation and~~ 6485

developmental disabilities electing to participate in the 6486
provision of or contracting for educational services for children 6487
under division (D) of section 5126.05 of the Revised Code. 6488

(A) When a school district, educational service center, or 6489
participating county ~~MR/DD~~ DD board enters into an agreement or 6490
contract with another school district, educational service center, 6491
or participating county ~~MR/DD~~ DD board to provide educational 6492
services to a disabled child during a school year, both of the 6493
following shall apply: 6494

(1) Beginning with fiscal year 1999, if the provider of the 6495
services intends to increase the amount it charges for some or all 6496
of those services during the next school year or if the provider 6497
intends to cease offering all or part of those services during the 6498
next school year, the provider shall notify the entity for which 6499
the services are provided of these intended changes no later ~~that~~ 6500
than the first day of March of the current fiscal year. 6501

(2) Beginning with fiscal year 1999, if the entity for which 6502
services are provided intends to cease obtaining those services 6503
from the provider for the next school year or intends to change 6504
the type or amount of services it obtains from the provider for 6505
the next school year, the entity shall notify the service provider 6506
of these intended changes no later than the first day of March of 6507
the current fiscal year. 6508

(B) School districts, educational service centers, 6509
participating county ~~MR/DD~~ DD boards, and other applicable 6510
governmental entities shall collaborate where possible to maximize 6511
federal sources of revenue to provide additional funds for special 6512
education related services for disabled children. Annually, each 6513
school district shall report to the department of education any 6514
amounts of money the district received through such medical 6515
assistance program. 6516

(C) The state board of education, the department of mental 6517
retardation and developmental disabilities, and the department of 6518
job and family services shall develop working agreements for 6519
pursuing additional funds for services for disabled children. 6520

Sec. 3323.03. The state board of education shall, in 6521
consultation with the department of health, the department of 6522
mental health, and the department of mental retardation and 6523
developmental disabilities, establish standards and procedures for 6524
the identification, location, and evaluation of all children with 6525
disabilities residing in the state, including children with 6526
disabilities who are homeless children or are wards of the state 6527
and children with disabilities attending nonpublic schools, 6528
regardless of the severity of their disabilities, and who are in 6529
need of special education and related services. The state board 6530
shall develop and implement a practical method to determine which 6531
children with disabilities are currently receiving needed special 6532
education and related services. 6533

In conducting the evaluation, the board of education of each 6534
school district shall use a variety of assessment tools and 6535
strategies to gather relevant functional, developmental, and 6536
academic information about the child, including information 6537
provided by the child's parent. The board of education of each 6538
school district, in consultation with the county ~~MR/DD~~ DD board, 6539
the county family and children first council, and the board of 6540
alcohol, drug addiction, and mental health services of each county 6541
in which the school district has territory, shall identify, 6542
locate, and evaluate all children with disabilities residing 6543
within the district to determine which children with disabilities 6544
are not receiving appropriate special education and related 6545
services. In addition, the board of education of each school 6546
district, in consultation with such county boards or council, 6547
shall identify, locate, and evaluate all children with 6548

disabilities who are enrolled by their parents in nonpublic 6549
elementary and secondary schools located within the public school 6550
district, without regard to where those children reside in 6551
accordance with rules of the state board of education or 6552
guidelines of the superintendent of public instruction. 6553

Each county ~~MR/DD~~ DD board, county family and children first 6554
council, and board of alcohol, drug addiction, and mental health 6555
services and the board's or council's contract agencies may 6556
transmit to boards of education the names and addresses of 6557
children with disabilities who are not receiving appropriate 6558
special education and related services. 6559

Sec. 3323.04. The state board of education, in consultation 6560
with the department of mental health and the department of mental 6561
retardation and developmental disabilities, shall establish 6562
procedures and standards for the development of individualized 6563
education programs for children with disabilities. 6564

The state board shall require the board of education of each 6565
school district to develop an individualized education program for 6566
each child with a disability who is at least three years of age 6567
and less than twenty-two years of age residing in the district in 6568
a manner that is in accordance with rules of the state board. 6569

Prior to the placement of a child with a disability in a 6570
program operated under section 3323.09 of the Revised Code, the 6571
district board of education shall consult the county ~~MR/DD~~ DD 6572
board of the county in which the child resides regarding the 6573
proposed placement. 6574

A child with a disability enrolled in a nonpublic school or 6575
facility shall be provided special education and related services, 6576
in accordance with an individualized education program, at no cost 6577
for those services, if the child is placed in, or referred to, 6578
that nonpublic school or facility by the department of education 6579

or a school district. 6580

The IEP team shall review the individualized education 6581
program of each child with a disability periodically, but at least 6582
annually, to determine whether the annual goals for the child are 6583
being achieved, and shall revise the individualized education 6584
program as appropriate. 6585

The state board shall establish procedures and standards to 6586
assure that to the maximum extent appropriate, children with 6587
disabilities, including children in public or private institutions 6588
or other care facilities, shall be educated with children who are 6589
not disabled. Special classes, separate schools, or other removal 6590
of children with disabilities from the regular educational 6591
environment shall be used only when the nature or severity of a 6592
child's disability is such that education in regular classes with 6593
supplementary aids and services cannot be achieved satisfactorily. 6594
6595

If an agency directly affected by a placement decision 6596
objects to such decision, an impartial hearing officer, appointed 6597
by the department of education from a list prepared by the 6598
department, shall conduct a hearing to review the placement 6599
decision. The agencies that are parties to a hearing shall divide 6600
the costs of such hearing equally. The decision of the hearing 6601
officer shall be final, except that any party to the hearing who 6602
is aggrieved by the findings or the decision of the hearing 6603
officer may appeal the findings or decision in accordance with 6604
division (H) of section 3323.05 of the Revised Code or the parent 6605
of any child affected by such decision may present a complaint in 6606
accordance with that section. 6607

Sec. 3323.05. The state board of education shall establish 6608
procedures to ensure that children with disabilities and their 6609
parents are guaranteed procedural safeguards under this chapter 6610

with respect to a free appropriate public education. 6611

The procedures shall include, but need not be limited to: 6612

(A) An opportunity for the parents of a child with a 6613
disability to examine all records related to the child and to 6614
participate in meetings with respect to identification, 6615
evaluation, and educational placement of the child, and to obtain 6616
an independent educational evaluation of the child; 6617

(B) Procedures to protect the rights of the child whenever 6618
the parents of the child are not known, an agency after making 6619
reasonable efforts cannot find the parents, or the child is a ward 6620
of the state, including the assignment, in accordance with section 6621
3323.051 of the Revised Code, of an individual to act as a 6622
surrogate for the parents; 6623

(C) Prior written notice to the child's parents of a school 6624
district's proposal or refusal to initiate or change the 6625
identification, evaluation, or educational placement of the child 6626
or the provision of a free appropriate education for the child. 6627
The procedures established under this division shall: 6628

(1) Be designed to ensure that the written prior notice is in 6629
the native language of the parents, unless it clearly is not 6630
feasible to do so. 6631

(2) Specify that the prior written notice shall include: 6632

(a) A description of the action proposed or refused by the 6633
district; 6634

(b) An explanation of why the district proposes or refuses to 6635
take the action and a description of each evaluation procedure, 6636
assessment, record, or report the district used as a basis for the 6637
proposed or refused action; 6638

(c) A statement that the parents of a child with a disability 6639
have protection under the procedural safeguards and, if the notice 6640

is not in regard to an initial referral for evaluation, the means 6641
by which a copy of a description of the procedural safeguards can 6642
be obtained; 6643

(d) Sources for parents to contact to obtain assistance in 6644
understanding the provisions of Part B of the "Individuals with 6645
Disabilities Education Improvement Act of 2004"; 6646

(e) A description of other options considered by the IEP team 6647
and the reason why those options were rejected; 6648

(f) A description of the factors that are relevant to the 6649
agency's proposal or refusal. 6650

(D) An opportunity for the child's parents to present 6651
complaints to the superintendent of the child's school district of 6652
residence with respect to any matter relating to the 6653
identification, evaluation, or educational placement of the child, 6654
or the provision of a free appropriate public education under this 6655
chapter. 6656

Within twenty school days after receipt of a complaint, the 6657
district superintendent or the superintendent's designee, without 6658
undue delay and at a time and place convenient to all parties, 6659
shall review the case, may conduct an administrative review, and 6660
shall notify all parties in writing of the superintendent's or 6661
designee's decision. Where the child is placed in a program 6662
operated by a county ~~MR/DD~~ DD board or other educational agency, 6663
the superintendent shall consult with the administrator of that 6664
county ~~MR/DD~~ DD board or agency. 6665

Any party aggrieved by the decision of the district 6666
superintendent or the superintendent's designee may file a 6667
complaint with the state board as provided under division (E) of 6668
this section, request mediation as provided under division (F) of 6669
this section, or present a due process complaint notice and 6670
request for a due process hearing in writing to the superintendent 6671

of the district, with a copy to the state board, as provided under 6672
division (G) of this section. 6673

(E) An opportunity for a party to file a complaint with the 6674
state board of education with respect to the identification, 6675
evaluation, or educational placement of the child, or the 6676
provision of a free appropriate public education to such child. 6677
The department of education shall review and, where appropriate, 6678
investigate the complaint and issue findings. 6679

(F) An opportunity for parents and a school district to 6680
resolve through mediation disputes involving any matter. 6681

(1) The procedures established under this section shall 6682
ensure that the mediation process is voluntary on the part of the 6683
parties, is not used to deny or delay a parent's right to a due 6684
process hearing or to deny any other rights afforded under this 6685
chapter, and is conducted by a qualified and impartial mediator 6686
who is trained in effective mediation techniques. 6687

(2) A school district may establish procedures to offer to 6688
parents and schools that choose not to use the mediation process, 6689
an opportunity to meet, at a time and location convenient to the 6690
parents, with a disinterested party to encourage the use, and 6691
explain the benefits, of the mediation process to the parents. The 6692
disinterested party shall be an individual who is under contract 6693
with a parent training and information center or community parent 6694
resource center in the state or is under contract with an 6695
appropriate alternative dispute resolution entity. 6696

(3) The department shall maintain a list of individuals who 6697
are qualified mediators and knowledgeable in laws and regulations 6698
relating to the provision of special education and related 6699
services. 6700

(4) The department shall bear the cost of the mediation 6701
process, including the costs of meetings described in division 6702

(F)(2) of this section. 6703

(5) Each session in the mediation process shall be scheduled 6704
in a timely manner and shall be held in a location that is 6705
convenient to the parties to the dispute. 6706

(6) Discussions that occur during the mediation process shall 6707
be confidential and shall not be used as evidence in any 6708
subsequent due process hearing or civil proceeding. 6709

(7) In the case that a resolution is reached to resolve the 6710
complaint through the mediation process, the parties shall execute 6711
a legally binding agreement that sets forth the resolution and 6712
that: 6713

(a) States that all discussions that occurred during the 6714
mediation process shall be confidential and shall not be used as 6715
evidence in any subsequent due process hearing or civil 6716
proceeding; 6717

(b) Is signed by both the parent and a representative for the 6718
school district who has the authority to bind the district; 6719

(c) Is enforceable in any state court of competent 6720
jurisdiction or in a district court of the United States. 6721

(G)(1) An opportunity for parents or a school district to 6722
present a due process complaint and request for a due process 6723
hearing to the superintendent of the school district of the 6724
child's residence with respect to the identification, evaluation, 6725
or educational placement of the child, or the provision of a free 6726
appropriate public education to the child. The party presenting 6727
the due process complaint and request for a due process hearing 6728
shall provide due process complaint notice to the other party and 6729
forward a copy of the notice to the state board. The due process 6730
complaint notice shall include: 6731

(a) The name of the child, the address of the residence of 6732

the child, or the available contact information in the case of a 6733
homeless child, and the name of the school the child is attending; 6734

(b) A description of the nature of the problem of the child 6735
relating to the proposed initiation or change, including facts 6736
relating to the problem; 6737

(c) A proposed resolution of the problem to the extent known 6738
and available to the party at the time. 6739

A party shall not have a due process hearing until the party, 6740
or the attorney representing the party, files a notice that meets 6741
the requirement for filing a due process complaint notice. 6742

A due process hearing shall be conducted by an impartial 6743
hearing officer in accordance with standards and procedures 6744
adopted by the state board. A hearing officer shall not be an 6745
employee of the state board or any agency involved in the 6746
education or care of the child or a person having a personal or 6747
professional interest that conflicts with the person's objectivity 6748
in the hearing. A hearing officer shall possess knowledge of, and 6749
the ability to understand, the provisions of the "Individuals with 6750
Disabilities Education Improvement Act of 2004," federal and state 6751
regulations pertaining to that act, and legal interpretations of 6752
that act by federal and state courts; possess the knowledge and 6753
ability to conduct hearings in accordance with appropriate 6754
standard legal practice; and possess the knowledge and ability to 6755
render and write decisions in accordance with appropriate standard 6756
legal practice. The due process requirements of section 615 of the 6757
"Individuals with Disabilities Education Improvement Act of 2004," 6758
20 U.S.C. 1415, apply to due process complaint notices and 6759
requests for due process hearings and to due process hearings held 6760
under division (G) of this section, including, but not limited to, 6761
timelines for requesting hearings, requirements for sufficient 6762
complaint notices, resolution sessions, and sufficiency and 6763
hearing decisions. 6764

(2) Discussions that occur during a resolution session shall 6765
be confidential and shall not be used as evidence in any 6766
subsequent due process hearing or civil proceeding. If a 6767
resolution to the dispute is reached at a resolution session, the 6768
parties must execute a legally binding written settlement 6769
agreement which shall state that all discussions that occurred 6770
during the resolution process shall be confidential and shall not 6771
be used as evidence in any subsequent due process hearing or civil 6772
proceeding. 6773

(3) A party to a hearing under division (G) of this section 6774
shall be accorded: 6775

(a) The right to be accompanied and advised by counsel and by 6776
individuals with special knowledge or training with respect to the 6777
problems of children with disabilities; 6778

(b) The right to present evidence and confront, 6779
cross-examine, and compel the attendance of witnesses; 6780

(c) The right to a written or electronic verbatim record of 6781
the hearing; 6782

(d) The right to written findings of fact and decisions, 6783
which findings of fact and decisions shall be made available to 6784
the public consistent with the requirements relating to the 6785
confidentiality of personally identifiable data, information, and 6786
records collected and maintained by state educational agencies and 6787
local educational agencies; and shall be transmitted to the 6788
advisory panel established and maintained by the department for 6789
the purpose of providing policy guidance with respect to special 6790
education and related services for children with disabilities in 6791
the state. 6792

(H) An opportunity for any party aggrieved by the findings 6793
and decision rendered in a hearing under division (G) of this 6794
section to appeal within forty-five days of notification of the 6795

decision to the state board, which shall appoint a state level officer who shall review the case and issue a final order. The state level officer shall be appointed and shall review the case in accordance with standards and procedures adopted by the state board.

Any party aggrieved by the final order of the state level officer may appeal the final order, in accordance with Chapter 119. of the Revised Code, within forty-five days after notification of the order to the court of common pleas of the county in which the child's school district of residence is located, or to a district court of the United States within ninety days after the date of the decision of the state level review officer, as provided in section 615(i)(2) of the "Individuals with Disabilities Education Improvement Act of 2004," 20 U.S.C. 1415(i)(2).

Sec. 3323.09. (A) As used in this section:

(1) "Home" has the meaning given in section 3313.64 of the Revised Code.

(2) "Preschool child" means a child who is at least age three but under age six on the thirtieth day of September of an academic year.

(B) Each county ~~MR/DD~~ DD board shall establish special education programs for all children with disabilities who in accordance with section 3323.04 of the Revised Code have been placed in special education programs operated by the county board and for preschool children who are developmentally delayed or at risk of being developmentally delayed. The board annually shall submit to the department of education a plan for the provision of these programs and, if applicable, a request for approval of units under section 3317.05 of the Revised Code. The superintendent of public instruction shall review the plan and approve or modify it

in accordance with rules adopted by the state board of education 6827
under section 3301.07 of the Revised Code. The superintendent of 6828
public instruction shall compile the plans submitted by county 6829
boards and shall submit a comprehensive plan to the state board. 6830

A county ~~MR/DD~~ DD board may combine transportation for 6831
children enrolled in classes funded under section 3317.20 or units 6832
approved under section 3317.05 with transportation for children 6833
and adults enrolled in programs and services offered by the board 6834
under section 5126.12 of the Revised Code. 6835

(C) A county ~~MR/DD~~ DD board that during the school year 6836
provided special education pursuant to this section for any child 6837
with mental disabilities under twenty-two years of age shall 6838
prepare and submit the following reports and statements: 6839

(1) The board shall prepare a statement for each child who at 6840
the time of receiving such special education was a resident of a 6841
home and was not in the legal or permanent custody of an Ohio 6842
resident or a government agency in this state, and whose natural 6843
or adoptive parents are not known to have been residents of this 6844
state subsequent to the child's birth. The statement shall contain 6845
the child's name, the name of the child's school district of 6846
residence, the name of the county board providing the special 6847
education, and the number of months, including any fraction of a 6848
month, it was provided. Not later than the thirtieth day of June, 6849
the board shall forward a certified copy of such statement to both 6850
the director of mental retardation and developmental disabilities 6851
and to the home. 6852

Within thirty days after its receipt of a statement, the home 6853
shall pay tuition to the county board computed in the manner 6854
prescribed by section 3323.141 of the Revised Code. 6855

(2) The board shall prepare a report for each school district 6856
that is the school district of residence of one or more of such 6857

children for whom statements are not required by division (C)(1) 6858
of this section. The report shall contain the name of the county 6859
board providing special education, the name of each child 6860
receiving special education, the number of months, including 6861
fractions of a month, that the child received it, and the name of 6862
the child's school district of residence. Not later than the 6863
thirtieth day of June, the board shall forward certified copies of 6864
each report to the school district named in the report, the 6865
superintendent of public instruction, and the director of mental 6866
retardation and developmental disabilities. 6867

Sec. 3323.091. (A) The department of mental health, the 6868
department of mental retardation and developmental disabilities, 6869
the department of youth services, and the department of 6870
rehabilitation and correction shall establish and maintain special 6871
education programs for children with disabilities in institutions 6872
under their jurisdiction according to standards adopted by the 6873
state board of education. 6874

(B) The superintendent of each state institution required to 6875
provide services under division (A) of this section, and each 6876
county ~~MR/DD~~ DD board, providing special education for preschool 6877
children with disabilities under this chapter may apply to the 6878
state department of education for unit funding, which shall be 6879
paid in accordance with sections 3317.052 and 3317.053 of the 6880
Revised Code. 6881

The superintendent of each state institution required to 6882
provide services under division (A) of this section may apply to 6883
the department of education for special education and related 6884
services weighted funding for children with disabilities other 6885
than preschool children with disabilities, calculated in 6886
accordance with section 3317.201 of the Revised Code. 6887

Each county ~~MR/DD~~ DD board providing special education for 6888

children with disabilities other than preschool children with 6889
disabilities may apply to the department of education for base 6890
cost and special education and related services weighted funding 6891
calculated in accordance with section 3317.20 of the Revised Code. 6892
6893

(C) In addition to the authorization to apply for state 6894
funding described in division (B) of this section, each state 6895
institution required to provide services under division (A) of 6896
this section is entitled to tuition payments calculated in the 6897
manner described in division (C) of this section. 6898

On or before the thirtieth day of June of each year, the 6899
superintendent of each institution that during the school year 6900
provided special education pursuant to this section shall prepare 6901
a statement for each child with a disability under twenty-two 6902
years of age who has received special education. The statement 6903
shall contain the child's data verification code assigned pursuant 6904
to division (D)(2) of section 3301.0714 of the Revised Code and 6905
the name of the child's school district of residence. Within sixty 6906
days after receipt of such statement, the department of education 6907
shall perform one of the following: 6908

(1) For any child except a preschool child with a disability 6909
described in division (C)(2) of this section, pay to the 6910
institution submitting the statement an amount equal to the 6911
tuition calculated under division (A) of section 3317.08 of the 6912
Revised Code for the period covered by the statement, and deduct 6913
the same from the amount of state funds, if any, payable under 6914
sections 3317.022 and 3317.023 of the Revised Code, to the child's 6915
school district of residence or, if the amount of such state funds 6916
is insufficient, require the child's school district of residence 6917
to pay the institution submitting the statement an amount equal to 6918
the amount determined under this division. 6919

(2) For any preschool child with a disability not included in 6920

a unit approved under division (B) of section 3317.05 of the Revised Code, perform the following:

(a) Pay to the institution submitting the statement an amount equal to the tuition calculated under division (B) of section 3317.08 of the Revised Code for the period covered by the statement, except that in calculating the tuition under that section the operating expenses of the institution submitting the statement under this section shall be used instead of the operating expenses of the school district of residence;

(b) Deduct from the amount of state funds, if any, payable under sections 3317.022 and 3317.023 of the Revised Code to the child's school district of residence an amount equal to the amount paid under division (C)(2)(a) of this section.

Sec. 3323.12. The board of education of a school district shall provide home instruction for children with disabilities who are at least three years of age and less than twenty-two years of age and who are unable to attend school, even with the help of special transportation. The board may arrange for the provision of home instruction for a child by a cooperative agreement or contract with a county ~~MR/DD~~ DD board or other educational agency. For the purposes of determining formula ADM under section 3317.03 of the Revised Code, five hours of home instruction shall be equivalent to attendance for five school days.

Sec. 3323.141. (A) When a child who is not in the legal or permanent custody of an Ohio resident or a government agency in this state and whose natural or adoptive parents are not known to have been residents of this state subsequent to the child's birth is a resident of a home as defined in section 3313.64 of the Revised Code and receives special education and related services from a school district or county ~~MR/DD~~ DD board, the home shall

pay tuition to the board providing the special education. 6951

(B) In the case of a child described in division (A) of this 6952
section who receives special education and related services from a 6953
school district, tuition shall be the amount determined under 6954
division (B)(1) or (2) of this section. 6955

(1) For a child other than a child described in division 6956
(B)(2) of this section the tuition shall be an amount equal to the 6957
sum of the following: 6958

(a) Tuition as determined in the manner provided for by 6959
division (B) of section 3317.081 of the Revised Code for the 6960
district that provides the special education; 6961

(b) Such excess cost as is determined by using a formula 6962
established by rule of the department of education. The excess 6963
cost computed in this section shall not be used as excess cost 6964
computed under section 3323.14 of the Revised Code. 6965

(2) For a child who is a preschool child with a disability 6966
not included in a unit approved under division (B) of section 6967
3317.05 of the Revised Code, the tuition shall be computed as 6968
follows: 6969

(a) Determine the amount of the tuition of the district 6970
providing the education for the child as calculated under division 6971
(B) of section 3317.08 of the Revised Code; 6972

(b) For each type of special education service included in 6973
the computation of the amount of tuition under division (B)(2)(a) 6974
of this section, divide the amount determined for that computation 6975
under division (B)(2) of section 3317.08 of the Revised Code by 6976
the total number of preschool children with disabilities used for 6977
that computation under division (B)(3) of section 3317.08 of the 6978
Revised Code; 6979

(c) Determine the sum of the quotients obtained under 6980

division (B)(2)(b) of this section; 6981

(d) Determine the sum of the amounts determined under 6982
divisions (B)(2)(a) and (c) of this section. 6983

(C) In the case of a child described in division (A) of this 6984
section who receives special education and related services from a 6985
county ~~MR/DD~~ DD board, tuition shall be the amount determined 6986
under division (C)(1) or (2) of this section. 6987

(1) For a child other than a child described in division 6988
(C)(2) of this section, the tuition shall be an amount equal to 6989
such board's per capita cost of providing special education and 6990
related services for children at least three but less than 6991
twenty-two years of age as determined by using a formula 6992
established by rule of the department of mental retardation and 6993
developmental disabilities. 6994

(2) For a child who is a preschool child with a disability 6995
not included in a unit approved under division (B) of section 6996
3317.05 of the Revised Code, the tuition shall equal the sum of 6997
the amounts of each such board's per capita cost of providing each 6998
of the special education or related service that the child 6999
receives. The calculation of tuition shall be made by using a 7000
formula established by rule of the department of mental 7001
retardation and developmental disabilities. The formula for the 7002
calculation of per capita costs under division (C)(2) of this 7003
section shall be based only on each such ~~MR/DD~~ county DD board's 7004
cost of providing each type of special education or related 7005
service to preschool children with disabilities not included in a 7006
unit approved under division (B) of section 3317.05 of the Revised 7007
Code. 7008

(D) If a home fails to pay the tuition required under this 7009
section, the board of education or county ~~MR/DD~~ DD board providing 7010
the education may recover in a civil action the tuition and the 7011

expenses incurred in prosecuting the action, including court costs 7012
and reasonable attorney's fees. If the prosecuting attorney or 7013
city director of law represents the board in such action, costs 7014
and reasonable attorney's fees awarded by the court, based upon 7015
the time spent preparing and presenting the case by the 7016
prosecuting attorney, director, or a designee of either, shall be 7017
deposited in the county or city general fund. 7018

Sec. 3323.142. This section does not apply to any preschool 7019
child with a disability except if included in a unit approved 7020
under division (B) of section 3317.05 of the Revised Code. 7021

As used in this section, "per pupil amount" for a preschool 7022
child with a disability included in such an approved unit means 7023
the amount determined by dividing the amount received for the 7024
classroom unit in which the child has been placed by the number of 7025
children in the unit. For any other child, "per pupil amount" 7026
means the amount paid for the child under section 3317.20 of the 7027
Revised Code. 7028

When a school district places or has placed a child with a 7029
county ~~MR/DD~~ DD board for special education, but another district 7030
is responsible for tuition under section 3313.64 or 3313.65 of the 7031
Revised Code and the child is not a resident of the territory 7032
served by the county ~~MR/DD~~ DD board, the board may charge the 7033
district responsible for tuition with the educational costs in 7034
excess of the per pupil amount received by the board under Chapter 7035
3317. of the Revised Code. The amount of the excess cost shall be 7036
determined by the formula established by rule of the department of 7037
education under section 3323.14 of the Revised Code, and the 7038
payment for such excess cost shall be made by the school district 7039
directly to the county ~~MR/DD~~ DD board. 7040

A school district board of education and the county ~~MR/DD~~ DD 7041
board that serves the school district may negotiate and contract, 7042

at or after the time of placement, for payments by the board of 7043
education to the county ~~MR/DD~~ DD board for additional services 7044
provided to a child placed with the county ~~MR/DD~~ DD board and 7045
whose individualized education program established pursuant to 7046
section 3323.08 of the Revised Code requires additional services 7047
that are not routinely provided children in the county ~~MR/DD~~ DD 7048
board's program but are necessary to maintain the child's 7049
enrollment and participation in the program. Additional services 7050
may include, but are not limited to, specialized supplies and 7051
equipment for the benefit of the child and instruction, training, 7052
or assistance provided by staff members other than staff members 7053
for which funding is received under Chapter 3317. of the Revised 7054
Code. 7055

Sec. 3326.99. (A) Whoever violates division (F) of section 7056
3326.24 of the Revised Code shall be punished as follows: 7057

(1) Except as otherwise provided in division (A)(2) of this 7058
section, the person is guilty of a misdemeanor of the fourth 7059
degree. 7060

(2) The person is guilty of a misdemeanor of the first degree 7061
if both of the following conditions apply: 7062

(a) The employee who is the subject of the report that the 7063
person fails to submit was required to be reported for the 7064
commission or alleged commission of an act or offense involving 7065
the infliction on a child of any physical or mental wound, injury, 7066
disability, or condition of a nature that constitutes abuse or 7067
neglect of the child; 7068

(b) During the period between the violation of division (F) 7069
of section 3326.24 of the Revised Code and the conviction of or 7070
plea of guilty by the person for that violation, the employee who 7071
is the subject of the report that the person fails to submit 7072
inflicts on any child attending a school district, educational 7073

service center, public or nonpublic school, or county board of 7074
~~mental retardation and~~ developmental disabilities where the 7075
employee works any physical or mental wound, injury, disability, 7076
or condition of a nature that constitutes abuse or neglect of the 7077
child. 7078

(B) Whoever violates division (B) of section 3326.243 of the 7079
Revised Code is guilty of a misdemeanor of the first degree. 7080

Sec. 3701.93. As used in sections 3701.931 to 3701.936 of the 7081
Revised Code: 7082

(A) "Board of health" has the same meaning as in section 7083
3717.01 of the Revised Code. 7084

(B) "Nonpublic school" means a chartered nonpublic school 7085
that meets the minimum education standards prescribed by the state 7086
board of education under section 3301.07 of the Revised Code. 7087
"Nonpublic school" includes facilities used for child care 7088
programs for preschool children operated by the school. 7089

(C) "Public school" means either of the following: 7090

(1) A school operated by a school district, educational 7091
service center, or county board of ~~mental retardation and~~ 7092
developmental disabilities, including facilities used for child 7093
care programs for preschool children operated by the district, 7094
center, or board; 7095

(2) A community school established under Chapter 3314. of the 7096
Revised Code, including a facility operated by an internet- or 7097
computer-based community school, as defined in section 3314.02 of 7098
the Revised Code, that is used as a classroom or laboratory for 7099
one or more students. "Public school" does not mean the residence 7100
of a student enrolled in an internet- or computer-based community 7101
school. 7102

(D) "School" does not mean any of the following: 7103

(1) A child care program for preschool children that is 7104
licensed by the department of job and family services pursuant to 7105
Chapter 5104. of the Revised Code; 7106

(2) A child care program for preschool children that is not 7107
operated by a public or nonpublic school; 7108

(3) A chartered kindergarten that is associated with a 7109
freestanding preschool and that is not operated by a school 7110
district, educational service center, or county board of ~~mental~~ 7111
~~retardation and~~ developmental disabilities. 7112

Sec. 3701.932. (A) Each board of health shall report the 7113
findings from the inspection of each public and nonpublic school 7114
building and associated grounds conducted under section 3701.931 7115
of the Revised Code to all of the following: 7116

(1) The principal or chief administrator of the building; 7117

(2) The administrator responsible for facility operations and 7118
maintenance on behalf of the school district, educational service 7119
center, county board of ~~mental-retardation and~~ developmental 7120
disabilities, or community school controlling the inspected 7121
building and grounds; 7122

(3) In the case of a school operated by a school district, 7123
the superintendent and board of education of that district; 7124

(4) In the case of a school operated by an educational 7125
service center or county board of ~~mental-retardation and~~ 7126
developmental disabilities, the center or board; 7127

(5) The auditor of state. 7128

(B) Each report shall include recommendations for changes 7129
that the board of health determines may be needed to abate 7130
conditions that are hazardous to occupants. The report shall 7131
include recommendations made pursuant to an inspection conducted 7132
under section 3707.26 of the Revised Code. 7133

(C) The report is a public record under section 149.43 of the Revised Code. 7134
7135

Sec. 3701.933. The board of education of each school district, the governing board of each educational service center, the county board of ~~mental retardation and~~ developmental disabilities, the governing authority of each community school, and the chief administrator of each nonpublic school shall submit to the board of health, by a deadline and in a manner established by the director of health, a written plan for abatement of the conditions determined to be hazardous to occupants, as described in the report submitted under section 3701.932 of the Revised Code. The plan shall include a schedule for completion of the abatement. 7136
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The board of health shall determine compliance with the written plan for abatement. On completion of any plan for abatement, the board of health shall submit a supplemental report to all parties specified in division (A) of section 3701.932 of the Revised Code. 7147
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The plan submitted under this section is a public record under section 149.43 of the Revised Code. 7152
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Sec. 4109.06. (A) This chapter does not apply to the following: 7154
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(1) Minors who are students working on any properly guarded machines in the manual training department of any school when the work is performed under the personal supervision of an instructor; 7156
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(2) Students participating in a vocational program approved by the Ohio department of education; 7159
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(3) A minor participating in a play, pageant, or concert produced by an outdoor historical drama corporation, a professional traveling theatrical production, a professional 7161
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concert tour, or a personal appearance tour as a professional 7164
motion picture star, or as an actor or performer in motion 7165
pictures or in radio or television productions in accordance with 7166
the rules adopted pursuant to division (A) of section 4109.05 of 7167
the Revised Code; 7168

(4) The participation, without remuneration of a minor and 7169
with the consent of a parent or guardian, in a performance given 7170
by a church, school, or academy, or at a concert or entertainment 7171
given solely for charitable purposes, or by a charitable or 7172
religious institution; 7173

(5) Minors who are employed by their parents in occupations 7174
other than occupations prohibited by rule adopted under this 7175
chapter; 7176

(6) Minors engaged in the delivery of newspapers to the 7177
consumer; 7178

(7) Minors who have received a high school diploma or a 7179
certificate of attendance from an accredited secondary school or a 7180
certificate of high school equivalence; 7181

(8) Minors who are currently heads of households or are 7182
parents contributing to the support of their children; 7183

(9) Minors engaged in lawn mowing, snow shoveling, and other 7184
related employment; 7185

(10) Minors employed in agricultural employment in connection 7186
with farms operated by their parents, grandparents, or guardians 7187
where they are members of the guardians' household. Minors are not 7188
exempt from this chapter if they reside in agricultural labor 7189
camps as defined in section 3733.41 of the Revised Code; 7190

(11) Students participating in a program to serve as precinct 7191
officers as authorized by section 3501.22 of the Revised Code. 7192

(B) Sections 4109.02, 4109.08, 4109.09, and 4109.11 of the 7193

Revised Code do not apply to the following: 7194

(1) Minors who work in a sheltered workshop operated by a 7195
county board of ~~mental retardation~~ developmental disabilities; 7196

(2) Minors performing services for a nonprofit organization 7197
where the minor receives no compensation, except for any expenses 7198
incurred by the minor or except for meals provided to the minor; 7199

(3) Minors who are employed in agricultural employment and 7200
who do not reside in agricultural labor camps. 7201

(C) Division (D) of section 4109.07 of the Revised Code does 7202
not apply to minors who have their employment hours established as 7203
follows: 7204

(1) A minor adjudicated to be an unruly child or delinquent 7205
child who, as a result of the adjudication, is placed on probation 7206
may either file a petition in the juvenile court in whose 7207
jurisdiction the minor resides, or apply to the superintendent or 7208
to the chief administrative officer who issued the minor's age and 7209
schooling certificate pursuant to section 3331.01 of the Revised 7210
Code, alleging the restrictions on the hours of employment 7211
described in division (D) of section 4109.07 of the Revised Code 7212
will cause a substantial hardship or are not in the minor's best 7213
interests. Upon receipt of a petition or application, the court, 7214
the superintendent, or the chief administrative officer, as 7215
appropriate, shall consult with the person required to supervise 7216
the minor on probation. If after that consultation, the court, the 7217
superintendent, or the chief administrative officer finds the 7218
minor has failed to show the restrictions will result in a 7219
substantial hardship or that the restrictions are not in the 7220
minor's best interests, the court, the superintendent, or the 7221
chief administrative officer shall uphold the restrictions. If 7222
after that consultation, the court, the superintendent, or the 7223
chief administrative officer finds the minor has shown the 7224

restricted hours will cause a substantial hardship or are not in 7225
the minor's best interests, the court, the superintendent, or the 7226
chief administrative officer shall establish differing hours of 7227
employment for the minor and notify the minor and the minor's 7228
employer of those hours, which shall be binding in lieu of the 7229
restrictions on the hours of employment described in division (D) 7230
of section 4109.07 of the Revised Code. 7231

(2) Any minor to whom division (C)(1) of this section does 7232
not apply may either file a petition in the juvenile court in 7233
whose jurisdiction the person resides, or apply to the 7234
superintendent or to the chief administrative officer who issued 7235
the minor's age and schooling certificate pursuant to section 7236
3331.01 of the Revised Code, alleging the restrictions on the 7237
hours of employment described in division (D) of section 4109.07 7238
of the Revised Code will cause a substantial hardship or are not 7239
in the minor's best interests. 7240

If, as a result of a petition or application, the court, the 7241
superintendent, or the chief administrative officer, as 7242
appropriate, finds the minor has failed to show such restrictions 7243
will result in a substantial hardship or that the restrictions are 7244
not in the minor's best interests, the court, the superintendent, 7245
or the chief administrative officer shall uphold the restrictions. 7246
If the court, the superintendent, or the chief administrative 7247
officer finds the minor has shown the restricted hours will cause 7248
a substantial hardship or are not in the minor's best interests, 7249
the court, the superintendent, or the chief administrative officer 7250
shall establish the hours of employment for the minor and shall 7251
notify the minor and the minor's employer of those hours. 7252

(D) Section 4109.03, divisions (A) and (C) of section 7253
4109.02, and division (B) of section 4109.08 of the Revised Code 7254
do not apply to minors who are sixteen or seventeen years of age 7255
and who are employed at a seasonal amusement or recreational 7256

establishment. 7257

(E) As used in this section, "certificate of high school 7258
equivalence" means a statement issued by the state board of 7259
education or an equivalent agency of another state that the holder 7260
of the statement has achieved the equivalent of a high school 7261
education as measured by scores obtained on the tests of general 7262
educational development published by the American council on 7263
education. 7264

Sec. 4141.29. Each eligible individual shall receive benefits 7265
as compensation for loss of remuneration due to involuntary total 7266
or partial unemployment in the amounts and subject to the 7267
conditions stipulated in this chapter. 7268

(A) No individual is entitled to a waiting period or benefits 7269
for any week unless the individual: 7270

(1) Has filed a valid application for determination of 7271
benefit rights in accordance with section 4141.28 of the Revised 7272
Code; 7273

(2) Has made a claim for benefits in accordance with section 7274
4141.28 of the Revised Code; 7275

(3) Has registered at an employment office or other 7276
registration place maintained or designated by the director of job 7277
and family services. Registration shall be made in accordance with 7278
the time limits, frequency, and manner prescribed by the director. 7279

(4)(a)(i) Is able to work and available for suitable work 7280
and, except as provided in division (A)(4)(a)(ii) of this section, 7281
is actively seeking suitable work either in a locality in which 7282
the individual has earned wages subject to this chapter during the 7283
individual's base period, or if the individual leaves that 7284
locality, then in a locality where suitable work normally is 7285
performed. 7286

(ii) The director may waive the requirement that a claimant 7287
be actively seeking work when the director finds that the 7288
individual has been laid off and the employer who laid the 7289
individual off has notified the director within ten days after the 7290
layoff, that work is expected to be available for the individual 7291
within a specified number of days not to exceed forty-five 7292
calendar days following the last day the individual worked. In the 7293
event the individual is not recalled within the specified period, 7294
this waiver shall cease to be operative with respect to that 7295
layoff. 7296

(b) The individual shall be instructed as to the efforts that 7297
the individual must make in the search for suitable work, except 7298
where the active search for work requirement has been waived under 7299
division (A)(4)(a) of this section, and shall keep a record of 7300
where and when the individual has sought work in complying with 7301
those instructions and, upon request, shall produce that record 7302
for examination by the director. 7303

(c) An individual who is attending a training course approved 7304
by the director meets the requirement of this division, if 7305
attendance was recommended by the director and the individual is 7306
regularly attending the course and is making satisfactory 7307
progress. An individual also meets the requirements of this 7308
division if the individual is participating and advancing in a 7309
training program, as defined in division (P) of section 5709.61 of 7310
the Revised Code, and if an enterprise, defined in division (B) of 7311
section 5709.61 of the Revised Code, is paying all or part of the 7312
cost of the individual's participation in the training program 7313
with the intention of hiring the individual for employment as a 7314
new employee, as defined in division (L) of section 5709.61 of the 7315
Revised Code, for at least ninety days after the individual's 7316
completion of the training program. 7317

(d) An individual who becomes unemployed while attending a 7318

regularly established school and whose base period qualifying 7319
weeks were earned in whole or in part while attending that school, 7320
meets the availability and active search for work requirements of 7321
division (A)(4)(a) of this section if the individual regularly 7322
attends the school during weeks with respect to which the 7323
individual claims unemployment benefits and makes self available 7324
on any shift of hours for suitable employment with the 7325
individual's most recent employer or any other employer in the 7326
individual's base period, or for any other suitable employment to 7327
which the individual is directed, under this chapter. 7328

(e) The director shall adopt any rules that the director 7329
deems necessary for the administration of division (A)(4) of this 7330
section. 7331

(f) Notwithstanding any other provisions of this section, no 7332
otherwise eligible individual shall be denied benefits for any 7333
week because the individual is in training approved under section 7334
236(a)(1) of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 7335
2296, nor shall that individual be denied benefits by reason of 7336
leaving work to enter such training, provided the work left is not 7337
suitable employment, or because of the application to any week in 7338
training of provisions in this chapter, or any applicable federal 7339
unemployment compensation law, relating to availability for work, 7340
active search for work, or refusal to accept work. 7341

For the purposes of division (A)(4)(f) of this section, 7342
"suitable employment" means with respect to an individual, work of 7343
a substantially equal or higher skill level than the individual's 7344
past adversely affected employment, as defined for the purposes of 7345
the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, and 7346
wages for such work at not less than eighty per cent of the 7347
individual's average weekly wage as determined for the purposes of 7348
that federal act. 7349

(5) Is unable to obtain suitable work. An individual who is 7350

provided temporary work assignments by the individual's employer 7351
under agreed terms and conditions of employment, and who is 7352
required pursuant to those terms and conditions to inquire with 7353
the individual's employer for available work assignments upon the 7354
conclusion of each work assignment, is not considered unable to 7355
obtain suitable employment if suitable work assignments are 7356
available with the employer but the individual fails to contact 7357
the employer to inquire about work assignments. 7358

(6) Participates in reemployment services, such as job search 7359
assistance services, if the individual has been determined to be 7360
likely to exhaust benefits under this chapter, including 7361
compensation payable pursuant to 5 U.S.C.A. Chapter 85, other than 7362
extended compensation, and needs reemployment services pursuant to 7363
the profiling system established by the director under division 7364
(K) of this section, unless the director determines that: 7365

(a) The individual has completed such services; or 7366

(b) There is justifiable cause for the claimant's failure to 7367
participate in such services. 7368

(B) An individual suffering total or partial unemployment is 7369
eligible for benefits for unemployment occurring subsequent to a 7370
waiting period of one week and no benefits shall be payable during 7371
this required waiting period. Not more than one week of waiting 7372
period shall be required of any individual in any benefit year in 7373
order to establish the individual's eligibility for total or 7374
partial unemployment benefits. 7375

(C) The waiting period for total or partial unemployment 7376
shall commence on the first day of the first week with respect to 7377
which the individual first files a claim for benefits at an 7378
employment office or other place of registration maintained or 7379
designated by the director or on the first day of the first week 7380
with respect to which the individual has otherwise filed a claim 7381

for benefits in accordance with the rules of the department of job 7382
and family services, provided such claim is allowed by the 7383
director. 7384

(D) Notwithstanding division (A) of this section, no 7385
individual may serve a waiting period or be paid benefits under 7386
the following conditions: 7387

(1) For any week with respect to which the director finds 7388
that: 7389

(a) The individual's unemployment was due to a labor dispute 7390
other than a lockout at any factory, establishment, or other 7391
premises located in this or any other state and owned or operated 7392
by the employer by which the individual is or was last employed; 7393
and for so long as the individual's unemployment is due to such 7394
labor dispute. No individual shall be disqualified under this 7395
provision if either of the following applies: 7396

(i) The individual's employment was with such employer at any 7397
factory, establishment, or premises located in this state, owned 7398
or operated by such employer, other than the factory, 7399
establishment, or premises at which the labor dispute exists, if 7400
it is shown that the individual is not financing, participating 7401
in, or directly interested in such labor dispute; 7402

(ii) The individual's employment was with an employer not 7403
involved in the labor dispute but whose place of business was 7404
located within the same premises as the employer engaged in the 7405
dispute, unless the individual's employer is a wholly owned 7406
subsidiary of the employer engaged in the dispute, or unless the 7407
individual actively participates in or voluntarily stops work 7408
because of such dispute. If it is established that the claimant 7409
was laid off for an indefinite period and not recalled to work 7410
prior to the dispute, or was separated by the employer prior to 7411
the dispute for reasons other than the labor dispute, or that the 7412

individual obtained a bona fide job with another employer while 7413
the dispute was still in progress, such labor dispute shall not 7414
render the employee ineligible for benefits. 7415

(b) The individual has been given a disciplinary layoff for 7416
misconduct in connection with the individual's work. 7417

(2) For the duration of the individual's unemployment if the 7418
director finds that: 7419

(a) The individual quit work without just cause or has been 7420
discharged for just cause in connection with the individual's 7421
work, provided division (D)(2) of this section does not apply to 7422
the separation of a person under any of the following 7423
circumstances: 7424

(i) Separation from employment for the purpose of entering 7425
the armed forces of the United States if the individual is 7426
inducted into the armed forces within one of the following 7427
periods: 7428

(I) Thirty days after separation; 7429

(II) One hundred eighty days after separation if the 7430
individual's date of induction is delayed solely at the discretion 7431
of the armed forces. 7432

(ii) Separation from employment pursuant to a 7433
labor-management contract or agreement, or pursuant to an 7434
established employer plan, program, or policy, which permits the 7435
employee, because of lack of work, to accept a separation from 7436
employment; 7437

(iii) The individual has left employment to accept a recall 7438
from a prior employer or, except as provided in division 7439
(D)(2)(a)(iv) of this section, to accept other employment as 7440
provided under section 4141.291 of the Revised Code, or left or 7441
was separated from employment that was concurrent employment at 7442

the time of the most recent separation or within six weeks prior 7443
to the most recent separation where the remuneration, hours, or 7444
other conditions of such concurrent employment were substantially 7445
less favorable than the individual's most recent employment and 7446
where such employment, if offered as new work, would be considered 7447
not suitable under the provisions of divisions (E) and (F) of this 7448
section. Any benefits that would otherwise be chargeable to the 7449
account of the employer from whom an individual has left 7450
employment or was separated from employment that was concurrent 7451
employment under conditions described in division (D)(2)(a)(iii) 7452
of this section, shall instead be charged to the mutualized 7453
account created by division (B) of section 4141.25 of the Revised 7454
Code, except that any benefits chargeable to the account of a 7455
reimbursing employer under division (D)(2)(a)(iii) of this section 7456
shall be charged to the account of the reimbursing employer and 7457
not to the mutualized account, except as provided in division 7458
(D)(2) of section 4141.24 of the Revised Code. 7459

(iv) When an individual has been issued a definite layoff 7460
date by the individual's employer and before the layoff date, the 7461
individual quits to accept other employment, the provisions of 7462
division (D)(2)(a)(iii) of this section apply and no 7463
disqualification shall be imposed under division (D) of this 7464
section. However, if the individual fails to meet the employment 7465
and earnings requirements of division (A)(2) of section 4141.291 7466
of the Revised Code, then the individual, pursuant to division 7467
(A)(5) of this section, shall be ineligible for benefits for any 7468
week of unemployment that occurs prior to the layoff date. 7469

(b) The individual has refused without good cause to accept 7470
an offer of suitable work when made by an employer either in 7471
person or to the individual's last known address, or has refused 7472
or failed to investigate a referral to suitable work when directed 7473
to do so by a local employment office of this state or another 7474

state, provided that this division shall not cause a 7475
disqualification for a waiting week or benefits under the 7476
following circumstances: 7477

(i) When work is offered by the individual's employer and the 7478
individual is not required to accept the offer pursuant to the 7479
terms of the labor-management contract or agreement; or 7480

(ii) When the individual is attending a training course 7481
pursuant to division (A)(4) of this section except, in the event 7482
of a refusal to accept an offer of suitable work or a refusal or 7483
failure to investigate a referral, benefits thereafter paid to 7484
such individual shall not be charged to the account of any 7485
employer and, except as provided in division (B)(1)(b) of section 7486
4141.241 of the Revised Code, shall be charged to the mutualized 7487
account as provided in division (B) of section 4141.25 of the 7488
Revised Code. 7489

(c) Such individual quit work to marry or because of marital, 7490
parental, filial, or other domestic obligations. 7491

(d) The individual became unemployed by reason of commitment 7492
to any correctional institution. 7493

(e) The individual became unemployed because of dishonesty in 7494
connection with the individual's most recent or any base period 7495
work. Remuneration earned in such work shall be excluded from the 7496
individual's total base period remuneration and qualifying weeks 7497
that otherwise would be credited to the individual for such work 7498
in the individual's base period shall not be credited for the 7499
purpose of determining the total benefits to which the individual 7500
is eligible and the weekly benefit amount to be paid under section 7501
4141.30 of the Revised Code. Such excluded remuneration and 7502
noncredited qualifying weeks shall be excluded from the 7503
calculation of the maximum amount to be charged, under division 7504
(D) of section 4141.24 and section 4141.33 of the Revised Code, 7505

against the accounts of the individual's base period employers. In 7506
addition, no benefits shall thereafter be paid to the individual 7507
based upon such excluded remuneration or noncredited qualifying 7508
weeks. 7509

For purposes of division (D)(2)(e) of this section, 7510
"dishonesty" means the commission of substantive theft, fraud, or 7511
deceitful acts. 7512

(E) No individual otherwise qualified to receive benefits 7513
shall lose the right to benefits by reason of a refusal to accept 7514
new work if: 7515

(1) As a condition of being so employed the individual would 7516
be required to join a company union, or to resign from or refrain 7517
from joining any bona fide labor organization, or would be denied 7518
the right to retain membership in and observe the lawful rules of 7519
any such organization. 7520

(2) The position offered is vacant due directly to a strike, 7521
lockout, or other labor dispute. 7522

(3) The work is at an unreasonable distance from the 7523
individual's residence, having regard to the character of the work 7524
the individual has been accustomed to do, and travel to the place 7525
of work involves expenses substantially greater than that required 7526
for the individual's former work, unless the expense is provided 7527
for. 7528

(4) The remuneration, hours, or other conditions of the work 7529
offered are substantially less favorable to the individual than 7530
those prevailing for similar work in the locality. 7531

(F) Subject to the special exceptions contained in division 7532
(A)(4)(f) of this section and section 4141.301 of the Revised 7533
Code, in determining whether any work is suitable for a claimant 7534
in the administration of this chapter, the director, in addition 7535
to the determination required under division (E) of this section, 7536

shall consider the degree of risk to the claimant's health, 7537
safety, and morals, the individual's physical fitness for the 7538
work, the individual's prior training and experience, the length 7539
of the individual's unemployment, the distance of the available 7540
work from the individual's residence, and the individual's 7541
prospects for obtaining local work. 7542

(G) The "duration of unemployment" as used in this section 7543
means the full period of unemployment next ensuing after a 7544
separation from any base period or subsequent work and until an 7545
individual has become reemployed in employment subject to this 7546
chapter, or the unemployment compensation act of another state, or 7547
of the United States, and until such individual has worked six 7548
weeks and for those weeks has earned or been paid remuneration 7549
equal to six times an average weekly wage of not less than: 7550
eighty-five dollars and ten cents per week beginning on June 26, 7551
1990; and beginning on and after January 1, 1992, twenty-seven and 7552
one-half per cent of the statewide average weekly wage as computed 7553
each first day of January under division (B)(3) of section 4141.30 7554
of the Revised Code, rounded down to the nearest dollar, except 7555
for purposes of division (D)(2)(c) of this section, such term 7556
means the full period of unemployment next ensuing after a 7557
separation from such work and until such individual has become 7558
reemployed subject to the terms set forth above, and has earned 7559
wages equal to one-half of the individual's average weekly wage or 7560
sixty dollars, whichever is less. 7561

(H) If a claimant is disqualified under division (D)(2)(a), 7562
(c), or (d) of this section or found to be qualified under the 7563
exceptions provided in division (D)(2)(a)(i), (iii), or (iv) of 7564
this section or division (A)(2) of section 4141.291 of the Revised 7565
Code, then benefits that may become payable to such claimant, 7566
which are chargeable to the account of the employer from whom the 7567
individual was separated under such conditions, shall be charged 7568

to the mutualized account provided in section 4141.25 of the 7569
Revised Code, provided that no charge shall be made to the 7570
mutualized account for benefits chargeable to a reimbursing 7571
employer, except as provided in division (D)(2) of section 4141.24 7572
of the Revised Code. In the case of a reimbursing employer, the 7573
director shall refund or credit to the account of the reimbursing 7574
employer any over-paid benefits that are recovered under division 7575
(B) of section 4141.35 of the Revised Code. Amounts chargeable to 7576
other states, the United States, or Canada that are subject to 7577
agreements and arrangements that are established pursuant to 7578
section 4141.43 of the Revised Code shall be credited or 7579
reimbursed according to the agreements and arrangements to which 7580
the chargeable amounts are subject. 7581

(I)(1) Benefits based on service in employment as provided in 7582
divisions (B)(2)(a) and (b) of section 4141.01 of the Revised Code 7583
shall be payable in the same amount, on the same terms, and 7584
subject to the same conditions as benefits payable on the basis of 7585
other service subject to this chapter; except that after December 7586
31, 1977: 7587

(a) Benefits based on service in an instructional, research, 7588
or principal administrative capacity in an institution of higher 7589
education, as defined in division (Y) of section 4141.01 of the 7590
Revised Code; or for an educational institution as defined in 7591
division (CC) of section 4141.01 of the Revised Code, shall not be 7592
paid to any individual for any week of unemployment that begins 7593
during the period between two successive academic years or terms, 7594
or during a similar period between two regular but not successive 7595
terms or during a period of paid sabbatical leave provided for in 7596
the individual's contract, if the individual performs such 7597
services in the first of those academic years or terms and has a 7598
contract or a reasonable assurance that the individual will 7599
perform services in any such capacity for any such institution in 7600

the second of those academic years or terms. 7601

(b) Benefits based on service for an educational institution 7602
or an institution of higher education in other than an 7603
instructional, research, or principal administrative capacity, 7604
shall not be paid to any individual for any week of unemployment 7605
which begins during the period between two successive academic 7606
years or terms of the employing educational institution or 7607
institution of higher education, provided the individual performed 7608
those services for the educational institution or institution of 7609
higher education during the first such academic year or term and, 7610
there is a reasonable assurance that such individual will perform 7611
those services for any educational institution or institution of 7612
higher education in the second of such academic years or terms. 7613

If compensation is denied to any individual for any week 7614
under division (I)(1)(b) of this section and the individual was 7615
not offered an opportunity to perform those services for an 7616
institution of higher education or for an educational institution 7617
for the second of such academic years or terms, the individual is 7618
entitled to a retroactive payment of compensation for each week 7619
for which the individual timely filed a claim for compensation and 7620
for which compensation was denied solely by reason of division 7621
(I)(1)(b) of this section. An application for retroactive benefits 7622
shall be timely filed if received by the director or the 7623
director's deputy within or prior to the end of the fourth full 7624
calendar week after the end of the period for which benefits were 7625
denied because of reasonable assurance of employment. The 7626
provision for the payment of retroactive benefits under division 7627
(I)(1)(b) of this section is applicable to weeks of unemployment 7628
beginning on and after November 18, 1983. The provisions under 7629
division (I)(1)(b) of this section shall be retroactive to 7630
September 5, 1982, only if, as a condition for full tax credit 7631
against the tax imposed by the "Federal Unemployment Tax Act," 53 7632

Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311, the United States 7633
secretary of labor determines that retroactivity is required by 7634
federal law. 7635

(c) With respect to weeks of unemployment beginning after 7636
December 31, 1977, benefits shall be denied to any individual for 7637
any week which commences during an established and customary 7638
vacation period or holiday recess, if the individual performs any 7639
services described in divisions (I)(1)(a) and (b) of this section 7640
in the period immediately before the vacation period or holiday 7641
recess, and there is a reasonable assurance that the individual 7642
will perform any such services in the period immediately following 7643
the vacation period or holiday recess. 7644

(d) With respect to any services described in division 7645
(I)(1)(a), (b), or (c) of this section, benefits payable on the 7646
basis of services in any such capacity shall be denied as 7647
specified in division (I)(1)(a), (b), or (c) of this section to 7648
any individual who performs such services in an educational 7649
institution or institution of higher education while in the employ 7650
of an educational service agency. For this purpose, the term 7651
"educational service agency" means a governmental agency or 7652
governmental entity that is established and operated exclusively 7653
for the purpose of providing services to one or more educational 7654
institutions or one or more institutions of higher education. 7655

(e) Any individual employed by a public school district or a 7656
county board of ~~mental retardation~~ developmental disabilities 7657
shall be notified by the thirtieth day of April each year if the 7658
individual is not to be reemployed the following academic year. 7659

(2) No disqualification will be imposed, between academic 7660
years or terms or during a vacation period or holiday recess under 7661
this division, unless the director or the director's deputy has 7662
received a statement in writing from the educational institution 7663
or institution of higher education that the claimant has a 7664

contract for, or a reasonable assurance of, reemployment for the 7665
ensuing academic year or term. 7666

(3) If an individual has employment with an educational 7667
institution or an institution of higher education and employment 7668
with a noneducational employer, during the base period of the 7669
individual's benefit year, then the individual may become eligible 7670
for benefits during the between-term, or vacation or holiday 7671
recess, disqualification period, based on employment performed for 7672
the noneducational employer, provided that the employment is 7673
sufficient to qualify the individual for benefit rights separately 7674
from the benefit rights based on school employment. The weekly 7675
benefit amount and maximum benefits payable during a 7676
disqualification period shall be computed based solely on the 7677
nonschool employment. 7678

(J) Benefits shall not be paid on the basis of employment 7679
performed by an alien, unless the alien had been lawfully admitted 7680
to the United States for permanent residence at the time the 7681
services were performed, was lawfully present for purposes of 7682
performing the services, or was otherwise permanently residing in 7683
the United States under color of law at the time the services were 7684
performed, under section 212(d)(5) of the "Immigration and 7685
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101: 7686

(1) Any data or information required of individuals applying 7687
for benefits to determine whether benefits are not payable to them 7688
because of their alien status shall be uniformly required from all 7689
applicants for benefits. 7690

(2) In the case of an individual whose application for 7691
benefits would otherwise be approved, no determination that 7692
benefits to the individual are not payable because of the 7693
individual's alien status shall be made except upon a 7694
preponderance of the evidence that the individual had not, in 7695
fact, been lawfully admitted to the United States. 7696

(K) The director shall establish and utilize a system of 7697
profiling all new claimants under this chapter that: 7698

(1) Identifies which claimants will be likely to exhaust 7699
regular compensation and will need job search assistance services 7700
to make a successful transition to new employment; 7701

(2) Refers claimants identified pursuant to division (K)(1) 7702
of this section to reemployment services, such as job search 7703
assistance services, available under any state or federal law; 7704

(3) Collects follow-up information relating to the services 7705
received by such claimants and the employment outcomes for such 7706
claimant's subsequent to receiving such services and utilizes such 7707
information in making identifications pursuant to division (K)(1) 7708
of this section; and 7709

(4) Meets such other requirements as the United States 7710
secretary of labor determines are appropriate. 7711

Sec. 4511.21. (A) No person shall operate a motor vehicle, 7712
trackless trolley, or streetcar at a speed greater or less than is 7713
reasonable or proper, having due regard to the traffic, surface, 7714
and width of the street or highway and any other conditions, and 7715
no person shall drive any motor vehicle, trackless trolley, or 7716
streetcar in and upon any street or highway at a greater speed 7717
than will permit the person to bring it to a stop within the 7718
assured clear distance ahead. 7719

(B) It is prima-facie lawful, in the absence of a lower limit 7720
declared pursuant to this section by the director of 7721
transportation or local authorities, for the operator of a motor 7722
vehicle, trackless trolley, or streetcar to operate the same at a 7723
speed not exceeding the following: 7724

(1)(a) Twenty miles per hour in school zones during school 7725
recess and while children are going to or leaving school during 7726

the opening or closing hours, and when twenty miles per hour 7727
school speed limit signs are erected; except that, on 7728
controlled-access highways and expressways, if the right-of-way 7729
line fence has been erected without pedestrian opening, the speed 7730
shall be governed by division (B)(4) of this section and on 7731
freeways, if the right-of-way line fence has been erected without 7732
pedestrian opening, the speed shall be governed by divisions 7733
(B)(9) and (10) of this section. The end of every school zone may 7734
be marked by a sign indicating the end of the zone. Nothing in 7735
this section or in the manual and specifications for a uniform 7736
system of traffic control devices shall be construed to require 7737
school zones to be indicated by signs equipped with flashing or 7738
other lights, or giving other special notice of the hours in which 7739
the school zone speed limit is in effect. 7740

(b) As used in this section and in section 4511.212 of the 7741
Revised Code, "school" means any school chartered under section 7742
3301.16 of the Revised Code and any nonchartered school that 7743
during the preceding year filed with the department of education 7744
in compliance with rule 3301-35-08 of the Ohio Administrative 7745
Code, a copy of the school's report for the parents of the 7746
school's pupils certifying that the school meets Ohio minimum 7747
standards for nonchartered, nontax-supported schools and presents 7748
evidence of this filing to the jurisdiction from which it is 7749
requesting the establishment of a school zone. "School" also 7750
includes a special elementary school that in writing requests the 7751
county engineer of the county in which the special elementary 7752
school is located to create a school zone at the location of that 7753
school. Upon receipt of such a written request, the county 7754
engineer shall create a school zone at that location by erecting 7755
the appropriate signs. 7756

(c) As used in this section, "school zone" means that portion 7757
of a street or highway passing a school fronting upon the street 7758

or highway that is encompassed by projecting the school property 7759
lines to the fronting street or highway, and also includes that 7760
portion of a state highway. Upon request from local authorities 7761
for streets and highways under their jurisdiction and that portion 7762
of a state highway under the jurisdiction of the director of 7763
transportation or a request from a county engineer in the case of 7764
a school zone for a special elementary school, the director may 7765
extend the traditional school zone boundaries. The distances in 7766
divisions (B)(1)(c)(i), (ii), and (iii) of this section shall not 7767
exceed three hundred feet per approach per direction and are 7768
bounded by whichever of the following distances or combinations 7769
thereof the director approves as most appropriate: 7770

(i) The distance encompassed by projecting the school 7771
building lines normal to the fronting highway and extending a 7772
distance of three hundred feet on each approach direction; 7773

(ii) The distance encompassed by projecting the school 7774
property lines intersecting the fronting highway and extending a 7775
distance of three hundred feet on each approach direction; 7776

(iii) The distance encompassed by the special marking of the 7777
pavement for a principal school pupil crosswalk plus a distance of 7778
three hundred feet on each approach direction of the highway. 7779

Nothing in this section shall be construed to invalidate the 7780
director's initial action on August 9, 1976, establishing all 7781
school zones at the traditional school zone boundaries defined by 7782
projecting school property lines, except when those boundaries are 7783
extended as provided in divisions (B)(1)(a) and (c) of this 7784
section. 7785

(d) As used in this division, "crosswalk" has the meaning 7786
given that term in division (LL)(2) of section 4511.01 of the 7787
Revised Code. 7788

The director may, upon request by resolution of the 7789

legislative authority of a municipal corporation, the board of 7790
trustees of a township, or a county board of ~~mental retardation~~ 7791
~~and~~ developmental disabilities created pursuant to Chapter 5126. 7792
of the Revised Code, and upon submission by the municipal 7793
corporation, township, or county board of such engineering, 7794
traffic, and other information as the director considers 7795
necessary, designate a school zone on any portion of a state route 7796
lying within the municipal corporation, lying within the 7797
unincorporated territory of the township, or lying adjacent to the 7798
property of a school that is operated by such county board, that 7799
includes a crosswalk customarily used by children going to or 7800
leaving a school during recess and opening and closing hours, 7801
whenever the distance, as measured in a straight line, from the 7802
school property line nearest the crosswalk to the nearest point of 7803
the crosswalk is no more than one thousand three hundred twenty 7804
feet. Such a school zone shall include the distance encompassed by 7805
the crosswalk and extending three hundred feet on each approach 7806
direction of the state route. 7807

(e) As used in this section, "special elementary school" 7808
means a school that meets all of the following criteria: 7809

(i) It is not chartered and does not receive tax revenue from 7810
any source. 7811

(ii) It does not educate children beyond the eighth grade. 7812

(iii) It is located outside the limits of a municipal 7813
corporation. 7814

(iv) A majority of the total number of students enrolled at 7815
the school are not related by blood. 7816

(v) The principal or other person in charge of the special 7817
elementary school annually sends a report to the superintendent of 7818
the school district in which the special elementary school is 7819
located indicating the total number of students enrolled at the 7820

school, but otherwise the principal or other person in charge does 7821
not report any other information or data to the superintendent. 7822

(2) Twenty-five miles per hour in all other portions of a 7823
municipal corporation, except on state routes outside business 7824
districts, through highways outside business districts, and 7825
alleys; 7826

(3) Thirty-five miles per hour on all state routes or through 7827
highways within municipal corporations outside business districts, 7828
except as provided in divisions (B)(4) and (6) of this section; 7829

(4) Fifty miles per hour on controlled-access highways and 7830
expressways within municipal corporations; 7831

(5) Fifty-five miles per hour on highways outside municipal 7832
corporations, other than highways within island jurisdictions as 7833
provided in division (B)(8) of this section and freeways as 7834
provided in division (B)(13) of this section; 7835

(6) Fifty miles per hour on state routes within municipal 7836
corporations outside urban districts unless a lower prima-facie 7837
speed is established as further provided in this section; 7838

(7) Fifteen miles per hour on all alleys within the municipal 7839
corporation; 7840

(8) Thirty-five miles per hour on highways outside municipal 7841
corporations that are within an island jurisdiction; 7842

(9) Fifty-five miles per hour at all times on freeways with 7843
paved shoulders inside municipal corporations, other than freeways 7844
as provided in division (B)(13) of this section; 7845

(10) Fifty-five miles per hour at all times on freeways 7846
outside municipal corporations, other than freeways as provided in 7847
division (B)(13) of this section; 7848

(11) Fifty-five miles per hour at all times on all portions 7849
of freeways that are part of the interstate system and on all 7850

portions of freeways that are not part of the interstate system, 7851
but are built to the standards and specifications that are 7852
applicable to freeways that are part of the interstate system for 7853
operators of any motor vehicle weighing in excess of eight 7854
thousand pounds empty weight and any noncommercial bus; 7855

(12) Fifty-five miles per hour for operators of any motor 7856
vehicle weighing eight thousand pounds or less empty weight and 7857
any commercial bus at all times on all portions of freeways that 7858
are part of the interstate system and that had such a speed limit 7859
established prior to October 1, 1995, and freeways that are not 7860
part of the interstate system, but are built to the standards and 7861
specifications that are applicable to freeways that are part of 7862
the interstate system and that had such a speed limit established 7863
prior to October 1, 1995, unless a higher speed limit is 7864
established under division (L) of this section; 7865

(13) Sixty-five miles per hour for operators of any motor 7866
vehicle weighing eight thousand pounds or less empty weight and 7867
any commercial bus at all times on all portions of the following: 7868

(a) Freeways that are part of the interstate system and that 7869
had such a speed limit established prior to October 1, 1995, and 7870
freeways that are not part of the interstate system, but are built 7871
to the standards and specifications that are applicable to 7872
freeways that are part of the interstate system and that had such 7873
a speed limit established prior to October 1, 1995; 7874

(b) Freeways that are part of the interstate system and 7875
freeways that are not part of the interstate system but are built 7876
to the standards and specifications that are applicable to 7877
freeways that are part of the interstate system, and that had such 7878
a speed limit established under division (L) of this section; 7879

(c) Rural, divided, multi-lane highways that are designated 7880
as part of the national highway system under the "National Highway 7881

System Designation Act of 1995," 109 Stat. 568, 23 U.S.C.A. 103, 7882
and that had such a speed limit established under division (M) of 7883
this section. 7884

(C) It is prima-facie unlawful for any person to exceed any 7885
of the speed limitations in divisions (B)(1)(a), (2), (3), (4), 7886
(6), (7), and (8) of this section, or any declared pursuant to 7887
this section by the director or local authorities and it is 7888
unlawful for any person to exceed any of the speed limitations in 7889
division (D) of this section. No person shall be convicted of more 7890
than one violation of this section for the same conduct, although 7891
violations of more than one provision of this section may be 7892
charged in the alternative in a single affidavit. 7893

(D) No person shall operate a motor vehicle, trackless 7894
trolley, or streetcar upon a street or highway as follows: 7895

(1) At a speed exceeding fifty-five miles per hour, except 7896
upon a freeway as provided in division (B)(13) of this section; 7897

(2) At a speed exceeding sixty-five miles per hour upon a 7898
freeway as provided in division (B)(13) of this section except as 7899
otherwise provided in division (D)(3) of this section; 7900

(3) If a motor vehicle weighing in excess of eight thousand 7901
pounds empty weight or a noncommercial bus as prescribed in 7902
division (B)(11) of this section, at a speed exceeding fifty-five 7903
miles per hour upon a freeway as provided in that division; 7904

(4) At a speed exceeding the posted speed limit upon a 7905
freeway for which the director has determined and declared a speed 7906
limit of not more than sixty-five miles per hour pursuant to 7907
division (L)(2) or (M) of this section; 7908

(5) At a speed exceeding sixty-five miles per hour upon a 7909
freeway for which such a speed limit has been established through 7910
the operation of division (L)(3) of this section; 7911

(6) At a speed exceeding the posted speed limit upon a 7912
freeway for which the director has determined and declared a speed 7913
limit pursuant to division (I)(2) of this section. 7914

(E) In every charge of violation of this section the 7915
affidavit and warrant shall specify the time, place, and speed at 7916
which the defendant is alleged to have driven, and in charges made 7917
in reliance upon division (C) of this section also the speed which 7918
division (B)(1)(a), (2), (3), (4), (6), (7), or (8) of, or a limit 7919
declared pursuant to, this section declares is prima-facie lawful 7920
at the time and place of such alleged violation, except that in 7921
affidavits where a person is alleged to have driven at a greater 7922
speed than will permit the person to bring the vehicle to a stop 7923
within the assured clear distance ahead the affidavit and warrant 7924
need not specify the speed at which the defendant is alleged to 7925
have driven. 7926

(F) When a speed in excess of both a prima-facie limitation 7927
and a limitation in division (D)(1), (2), (3), (4), (5), or (6) of 7928
this section is alleged, the defendant shall be charged in a 7929
single affidavit, alleging a single act, with a violation 7930
indicated of both division (B)(1)(a), (2), (3), (4), (6), (7), or 7931
(8) of this section, or of a limit declared pursuant to this 7932
section by the director or local authorities, and of the 7933
limitation in division (D)(1), (2), (3), (4), (5), or (6) of this 7934
section. If the court finds a violation of division (B)(1)(a), 7935
(2), (3), (4), (6), (7), or (8) of, or a limit declared pursuant 7936
to, this section has occurred, it shall enter a judgment of 7937
conviction under such division and dismiss the charge under 7938
division (D)(1), (2), (3), (4), (5), or (6) of this section. If it 7939
finds no violation of division (B)(1)(a), (2), (3), (4), (6), (7), 7940
or (8) of, or a limit declared pursuant to, this section, it shall 7941
then consider whether the evidence supports a conviction under 7942
division (D)(1), (2), (3), (4), (5), or (6) of this section. 7943

(G) Points shall be assessed for violation of a limitation 7944
under division (D) of this section in accordance with section 7945
4510.036 of the Revised Code. 7946

(H) Whenever the director determines upon the basis of a 7947
geometric and traffic characteristic study that any speed limit 7948
set forth in divisions (B)(1)(a) to (D) of this section is greater 7949
or less than is reasonable or safe under the conditions found to 7950
exist at any portion of a street or highway under the jurisdiction 7951
of the director, the director shall determine and declare a 7952
reasonable and safe prima-facie speed limit, which shall be 7953
effective when appropriate signs giving notice of it are erected 7954
at the location. 7955

(I)(1) Except as provided in divisions (I)(2) and (K) of this 7956
section, whenever local authorities determine upon the basis of an 7957
engineering and traffic investigation that the speed permitted by 7958
divisions (B)(1)(a) to (D) of this section, on any part of a 7959
highway under their jurisdiction, is greater than is reasonable 7960
and safe under the conditions found to exist at such location, the 7961
local authorities may by resolution request the director to 7962
determine and declare a reasonable and safe prima-facie speed 7963
limit. Upon receipt of such request the director may determine and 7964
declare a reasonable and safe prima-facie speed limit at such 7965
location, and if the director does so, then such declared speed 7966
limit shall become effective only when appropriate signs giving 7967
notice thereof are erected at such location by the local 7968
authorities. The director may withdraw the declaration of a 7969
prima-facie speed limit whenever in the director's opinion the 7970
altered prima-facie speed becomes unreasonable. Upon such 7971
withdrawal, the declared prima-facie speed shall become 7972
ineffective and the signs relating thereto shall be immediately 7973
removed by the local authorities. 7974

(2) A local authority may determine on the basis of a 7975

geometric and traffic characteristic study that the speed limit of 7976
sixty-five miles per hour on a portion of a freeway under its 7977
jurisdiction that was established through the operation of 7978
division (L)(3) of this section is greater than is reasonable or 7979
safe under the conditions found to exist at that portion of the 7980
freeway. If the local authority makes such a determination, the 7981
local authority by resolution may request the director to 7982
determine and declare a reasonable and safe speed limit of not 7983
less than fifty-five miles per hour for that portion of the 7984
freeway. If the director takes such action, the declared speed 7985
limit becomes effective only when appropriate signs giving notice 7986
of it are erected at such location by the local authority. 7987

(J) Local authorities in their respective jurisdictions may 7988
authorize by ordinance higher prima-facie speeds than those stated 7989
in this section upon through highways, or upon highways or 7990
portions thereof where there are no intersections, or between 7991
widely spaced intersections, provided signs are erected giving 7992
notice of the authorized speed, but local authorities shall not 7993
modify or alter the basic rule set forth in division (A) of this 7994
section or in any event authorize by ordinance a speed in excess 7995
of fifty miles per hour. 7996

Alteration of prima-facie limits on state routes by local 7997
authorities shall not be effective until the alteration has been 7998
approved by the director. The director may withdraw approval of 7999
any altered prima-facie speed limits whenever in the director's 8000
opinion any altered prima-facie speed becomes unreasonable, and 8001
upon such withdrawal, the altered prima-facie speed shall become 8002
ineffective and the signs relating thereto shall be immediately 8003
removed by the local authorities. 8004

(K)(1) As used in divisions (K)(1), (2), (3), and (4) of this 8005
section, "unimproved highway" means a highway consisting of any of 8006
the following: 8007

- (a) Unimproved earth; 8008
- (b) Unimproved graded and drained earth; 8009
- (c) Gravel. 8010

(2) Except as otherwise provided in divisions (K)(4) and (5) 8011
of this section, whenever a board of township trustees determines 8012
upon the basis of an engineering and traffic investigation that 8013
the speed permitted by division (B)(5) of this section on any part 8014
of an unimproved highway under its jurisdiction and in the 8015
unincorporated territory of the township is greater than is 8016
reasonable or safe under the conditions found to exist at the 8017
location, the board may by resolution declare a reasonable and 8018
safe prima-facie speed limit of fifty-five but not less than 8019
twenty-five miles per hour. An altered speed limit adopted by a 8020
board of township trustees under this division becomes effective 8021
when appropriate traffic control devices, as prescribed in section 8022
4511.11 of the Revised Code, giving notice thereof are erected at 8023
the location, which shall be no sooner than sixty days after 8024
adoption of the resolution. 8025

(3)(a) Whenever, in the opinion of a board of township 8026
trustees, any altered prima-facie speed limit established by the 8027
board under this division becomes unreasonable, the board may 8028
adopt a resolution withdrawing the altered prima-facie speed 8029
limit. Upon the adoption of such a resolution, the altered 8030
prima-facie speed limit becomes ineffective and the traffic 8031
control devices relating thereto shall be immediately removed. 8032

(b) Whenever a highway ceases to be an unimproved highway and 8033
the board has adopted an altered prima-facie speed limit pursuant 8034
to division (K)(2) of this section, the board shall, by 8035
resolution, withdraw the altered prima-facie speed limit as soon 8036
as the highway ceases to be unimproved. Upon the adoption of such 8037
a resolution, the altered prima-facie speed limit becomes 8038

ineffective and the traffic control devices relating thereto shall 8039
be immediately removed. 8040

(4)(a) If the boundary of two townships rests on the 8041
centerline of an unimproved highway in unincorporated territory 8042
and both townships have jurisdiction over the highway, neither of 8043
the boards of township trustees of such townships may declare an 8044
altered prima-facie speed limit pursuant to division (K)(2) of 8045
this section on the part of the highway under their joint 8046
jurisdiction unless the boards of township trustees of both of the 8047
townships determine, upon the basis of an engineering and traffic 8048
investigation, that the speed permitted by division (B)(5) of this 8049
section is greater than is reasonable or safe under the conditions 8050
found to exist at the location and both boards agree upon a 8051
reasonable and safe prima-facie speed limit of less than 8052
fifty-five but not less than twenty-five miles per hour for that 8053
location. If both boards so agree, each shall follow the procedure 8054
specified in division (K)(2) of this section for altering the 8055
prima-facie speed limit on the highway. Except as otherwise 8056
provided in division (K)(4)(b) of this section, no speed limit 8057
altered pursuant to division (K)(4)(a) of this section may be 8058
withdrawn unless the boards of township trustees of both townships 8059
determine that the altered prima-facie speed limit previously 8060
adopted becomes unreasonable and each board adopts a resolution 8061
withdrawing the altered prima-facie speed limit pursuant to the 8062
procedure specified in division (K)(3)(a) of this section. 8063

(b) Whenever a highway described in division (K)(4)(a) of 8064
this section ceases to be an unimproved highway and two boards of 8065
township trustees have adopted an altered prima-facie speed limit 8066
pursuant to division (K)(4)(a) of this section, both boards shall, 8067
by resolution, withdraw the altered prima-facie speed limit as 8068
soon as the highway ceases to be unimproved. Upon the adoption of 8069
the resolution, the altered prima-facie speed limit becomes 8070

ineffective and the traffic control devices relating thereto shall 8071
be immediately removed. 8072

(5) As used in division (K)(5) of this section: 8073

(a) "Commercial subdivision" means any platted territory 8074
outside the limits of a municipal corporation and fronting a 8075
highway where, for a distance of three hundred feet or more, the 8076
frontage is improved with buildings in use for commercial 8077
purposes, or where the entire length of the highway is less than 8078
three hundred feet long and the frontage is improved with 8079
buildings in use for commercial purposes. 8080

(b) "Residential subdivision" means any platted territory 8081
outside the limits of a municipal corporation and fronting a 8082
highway, where, for a distance of three hundred feet or more, the 8083
frontage is improved with residences or residences and buildings 8084
in use for business, or where the entire length of the highway is 8085
less than three hundred feet long and the frontage is improved 8086
with residences or residences and buildings in use for business. 8087

Whenever a board of township trustees finds upon the basis of 8088
an engineering and traffic investigation that the prima-facie 8089
speed permitted by division (B)(5) of this section on any part of 8090
a highway under its jurisdiction that is located in a commercial 8091
or residential subdivision, except on highways or portions thereof 8092
at the entrances to which vehicular traffic from the majority of 8093
intersecting highways is required to yield the right-of-way to 8094
vehicles on such highways in obedience to stop or yield signs or 8095
traffic control signals, is greater than is reasonable and safe 8096
under the conditions found to exist at the location, the board may 8097
by resolution declare a reasonable and safe prima-facie speed 8098
limit of less than fifty-five but not less than twenty-five miles 8099
per hour at the location. An altered speed limit adopted by a 8100
board of township trustees under this division shall become 8101
effective when appropriate signs giving notice thereof are erected 8102

at the location by the township. Whenever, in the opinion of a 8103
board of township trustees, any altered prima-facie speed limit 8104
established by it under this division becomes unreasonable, it may 8105
adopt a resolution withdrawing the altered prima-facie speed, and 8106
upon such withdrawal, the altered prima-facie speed shall become 8107
ineffective, and the signs relating thereto shall be immediately 8108
removed by the township. 8109

(L)(1) Within one hundred twenty days of February 29, 1996, 8110
the director of transportation, based upon a geometric and traffic 8111
characteristic study of a freeway that is part of the interstate 8112
system or that is not part of the interstate system, but is built 8113
to the standards and specifications that are applicable to 8114
freeways that are part of the interstate system, in consultation 8115
with the director of public safety and, if applicable, the local 8116
authority having jurisdiction over a portion of such freeway, may 8117
determine and declare that the speed limit of less than sixty-five 8118
miles per hour established on such freeway or portion of freeway 8119
either is reasonable and safe or is less than that which is 8120
reasonable and safe. 8121

(2) If the established speed limit for such a freeway or 8122
portion of freeway is determined to be less than that which is 8123
reasonable and safe, the director of transportation, in 8124
consultation with the director of public safety and, if 8125
applicable, the local authority having jurisdiction over the 8126
portion of freeway, shall determine and declare a reasonable and 8127
safe speed limit of not more than sixty-five miles per hour for 8128
that freeway or portion of freeway. 8129

The director of transportation or local authority having 8130
jurisdiction over the freeway or portion of freeway shall erect 8131
appropriate signs giving notice of the speed limit at such 8132
location within one hundred fifty days of February 29, 1996. Such 8133
speed limit becomes effective only when such signs are erected at 8134

the location. 8135

(3) If, within one hundred twenty days of February 29, 1996, 8136
the director of transportation does not make a determination and 8137
declaration of a reasonable and safe speed limit for a freeway or 8138
portion of freeway that is part of the interstate system or that 8139
is not part of the interstate system, but is built to the 8140
standards and specifications that are applicable to freeways that 8141
are part of the interstate system and that has a speed limit of 8142
less than sixty-five miles per hour, the speed limit on that 8143
freeway or portion of a freeway shall be sixty-five miles per 8144
hour. The director of transportation or local authority having 8145
jurisdiction over the freeway or portion of the freeway shall 8146
erect appropriate signs giving notice of the speed limit of 8147
sixty-five miles per hour at such location within one hundred 8148
fifty days of February 29, 1996. Such speed limit becomes 8149
effective only when such signs are erected at the location. A 8150
speed limit established through the operation of division (L)(3) 8151
of this section is subject to reduction under division (I)(2) of 8152
this section. 8153

(M) Within three hundred sixty days after February 29, 1996, 8154
the director of transportation, based upon a geometric and traffic 8155
characteristic study of a rural, divided, multi-lane highway that 8156
has been designated as part of the national highway system under 8157
the "National Highway System Designation Act of 1995," 109 Stat. 8158
568, 23 U.S.C.A. 103, in consultation with the director of public 8159
safety and, if applicable, the local authority having jurisdiction 8160
over a portion of the highway, may determine and declare that the 8161
speed limit of less than sixty-five miles per hour established on 8162
the highway or portion of highway either is reasonable and safe or 8163
is less than that which is reasonable and safe. 8164

If the established speed limit for the highway or portion of 8165
highway is determined to be less than that which is reasonable and 8166

safe, the director of transportation, in consultation with the 8167
director of public safety and, if applicable, the local authority 8168
having jurisdiction over the portion of highway, shall determine 8169
and declare a reasonable and safe speed limit of not more than 8170
sixty-five miles per hour for that highway or portion of highway. 8171
The director of transportation or local authority having 8172
jurisdiction over the highway or portion of highway shall erect 8173
appropriate signs giving notice of the speed limit at such 8174
location within three hundred ninety days after February 29, 1996. 8175
The speed limit becomes effective only when such signs are erected 8176
at the location. 8177

(N)(1)(a) If the boundary of two local authorities rests on 8178
the centerline of a highway and both authorities have jurisdiction 8179
over the highway, the speed limit for the part of the highway 8180
within their joint jurisdiction shall be either one of the 8181
following as agreed to by both authorities: 8182

(i) Either prima-facie speed limit permitted by division (B) 8183
of this section; 8184

(ii) An altered speed limit determined and posted in 8185
accordance with this section. 8186

(b) If the local authorities are unable to reach an 8187
agreement, the speed limit shall remain as established and posted 8188
under this section. 8189

(2) Neither local authority may declare an altered 8190
prima-facie speed limit pursuant to this section on the part of 8191
the highway under their joint jurisdiction unless both of the 8192
local authorities determine, upon the basis of an engineering and 8193
traffic investigation, that the speed permitted by this section is 8194
greater than is reasonable or safe under the conditions found to 8195
exist at the location and both authorities agree upon a uniform 8196
reasonable and safe prima-facie speed limit of less than 8197

fifty-five but not less than twenty-five miles per hour for that 8198
location. If both authorities so agree, each shall follow the 8199
procedure specified in this section for altering the prima-facie 8200
speed limit on the highway, and the speed limit for the part of 8201
the highway within their joint jurisdiction shall be uniformly 8202
altered. No altered speed limit may be withdrawn unless both local 8203
authorities determine that the altered prima-facie speed limit 8204
previously adopted becomes unreasonable and each adopts a 8205
resolution withdrawing the altered prima-facie speed limit 8206
pursuant to the procedure specified in this section. 8207

(O) As used in this section: 8208

(1) "Interstate system" has the same meaning as in 23 8209
U.S.C.A. 101. 8210

(2) "Commercial bus" means a motor vehicle designed for 8211
carrying more than nine passengers and used for the transportation 8212
of persons for compensation. 8213

(3) "Noncommercial bus" includes but is not limited to a 8214
school bus or a motor vehicle operated solely for the 8215
transportation of persons associated with a charitable or 8216
nonprofit organization. 8217

(P)(1) A violation of any provision of this section is one of 8218
the following: 8219

(a) Except as otherwise provided in divisions (P)(1)(b), 8220
(1)(c), (2), and (3) of this section, a minor misdemeanor; 8221

(b) If, within one year of the offense, the offender 8222
previously has been convicted of or pleaded guilty to two 8223
violations of any provision of this section or of any provision of 8224
a municipal ordinance that is substantially similar to any 8225
provision of this section, a misdemeanor of the fourth degree; 8226

(c) If, within one year of the offense, the offender 8227

previously has been convicted of or pleaded guilty to three or 8228
more violations of any provision of this section or of any 8229
provision of a municipal ordinance that is substantially similar 8230
to any provision of this section, a misdemeanor of the third 8231
degree. 8232

(2) If the offender has not previously been convicted of or 8233
pleaded guilty to a violation of any provision of this section or 8234
of any provision of a municipal ordinance that is substantially 8235
similar to this section and operated a motor vehicle faster than 8236
thirty-five miles an hour in a business district of a municipal 8237
corporation, faster than fifty miles an hour in other portions of 8238
a municipal corporation, or faster than thirty-five miles an hour 8239
in a school zone during recess or while children are going to or 8240
leaving school during the school's opening or closing hours, a 8241
misdemeanor of the fourth degree. 8242

(3) Notwithstanding division (P)(1) of this section, if the 8243
offender operated a motor vehicle in a construction zone where a 8244
sign was then posted in accordance with section 4511.98 of the 8245
Revised Code, the court, in addition to all other penalties 8246
provided by law, shall impose upon the offender a fine of two 8247
times the usual amount imposed for the violation. No court shall 8248
impose a fine of two times the usual amount imposed for the 8249
violation upon an offender if the offender alleges, in an 8250
affidavit filed with the court prior to the offender's sentencing, 8251
that the offender is indigent and is unable to pay the fine 8252
imposed pursuant to this division and if the court determines that 8253
the offender is an indigent person and unable to pay the fine. 8254

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 8255
trackless trolley upon meeting or overtaking from either direction 8256
any school bus stopped for the purpose of receiving or discharging 8257
any school child, person attending programs offered by community 8258

boards of mental health and county boards of ~~mental retardation~~ 8259
~~and~~ developmental disabilities, or child attending a program 8260
offered by a head start agency, shall stop at least ten feet from 8261
the front or rear of the school bus and shall not proceed until 8262
such school bus resumes motion, or until signaled by the school 8263
bus driver to proceed. 8264

It is no defense to a charge under this division that the 8265
school bus involved failed to display or be equipped with an 8266
automatically extended stop warning sign as required by division 8267
(B) of this section. 8268

(B) Every school bus shall be equipped with amber and red 8269
visual signals meeting the requirements of section 4511.771 of the 8270
Revised Code, and an automatically extended stop warning sign of a 8271
type approved by the state board of education, which shall be 8272
actuated by the driver of the bus whenever but only whenever the 8273
bus is stopped or stopping on the roadway for the purpose of 8274
receiving or discharging school children, persons attending 8275
programs offered by community boards of mental health and county 8276
boards of ~~mental retardation and~~ developmental disabilities, or 8277
children attending programs offered by head start agencies. A 8278
school bus driver shall not actuate the visual signals or the stop 8279
warning sign in designated school bus loading areas where the bus 8280
is entirely off the roadway or at school buildings when children 8281
or persons attending programs offered by community boards of 8282
mental health and county boards of ~~mental retardation and~~ 8283
developmental disabilities are loading or unloading at curbside or 8284
at buildings when children attending programs offered by head 8285
start agencies are loading or unloading at curbside. The visual 8286
signals and stop warning sign shall be synchronized or otherwise 8287
operated as required by rule of the board. 8288

(C) Where a highway has been divided into four or more 8289
traffic lanes, a driver of a vehicle, streetcar, or trackless 8290

trolley need not stop for a school bus approaching from the 8291
opposite direction which has stopped for the purpose of receiving 8292
or discharging any school child, persons attending programs 8293
offered by community boards of mental health and county boards of 8294
~~mental retardation and~~ developmental disabilities, or children 8295
attending programs offered by head start agencies. The driver of 8296
any vehicle, streetcar, or trackless trolley overtaking the school 8297
bus shall comply with division (A) of this section. 8298

(D) School buses operating on divided highways or on highways 8299
with four or more traffic lanes shall receive and discharge all 8300
school children, persons attending programs offered by community 8301
boards of mental health and county boards of ~~mental retardation~~ 8302
~~and~~ developmental disabilities, and children attending programs 8303
offered by head start agencies on their residence side of the 8304
highway. 8305

(E) No school bus driver shall start the driver's bus until 8306
after any child, person attending programs offered by community 8307
boards of mental health and county boards of ~~mental retardation~~ 8308
~~and~~ developmental disabilities, or child attending a program 8309
offered by a head start agency who may have alighted therefrom has 8310
reached a place of safety on the child's or person's residence 8311
side of the road. 8312

(F)(1) Whoever violates division (A) of this section may be 8313
fined an amount not to exceed five hundred dollars. A person who 8314
is issued a citation for a violation of division (A) of this 8315
section is not permitted to enter a written plea of guilty and 8316
waive the person's right to contest the citation in a trial but 8317
instead must appear in person in the proper court to answer the 8318
charge. 8319

(2) In addition to and independent of any other penalty 8320
provided by law, the court or mayor may impose upon an offender 8321
who violates this section a class seven suspension of the 8322

offender's driver's license, commercial driver's license, 8323
temporary instruction permit, probationary license, or nonresident 8324
operating privilege from the range specified in division (A)(7) of 8325
section 4510.02 of the Revised Code. When a license is suspended 8326
under this section, the court or mayor shall cause the offender to 8327
deliver the license to the court, and the court or clerk of the 8328
court immediately shall forward the license to the registrar of 8329
motor vehicles, together with notice of the court's action. 8330

(G) As used in this section: 8331

(1) "Head start agency" has the same meaning as in section 8332
3301.32 of the Revised Code. 8333

(2) "School bus," as used in relation to children who attend 8334
a program offered by a head start agency, means a bus that is 8335
owned and operated by a head start agency, is equipped with an 8336
automatically extended stop warning sign of a type approved by the 8337
state board of education, is painted the color and displays the 8338
markings described in section 4511.77 of the Revised Code, and is 8339
equipped with amber and red visual signals meeting the 8340
requirements of section 4511.771 of the Revised Code, irrespective 8341
of whether or not the bus has fifteen or more children aboard at 8342
any time. "School bus" does not include a van owned and operated 8343
by a head start agency, irrespective of its color, lights, or 8344
markings. 8345

Sec. 5101.35. (A) As used in this section: 8346

(1) "Agency" means the following entities that administer a 8347
family services program: 8348

(a) The department of job and family services; 8349

(b) A county department of job and family services; 8350

(c) A public children services agency; 8351

(d) A private or government entity administering, in whole or 8352

in part, a family services program for or on behalf of the 8353
department of job and family services or a county department of 8354
job and family services or public children services agency. 8355

(2) "Appellant" means an applicant, participant, former 8356
participant, recipient, or former recipient of a family services 8357
program who is entitled by federal or state law to a hearing 8358
regarding a decision or order of the agency that administers the 8359
program. 8360

(3) "Family services program" means assistance provided under 8361
a Title IV-A program as defined in section 5101.80 of the Revised 8362
Code or under Chapter 5104., 5111., or 5115. or section 173.35, 8363
5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the 8364
Revised Code, other than assistance provided under section 5101.46 8365
of the Revised Code by the department of mental health, the 8366
department of mental retardation and developmental disabilities, a 8367
board of alcohol, drug addiction, and mental health services, or a 8368
county board of ~~mental retardation and~~ developmental disabilities. 8369

(B) Except as provided by divisions (G) and (H) of this 8370
section, an appellant who appeals under federal or state law a 8371
decision or order of an agency administering a family services 8372
program shall, at the appellant's request, be granted a state 8373
hearing by the department of job and family services. This state 8374
hearing shall be conducted in accordance with rules adopted under 8375
this section. The state hearing shall be recorded, but neither the 8376
recording nor a transcript of the recording shall be part of the 8377
official record of the proceeding. A state hearing decision is 8378
binding upon the agency and department, unless it is reversed or 8379
modified on appeal to the director of job and family services or a 8380
court of common pleas. 8381

(C) Except as provided by division (G) of this section, an 8382
appellant who disagrees with a state hearing decision may make an 8383
administrative appeal to the director of job and family services 8384

in accordance with rules adopted under this section. This 8385
administrative appeal does not require a hearing, but the director 8386
or the director's designee shall review the state hearing decision 8387
and previous administrative action and may affirm, modify, remand, 8388
or reverse the state hearing decision. Any person designated to 8389
make an administrative appeal decision on behalf of the director 8390
shall have been admitted to the practice of law in this state. An 8391
administrative appeal decision is the final decision of the 8392
department and is binding upon the department and agency, unless 8393
it is reversed or modified on appeal to the court of common pleas. 8394

(D) An agency shall comply with a decision issued pursuant to 8395
division (B) or (C) of this section within the time limits 8396
established by rules adopted under this section. If a county 8397
department of job and family services or a public children 8398
services agency fails to comply within these time limits, the 8399
department may take action pursuant to section 5101.24 of the 8400
Revised Code. If another agency fails to comply within the time 8401
limits, the department may force compliance by withholding funds 8402
due the agency or imposing another sanction established by rules 8403
adopted under this section. 8404

(E) An appellant who disagrees with an administrative appeal 8405
decision of the director of job and family services or the 8406
director's designee issued under division (C) of this section may 8407
appeal from the decision to the court of common pleas pursuant to 8408
section 119.12 of the Revised Code. The appeal shall be governed 8409
by section 119.12 of the Revised Code except that: 8410

(1) The person may appeal to the court of common pleas of the 8411
county in which the person resides, or to the court of common 8412
pleas of Franklin county if the person does not reside in this 8413
state. 8414

(2) The person may apply to the court for designation as an 8415
indigent and, if the court grants this application, the appellant 8416

shall not be required to furnish the costs of the appeal. 8417

(3) The appellant shall mail the notice of appeal to the 8418
department of job and family services and file notice of appeal 8419
with the court within thirty days after the department mails the 8420
administrative appeal decision to the appellant. For good cause 8421
shown, the court may extend the time for mailing and filing notice 8422
of appeal, but such time shall not exceed six months from the date 8423
the department mails the administrative appeal decision. Filing 8424
notice of appeal with the court shall be the only act necessary to 8425
vest jurisdiction in the court. 8426

(4) The department shall be required to file a transcript of 8427
the testimony of the state hearing with the court only if the 8428
court orders the department to file the transcript. The court 8429
shall make such an order only if it finds that the department and 8430
the appellant are unable to stipulate to the facts of the case and 8431
that the transcript is essential to a determination of the appeal. 8432
The department shall file the transcript not later than thirty 8433
days after the day such an order is issued. 8434

(F) The department of job and family services shall adopt 8435
rules in accordance with Chapter 119. of the Revised Code to 8436
implement this section, including rules governing the following: 8437

(1) State hearings under division (B) of this section. The 8438
rules shall include provisions regarding notice of eligibility 8439
termination and the opportunity of an appellant appealing a 8440
decision or order of a county department of job and family 8441
services to request a county conference with the county department 8442
before the state hearing is held. 8443

(2) Administrative appeals under division (C) of this 8444
section; 8445

(3) Time limits for complying with a decision issued under 8446
division (B) or (C) of this section; 8447

(4) Sanctions that may be applied against an agency under 8448
division (D) of this section. 8449

(G) The department of job and family services may adopt rules 8450
in accordance with Chapter 119. of the Revised Code establishing 8451
an appeals process for an appellant who appeals a decision or 8452
order regarding a Title IV-A program identified under division 8453
(A)(4)(c), (d), (e), or (f) of section 5101.80 of the Revised Code 8454
that is different from the appeals process established by this 8455
section. The different appeals process may include having a state 8456
agency that administers the Title IV-A program pursuant to an 8457
interagency agreement entered into under section 5101.801 of the 8458
Revised Code administer the appeals process. 8459

(H) If an appellant receiving medicaid through a health 8460
insuring corporation that holds a certificate of authority under 8461
Chapter 1751. of the Revised Code is appealing a denial of 8462
medicaid services based on lack of medical necessity or other 8463
clinical issues regarding coverage by the health insuring 8464
corporation, the person hearing the appeal may order an 8465
independent medical review if that person determines that a review 8466
is necessary. The review shall be performed by a health care 8467
professional with appropriate clinical expertise in treating the 8468
recipient's condition or disease. The department shall pay the 8469
costs associated with the review. 8470

A review ordered under this division shall be part of the 8471
record of the hearing and shall be given appropriate evidentiary 8472
consideration by the person hearing the appeal. 8473

(I) The requirements of Chapter 119. of the Revised Code 8474
apply to a state hearing or administrative appeal under this 8475
section only to the extent, if any, specifically provided by rules 8476
adopted under this section. 8477

Sec. 5101.46. (A) As used in this section: 8478

(1) "Title XX" means Title XX of the "Social Security Act," 8479
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 8480

(2) "Respective local agency" means, with respect to the 8481
department of job and family services, a county department of job 8482
and family services; with respect to the department of mental 8483
health, a board of alcohol, drug addiction, and mental health 8484
services; and with respect to the department of mental retardation 8485
and developmental disabilities, a county board of ~~mental~~ 8486
~~retardation and~~ developmental disabilities. 8487

(3) "Federal poverty guidelines" means the poverty guidelines 8488
as revised annually by the United States department of health and 8489
human services in accordance with section 673(2) of the "Omnibus 8490
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 8491
9902, as amended, for a family size equal to the size of the 8492
family of the person whose income is being determined. 8493

(B) The departments of job and family services, mental 8494
health, and mental retardation and developmental disabilities, 8495
with their respective local agencies, shall administer the 8496
provision of social services funded through grants made under 8497
Title XX. The social services furnished with Title XX funds shall 8498
be directed at the following goals: 8499

(1) Achieving or maintaining economic self-support to 8500
prevent, reduce, or eliminate dependency; 8501

(2) Achieving or maintaining self-sufficiency, including 8502
reduction or prevention of dependency; 8503

(3) Preventing or remedying neglect, abuse, or exploitation 8504
of children and adults unable to protect their own interests, or 8505
preserving, rehabilitating, or reuniting families; 8506

(4) Preventing or reducing inappropriate institutional care 8507
by providing for community-based care, home-based care, or other 8508
forms of less intensive care; 8509

(5) Securing referral or admission for institutional care 8510
when other forms of care are not appropriate, or providing 8511
services to individuals in institutions. 8512

(C)(1) All federal funds received under Title XX shall be 8513
appropriated as follows: 8514

(a) Seventy-two and one-half per cent to the department of 8515
job and family services; 8516

(b) Twelve and ninety-three one-hundredths per cent to the 8517
department of mental health; 8518

(c) Fourteen and fifty-seven one-hundredths per cent to the 8519
department of mental retardation and developmental disabilities. 8520

(2) Each state department shall, subject to the approval of 8521
the controlling board, develop formulas for the distribution of 8522
their Title XX appropriations to their respective local agencies. 8523
The formulas shall take into account the total population of the 8524
area that is served by the agency, the percentage of the 8525
population in the area that falls below the federal poverty 8526
guidelines, and the agency's history of and ability to utilize 8527
Title XX funds. 8528

(3) Each of the state departments shall expend no more than 8529
three per cent of its Title XX appropriation for state 8530
administrative costs. Each of the department's respective local 8531
agencies shall expend no more than fourteen per cent of its Title 8532
XX appropriation for local administrative costs. 8533

(4) The department of job and family services shall expend no 8534
more than two per cent of its Title XX appropriation for the 8535
training of the following: 8536

(a) Employees of county departments of job and family 8537
services; 8538

(b) Providers of services under contract with the state 8539

departments' respective local agencies; 8540

(c) Employees of a public children services agency directly 8541
engaged in providing Title XX services. 8542

(D) The department of job and family services shall prepare a 8543
biennial comprehensive Title XX social services plan on the 8544
intended use of Title XX funds. The department shall develop a 8545
method for obtaining public comment during the development of the 8546
plan and following its completion. 8547

For each state fiscal year, the department of job and family 8548
services shall prepare a report on the actual use of Title XX 8549
funds. The department shall make the annual report available for 8550
public inspection. 8551

The departments of mental health and mental retardation and 8552
developmental disabilities shall prepare and submit to the 8553
department of job and family services the portions of each 8554
biennial plan and annual report that apply to services for mental 8555
health and mental retardation and developmental disabilities. Each 8556
respective local agency of the three state departments shall 8557
submit information as necessary for the preparation of biennial 8558
plans and annual reports. 8559

(E) Each county department shall adopt a county profile for 8560
the administration and provision of Title XX social services in 8561
the county. In developing its county profile, the county 8562
department shall take into consideration the comments and 8563
recommendations received from the public by the county family 8564
services planning committee pursuant to section 329.06 of the 8565
Revised Code. As part of its preparation of the county profile, 8566
the county department may prepare a local needs report analyzing 8567
the need for Title XX social services. 8568

The county department shall submit the county profile to the 8569
board of county commissioners for its review. Once the county 8570

profile has been approved by the board, the county department 8571
shall file a copy of the county profile with the department of job 8572
and family services. The department shall approve the county 8573
profile if the department determines the profile provides for the 8574
Title XX social services to meet the goals specified in division 8575
(B) of this section. 8576

(F) Any of the three state departments and their respective 8577
local agencies may require that an entity under contract to 8578
provide social services with Title XX funds submit to an audit on 8579
the basis of alleged misuse or improper accounting of funds. If an 8580
audit is required, the social services provider shall reimburse 8581
the state department or local agency for the cost it incurred in 8582
conducting the audit or having the audit conducted. 8583

If an audit demonstrates that a social services provider is 8584
responsible for one or more adverse findings, the provider shall 8585
reimburse the appropriate state department or its respective local 8586
agency the amount of the adverse findings. The amount shall not be 8587
reimbursed with Title XX funds received under this section. The 8588
three state departments and their respective local agencies may 8589
terminate or refuse to enter into a Title XX contract with a 8590
social services provider if there are adverse findings in an audit 8591
that are the responsibility of the provider. 8592

(G) The department of job and family services may adopt rules 8593
to implement and carry out the purposes of this section. Rules 8594
governing financial and operational matters of the department or 8595
matters between the department and county departments of job and 8596
family services shall be adopted as internal management rules in 8597
accordance with section 111.15 of the Revised Code. Rules 8598
governing eligibility for services, program participation, and 8599
other matters pertaining to applicants and participants shall be 8600
adopted in accordance with Chapter 119. of the Revised Code. 8601

Sec. 5101.611. If a county department of job and family 8602
services knows or has reasonable cause to believe that the subject 8603
of a report made under section 5101.61 or of an investigation 8604
conducted under sections 5101.62 to 5101.64 or on the initiative 8605
of the department is mentally retarded or developmentally disabled 8606
as defined in section 5126.01 of the Revised Code, the department 8607
shall refer the case to the county board of ~~mental retardation and~~ 8608
developmental disabilities of that county for review pursuant to 8609
section 5126.31 of the Revised Code. 8610

If a county board of ~~mental retardation and~~ developmental 8611
disabilities refers a case to the county department of job and 8612
family services in accordance with section 5126.31, the department 8613
shall proceed with the case in accordance with sections 5101.60 to 8614
5101.71 of the Revised Code. 8615

Sec. 5111.151. (A) This section applies to eligibility 8616
determinations for all cases involving medicaid provided pursuant 8617
to this chapter, qualified medicare beneficiaries, specified 8618
low-income medicare beneficiaries, qualifying individuals-1, 8619
qualifying individuals-2, and medical assistance for covered 8620
families and children. 8621

(B) As used in this section: 8622

(1) "Trust" means any arrangement in which a grantor 8623
transfers real or personal property to a trust with the intention 8624
that it be held, managed, or administered by at least one trustee 8625
for the benefit of the grantor or beneficiaries. "Trust" includes 8626
any legal instrument or device similar to a trust. 8627

(2) "Legal instrument or device similar to a trust" includes, 8628
but is not limited to, escrow accounts, investment accounts, 8629
partnerships, contracts, and other similar arrangements that are 8630
not called trusts under state law but are similar to a trust and 8631

to which all of the following apply: 8632

(a) The property in the trust is held, managed, retained, or 8633
administered by a trustee. 8634

(b) The trustee has an equitable, legal, or fiduciary duty to 8635
hold, manage, retain, or administer the property for the benefit 8636
of the beneficiary. 8637

(c) The trustee holds identifiable property for the 8638
beneficiary. 8639

(3) "Grantor" is a person who creates a trust, including all 8640
of the following: 8641

(a) An individual; 8642

(b) An individual's spouse; 8643

(c) A person, including a court or administrative body, with 8644
legal authority to act in place of or on behalf of an individual 8645
or an individual's spouse; 8646

(d) A person, including a court or administrative body, that 8647
acts at the direction or on request of an individual or the 8648
individual's spouse. 8649

(4) "Beneficiary" is a person or persons, including a 8650
grantor, who benefits in some way from a trust. 8651

(5) "Trustee" is a person who manages a trust's principal and 8652
income for the benefit of the beneficiaries. 8653

(6) "Person" has the same meaning as in section 1.59 of the 8654
Revised Code and includes an individual, corporation, business 8655
trust, estate, trust, partnership, and association. 8656

(7) "Applicant" is an individual who applies for medicaid or 8657
the individual's spouse. 8658

(8) "Recipient" is an individual who receives medicaid or the 8659
individual's spouse. 8660

(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:

(a) A trust that provides that the trust can be terminated only by a court;

(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.

(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.

(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.

(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.

(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.

(C) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted by the department of job and family services governing trusts. The county department of job and family services may determine that the trust or portion of the trust is one of the following:

(1) A countable resource;

(2) Countable income;

- (3) A countable resource and countable income; 8691
- (4) Not a countable resource or countable income. 8692
- (D)(1) A trust or legal instrument or device similar to a 8693
trust shall be considered a medicaid qualifying trust if all of 8694
the following apply: 8695
- (a) The trust was established on or prior to August 10, 1993. 8696
- (b) The trust was not established by a will. 8697
- (c) The trust was established by an applicant or recipient. 8698
- (d) The applicant or recipient is or may become the 8699
beneficiary of all or part of the trust. 8700
- (e) Payment from the trust is determined by one or more 8701
trustees who are permitted to exercise any discretion with respect 8702
to the distribution to the applicant or recipient. 8703
- (2) If a trust meets the requirement of division (D)(1) of 8704
this section, the amount of the trust that is considered by the 8705
county department of job and family services as an available 8706
resource to the applicant or recipient shall be the maximum amount 8707
of payments permitted under the terms of the trust to be 8708
distributed to the applicant or recipient, assuming the full 8709
exercise of discretion by the trustee or trustees. The maximum 8710
amount shall include only amounts that are permitted to be 8711
distributed but are not distributed from either the income or 8712
principal of the trust. 8713
- (3) Amounts that are actually distributed from a medicaid 8714
qualifying trust to a beneficiary for any purpose shall be treated 8715
in accordance with rules adopted by the department of job and 8716
family services governing income. 8717
- (4) Availability of a medicaid qualifying trust shall be 8718
considered without regard to any of the following: 8719
- (a) Whether or not the trust is irrevocable or was 8720

established for purposes other than to enable a grantor to qualify 8721
for medicaid, medical assistance for covered families and 8722
children, or as a qualified medicare beneficiary, specified 8723
low-income medicare beneficiary, qualifying individual-1, or 8724
qualifying individual-2; 8725

(b) Whether or not the trustee actually exercises discretion. 8726

(5) If any real or personal property is transferred to a 8727
medicaid qualifying trust that is not distributable to the 8728
applicant or recipient, the transfer shall be considered an 8729
improper disposition of assets and shall be subject to section 8730
5111.0116 of the Revised Code and rules to implement that section 8731
adopted under section 5111.011 of the Revised Code. 8732

(6) The baseline date for the look-back period for 8733
disposition of assets involving a medicaid qualifying trust shall 8734
be the date on which the applicant or recipient is both 8735
institutionalized and first applies for medicaid. 8736

(E)(1) A trust or legal instrument or device similar to a 8737
trust shall be considered a self-settled trust if all of the 8738
following apply: 8739

(a) The trust was established on or after August 11, 1993. 8740

(b) The trust was not established by a will. 8741

(c) The trust was established by an applicant or recipient, 8742
spouse of an applicant or recipient, or a person, including a 8743
court or administrative body, with legal authority to act in place 8744
of or on behalf of an applicant, recipient, or spouse, or acting 8745
at the direction or on request of an applicant, recipient, or 8746
spouse. 8747

(2) A trust that meets the requirements of division (E)(1) of 8748
this section and is a revocable trust shall be treated by the 8749
county department of job and family services as follows: 8750

(a) The corpus of the trust shall be considered a resource 8751
available to the applicant or recipient. 8752

(b) Payments from the trust to or for the benefit of the 8753
applicant or recipient shall be considered unearned income of the 8754
applicant or recipient. 8755

(c) Any other payments from the trust shall be considered an 8756
improper disposition of assets and shall be subject to section 8757
5111.0116 of the Revised Code and rules to implement that section 8758
adopted under section 5111.011 of the Revised Code. 8759

(3) A trust that meets the requirements of division (E)(1) of 8760
this section and is an irrevocable trust shall be treated by the 8761
county department of job and family services as follows: 8762

(a) If there are any circumstances under which payment from 8763
the trust could be made to or for the benefit of the applicant or 8764
recipient, including a payment that can be made only in the 8765
future, the portion from which payments could be made shall be 8766
considered a resource available to the applicant or recipient. The 8767
county department of job and family services shall not take into 8768
account when payments can be made. 8769

(b) Any payment that is actually made to or for the benefit 8770
of the applicant or recipient from either the corpus or income 8771
shall be considered unearned income. 8772

(c) If a payment is made to someone other than to the 8773
applicant or recipient and the payment is not for the benefit of 8774
the applicant or recipient, the payment shall be considered an 8775
improper disposition of assets and shall be subject to section 8776
5111.0116 of the Revised Code and rules to implement that section 8777
adopted under section 5111.011 of the Revised Code. 8778

(d) The date of the disposition shall be the later of the 8779
date of establishment of the trust or the date of the occurrence 8780
of the event. 8781

(e) When determining the value of the disposed asset under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.

(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust.

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.

(h) Any addition of assets after the foreclosure date shall be considered a separate disposition.

(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted by the department of job and family services governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.

(5) The availability of a self-settled trust shall be considered without regard to any of the following:

(a) The purpose for which the trust is established;

(b) Whether the trustees have exercised or may exercise discretion under the trust;

(c) Any restrictions on when or whether distributions may be made from the trust;

(d) Any restrictions on the use of distributions from the trust.

(6) The baseline date for the look-back period for dispositions of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized

and first applies for medicaid. 8812

(F) The principal or income from any of the following shall 8813
be exempt from being counted as a resource by a county department 8814
of job and family services: 8815

(1)(a) A special needs trust that meets all of the following 8816
requirements: 8817

(i) The trust contains assets of an applicant or recipient 8818
under sixty-five years of age and may contain the assets of other 8819
individuals. 8820

(ii) The applicant or recipient is disabled as defined in 8821
rules adopted by the department of job and family services. 8822

(iii) The trust is established for the benefit of the 8823
applicant or recipient by a parent, grandparent, legal guardian, 8824
or a court. 8825

(iv) The trust requires that on the death of the applicant or 8826
recipient the state will receive all amounts remaining in the 8827
trust up to an amount equal to the total amount of medicaid paid 8828
on behalf of the applicant or recipient. 8829

(b) If a special needs trust meets the requirements of 8830
division (F)(1)(a) of this section and has been established for a 8831
disabled applicant or recipient under sixty-five years of age, the 8832
exemption for the trust granted pursuant to division (F) of this 8833
section shall continue after the disabled applicant or recipient 8834
becomes sixty-five years of age if the applicant or recipient 8835
continues to be disabled as defined in rules adopted by the 8836
department of job and family services. Except for income earned by 8837
the trust, the grantor shall not add to or otherwise augment the 8838
trust after the applicant or recipient attains sixty-five years of 8839
age. An addition or augmentation of the trust by the applicant or 8840
recipient with the applicant's own assets after the applicant or 8841
recipient attains sixty-five years of age shall be treated as an 8842

improper disposition of assets. 8843

(c) Cash distributions to the applicant or recipient shall be 8844
counted as unearned income. All other distributions from the trust 8845
shall be treated as provided in rules adopted by the department of 8846
job and family services governing in-kind income. 8847

(d) Transfers of assets to a special needs trust shall not be 8848
treated as an improper transfer of resources. Assets held prior to 8849
the transfer to the trust shall be considered as countable assets 8850
or countable income or countable assets and income. 8851

(2)(a) A qualifying income trust that meets all of the 8852
following requirements: 8853

(i) The trust is composed only of pension, social security, 8854
and other income to the applicant or recipient, including 8855
accumulated interest in the trust. 8856

(ii) The income is received by the individual and the right 8857
to receive the income is not assigned or transferred to the trust. 8858

(iii) The trust requires that on the death of the applicant 8859
or recipient the state will receive all amounts remaining in the 8860
trust up to an amount equal to the total amount of medicaid paid 8861
on behalf of the applicant or recipient. 8862

(b) No resources shall be used to establish or augment the 8863
trust. 8864

(c) If an applicant or recipient has irrevocably transferred 8865
or assigned the applicant's or recipient's right to receive income 8866
to the trust, the trust shall not be considered a qualifying 8867
income trust by the county department of job and family services. 8868

(d) Income placed in a qualifying income trust shall not be 8869
counted in determining an applicant's or recipient's eligibility 8870
for medicaid. The recipient of the funds may place any income 8871
directly into a qualifying income trust without those funds 8872

adversely affecting the applicant's or recipient's eligibility for 8873
medicaid. Income generated by the trust that remains in the trust 8874
shall not be considered as income to the applicant or recipient. 8875

(e) All income placed in a qualifying income trust shall be 8876
combined with any countable income not placed in the trust to 8877
arrive at a base income figure to be used for spend down 8878
calculations. 8879

(f) The base income figure shall be used for post-eligibility 8880
deductions, including personal needs allowance, monthly income 8881
allowance, family allowance, and medical expenses not subject to 8882
third party payment. Any income remaining shall be used toward 8883
payment of patient liability. Payments made from a qualifying 8884
income trust shall not be combined with the base income figure for 8885
post-eligibility calculations. 8886

(g) The base income figure shall be used when determining the 8887
spend down budget for the applicant or recipient. Any income 8888
remaining after allowable deductions are permitted as provided 8889
under rules adopted by the department of job and family services 8890
shall be considered the applicant's or recipient's spend down 8891
liability. 8892

(3)(a) A pooled trust that meets all of the following 8893
requirements: 8894

(i) The trust contains the assets of the applicant or 8895
recipient of any age who is disabled as defined in rules adopted 8896
by the department of job and family services. 8897

(ii) The trust is established and managed by a nonprofit 8898
association. 8899

(iii) A separate account is maintained for each beneficiary 8900
of the trust but, for purposes of investment and management of 8901
funds, the trust pools the funds in these accounts. 8902

(iv) Accounts in the trust are established by the applicant 8903
or recipient, the applicant's or recipient's parent, grandparent, 8904
or legal guardian, or a court solely for the benefit of 8905
individuals who are disabled. 8906

(v) The trust requires that, to the extent that any amounts 8907
remaining in the beneficiary's account on the death of the 8908
beneficiary are not retained by the trust, the trust pay to the 8909
state the amounts remaining in the trust up to an amount equal to 8910
the total amount of medicaid paid on behalf of the beneficiary. 8911

(b) Cash distributions to the applicant or recipient shall be 8912
counted as unearned income. All other distributions from the trust 8913
shall be treated as provided in rules adopted by the department of 8914
job and family services governing in-kind income. 8915

(c) Transfers of assets to a pooled trust shall not be 8916
treated as an improper disposition of assets. Assets held prior to 8917
the transfer to the trust shall be considered as countable assets, 8918
countable income, or countable assets and income. 8919

(4) A supplemental services trust that meets the requirements 8920
of section 5815.28 of the Revised Code and to which all of the 8921
following apply: 8922

(a) A person may establish a supplemental services trust 8923
pursuant to section 5815.28 of the Revised Code only for another 8924
person who is eligible to receive services through one of the 8925
following agencies: 8926

(i) The department of mental retardation and developmental 8927
disabilities; 8928

(ii) A county board of ~~mental retardation and~~ developmental 8929
disabilities; 8930

(iii) The department of mental health; 8931

(iv) A board of alcohol, drug addiction, and mental health 8932

services. 8933

(b) A county department of job and family services shall not 8934
determine eligibility for another agency's program. An applicant 8935
or recipient shall do one of the following: 8936

(i) Provide documentation from one of the agencies listed in 8937
division (F)(4)(a) of this section that establishes that the 8938
applicant or recipient was determined to be eligible for services 8939
from the agency at the time of the creation of the trust; 8940

(ii) Provide an order from a court of competent jurisdiction 8941
that states that the applicant or recipient was eligible for 8942
services from one of the agencies listed in division (F)(4)(a) of 8943
this section at the time of the creation of the trust. 8944

(c) At the time the trust is created, the trust principal 8945
does not exceed the maximum amount permitted. The maximum amount 8946
permitted in calendar year 2006 is two hundred twenty-two thousand 8947
dollars. Each year thereafter, the maximum amount permitted is the 8948
prior year's amount plus two thousand dollars. 8949

(d) A county department of job and family services shall 8950
review the trust to determine whether it complies with the 8951
provisions of section 5815.28 of the Revised Code. 8952

(e) Payments from supplemental services trusts shall be 8953
exempt as long as the payments are for supplemental services as 8954
defined in rules adopted by the department of job and family 8955
services. All supplemental services shall be purchased by the 8956
trustee and shall not be purchased through direct cash payments to 8957
the beneficiary. 8958

(f) If a trust is represented as a supplemental services 8959
trust and a county department of job and family services 8960
determines that the trust does not meet the requirements provided 8961
in division (F)(4) of this section and section 5815.28 of the 8962
Revised Code, the county department of job and family services 8963

shall not consider it an exempt trust. 8964

(G)(1) A trust or legal instrument or device similar to a 8965
trust shall be considered a trust established by an individual for 8966
the benefit of the applicant or recipient if all of the following 8967
apply: 8968

(a) The trust is created by a person other than the applicant 8969
or recipient. 8970

(b) The trust names the applicant or recipient as a 8971
beneficiary. 8972

(c) The trust is funded with assets or property in which the 8973
applicant or recipient has never held an ownership interest prior 8974
to the establishment of the trust. 8975

(2) Any portion of a trust that meets the requirements of 8976
division (G)(1) of this section shall be an available resource 8977
only if the trust permits the trustee to expend principal, corpus, 8978
or assets of the trust for the applicant's or recipient's medical 8979
care, care, comfort, maintenance, health, welfare, general well 8980
being, or any combination of these purposes. 8981

(3) A trust that meets the requirements of division (G)(1) of 8982
this section shall be considered an available resource even if the 8983
trust contains any of the following types of provisions: 8984

(a) A provision that prohibits the trustee from making 8985
payments that would supplant or replace medicaid or other public 8986
assistance; 8987

(b) A provision that prohibits the trustee from making 8988
payments that would impact or have an effect on the applicant's or 8989
recipient's right, ability, or opportunity to receive medicaid or 8990
other public assistance; 8991

(c) A provision that attempts to prevent the trust or its 8992
corpus or principal from being counted as an available resource. 8993

(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as an available resource if at least one of the following circumstances applies:

(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as an available resource. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as an available resource. Terms of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the trust for a particular purpose.

(c) If a trust contains a clear statement limiting the trustee to making fixed periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments.

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as an available resource, the trust shall not be counted as an available resource. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust.

(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource.

(f) If a trust is specifically exempt from being counted as an available resource by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as a resource.

(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as an available resource.

(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income.

(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as an available resource.

(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as an available resource, shall be treated as provided in rules adopted by the department of job and family services governing income. Payments to any person other than the applicant or recipient shall not be

considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper disposition of assets.

Sec. 5111.871. The department of job and family services shall enter into a contract with the department of mental retardation and developmental disabilities under section 5111.91 of the Revised Code with regard to one or more of the components of the medicaid program established by the department of job and family services under one or more of the medicaid waivers sought under section 5111.87 of the Revised Code. The contract shall provide for the department of mental retardation and developmental disabilities to administer the components in accordance with the terms of the waivers. The directors of job and family services and mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing the components.

If the department of mental retardation and developmental disabilities or the department of job and family services denies an individual's application for home and community-based services provided under any of these medicaid components, the department that denied the services shall give timely notice to the individual that the individual may request a hearing under section 5101.35 of the Revised Code.

The departments of mental retardation and developmental disabilities and job and family services may approve, reduce, deny, or terminate a service included in the individualized service plan developed for a medicaid recipient eligible for home and community-based services provided under any of these medicaid components. The departments shall consider the recommendations a county board of ~~mental retardation and~~ developmental disabilities makes under division (A)(1)(c) of section 5126.055 of the Revised

Code. If either department approves, reduces, denies, or 9087
terminates a service, that department shall give timely notice to 9088
the medicaid recipient that the recipient may request a hearing 9089
under section 5101.35 of the Revised Code. 9090

If supported living, as defined in section 5126.01 of the 9091
Revised Code, is to be provided as a service under any of these 9092
components, any person or government entity with a current, valid 9093
medicaid provider agreement and a current, valid certificate under 9094
section 5123.161 of the Revised Code may provide the service. 9095

If a service is to be provided under any of these components 9097
by a residential facility, as defined in section 5123.19 of the 9098
Revised Code, any person or government entity with a current, 9099
valid medicaid provider agreement and a current, valid license 9100
under section 5123.19 of the Revised Code may provide the service. 9101

Sec. 5111.872. When the department of mental retardation and 9102
developmental disabilities allocates enrollment numbers to a 9103
county board of ~~mental retardation and~~ developmental disabilities 9104
for home and community-based services specified in division (B)(1) 9105
of section 5111.87 of the Revised Code and provided under any of 9106
the components of the medicaid program that the department 9107
administers under section 5111.871 of the Revised Code, the 9108
department shall consider all of the following: 9109

(A) The number of individuals with mental retardation or 9110
other developmental disability who are on a waiting list the 9111
county board establishes under division (C) of section 5126.042 of 9112
the Revised Code for those services and are given priority on the 9113
waiting list pursuant to division (D) or (E) of that section; 9114

(B) The implementation component required by division (A)(3) 9115
of section 5126.054 of the Revised Code of the county board's plan 9116
approved under section 5123.046 of the Revised Code; 9117

(C) Anything else the department considers necessary to 9118
enable county boards to provide those services to individuals in 9119
accordance with the priority requirements of divisions (D) and (E) 9120
of section 5126.042 of the Revised Code. 9121

Sec. 5111.873. (A) Not later than the effective date of the 9122
first of any medicaid waivers the United States secretary of 9123
health and human services grants pursuant to a request made under 9124
section 5111.87 of the Revised Code, the director of job and 9125
family services shall adopt rules in accordance with Chapter 119. 9126
of the Revised Code establishing statewide fee schedules for home 9127
and community-based services specified in division (B)(1) of 9128
section 5111.87 of the Revised Code and provided under the 9129
components of the medicaid program that the department of mental 9130
retardation and developmental disabilities administers under 9131
section 5111.871 of the Revised Code. The rules shall provide for 9132
all of the following: 9133

(1) The department of mental retardation and developmental 9134
disabilities arranging for the initial and ongoing collection of 9135
cost information from a comprehensive, statistically valid sample 9136
of persons and government entities providing the services at the 9137
time the information is obtained; 9138

(2) The collection of consumer-specific information through 9139
an assessment instrument the department of mental retardation and 9140
developmental disabilities shall provide to the department of job 9141
and family services; 9142

(3) With the information collected pursuant to divisions 9143
(A)(1) and (2) of this section, an analysis of that information, 9144
and other information the director determines relevant, methods 9145
and standards for calculating the fee schedules that do all of the 9146
following: 9147

(a) Assure that the fees are consistent with efficiency, 9148

economy, and quality of care; 9149

(b) Consider the intensity of consumer resource need; 9150

(c) Recognize variations in different geographic areas 9151
regarding the resources necessary to assure the health and welfare 9152
of consumers; 9153

(d) Recognize variations in environmental supports available 9154
to consumers. 9155

(B) As part of the process of adopting rules under this 9156
section, the director shall consult with the director of mental 9157
retardation and developmental disabilities, representatives of 9158
county boards of ~~mental retardation and~~ developmental 9159
disabilities, persons who provide the home and community-based 9160
services, and other persons and government entities the director 9161
identifies. 9162

(C) The directors of job and family services and mental 9163
retardation and developmental disabilities shall review the rules 9164
adopted under this section at times they determine to ensure that 9165
the methods and standards established by the rules for calculating 9166
the fee schedules continue to do everything that division (A)(3) 9167
of this section requires. 9168

Sec. 5123.033. The program fee fund is hereby created in the 9169
state treasury. All fees collected pursuant to sections 5123.161, 9170
5123.164, 5123.19, and 5126.25 of the Revised Code shall be 9171
credited to the fund. Money credited to the fund shall be used 9172
solely for the department of mental retardation and developmental 9173
disabilities' duties under sections 5123.16 to 5123.169, 5123.19, 9174
and 5126.25 of the Revised Code and to provide continuing 9175
education and professional training to employees of county boards 9176
of ~~mental retardation and~~ developmental disabilities for the 9177
purpose of section 5126.25 of the Revised Code and other providers 9178

of services to individuals with mental retardation or a 9179
developmental disability. If the money credited to the fund is 9180
inadequate to pay all of the department's costs in performing 9181
those duties and providing the continuing education and 9182
professional training, the department may use other available 9183
funds appropriated to the department to pay the remaining costs of 9184
performing those duties and providing the continuing education and 9185
professional training. 9186

Sec. 5123.04. (A) The director of mental retardation and 9187
developmental disabilities is the executive head of the department 9188
of mental retardation and developmental disabilities. All duties 9189
conferred on the department and its institutions by law or by 9190
order of the director shall be performed under such rules as the 9191
director prescribes, and shall be under the director's control. 9192
The director shall establish bylaws for the government of all 9193
institutions under the jurisdiction of the department. Except as 9194
otherwise is provided as to appointments by chiefs of divisions, 9195
the director shall appoint such employees as are necessary for the 9196
efficient conduct of the department, and shall prescribe their 9197
titles and duties. If the director is not a licensed physician, 9198
decisions relating to medical diagnosis and treatment shall be the 9199
responsibility of a licensed physician appointed by the director. 9200

(B) The director shall adopt rules for the proper execution 9201
of the powers and duties of the department. 9202

(C) The director shall adopt rules establishing standards 9203
that mental retardation programs and facilities shall follow when 9204
performing evaluations of the mental condition of defendants 9205
ordered by the court under section 2919.271 or 2945.371 of the 9206
Revised Code, and for the treatment of defendants who have been 9207
found incompetent to stand trial under section 2945.38 of the 9208
Revised Code, and certify the compliance of such programs and 9209

facilities with the standards. 9210

(D) On behalf of the department, the director has the 9211
authority to, and responsibility for, entering into contracts and 9212
other agreements. 9213

(E) The director shall adopt rules in accordance with Chapter 9214
119. of the Revised Code that do all of the following: 9215

(1) Specify the supplemental services that may be provided 9216
through a trust authorized by section 5815.28 of the Revised Code; 9217

(2) Establish standards for the maintenance and distribution 9218
to a beneficiary of assets of a trust authorized by section 9219
5815.28 of the Revised Code. 9220

(F) The director shall provide monitoring of county boards of 9221
~~mental retardation and~~ developmental disabilities. 9222

Sec. 5123.042. (A) The director of mental retardation and 9223
developmental disabilities shall adopt rules in accordance with 9224
Chapter 119. of the Revised Code establishing the following: 9225

(1) Uniform standards under which: 9226

(a) A person or agency shall submit plans to the county board 9227
of ~~mental retardation and~~ developmental disabilities for the 9228
development of residential services for individuals with mental 9229
retardation or a developmental disability within the county; 9230

(b) The county board must review the plans and recommend 9231
providers for the services. 9232

(2) The eligibility criteria for selecting persons and 9233
agencies to provide residential services, which shall take into 9234
consideration the recommendations of the county board. 9235

(B) The county board, in accordance with its comprehensive 9236
service plan, shall review all proposals for the development of 9237
residential services that are submitted to it and shall, if the 9238

proposals are acceptable to the county board, recommend providers 9239
for the development of residential services within the county. The 9240
department shall approve proposals for the development of 9241
residential services within counties based upon the availability 9242
of funds and in accordance with rules adopted under division 9243
(A)(2) of this section. 9244

No county board shall recommend providers for the development 9245
of residential services if the county board is an applicant to 9246
provide services. In cases of possible conflict of interest, the 9247
director shall appoint a committee that shall, in accordance with 9248
the approved county comprehensive service plan, review and 9249
recommend to the director providers for the services. 9250

If a county board fails to establish an approved 9251
comprehensive service plan, the director may establish residential 9252
services development goals for the county board based on 9253
documented need as determined by the department. If a county board 9254
fails to develop or implement such a plan in accordance with the 9255
rules adopted under this section, the department may, without the 9256
involvement of the county board, review and select providers for 9257
the development of residential services in the county. 9258

Sec. 5123.043. (A) The director of mental retardation and 9259
developmental disabilities shall adopt rules establishing 9260
procedures for administrative resolution of complaints filed under 9261
division (B) of this section and section 5126.06 of the Revised 9262
Code. The rules shall be adopted in accordance with Chapter 119. 9263
of the Revised Code. 9264

(B) Except as provided in division (C) of this section, any 9265
person or county board of ~~mental retardation and~~ developmental 9266
disabilities that has a complaint involving any of the programs, 9267
services, policies, or administrative practices of the department 9268
of mental retardation and developmental disabilities or any of the 9269

entities under contract with the department, may file a complaint 9270
with the department. Prior to commencing a civil action regarding 9271
the complaint, a person or county board shall attempt to have the 9272
complaint resolved through the administrative resolution process 9273
established in the rules adopted under this section. After 9274
exhausting the administrative resolution process, the person or 9275
county board may commence a civil action if the complaint is not 9276
settled to the person's or county board's satisfaction. 9277

(C) An employee of the department may not file under this 9278
section a complaint related to the terms and conditions of 9279
employment for the employee. 9280

Sec. 5123.044. The department of mental retardation and 9281
developmental disabilities shall determine whether county boards 9282
of ~~mental retardation and~~ developmental disabilities are in 9283
compliance with section 5126.046 of the Revised Code. The 9284
department shall provide assistance to an individual with mental 9285
retardation or other developmental disability who requests 9286
assistance with the individual's right under section 5126.046 of 9287
the Revised Code to choose a provider of habilitation, vocational, 9288
community employment, residential, or supported living services if 9289
the department is notified of a county board's alleged violation 9290
of the individual's right to choose such a provider. 9291

Sec. 5123.046. The department of mental retardation and 9292
developmental disabilities shall review each component of the 9293
three-calendar-year plan it receives from a county board of ~~mental~~ 9294
~~retardation and~~ developmental disabilities under section 5126.054 9295
of the Revised Code and, in consultation with the department of 9296
job and family services and office of budget and management, 9297
approve each component that includes all the information and 9298
conditions specified in that section. The third component of the 9299
plan shall be approved or disapproved not later than forty-five 9300

days after the third component is submitted to the department. If 9301
the department approves all three components of the plan, the plan 9302
is approved. Otherwise, the plan is disapproved. If the plan is 9303
disapproved, the department shall take action against the county 9304
board under division (B) of section 5126.056 of the Revised Code. 9305
9306

In approving plans under this section, the department shall 9307
ensure that the aggregate of all plans provide for the increased 9308
enrollment into home and community-based services during each 9309
state fiscal year of at least five hundred individuals who did not 9310
receive residential services, supported living, or home and 9311
community-based services the prior state fiscal year if the 9312
department has enough additional enrollment available for this 9313
purpose. 9314

The department shall establish protocols that the department 9315
shall use to determine whether a county board is complying with 9316
the programmatic and financial accountability mechanisms and 9317
achieving outcomes specified in its approved plan. If the 9318
department determines that a county board is not in compliance 9319
with the mechanisms or achieving the outcomes specified in its 9320
approved plan, the department may take action under division (F) 9321
of section 5126.055 of the Revised Code. 9322

Sec. 5123.047. The department of mental retardation and 9323
developmental disabilities shall pay the nonfederal share of 9324
medicaid expenditures for medicaid case management services and 9325
home and community-based services for which no county board of 9326
~~mental retardation and~~ developmental disabilities is required by 9327
section 5126.059 or 5126.0510 of the Revised Code to pay. 9328

Sec. 5123.048. The director of mental retardation and 9329
developmental disabilities may enter into an agreement with a 9330

county board of ~~mental retardation and~~ developmental disabilities 9331
under which the department of mental retardation and developmental 9332
disabilities is to pay the nonfederal share of medicaid 9333
expenditures for one or more of the home and community-based 9334
services that the county board would, if not for the agreement, be 9335
required by section 5126.0510 of the Revised Code to pay. The 9336
agreement shall specify which home and community-based services 9337
the agreement covers. The department shall pay the nonfederal 9338
share of medicaid expenditures for the home and community-based 9339
services that the agreement covers as long as the agreement is in 9340
effect. 9341

Sec. 5123.049. The director of mental retardation and 9342
developmental disabilities shall adopt rules in accordance with 9343
Chapter 119. of the Revised Code governing the authorization and 9344
payment of home and community-based services and medicaid case 9345
management services. The rules shall provide for private providers 9346
of the services to receive one hundred per cent of the medicaid 9347
allowable payment amount and for government providers of the 9348
services to receive the federal share of the medicaid allowable 9349
payment, less the amount withheld as a fee under section 5123.0412 9350
of the Revised Code and any amount that may be required by rules 9351
adopted under section 5123.0413 of the Revised Code to be 9352
deposited into the state MR/DD risk fund. The rules shall 9353
establish the process by which county boards of ~~mental retardation~~ 9354
~~and~~ developmental disabilities shall certify and provide the 9355
nonfederal share of medicaid expenditures that the county board is 9356
required by sections 5126.059 and 5126.0510 of the Revised Code to 9357
pay. The process shall require a county board to certify that the 9358
county board has funding available at one time for two months 9359
costs for those expenditures. The process may permit a county 9360
board to certify that the county board has funding available at 9361
one time for more than two months costs for those expenditures. 9362

Sec. 5123.0411. The department of mental retardation and 9363
developmental disabilities may bring a mandamus action against a 9364
county board of ~~mental retardation and~~ developmental disabilities 9365
that fails to pay the nonfederal share of medicaid expenditures 9366
that the county board is required by sections 5126.059 and 9367
5126.0510 of the Revised Code to pay. The department may bring the 9368
mandamus action in the court of common pleas of the county served 9369
by the county board or in the Franklin county court of common 9370
pleas. 9371

Sec. 5123.0412. (A) The department of mental retardation and 9372
developmental disabilities shall charge each county board of 9373
~~mental retardation and~~ developmental disabilities an annual fee 9374
equal to one and one-half per cent of the total value of all 9375
medicaid paid claims for home and community-based services 9376
provided during the year to an individual eligible for services 9377
from the county board. No county board shall pass the cost of a 9378
fee charged to the county board under this section on to another 9379
provider of these services. 9380

(B) The fees collected under this section shall be deposited 9381
into the ODMR/DD administration and oversight fund and the ODJFS 9382
administration and oversight fund, both of which are hereby 9383
created in the state treasury. The portion of the fees to be 9384
deposited into the ODMR/DD administration and oversight fund and 9385
the portion of the fees to be deposited into the ODJFS 9386
administration and oversight fund shall be the portion specified 9387
in an interagency agreement entered into under division (C) of 9388
this section. The department of mental retardation and 9389
developmental disabilities shall use the money in the ODMR/DD 9390
administration and oversight fund and the department of job and 9391
family services shall use the money in the ODJFS administration 9392
and oversight fund for both of the following purposes: 9393

(1) The administrative and oversight costs of medicaid case management services and home and community-based services. The administrative and oversight costs shall include costs for staff, systems, and other resources the departments need and dedicate solely to the following duties associated with the services:	9394 9395 9396 9397 9398
(a) Eligibility determinations;	9399
(b) Training;	9400
(c) Fiscal management;	9401
(d) Claims processing;	9402
(e) Quality assurance oversight;	9403
(f) Other duties the departments identify.	9404
(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.	9405 9406 9407
(C) The departments of mental retardation and developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:	9408 9409 9410
(1) Specify which portion of the fees collected under this section is to be deposited into the ODMR/DD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;	9411 9412 9413 9414
(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund.	9415 9416 9417
(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 administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.	9418 9419 9420 9421 9422

Sec. 5123.0413. (A) The department of mental retardation and 9423
developmental disabilities, in consultation with the department of 9424
job and family services, office of budget and management, and 9425
county boards of ~~mental retardation and~~ developmental 9426
disabilities, shall adopt rules in accordance with Chapter 119. of 9427
the Revised Code no later than January 1, 2002, establishing a 9428
method of paying for extraordinary costs, including extraordinary 9429
costs for services to individuals with mental retardation or other 9430
developmental disability, and ensure the availability of adequate 9431
funds in the event a county property tax levy for services for 9432
individuals with mental retardation or other developmental 9433
disability fails. The rules may provide for using and managing 9434
either or both of the following: 9435

(1) A state MR/DD risk fund, which is hereby created in the 9436
state treasury; 9437

(2) A state insurance against MR/DD risk fund, which is 9438
hereby created in the state treasury. 9439

(B) Beginning January 1, 2002, the department of job and 9440
family services may not request approval from the United States 9441
secretary of health and human services to increase the number of 9442
slots for home and community-based services until the rules 9443
required by division (A) of this section are in effect. 9444

Sec. 5123.0416. (A) Subject to the availability of funds 9445
appropriated to the department of mental retardation and 9446
developmental disabilities for medicaid waiver state match, the 9447
department shall expend, in fiscal year 2009 and each fiscal year 9448
thereafter, not less than the amount appropriated in appropriation 9449
item 322-416, medicaid waiver - state match, in fiscal year 2008 9450
to do both of the following: 9451

(1) Pay the nonfederal share of medicaid expenditures for 9452

home and community-based services that section 5123.047 of the Revised Code requires the department to pay;

(2) Assist county boards of ~~mental retardation and~~ developmental disabilities in paying the nonfederal share of medicaid expenditures for home and community-based services that section 5126.0510 of the Revised Code requires county boards to pay.

(B) The department shall make the expenditures required by division (A)(2) of this section in the form of allocations to county boards or by other means. If the department makes the expenditures in the form of allocations, the process for making the allocations shall conform to a process the department shall establish after consulting with representatives of county boards.

Sec. 5123.081. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment to or employment with the department of mental retardation and developmental disabilities, including, but not limited to, a person who is being transferred to the department and an employee who is being recalled or reemployed after a layoff.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

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

(B) The director of mental retardation and developmental disabilities shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to each applicant, except that the director is not required to request a criminal records check for an employee of the department who is being considered for a

different position or is returning after a leave of absence or 9483
seasonal break in employment, as long as the director has no 9484
reason to believe that the employee has committed any of the 9485
offenses listed or described in division (E) of this section. 9486

If the applicant does not present proof that the applicant 9487
has been a resident of this state for the five-year period 9488
immediately prior to the date upon which the criminal records 9489
check is requested, the director shall request that the 9490
superintendent of the bureau obtain information from the federal 9491
bureau of investigation as a part of the criminal records check 9492
for the applicant. If the applicant presents proof that the 9493
applicant has been a resident of this state for that five-year 9494
period, the director may request that the superintendent of the 9495
bureau include information from the federal bureau of 9496
investigation in the criminal records check. For purposes of this 9497
division, an applicant may provide proof of residency in this 9498
state by presenting, with a notarized statement asserting that the 9499
applicant has been a resident of this state for that five-year 9500
period, a valid driver's license, notification of registration as 9501
an elector, a copy of an officially filed federal or state tax 9502
form identifying the applicant's permanent residence, or any other 9503
document the director considers acceptable. 9504

(C) The director shall provide to each applicant a copy of 9505
the form prescribed pursuant to division (C)(1) of section 109.572 9506
of the Revised Code, provide to each applicant a standard 9507
impression sheet to obtain fingerprint impressions prescribed 9508
pursuant to division (C)(2) of section 109.572 of the Revised 9509
Code, obtain the completed form and impression sheet from each 9510
applicant, and forward the completed form and impression sheet to 9511
the superintendent of the bureau of criminal identification and 9512
investigation at the time the criminal records check is requested. 9513

Any applicant who receives pursuant to this division a copy 9514

of the form prescribed pursuant to division (C)(1) of section 9515
109.572 of the Revised Code and a copy of an impression sheet 9516
prescribed pursuant to division (C)(2) of that section and who is 9517
requested to complete the form and provide a set of fingerprint 9518
impressions shall complete the form or provide all the information 9519
necessary to complete the form and shall provide the material with 9520
the impressions of the applicant's fingerprints. If an applicant, 9521
upon request, fails to provide the information necessary to 9522
complete the form or fails to provide impressions of the 9523
applicant's fingerprints, the director shall not employ the 9524
applicant. 9525

(D) The director may request any other state or federal 9526
agency to supply the director with a written report regarding the 9527
criminal record of each applicant. With regard to an applicant who 9528
becomes a department employee, if the employee holds an 9529
occupational or professional license or other credentials, the 9530
director may request that the state or federal agency that 9531
regulates the employee's occupation or profession supply the 9532
director with a written report of any information pertaining to 9533
the employee's criminal record that the agency obtains in the 9534
course of conducting an investigation or in the process of 9535
renewing the employee's license or other credentials. 9536

(E) Except as provided in division (K)(2) of this section and 9537
in rules adopted by the director in accordance with division (M) 9538
of this section, the director shall not employ a person to fill a 9539
position with the department who has been convicted of or pleaded 9540
guilty to any of the following: 9541

(1) A violation of section 2903.01, 2903.02, 2903.03, 9542
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 9543
2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 9544
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 9545
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 9546

2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 9547
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 9548
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of 9549
section 2905.04 of the Revised Code as it existed prior to July 1, 9550
1996, a violation of section 2919.23 of the Revised Code that 9551
would have been a violation of section 2905.04 of the Revised Code 9552
as it existed prior to July 1, 1996, had the violation occurred 9553
prior to that date, a violation of section 2925.11 of the Revised 9554
Code that is not a minor drug possession offense, or felonious 9555
sexual penetration in violation of former section 2907.12 of the 9556
Revised Code; 9557

(2) A felony contained in the Revised Code that is not listed 9558
in this division, if the felony bears a direct and substantial 9559
relationship to the duties and responsibilities of the position 9560
being filled; 9561

(3) Any offense contained in the Revised Code constituting a 9562
misdemeanor of the first degree on the first offense and a felony 9563
on a subsequent offense, if the offense bears a direct and 9564
substantial relationship to the position being filled and the 9565
nature of the services being provided by the department; 9566

(4) A violation of an existing or former municipal ordinance 9567
or law of this state, any other state, or the United States, if 9568
the offense is substantially equivalent to any of the offenses 9569
listed or described in division (E)(1), (2), or (3) of this 9570
section. 9571

(F) Prior to employing an applicant, the director shall 9572
require the applicant to submit a statement with the applicant's 9573
signature attesting that the applicant has not been convicted of 9574
or pleaded guilty to any of the offenses listed or described in 9575
division (E) of this section. The director also shall require the 9576
applicant to sign an agreement under which the applicant agrees to 9577
notify the director within fourteen calendar days if, while 9578

employed with the department, the applicant is ever formally 9579
charged with, convicted of, or pleads guilty to any of the 9580
offenses listed or described in division (E) of this section. The 9581
agreement shall inform the applicant that failure to report formal 9582
charges, a conviction, or a guilty plea may result in being 9583
dismissed from employment. 9584

(G) The director shall pay to the bureau of criminal 9585
identification and investigation the fee prescribed pursuant to 9586
division (C)(3) of section 109.572 of the Revised Code for each 9587
criminal records check requested and conducted pursuant to this 9588
section. 9589

(H)(1) Any report obtained pursuant to this section is not a 9590
public record for purposes of section 149.43 of the Revised Code 9591
and shall not be made available to any person, other than the 9592
applicant who is the subject of the records check or criminal 9593
records check or the applicant's representative, the department or 9594
its representative, a county board of ~~mental retardation and~~ 9595
developmental disabilities, and any court, hearing officer, or 9596
other necessary individual involved in a case dealing with the 9597
denial of employment to the applicant or the denial, suspension, 9598
or revocation of a certificate or evidence of registration under 9599
section 5123.082 of the Revised Code. 9600

(2) An individual for whom the director has obtained reports 9601
under this section may submit a written request to the director to 9602
have copies of the reports sent to any state agency, entity of 9603
local government, or private entity. The individual shall specify 9604
in the request the agencies or entities to which the copies are to 9605
be sent. On receiving the request, the director shall send copies 9606
of the reports to the agencies or entities specified. 9607

The director may request that a state agency, entity of local 9608
government, or private entity send copies to the director of any 9609
report regarding a records check or criminal records check that 9610

the agency or entity possesses, if the director obtains the 9611
written consent of the individual who is the subject of the 9612
report. 9613

(I) The director shall request the registrar of motor 9614
vehicles to supply the director with a certified abstract 9615
regarding the record of convictions for violations of motor 9616
vehicle laws of each applicant who will be required by the 9617
applicant's employment to transport individuals with mental 9618
retardation or a developmental disability or to operate the 9619
department's vehicles for any other purpose. For each abstract 9620
provided under this section, the director shall pay the amount 9621
specified in section 4509.05 of the Revised Code. 9622

(J) The director shall provide each applicant with a copy of 9623
any report or abstract obtained about the applicant under this 9624
section. 9625

(K)(1) The director shall inform each person, at the time of 9626
the person's initial application for employment, that the person 9627
is required to provide a set of impressions of the person's 9628
fingerprints and that a criminal records check is required to be 9629
conducted and satisfactorily completed in accordance with section 9630
109.572 of the Revised Code if the person comes under final 9631
consideration for employment as a precondition to employment in a 9632
position. 9633

(2) The director may employ an applicant pending receipt of 9634
reports requested under this section. The director shall terminate 9635
employment of any such applicant if it is determined from the 9636
reports that the applicant failed to inform the director that the 9637
applicant had been convicted of or pleaded guilty to any of the 9638
offenses listed or described in division (E) of this section. 9639

(L) The director may charge an applicant a fee for costs the 9640
director incurs in obtaining reports, abstracts, or fingerprint 9641

impressions under this section. A fee charged under this division 9642
shall not exceed the amount of the fees the director pays under 9643
divisions (G) and (I) of this section. If a fee is charged under 9644
this division, the director shall notify the applicant of the 9645
amount of the fee at the time of the applicant's initial 9646
application for employment and that, unless the fee is paid, the 9647
director will not consider the applicant for employment. 9648

(M) The director shall adopt rules in accordance with Chapter 9649
119. of the Revised Code to implement this section, including 9650
rules specifying circumstances under which the director may employ 9651
a person who has been convicted of or pleaded guilty to an offense 9652
listed or described in division (E) of this section but who meets 9653
standards in regard to rehabilitation set by the director. 9654

Sec. 5123.082. (A) The director of mental retardation and 9655
developmental disabilities shall adopt rules in accordance with 9656
Chapter 119. of the Revised Code: 9657

(1) Designating positions of employment for which the 9658
director determines that certification or evidence of registration 9659
is required as a condition of employment in the department of 9660
mental retardation and developmental disabilities, entities that 9661
contract with the department or county boards of ~~mental~~ 9662
~~retardation and~~ developmental disabilities to operate programs or 9663
provide services to persons with mental retardation and 9664
developmental disabilities, or other positions of employment in 9665
programs that serve those persons. The rules shall designate the 9666
position of investigative agent, as defined in section 5126.20 of 9667
the Revised Code, as a position for which certification is 9668
required. 9669

(2) Establishing levels of certification or registration for 9670
each position for which certification or registration is required; 9671

(3) Establishing for each level of each position the 9672

requirements that must be met to obtain certification or 9673
registration, including standards regarding education, specialized 9674
training, and experience. The standards shall take into account 9675
the nature and needs of persons with mental retardation or a 9676
developmental disability and the specialized techniques needed to 9677
serve them. The requirements for an investigative agent shall be 9678
the same as the certification requirements for an investigative 9679
agent under section 5126.25 of the Revised Code. 9680

(4) Establishing renewal schedules and renewal requirements 9681
for certification and registration, including standards regarding 9682
education, specialized training, and experience. The renewal 9683
requirements for an investigative agent shall be the same as the 9684
renewal requirements for an investigative agent under section 9685
5126.25 of the Revised Code. 9686

(5) Establishing procedures for denial, suspension, and 9687
revocation of a certificate or evidence of registration, including 9688
appeal procedures; 9689

(6) Establishing other requirements needed to carry out this 9690
section. 9691

(B) The director shall issue, renew, deny, suspend, or revoke 9692
a certificate or evidence of registration in accordance with rules 9693
adopted under this section. The director shall deny, suspend, or 9694
revoke a certificate or evidence of registration if the director 9695
finds, pursuant to an adjudication conducted in accordance with 9696
Chapter 119. of the Revised Code, that an applicant for or holder 9697
of a certificate or evidence of registration is guilty of 9698
intemperate, immoral, or other conduct unbecoming to the 9699
applicant's or holder's position, or is guilty of incompetence or 9700
negligence within the scope of the applicant's or holder's duties. 9701
The director shall deny or revoke a certificate or evidence of 9702
registration after the director finds, pursuant to an adjudication 9703
conducted in accordance with Chapter 119. of the Revised Code, 9704

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. 5123.16. (A) As used in sections 5123.16 to 5123.169 of the Revised Code:

(1) "Provider" means a person or government entity certified by the director of mental retardation and developmental disabilities to provide supported living.

(2) "Related party" means any of the following:

(a) In the case of a provider who is an individual, any of the following:

(i) The spouse of the provider;

(ii) A parent or stepparent of the provider or provider's spouse;	9735 9736
(iii) A child of the provider or provider's spouse;	9737
(iv) A sibling, half sibling, or stepsibling of the provider or provider's spouse;	9738 9739
(v) A grandparent of the provider or provider's spouse;	9740
(vi) A grandchild of the provider or provider's spouse;	9741
(vii) An employee or employer of the provider or provider's spouse.	9742 9743
(b) In the case of a provider that is a person other than an individual, any of the following:	9744 9745
(i) An employee of the person;	9746
(ii) An officer of the provider, including the chief executive officer, president, vice-president, secretary, and treasurer;	9747 9748 9749
(iii) A member of the provider's board of directors or trustees;	9750 9751
(iv) A person owning a financial interest of five per cent or more in the provider;	9752 9753
(v) A corporation that has a subsidiary relationship with the provider;	9754 9755
(vi) A person or government entity that has control over the provider's day-to-day operation;	9756 9757
(vii) A person over which the provider has control of the day-to-day operation.	9758 9759
(c) In the case of a provider that is a government entity, any of the following:	9760 9761
(i) An employee of the provider;	9762

(ii) An officer of the provider;	9763
(iii) A member of the provider's governing board;	9764
(iv) A government entity that has control over the provider's day-to-day operation;	9765 9766
(v) A person or government entity over which the provider has control of the day-to-day operation.	9767 9768
(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.	9769 9770 9771
(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.	9772 9773 9774 9775
Sec. 5123.166. (A) If good cause exists as specified in division (B) of this section and determined in accordance with procedures established in rules adopted under section 5123.169 of the Revised Code, the director of mental retardation and developmental disabilities may issue an adjudication order requiring that one of the following actions be taken against a person or government entity seeking or holding a supported living certificate:	9776 9777 9778 9779 9780 9781 9782 9783
(1) Refusal to issue or renew a supported living certificate;	9784
(2) Revocation of a supported living certificate;	9785
(3) Suspension of a supported living certificate holder's authority to do either or both of the following:	9786 9787
(a) Continue to provide supported living to one or more individuals from one or more counties who receive supported living from the certificate holder at the time the director takes the action;	9788 9789 9790 9791

(b) Begin to provide supported living to one or more individuals from one or more counties who do not receive supported living from the certificate holder at the time the director takes the action.	9792 9793 9794 9795
(B) The following constitute good cause for taking action under division (A) of this section against a person or government entity seeking or holding a supported living certificate:	9796 9797 9798
(1) The person or government entity's failure to meet or continue to meet the applicable certification standards established in rules adopted under section 5123.169 of the Revised Code;	9799 9800 9801 9802
(2) The person or government entity violates section 5123.165 of the Revised Code;	9803 9804
(3) The person or government entity's failure to satisfy the requirements of section 5123.52, 5126.28, or 5126.281 of the Revised Code;	9805 9806 9807
(4) Misfeasance;	9808
(5) Malfeasance;	9809
(6) Nonfeasance;	9810
(7) Confirmed abuse or neglect;	9811
(8) Financial irresponsibility;	9812
(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.	9813 9814 9815
(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.	9816 9817 9818
(D)(1) The director may issue an order requiring that action specified in division (A)(3) of this section be taken before a	9819 9820

provider is provided notice and an opportunity for a hearing if 9821
all of the following are the case: 9822

(a) The director determines such action is warranted by the 9823
provider's failure to continue to meet the applicable 9824
certification standards; 9825

(b) The director determines that the failure either 9826
represents a pattern of serious noncompliance or creates a 9827
substantial risk to the health or safety of an individual who 9828
receives or would receive supported living from the provider; 9829

(c) If the order will suspend the provider's authority to 9830
continue to provide supported living to an individual who receives 9831
supported living from the provider at the time the director issues 9832
the order, both of the following are the case: 9833

(i) The director makes the individual, or the individual's 9834
guardian, aware of the director's determination under division 9835
(D)(1)(b) of this section and the individual or guardian does not 9836
select another provider. 9837

(ii) A county board of ~~mental retardation and~~ developmental 9838
disabilities has filed a complaint with a probate court under 9839
section 5123.33 of the Revised Code that includes facts describing 9840
the nature of abuse or neglect that the individual has suffered 9841
due to the provider's actions that are the basis for the director 9842
making the determination under division (D)(1)(b) of this section 9843
and the probate court does not issue an order authorizing the 9844
county board to arrange services for the individual pursuant to an 9845
individualized service plan developed for the individual under 9846
section 5123.31 of the Revised Code. 9847

(2) If the director issues an order under division (D)(1) of 9848
this section, sections 119.091 to 119.13 of the Revised Code and 9849
all of the following apply: 9850

(a) The director shall send the provider notice of the order 9851

by registered mail, return receipt requested, not later than 9852
twenty-four hours after issuing the order and shall include in the 9853
notice the reasons for the order, the citation to the law or rule 9854
directly involved, and a statement that the provider will be 9855
afforded a hearing if the provider requests it within ten days of 9856
the time of receiving the notice. 9857

(b) If the provider requests a hearing within the required 9858
time and the provider has provided the director the provider's 9859
current address, the director shall immediately set, and notify 9860
the provider of, the date, time, and place for the hearing. 9861

(c) The date of the hearing shall be not later than thirty 9862
days after the director receives the provider's timely request for 9863
the hearing. 9864

(d) The hearing shall be conducted in accordance with section 9865
119.09 of the Revised Code, except for all of the following: 9866

(i) The hearing shall continue uninterrupted until its close, 9867
except for weekends, legal holidays, and other interruptions the 9868
provider and director agree to. 9869

(ii) If the director appoints a referee or examiner to 9870
conduct the hearing, the referee or examiner, not later than ten 9871
days after the date the referee or examiner receives a transcript 9872
of the testimony and evidence presented at the hearing or, if the 9873
referee or examiner does not receive the transcript or no such 9874
transcript is made, the date that the referee or examiner closes 9875
the record of the hearing, shall submit to the director a written 9876
report setting forth the referee or examiner's findings of fact 9877
and conclusions of law and a recommendation of the action the 9878
director should take. 9879

(iii) The provider may, not later than five days after the 9880
date the director, in accordance with section 119.09 of the 9881
Revised Code, sends the provider or the provider's attorney or 9882

other representative of record a copy of the referee or examiner's 9883
report and recommendation, file with the director written 9884
objections to the report and recommendation. 9885

(iv) The director shall approve, modify, or disapprove the 9886
referee or examiner's report and recommendation not earlier than 9887
six days, and not later than fifteen days, after the date the 9888
director, in accordance with section 119.09 of the Revised Code, 9889
sends a copy of the report and recommendation to the provider or 9890
the provider's attorney or other representative of record. 9891

(3) The director may lift an order issued under division 9892
(D)(1) of this section even though a hearing regarding the order 9893
is occurring or pending if the director determines that the 9894
provider has taken action eliminating the good cause for issuing 9895
the order. The hearing shall proceed unless the provider withdraws 9896
the request for the hearing in a written letter to the director. 9897

(4) The director shall lift an order issued under division 9898
(D)(1) of this section if both of the following are the case: 9899

(a) The provider provides the director a plan of compliance 9900
the director determines is acceptable. 9901

(b) The director determines that the provider has implemented 9902
the plan of compliance correctly. 9903

Sec. 5123.169. The director of mental retardation and 9904
developmental disabilities shall adopt rules under Chapter 119. of 9905
the Revised Code establishing all of the following: 9906

(A) The extent to which a county board of ~~mental retardation~~ 9907
~~and~~ developmental disabilities may provide supported living; 9908

(B) The application process for obtaining a supported living 9909
certificate under section 5123.161 of the Revised Code; 9910

(C) The certification standards a person or government entity 9911
must meet to obtain a supported living certificate to provide 9912

supported living; 9913

(D) The certification fee for a supported living certificate, 9914
which shall be deposited into the program fee fund created under 9915
section 5123.033 of the Revised Code; 9916

(E) The period of time a supported living certificate is 9917
valid; 9918

(F) The process for renewing a supported living certificate 9919
under section 5123.164 of the Revised Code; 9920

(G) The renewal fee for a supported living certificate, which 9921
shall be deposited into the program fee fund created under section 9922
5123.033 of the Revised Code; 9923

(H) Procedures for conducting surveys under section 5123.162 9924
of the Revised Code; 9925

(I) Procedures for determining whether there is good cause to 9926
take action under section 5123.166 of the Revised Code against a 9927
person or government entity seeking or holding a supported living 9928
certificate. 9929

Sec. 5123.171. As used in this section, "respite care" means 9930
appropriate, short-term, temporary care provided to a mentally 9931
retarded or developmentally disabled person to sustain the family 9932
structure or to meet planned or emergency needs of the family. 9933

The department of mental retardation and developmental 9934
disabilities shall provide respite care services to persons with 9935
mental retardation or a developmental disability for the purpose 9936
of promoting self-sufficiency and normalization, preventing or 9937
reducing inappropriate institutional care, and furthering the 9938
unity of the family by enabling the family to meet the special 9939
needs of a mentally retarded or developmentally disabled person. 9940

In order to be eligible for respite care services under this 9941
section, the mentally retarded or developmentally disabled person 9942

must be in need of habilitation services as defined in section 9943
5126.01 of the Revised Code. 9944

Respite care may be provided in a facility licensed under 9945
section 5123.19 of the Revised Code or certified as an 9946
intermediate care facility for the mentally retarded under Title 9947
XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 9948
301, as amended, or certified as a respite care home under section 9949
5126.05 of the Revised Code. 9950

The department shall develop a system for locating vacant 9951
beds that are available for respite care and for making 9952
information on vacant beds available to users of respite care 9953
services. Facilities certified as intermediate care facilities for 9954
the mentally retarded and facilities holding contracts with the 9955
department for the provision of residential services under section 9956
5123.18 of the Revised Code shall report vacant beds to the 9957
department but shall not be required to accept respite care 9958
clients. 9959

The director of mental retardation and developmental 9960
disabilities shall adopt, and may amend or rescind, rules in 9961
accordance with Chapter 119. of the Revised Code for both of the 9962
following: 9963

(A) Certification by county boards of ~~mental retardation and~~ 9964
developmental disabilities of respite care homes; 9965

(B) Provision of respite care services authorized by this 9966
section. Rules adopted under this division shall establish all of 9967
the following: 9968

(1) A formula for distributing funds appropriated for respite 9969
care services; 9970

(2) Standards for supervision, training and quality control 9971
in the provision of respite care services; 9972

(3) Eligibility criteria for emergency respite care services. 9973

Sec. 5123.172. (A) As used in this section: 9974

(1) "Provider" means any person or government agency that 9975
owns, operates, manages, or is employed or under contract to 9976
operate a residential facility licensed under section 5123.19 of 9977
the Revised Code. 9978

(2) "Related to a provider" means that a person or government 9979
agency is affiliated with a provider, has control over the 9980
provider or is controlled by the provider, or is a member of the 9981
provider's family. 9982

(3) "Member of the provider's family" means the provider's 9983
spouse, natural or adoptive parent, stepparent, natural or 9984
adoptive child, stepchild, sibling, stepsister, stepbrother, 9985
half-brother, half-sister, daughter-in-law, son-in-law, 9986
brother-in-law, sister-in-law, grandparent, or grandchild. 9987

(B) Prior to entering into a contract with the department of 9988
mental retardation and developmental disabilities under section 9989
5123.18 of the Revised Code and as required thereafter, every 9990
provider holding or negotiating a contract with the department 9991
shall report upon the request of the department, in the form and 9992
on the schedule established in rules adopted by the department in 9993
accordance with Chapter 119. of the Revised Code, the following 9994
information: 9995

(1) The name and address of every person holding a financial 9996
interest of five per cent or more in the management or operation 9997
of the residential facility; 9998

(2) The names and addresses of members of the board of 9999
trustees or directors of the residential facility or of the 10000
management contractor; 10001

(3) Every contract or business transaction between the 10002

provider and any person or government agency related to the 10003
provider if such contract or transaction would affect rates of 10004
payment under section 5123.18 of the Revised Code. 10005

(C) The department shall make reports filed under division 10006
(B) of this section available to the appropriate county board of 10007
~~mental retardation and~~ developmental disabilities and any other 10008
appropriate public agencies. 10009

(D) Any provider who fails to comply with reporting 10010
requirements of this section shall be subject to a civil penalty 10011
not to exceed one thousand dollars for each violation and to 10012
possible license revocation. 10013

Sec. 5123.18. (A) As used in this section: 10014

(1) "Contractor" means a person or government agency that 10015
enters into a contract with the department of mental retardation 10016
and developmental disabilities under this section. 10017

(2) "Government agency" means a state agency as defined in 10018
section 117.01 of the Revised Code or a similar agency of a 10019
political subdivision of the state. 10020

(3) "Residential services" means the services necessary for 10021
an individual with mental retardation or a developmental 10022
disability to live in the community, including room and board, 10023
clothing, transportation, personal care, habilitation, 10024
supervision, and any other services the department considers 10025
necessary for the individual to live in the community. 10026

(B)(1) The department of mental retardation and developmental 10027
disabilities may enter into a contract with a person or government 10028
agency to provide residential services to individuals with mental 10029
retardation or developmental disabilities in need of residential 10030
services. Contracts for residential services shall be of the 10031
following types: 10032

(a) Companion home contracts - contracts under which the contractor is an individual, the individual is the primary caregiver, and the individual owns or leases and resides in the home in which the services are provided.

(b) Agency-operated companion home contracts - contracts under which the contractor subcontracts, for purposes of coordinating the provision of residential services, with one or more individuals who are primary caregivers and own or lease and reside in the homes in which the services are provided.

(c) Community home contracts - contracts for residential services under which the contractor owns or operates a home that is used solely to provide residential services.

(d) Combined agency-operated companion home and community home contracts.

(2) A companion home contract shall cover not more than one home. An agency-operated companion home contract or a community home contract may cover more than one home.

(C) Contracts shall be in writing and shall provide for payment to be made to the contractor at the times agreed to by the department and the contractor. Each contract shall specify the period during which it is valid, the amount to be paid for residential services, and the number of individuals for whom payment will be made. Contracts may be renewed.

(D) To be eligible to enter into a contract with the department under this section, the person or government agency and the home in which the residential services are provided must meet all applicable standards for licensing or certification by the appropriate government agency. In addition, if the residential facility is operated as a nonprofit entity, the members of the board of trustees or board of directors of the facility must not have a financial interest in or receive financial benefit from the

facility, other than reimbursement for actual expenses incurred in attending board meetings. 10064
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(E)(1) The department shall determine the payment amount assigned to an initial contract. To the extent that the department determines sufficient funds are available, the payment amount assigned to an initial contract shall be equal to the average amount assigned to contracts for other homes that are of the same type and size and serve individuals with similar needs, except that if an initial contract is the result of a change of contractor or ownership, the payment amount assigned to the contract shall be the lesser of the amount assigned to the previous contract or the contract's total adjusted predicted funding need calculated under division (I) of this section. 10066
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(2) A renewed contract shall be assigned a payment amount in accordance with division (K) of this section. 10077
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(3) When a contractor relocates a home to another site at which residential services are provided to the same individuals, the payment amount assigned to the contract for the new home shall be the payment amount assigned to the contract at the previous location. 10079
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(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. 10084
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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 10092
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revised assessments for all individuals receiving residential services if there is a change in the composition of the home's residents. 10095
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(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. 10098
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(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. 10105
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(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. 10108
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(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. 10112
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(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: 10120
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(a) Routine direct services staff; 10123

(b) Dietary, program supplies, and specialized staff; 10124

(c) Facility and general services;	10125
(d) Administration.	10126
(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:	10127 10128 10129 10130 10131
(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;	10132 10133 10134 10135
(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.	10136 10137 10138
(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 supplies, and specialized staff cost category. The rules shall establish a process for determining the combined maximum amount that may be attributed to the facility and general services cost category and the administration cost category.	10139 10140 10141 10142 10143 10144 10145 10146 10147 10148 10149
(I)(1) A contract's total adjusted predicted funding need is the contract's total predicted funding need with adjustments made for the following:	10150 10151 10152
(a) Inflation, as provided under division (I)(2) of this section;	10153 10154

(b) The predicted cost of complying with new requirements 10155
established under federal or state law that were not taken into 10156
consideration when the total predicted funding need was computed; 10157

(c) Changes in needs based on revised assessments submitted 10158
by the contractor. 10159

(2) In adjusting the total predicted funding need for 10160
inflation, the department shall use either the consumer price 10161
index compound annual inflation rate calculated by the United 10162
States department of labor for all items or another index or 10163
measurement of inflation designated in rules that the department 10164
shall adopt in accordance with Chapter 119. of the Revised Code. 10165

When a contract is being renewed for the first time, and the 10166
contract is to begin on the first day of July, the inflation 10167
adjustment applied to the contract's total predicted funding need 10168
shall be the estimated rate of inflation for the calendar year in 10169
which the contract is renewed. If the consumer price index is 10170
being used, the department shall base its estimate on the rate of 10171
inflation calculated for the three-month period ending the 10172
thirty-first day of March of that calendar year. If another index 10173
or measurement is being used, the department shall base its 10174
estimate on the most recent calculations of the rate of inflation 10175
available under the index or measurement. Each year thereafter, 10176
the inflation adjustment shall be estimated in the same manner, 10177
except that if the estimated rate of inflation for a year is 10178
different from the actual rate of inflation for that year, the 10179
difference shall be added to or subtracted from the rate of 10180
inflation estimated for the next succeeding year. 10181

If a contract begins at any time other than July first, the 10182
inflation adjustment applied to the contract's total predicted 10183
funding need shall be determined by a method comparable to that 10184
used for contracts beginning July first. The department shall 10185
adopt rules in accordance with Chapter 119. of the Revised Code 10186

establishing the method to be used. 10187

(J) A contract's unmet funding need is the difference between 10188
the payment amount assigned to the contract and the total adjusted 10189
predicted funding need, if the payment amount assigned is less 10190
than the total adjusted predicted funding need. 10191

(K) The payment amount to be assigned to a contract being 10192
renewed shall be determined by comparing the total adjusted 10193
predicted funding need with the payment amount assigned to the 10194
current contract. 10195

(1) If the payment amount assigned to the current contract 10196
equals or exceeds the total adjusted predicted funding need, the 10197
payment amount assigned to the renewed contract shall be the same 10198
as that assigned to the current contract, unless a reduction is 10199
made pursuant to division (L) of this section. 10200

(2) If the payment amount assigned to the current contract is 10201
less than the total adjusted predicted funding need, the payment 10202
amount assigned to the renewed contract shall be increased if the 10203
department determines that funds are available for such increases. 10204
The amount of a contract's increase shall be the same percentage 10205
of the available funds that the contract's unmet funding need is 10206
of the total of the unmet funding need for all contracts. 10207

(L) When renewing a contract provided for in division (B) of 10208
this section other than a companion home contract, the department 10209
may reduce the payment amount assigned to a renewed contract if 10210
the sum of the contractor's allowable reported costs and the 10211
maximum efficiency incentive is less than ninety-one and one-half 10212
per cent of the amount received pursuant to this section during 10213
the immediately preceding contract year. 10214

The department shall adopt rules in accordance with Chapter 10215
119. of the Revised Code establishing a formula to be used in 10216
computing the maximum efficiency incentive, which shall be at 10217

least four per cent of the weighted average payment amount to be 10218
made to all contractors during the contract year. The maximum 10219
efficiency incentive shall be computed annually. 10220

(M) The department may increase the payment amount assigned 10221
to a contract based on the contract's unmet funding need at times 10222
other than when the contract is renewed. The department may 10223
develop policies for determining priorities in making such 10224
increases. 10225

(N)(1) In addition to the contracts provided for in division 10226
(B) of this section, the department may enter into the following 10227
contracts: 10228

(a) A contract to pay the cost of beginning operation of a 10229
new home that is to be funded under a companion home contract, 10230
agency-operated companion home contract, community home contract, 10231
or combined agency-operated companion home and community home 10232
contract. 10233

(b) A contract to pay the cost associated with increasing the 10234
number of individuals served by a home funded under a companion 10235
home contract, agency-operated companion home contract, community 10236
home contract, or combined agency-operated companion home and 10237
community home contract. 10238

(2) The department shall adopt rules as necessary regarding 10239
contracts entered into under this division. The rules shall be 10240
adopted in accordance with Chapter 119. of the Revised Code. 10241

(O) Except for companion home contracts, the department shall 10242
conduct a reconciliation of the amount earned under a contract and 10243
the actual costs incurred by the contractor. An amount is 10244
considered to have been earned for delivering a service at the 10245
time the service is delivered. The department shall adopt rules in 10246
accordance with Chapter 119. of the Revised Code establishing 10247
procedures for conducting reconciliations. 10248

A reconciliation shall be based on the annual cost report 10249
submitted by the contractor. If a reconciliation reveals that a 10250
contractor owes money to the state, the amount owed shall be 10251
collected in accordance with section 5123.051 of the Revised Code. 10252

When conducting reconciliations, the department shall review 10253
all reported costs that may be affected by transactions required 10254
to be reported under division (B)(3) of section 5123.172 of the 10255
Revised Code. If the department determines that such transactions 10256
have increased the cost reported by a contractor, the department 10257
may disallow or adjust the cost allowable for payment. The 10258
department shall adopt rules in accordance with Chapter 119. of 10259
the Revised Code establishing standards for disallowances or 10260
adjustments. 10261

(P) The department may audit the contracts it enters into 10262
under this section. Audits may be conducted by the department or 10263
an entity with which the department contracts to perform the 10264
audits. The department shall adopt rules in accordance with 10265
Chapter 119. of the Revised Code establishing procedures for 10266
conducting audits. 10267

An audit may include the examination of a contractor's 10268
financial books and records, the costs incurred by a contractor in 10269
providing residential services, and any other relevant information 10270
specified by the department. An audit shall not be commenced more 10271
than four years after the expiration of the contract to be 10272
audited, except in cases where the department has reasonable cause 10273
to believe that a contractor has committed fraud. 10274

If an audit reveals that a contractor owes money to the 10275
state, the amount owed, subject to an adjudication hearing under 10276
this division, shall be collected in accordance with section 10277
5123.051 of the Revised Code. If an audit reveals that a 10278
reconciliation conducted under this section resulted in the 10279
contractor erroneously paying money to the state, the department 10280

shall refund the money to the contractor, or, in lieu of making a 10281
refund, the department may offset the erroneous payment against 10282
any money determined as a result of the audit to be owed by the 10283
contractor to the state. The department is not required to pay 10284
interest on any money refunded under this division. 10285

In conducting audits or making determinations of amounts owed 10286
by a contractor and amounts to be refunded or offset, the 10287
department shall not be bound by the results of reconciliations 10288
conducted under this section, except with regard to cases 10289
involving claims that have been certified pursuant to section 10290
5123.051 of the Revised Code to the attorney general for 10291
collection for which a full and final settlement has been reached 10292
or a final judgment has been made from which all rights of appeal 10293
have expired or been exhausted. 10294

Not later than ninety days after an audit's completion, the 10295
department shall provide the contractor a copy of a report of the 10296
audit. The report shall state the findings of the audit, including 10297
the amount of any money the contractor is determined to owe the 10298
state. 10299

(Q) The department shall adopt rules specifying the amount 10300
that will be allowed under a reconciliation or audit for the cost 10301
incurred by a contractor for compensation of owners, 10302
administrators, and other personnel. The rules shall be adopted in 10303
accordance with Chapter 119. of the Revised Code. 10304

(R) Each contractor shall, for at least seven years, maintain 10305
fiscal records related to payments received pursuant to this 10306
section. 10307

(S) The department may enter into shared funding agreements 10308
with other government agencies to fund contracts entered into 10309
under this section. The amount of each agency's share of the cost 10310
shall be determined through negotiations with the department. The 10311

department's share shall not exceed the amount it would have paid 10312
without entering into the shared funding agreement, nor shall it 10313
be reduced by any amounts contributed by the other parties to the 10314
agreement. 10315

(T) Except as provided in section 5123.194 of the Revised 10316
Code, an individual who receives residential services pursuant to 10317
divisions (A) through (U) of this section and the individual's 10318
liable relatives or guardians shall pay support charges in 10319
accordance with Chapter 5121. of the Revised Code. 10320

(U) The department may make reimbursements or payments for 10321
any of the following pursuant to rules adopted under this 10322
division: 10323

(1) Unanticipated, nonrecurring costs associated with the 10324
health or habilitation of a person who resides in a home funded 10325
under a contract provided for in division (B) of this section; 10326

(2) The cost of staff development training for contractors if 10327
the director of mental retardation and developmental disabilities 10328
has given prior approval for the training; 10329

(3) Fixed costs that the department, pursuant to the rules, 10330
determines relate to the continued operation of a home funded 10331
under a contract provided for in division (B) of this section when 10332
a short term vacancy occurs and the contractor has diligently 10333
attempted to fill the vacancy. 10334

The department shall adopt rules in accordance with Chapter 10335
119. of the Revised Code establishing standards for use in 10336
determining which costs it may make payment or reimbursements for 10337
under this division. 10338

(V) In addition to the rules required or authorized to be 10339
adopted under this section, the department may adopt any other 10340
rules necessary to implement divisions (A) through (U) of this 10341
section. The rules shall be adopted in accordance with Chapter 10342

119. of the Revised Code. 10343

(W) The department may delegate to county boards of ~~mental~~ 10344
~~retardation and~~ developmental disabilities its authority under 10345
this section to negotiate and enter into contracts or subcontracts 10346
for residential services. In the event that it elects to delegate 10347
its authority, the department shall adopt rules in accordance with 10348
Chapter 119. of the Revised Code for the boards' administration of 10349
the contracts or subcontracts. In administering the contracts or 10350
subcontracts, the boards shall be subject to all applicable 10351
provisions of Chapter 5126. of the Revised Code and shall not be 10352
subject to the provisions of divisions (A) to (V) of this section. 10353

Subject to the department's rules, a board may require the 10354
following to contribute to the cost of the residential services an 10355
individual receives pursuant to this division: the individual or 10356
the individual's estate, the individual's spouse, the individual's 10357
guardian, and, if the individual is under age eighteen, either or 10358
both of the individual's parents. Chapter 5121. of the Revised 10359
Code shall not apply to individuals or entities that are subject 10360
to making contributions under this division. In calculating 10361
contributions to be made under this division, a board, subject to 10362
the department's rules, may allow an amount to be kept for meeting 10363
the personal needs of the individual who receives residential 10364
services. 10365

Sec. 5123.19. (A) As used in this section and in sections 10366
5123.191, 5123.194, 5123.196, 5123.198, and 5123.20 of the Revised 10367
Code: 10368

(1)(a) "Residential facility" means a home or facility in 10369
which a mentally retarded or developmentally disabled person 10370
resides, except the home of a relative or legal guardian in which 10371
a mentally retarded or developmentally disabled person resides, a 10372
respite care home certified under section 5126.05 of the Revised 10373

Code, a county home or district home operated pursuant to Chapter 10374
5155. of the Revised Code, or a dwelling in which the only 10375
mentally retarded or developmentally disabled residents are in an 10376
independent living arrangement or are being provided supported 10377
living. 10378

(b) "Intermediate care facility for the mentally retarded" 10379
means a residential facility that is considered an intermediate 10380
care facility for the mentally retarded for the purposes of 10381
Chapter 5111. of the Revised Code. 10382

(2) "Political subdivision" means a municipal corporation, 10383
county, or township. 10384

(3) "Independent living arrangement" means an arrangement in 10385
which a mentally retarded or developmentally disabled person 10386
resides in an individualized setting chosen by the person or the 10387
person's guardian, which is not dedicated principally to the 10388
provision of residential services for mentally retarded or 10389
developmentally disabled persons, and for which no financial 10390
support is received for rendering such service from any 10391
governmental agency by a provider of residential services. 10392

(4) "Licensee" means the person or government agency that has 10393
applied for a license to operate a residential facility and to 10394
which the license was issued under this section. 10395

(5) "Related party" has the same meaning as in section 10396
5123.16 of the Revised Code except that "provider" as used in the 10397
definition of "related party" means a person or government entity 10398
that held or applied for a license to operate a residential 10399
facility, rather than a person or government entity certified to 10400
provide supported living. 10401

(B) Every person or government agency desiring to operate a 10402
residential facility shall apply for licensure of the facility to 10403
the director of mental retardation and developmental disabilities 10404

unless the residential facility is subject to section 3721.02, 10405
3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding 10406
Chapter 3721. of the Revised Code, a nursing home that is 10407
certified as an intermediate care facility for the mentally 10408
retarded under Title XIX of the "Social Security Act," 79 Stat. 10409
286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 10410
licensure of the portion of the home that is certified as an 10411
intermediate care facility for the mentally retarded. 10412

(C) Subject to section 5123.196 of the Revised Code, the 10413
director of mental retardation and developmental disabilities 10414
shall license the operation of residential facilities. An initial 10415
license shall be issued for a period that does not exceed one 10416
year, unless the director denies the license under division (D) of 10417
this section. A license shall be renewed for a period that does 10418
not exceed three years, unless the director refuses to renew the 10419
license under division (D) of this section. The director, when 10420
issuing or renewing a license, shall specify the period for which 10421
the license is being issued or renewed. A license remains valid 10422
for the length of the licensing period specified by the director, 10423
unless the license is terminated, revoked, or voluntarily 10424
surrendered. 10425

(D) If it is determined that an applicant or licensee is not 10426
in compliance with a provision of this chapter that applies to 10427
residential facilities or the rules adopted under such a 10428
provision, the director may deny issuance of a license, refuse to 10429
renew a license, terminate a license, revoke a license, issue an 10430
order for the suspension of admissions to a facility, issue an 10431
order for the placement of a monitor at a facility, issue an order 10432
for the immediate removal of residents, or take any other action 10433
the director considers necessary consistent with the director's 10434
authority under this chapter regarding residential facilities. In 10435
the director's selection and administration of the sanction to be 10436

imposed, all of the following apply: 10437

(1) The director may deny, refuse to renew, or revoke a 10438
license, if the director determines that the applicant or licensee 10439
has demonstrated a pattern of serious noncompliance or that a 10440
violation creates a substantial risk to the health and safety of 10441
residents of a residential facility. 10442

(2) The director may terminate a license if more than twelve 10443
consecutive months have elapsed since the residential facility was 10444
last occupied by a resident or a notice required by division (K) 10445
of this section is not given. 10446

(3) The director may issue an order for the suspension of 10447
admissions to a facility for any violation that may result in 10448
sanctions under division (D)(1) of this section and for any other 10449
violation specified in rules adopted under division (H)(2) of this 10450
section. If the suspension of admissions is imposed for a 10451
violation that may result in sanctions under division (D)(1) of 10452
this section, the director may impose the suspension before 10453
providing an opportunity for an adjudication under Chapter 119. of 10454
the Revised Code. The director shall lift an order for the 10455
suspension of admissions when the director determines that the 10456
violation that formed the basis for the order has been corrected. 10457

(4) The director may order the placement of a monitor at a 10458
residential facility for any violation specified in rules adopted 10459
under division (H)(2) of this section. The director shall lift the 10460
order when the director determines that the violation that formed 10461
the basis for the order has been corrected. 10462

(5) If the director determines that two or more residential 10463
facilities owned or operated by the same person or government 10464
entity are not being operated in compliance with a provision of 10465
this chapter that applies to residential facilities or the rules 10466
adopted under such a provision, and the director's findings are 10467

based on the same or a substantially similar action, practice, 10468
circumstance, or incident that creates a substantial risk to the 10469
health and safety of the residents, the director shall conduct a 10470
survey as soon as practicable at each residential facility owned 10471
or operated by that person or government entity. The director may 10472
take any action authorized by this section with respect to any 10473
facility found to be operating in violation of a provision of this 10474
chapter that applies to residential facilities or the rules 10475
adopted under such a provision. 10476

(6) When the director initiates license revocation 10477
proceedings, no opportunity for submitting a plan of correction 10478
shall be given. The director shall notify the licensee by letter 10479
of the initiation of the proceedings. The letter shall list the 10480
deficiencies of the residential facility and inform the licensee 10481
that no plan of correction will be accepted. The director shall 10482
also send a copy of the letter to the county board of ~~mental~~ 10483
~~retardation and~~ developmental disabilities. The county board shall 10484
send a copy of the letter to each of the following: 10485

(a) Each resident who receives services from the licensee; 10486

(b) The guardian of each resident who receives services from 10487
the licensee if the resident has a guardian; 10488

(c) The parent or guardian of each resident who receives 10489
services from the licensee if the resident is a minor. 10490

(7) Pursuant to rules which shall be adopted in accordance 10491
with Chapter 119. of the Revised Code, the director may order the 10492
immediate removal of residents from a residential facility 10493
whenever conditions at the facility present an immediate danger of 10494
physical or psychological harm to the residents. 10495

(8) In determining whether a residential facility is being 10496
operated in compliance with a provision of this chapter that 10497
applies to residential facilities or the rules adopted under such 10498

a provision, or whether conditions at a residential facility 10499
present an immediate danger of physical or psychological harm to 10500
the residents, the director may rely on information obtained by a 10501
county board of ~~mental retardation and~~ developmental disabilities 10502
or other governmental agencies. 10503

(9) In proceedings initiated to deny, refuse to renew, or 10504
revoke licenses, the director may deny, refuse to renew, or revoke 10505
a license regardless of whether some or all of the deficiencies 10506
that prompted the proceedings have been corrected at the time of 10507
the hearing. 10508

(E) The director shall establish a program under which public 10509
notification may be made when the director has initiated license 10510
revocation proceedings or has issued an order for the suspension 10511
of admissions, placement of a monitor, or removal of residents. 10512
The director shall adopt rules in accordance with Chapter 119. of 10513
the Revised Code to implement this division. The rules shall 10514
establish the procedures by which the public notification will be 10515
made and specify the circumstances for which the notification must 10516
be made. The rules shall require that public notification be made 10517
if the director has taken action against the facility in the 10518
eighteen-month period immediately preceding the director's latest 10519
action against the facility and the latest action is being taken 10520
for the same or a substantially similar violation of a provision 10521
of this chapter that applies to residential facilities or the 10522
rules adopted under such a provision. The rules shall specify a 10523
method for removing or amending the public notification if the 10524
director's action is found to have been unjustified or the 10525
violation at the residential facility has been corrected. 10526

(F)(1) Except as provided in division (F)(2) of this section, 10527
appeals from proceedings initiated to impose a sanction under 10528
division (D) of this section shall be conducted in accordance with 10529
Chapter 119. of the Revised Code. 10530

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner 10561
files the report and recommendations, the director shall issue an 10562
order approving, modifying, or disapproving the report and 10563
recommendations. 10564

(h) Notwithstanding the pendency of the hearing, the director 10565
shall lift the order for the suspension of admissions when the 10566
director determines that the violation that formed the basis for 10567
the order has been corrected. 10568

(G) Neither a person or government agency whose application 10569
for a license to operate a residential facility is denied nor a 10570
related party of the person or government agency may apply for a 10571
license to operate a residential facility before the date that is 10572
one year after the date of the denial. Neither a licensee whose 10573
residential facility license is revoked nor a related party of the 10574
licensee may apply for a residential facility license before the 10575
date that is five years after the date of the revocation. 10576

(H) In accordance with Chapter 119. of the Revised Code, the 10577
director shall adopt and may amend and rescind rules for licensing 10578
and regulating the operation of residential facilities, including 10579
intermediate care facilities for the mentally retarded. The rules 10580
for intermediate care facilities for the mentally retarded may 10581
differ from those for other residential facilities. The rules 10582
shall establish and specify the following: 10583

(1) Procedures and criteria for issuing and renewing 10584
licenses, including procedures and criteria for determining the 10585
length of the licensing period that the director must specify for 10586
each license when it is issued or renewed; 10587

(2) Procedures and criteria for denying, refusing to renew, 10588
terminating, and revoking licenses and for ordering the suspension 10589
of admissions to a facility, placement of a monitor at a facility, 10590
and the immediate removal of residents from a facility; 10591

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;	10592 10593 10594
(4) Procedures for surveying residential facilities;	10595
(5) Requirements for the training of residential facility personnel;	10596 10597
(6) Classifications for the various types of residential facilities;	10598 10599
(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;	10600 10601 10602 10603
(8) The maximum number of persons who may be served in a particular type of residential facility;	10604 10605
(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;	10606 10607
(10) Other standards for the operation of residential facilities and the services provided at residential facilities;	10608 10609
(11) Procedures for waiving any provision of any rule adopted under this section.	10610 10611
(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.	10612 10613 10614 10615 10616 10617 10618 10619 10620
In conducting surveys, the director or the director's	10621

designee shall be given access to the residential facility; all 10622
records, accounts, and any other documents related to the 10623
operation of the facility; the licensee; the residents of the 10624
facility; and all persons acting on behalf of, under the control 10625
of, or in connection with the licensee. The licensee and all 10626
persons on behalf of, under the control of, or in connection with 10627
the licensee shall cooperate with the director or the director's 10628
designee in conducting the survey. 10629

Following each survey, unless the director initiates a 10630
license revocation proceeding, the director or the director's 10631
designee shall provide the licensee with a report listing any 10632
deficiencies, specifying a timetable within which the licensee 10633
shall submit a plan of correction describing how the deficiencies 10634
will be corrected, and, when appropriate, specifying a timetable 10635
within which the licensee must correct the deficiencies. After a 10636
plan of correction is submitted, the director or the director's 10637
designee shall approve or disapprove the plan. A copy of the 10638
report and any approved plan of correction shall be provided to 10639
any person who requests it. 10640

The director shall initiate disciplinary action against any 10641
department employee who notifies or causes the notification to any 10642
unauthorized person of an unannounced survey of a residential 10643
facility by an authorized representative of the department. 10644

(J) In addition to any other information which may be 10645
required of applicants for a license pursuant to this section, the 10646
director shall require each applicant to provide a copy of an 10647
approved plan for a proposed residential facility pursuant to 10648
section 5123.042 of the Revised Code. This division does not apply 10649
to renewal of a license. 10650

(K) A licensee shall notify the owner of the building in 10651
which the licensee's residential facility is located of any 10652
significant change in the identity of the licensee or management 10653

contractor before the effective date of the change if the licensee 10654
is not the owner of the building. 10655

Pursuant to rules which shall be adopted in accordance with 10656
Chapter 119. of the Revised Code, the director may require 10657
notification to the department of any significant change in the 10658
ownership of a residential facility or in the identity of the 10659
licensee or management contractor. If the director determines that 10660
a significant change of ownership is proposed, the director shall 10661
consider the proposed change to be an application for development 10662
by a new operator pursuant to section 5123.042 of the Revised Code 10663
and shall advise the applicant within sixty days of the 10664
notification that the current license shall continue in effect or 10665
a new license will be required pursuant to this section. If the 10666
director requires a new license, the director shall permit the 10667
facility to continue to operate under the current license until 10668
the new license is issued, unless the current license is revoked, 10669
refused to be renewed, or terminated in accordance with Chapter 10670
119. of the Revised Code. 10671

(L) A county board of ~~mental retardation and~~ developmental 10672
disabilities, the legal rights service, and any interested person 10673
may file complaints alleging violations of statute or department 10674
rule relating to residential facilities with the department. All 10675
complaints shall be in writing and shall state the facts 10676
constituting the basis of the allegation. The department shall not 10677
reveal the source of any complaint unless the complainant agrees 10678
in writing to waive the right to confidentiality or until so 10679
ordered by a court of competent jurisdiction. 10680

The department shall adopt rules in accordance with Chapter 10681
119. of the Revised Code establishing procedures for the receipt, 10682
referral, investigation, and disposition of complaints filed with 10683
the department under this division. 10684

(M) The department shall establish procedures for the 10685

notification of interested parties of the transfer or interim care 10686
of residents from residential facilities that are closing or are 10687
losing their license. 10688

(N) Before issuing a license under this section to a 10689
residential facility that will accommodate at any time more than 10690
one mentally retarded or developmentally disabled individual, the 10691
director shall, by first class mail, notify the following: 10692

(1) If the facility will be located in a municipal 10693
corporation, the clerk of the legislative authority of the 10694
municipal corporation; 10695

(2) If the facility will be located in unincorporated 10696
territory, the clerk of the appropriate board of county 10697
commissioners and the fiscal officer of the appropriate board of 10698
township trustees. 10699

The director shall not issue the license for ten days after 10700
mailing the notice, excluding Saturdays, Sundays, and legal 10701
holidays, in order to give the notified local officials time in 10702
which to comment on the proposed issuance. 10703

Any legislative authority of a municipal corporation, board 10704
of county commissioners, or board of township trustees that 10705
receives notice under this division of the proposed issuance of a 10706
license for a residential facility may comment on it in writing to 10707
the director within ten days after the director mailed the notice, 10708
excluding Saturdays, Sundays, and legal holidays. If the director 10709
receives written comments from any notified officials within the 10710
specified time, the director shall make written findings 10711
concerning the comments and the director's decision on the 10712
issuance of the license. If the director does not receive written 10713
comments from any notified local officials within the specified 10714
time, the director shall continue the process for issuance of the 10715
license. 10716

(O) Any person may operate a licensed residential facility 10717
that provides room and board, personal care, habilitation 10718
services, and supervision in a family setting for at least six but 10719
not more than eight persons with mental retardation or a 10720
developmental disability as a permitted use in any residential 10721
district or zone, including any single-family residential district 10722
or zone, of any political subdivision. These residential 10723
facilities may be required to comply with area, height, yard, and 10724
architectural compatibility requirements that are uniformly 10725
imposed upon all single-family residences within the district or 10726
zone. 10727

(P) Any person may operate a licensed residential facility 10728
that provides room and board, personal care, habilitation 10729
services, and supervision in a family setting for at least nine 10730
but not more than sixteen persons with mental retardation or a 10731
developmental disability as a permitted use in any multiple-family 10732
residential district or zone of any political subdivision, except 10733
that a political subdivision that has enacted a zoning ordinance 10734
or resolution establishing planned unit development districts may 10735
exclude these residential facilities from those districts, and a 10736
political subdivision that has enacted a zoning ordinance or 10737
resolution may regulate these residential facilities in 10738
multiple-family residential districts or zones as a conditionally 10739
permitted use or special exception, in either case, under 10740
reasonable and specific standards and conditions set out in the 10741
zoning ordinance or resolution to: 10742

(1) Require the architectural design and site layout of the 10743
residential facility and the location, nature, and height of any 10744
walls, screens, and fences to be compatible with adjoining land 10745
uses and the residential character of the neighborhood; 10746

(2) Require compliance with yard, parking, and sign 10747
regulation; 10748

(3) Limit excessive concentration of these residential facilities. 10749
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(Q) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations. 10751
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(R) Divisions (O) and (P) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification. 10755
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(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case: 10761
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(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license. 10764
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(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility. 10770
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(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license. 10773
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(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred 10778
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fifty days. 10780

(4) The director shall adopt rules in accordance with Chapter 10781
119. of the Revised Code as the director considers necessary to 10782
administer the issuance of interim licenses. 10783

(T) Notwithstanding rules adopted pursuant to this section 10784
establishing the maximum number of persons who may be served in a 10785
particular type of residential facility, a residential facility 10786
shall be permitted to serve the same number of persons being 10787
served by the facility on the effective date of the rules or the 10788
number of persons for which the facility is authorized pursuant to 10789
a current application for a certificate of need with a letter of 10790
support from the department of mental retardation and 10791
developmental disabilities and which is in the review process 10792
prior to April 4, 1986. 10793

(U) The director or the director's designee may enter at any 10794
time, for purposes of investigation, any home, facility, or other 10795
structure that has been reported to the director or that the 10796
director has reasonable cause to believe is being operated as a 10797
residential facility without a license issued under this section. 10798

The director may petition the court of common pleas of the 10799
county in which an unlicensed residential facility is located for 10800
an order enjoining the person or governmental agency operating the 10801
facility from continuing to operate without a license. The court 10802
may grant the injunction on a showing that the person or 10803
governmental agency named in the petition is operating a 10804
residential facility without a license. The court may grant the 10805
injunction, regardless of whether the residential facility meets 10806
the requirements for receiving a license under this section. 10807

Sec. 5123.191. (A) The court of common pleas or a judge 10808
thereof in the judge's county, or the probate court, may appoint a 10809
receiver to take possession of and operate a residential facility 10810

licensed by the department of mental retardation and developmental 10811
disabilities, in causes pending in such courts respectively, when 10812
conditions existing at the facility present a substantial risk of 10813
physical or mental harm to residents and no other remedies at law 10814
are adequate to protect the health, safety, and welfare of the 10815
residents. Conditions at the facility that may present such risk 10816
of harm include, but are not limited to, instances when any of the 10817
following occur: 10818

(1) The residential facility is in violation of state or 10819
federal law or regulations. 10820

(2) The facility has had its license revoked or procedures 10821
for revocation have been initiated, or the facility is closing or 10822
intends to cease operations. 10823

(3) Arrangements for relocating residents need to be made. 10824

(4) Insolvency of the operator, licensee, or landowner 10825
threatens the operation of the facility. 10826

(5) The facility or operator has demonstrated a pattern and 10827
practice of repeated violations of state or federal laws or 10828
regulations. 10829

(B) A court in which a petition is filed pursuant to this 10830
section shall notify the person holding the license for the 10831
facility and the department of mental retardation and 10832
developmental disabilities of the filing. The court shall order 10833
the department to notify the legal rights service, facility owner, 10834
facility operator, county board of ~~mental retardation and~~ 10835
developmental disabilities, facility residents, and residents' 10836
parents and guardians of the filing of the petition. 10837

The court shall provide a hearing on the petition within five 10838
court days of the time it was filed, except that the court may 10839
appoint a receiver prior to that time if it determines that the 10840
circumstances necessitate such action. Following a hearing on the 10841

petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of mental retardation and developmental disabilities and appropriate persons of this action.

(C) A residential facility for which a receiver has been named is deemed to be in compliance with section 5123.19 and Chapter 3721. of the Revised Code for the duration of the receivership.

(D) When the operating revenue of a residential facility in receivership is insufficient to meet its operating expenses, including the cost of bringing the facility into compliance with state or federal laws or regulations, the court may order the state to provide necessary funding, except as provided in division (K) of this section. The state shall provide such funding, subject to the approval of the controlling board. The court may also order the appropriate authorities to expedite all inspections necessary for the issuance of licenses or the certification of a facility, and order a facility to be closed if it determines that reasonable efforts cannot bring the facility into substantial compliance with the law.

(E) In establishing a receivership, the court shall set forth the powers and duties of the receiver. The court may generally authorize the receiver to do all that is prudent and necessary to safely and efficiently operate the residential facility within the requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver it has appointed and shall require regular and detailed reports. The receivership shall be reviewed at least every sixty days.

(F) A receivership established pursuant to this section shall

be terminated, following notification of the appropriate parties 10874
and a hearing, if the court determines either of the following: 10875

(1) The residential facility has been closed and the former 10876
residents have been relocated to an appropriate facility. 10877

(2) Circumstances no longer exist at the facility that 10878
present a substantial risk of physical or mental harm to 10879
residents, and there is no deficiency in the facility that is 10880
likely to create a future risk of harm. 10881

Notwithstanding division (F)(2) of this section, the court 10882
shall not terminate a receivership for a residential facility that 10883
has previously operated under another receivership unless the 10884
responsibility for the operation of the facility is transferred to 10885
an operator approved by the court and the department of mental 10886
retardation and developmental disabilities. 10887

(G) The department of mental retardation and developmental 10888
disabilities may, upon its own initiative or at the request of an 10889
owner, operator, or resident of a residential facility, or at the 10890
request of a resident's guardian or relative, a county board of 10891
~~mental retardation and~~ developmental disabilities, or the legal 10892
rights service, petition the court to appoint a receiver to take 10893
possession of and operate a residential facility. When the 10894
department has been requested to file a petition by any of the 10895
parties listed above, it shall, within forty-eight hours of such 10896
request, either file such a petition or notify the requesting 10897
party of its decision not to file. If the department refuses to 10898
file, the requesting party may file a petition with the court 10899
requesting the appointment of a receiver to take possession of and 10900
operate a residential facility. 10901

Petitions filed pursuant to this division shall include the 10902
following: 10903

(1) A description of the specific conditions existing at the 10904

facility which present a substantial risk of physical or mental 10905
harm to residents; 10906

(2) A statement of the absence of other adequate remedies at 10907
law; 10908

(3) The number of individuals residing at the facility; 10909

(4) A statement that the facts have been brought to the 10910
attention of the owner or licensee and that conditions have not 10911
been remedied within a reasonable period of time or that the 10912
conditions, though remedied periodically, habitually exist at the 10913
facility as a pattern or practice; 10914

(5) The name and address of the person holding the license 10915
for the facility and the address of the department of mental 10916
retardation and developmental disabilities. 10917

The court may award to an operator appropriate costs and 10918
expenses, including reasonable attorney's fees, if it determines 10919
that a petitioner has initiated a proceeding in bad faith or 10920
merely for the purpose of harassing or embarrassing the operator. 10921

(H) Except for the department of mental retardation and 10922
developmental disabilities or a county board of ~~mental retardation~~ 10923
~~and~~ developmental disabilities, no party or person interested in 10924
an action shall be appointed a receiver pursuant to this section. 10925

To assist the court in identifying persons qualified to be 10926
named as receivers, the director of mental retardation and 10927
developmental disabilities or the director's designee shall 10928
maintain a list of the names of such persons. The director shall, 10929
in accordance with Chapter 119. of the Revised Code, establish 10930
standards for evaluating persons desiring to be included on such a 10931
list. 10932

(I) Before a receiver enters upon the duties of that person, 10933
the receiver must be sworn to perform the duties of receiver 10934

faithfully, and, with surety approved by the court, judge, or 10935
clerk, execute a bond to such person, and in such sum as the court 10936
or judge directs, to the effect that such receiver will faithfully 10937
discharge the duties of receiver in the action, and obey the 10938
orders of the court therein. 10939

(J) Under the control of the appointing court, a receiver may 10940
bring and defend actions in the receiver's own name as receiver 10941
and take and keep possession of property. 10942

The court shall authorize the receiver to do the following: 10943

(1) Collect payment for all goods and services provided to 10944
the residents or others during the period of the receivership at 10945
the same rate as was charged by the licensee at the time the 10946
petition for receivership was filed, unless a different rate is 10947
set by the court; 10948

(2) Honor all leases, mortgages, and secured transactions 10949
governing all buildings, goods, and fixtures of which the receiver 10950
has taken possession and continues to use, subject to the 10951
following conditions: 10952

(a) In the case of a rental agreement, only to the extent of 10953
payments that are for the use of the property during the period of 10954
the receivership; 10955

(b) In the case of a purchase agreement only to the extent of 10956
payments that come due during the period of the receivership; 10957

(c) If the court determines that the cost of the lease, 10958
mortgage, or secured transaction was increased by a transaction 10959
required to be reported under division (B)(3) of section 5123.172 10960
of the Revised Code, only to the extent determined by the court to 10961
be the fair market value for use of the property during the period 10962
of the receivership. 10963

(3) If transfer of residents is necessary, provide for the 10964

orderly transfer of residents by doing the following:	10965
(a) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;	10966 10967 10968
(b) Providing for the transportation of residents' belongings and records;	10969 10970
(c) Helping to locate alternative placements and develop discharge plans;	10971 10972
(d) Preparing residents for the trauma of discharge;	10973
(e) Permitting residents or guardians to participate in transfer or discharge planning except when an emergency exists and immediate transfer is necessary.	10974 10975 10976
(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;	10977 10978 10979 10980
(5) Compromise demands or claims;	10981
(6) Generally do such acts respecting the residential facility as the court authorizes.	10982 10983
(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.	10984 10985 10986 10987
(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	10988 10989 10990 10991 10992 10993 10994

other provision of law, contracts that are necessary to carry out 10995
the powers and duties of the receiver need not be competitively 10996
bid. 10997

(M) The department of mental retardation and developmental 10998
disabilities, the department of job and family services, and the 10999
department of health shall provide technical assistance to any 11000
receiver appointed pursuant to this section. 11001

Sec. 5123.211. (A) As used in this section, "residential 11002
services" has the same meaning as in section 5126.01 of the 11003
Revised Code. 11004

(B) The department of mental retardation and developmental 11005
disabilities shall provide or arrange provision of residential 11006
services for each person who, on or after July 1, 1989, ceases to 11007
be a resident of a state institution because of closure of the 11008
institution or a reduction in the institution's population by 11009
forty per cent or more within a period of one year. The services 11010
shall be provided in the county in which the person chooses to 11011
reside and shall consist of one of the following as determined 11012
appropriate by the department in consultation with the county 11013
board of ~~mental retardation and~~ developmental disabilities of the 11014
county in which the services are to be provided: 11015

(1) Residential services provided pursuant to section 5123.18 11016
of the Revised Code; 11017

(2) Residential services for which reimbursement is made 11018
under the medical assistance program established under section 11019
5111.01 of the Revised Code; 11020

(3) Residential services provided in a manner or setting 11021
approved by the director of mental retardation and developmental 11022
disabilities. 11023

(C) Not less than six months prior to closing a state 11024

institution or reducing a state institution's population by forty 11025
per cent or more within a period of one year, the department shall 11026
identify those counties in which individuals leaving the 11027
institution have chosen to reside and notify the county boards of 11028
~~mental retardation and~~ developmental disabilities in those 11029
counties of the need to develop the services specified in division 11030
(B) of this section. The notice shall specify the number of 11031
individuals requiring services who plan to reside in the county 11032
and indicate the amount of funds the department will use to 11033
provide or arrange services for those individuals. 11034

(D) In each county in which one or more persons receive 11035
residential services pursuant to division (B) of this section, the 11036
department shall provide or arrange provision of residential 11037
services, or shall distribute moneys to the county board of ~~mental~~ 11038
~~retardation and~~ developmental disabilities to provide or arrange 11039
provision of residential services, for an equal number of persons 11040
with mental retardation or developmental disabilities in that 11041
county who the county board has determined need residential 11042
services but are not receiving them. 11043

Sec. 5123.351. The director of mental retardation and 11044
developmental disabilities, with respect to the eligibility for 11045
state reimbursement of expenses incurred by facilities and 11046
programs established and operated under Chapter 5126. of the 11047
Revised Code for persons with mental retardation or a 11048
developmental disability, shall do all of the following: 11049

(A) Make rules that may be necessary to carry out the 11050
purposes of Chapter 5126. and sections 5123.35, 5123.351, and 11051
5123.36 of the Revised Code; 11052

(B) Define minimum standards for qualifications of personnel, 11053
professional services, and in-service training and educational 11054
leave programs; 11055

(C) Review and evaluate community programs and make 11056
recommendations for needed improvements to county boards of ~~mental~~ 11057
~~retardation and~~ developmental disabilities and to program 11058
directors; 11059

(D) Withhold state reimbursement, in whole or in part, from 11060
any county or combination of counties for failure to comply with 11061
Chapter 5126. or section 5123.35 or 5123.351 of the Revised Code 11062
or rules of the department of mental retardation and developmental 11063
disabilities; 11064

(E) Withhold state funds from an agency, corporation, or 11065
association denying or rendering service on the basis of race, 11066
color, sex, religion, ancestry, national origin, disability as 11067
defined in section 4112.01 of the Revised Code, or inability to 11068
pay; 11069

(F) Provide consultative staff service to communities to 11070
assist in ascertaining needs and in planning and establishing 11071
programs. 11072

Sec. 5123.36. (A) To the extent funds are available and on 11073
application by a county board of ~~mental retardation and~~ 11074
developmental disabilities or private nonprofit agency 11075
incorporated to provide mental retardation or developmental 11076
disability services, the director of mental retardation and 11077
developmental disabilities may enter into an agreement with the 11078
county board or agency to assist the county board or agency with a 11079
mental retardation or developmental disability construction 11080
project. Except as provided by division (B) of this section, the 11081
director may provide up to ninety per cent of the total project 11082
cost where circumstances warrant. The director may, where 11083
circumstances warrant, use existing facilities or other in-kind 11084
match for the local share of the communities' share of the cost. 11085

(B) Upon the recommendation of the director, for projects of 11086

the highest priority of the department of mental retardation and 11087
developmental disabilities, the controlling board may authorize 11088
the director to provide more than ninety per cent of the total 11089
cost of a project under this section. 11090

(C) A county board is eligible for funds under this section 11091
for a project bid on or after January 1, 1992, under either 11092
section 153.07 or 307.86 of the Revised Code, as long as all other 11093
applicable requirements were followed. 11094

(D) A private nonprofit agency that receives funds pursuant 11095
to this section for the construction of a single-family home, 11096
including, where appropriate, the acquisition and installation of 11097
a single-family home fabricated in an off-site facility, is not 11098
subject to the requirements of Chapter 153. of the Revised Code 11099
with respect to the construction project, notwithstanding any 11100
provision of that chapter to the contrary. 11101

(E) The director may not assist a project under this section 11102
unless the controlling board or director of budget and management 11103
also approves the project pursuant to section 126.14 of the 11104
Revised Code. 11105

Sec. 5123.37. A county board of ~~mental retardation and~~ 11106
developmental disabilities or private, nonprofit agency that 11107
receives state funds pursuant to an agreement with the director of 11108
mental retardation and developmental disabilities under section 11109
5123.36 of the Revised Code to acquire a facility may apply to the 11110
director for approval to sell the facility before the terms of the 11111
agreement expire for the purpose of acquiring a replacement 11112
facility to be used to provide mental retardation or developmental 11113
disability services to individuals the county board or agency 11114
serves. The application shall be made on a form the director shall 11115
prescribe. The county board or agency shall include in the 11116
application the specific purpose for which the replacement 11117

facility is to be used. The director may refuse to approve the 11118
application if the director determines that any of the following 11119
apply: 11120

(A) The application is incomplete or indicates that the 11121
county board or agency is unable to purchase a replacement 11122
facility. 11123

(B) The replacement facility would not be used to continue to 11124
provide mental retardation or developmental disability services 11125
that the director determines are appropriate for the individuals 11126
the county board or agency serves. 11127

(C) The county board or agency has failed to comply with a 11128
provision of Chapter 5123. or 5126. of the Revised Code or a rule 11129
adopted by the director. 11130

(D) Approving the application would be inconsistent with the 11131
plans and priorities of the department of mental retardation and 11132
developmental disabilities. 11133

Sec. 5123.371. If the director of mental retardation and 11134
developmental disabilities approves an application submitted under 11135
section 5123.37 of the Revised Code, the county board of ~~mental~~ 11136
~~retardation and~~ developmental disabilities or private, nonprofit 11137
agency that submitted the application shall, after selling the 11138
facility for which the county board or agency received approval to 11139
sell, pay to the director the portion of the proceeds that equals 11140
the amount that the director determines the county board or agency 11141
owes the department of mental retardation and developmental 11142
disabilities, including the department's security interest in the 11143
facility, for the state funds used to acquire the facility. 11144

Sec. 5123.372. If the director of mental retardation and 11145
developmental disabilities approves an application submitted under 11146

section 5123.37 of the Revised Code, the director shall establish 11147
a deadline by which the county board of ~~mental retardation and~~ 11148
developmental disabilities or private, nonprofit agency that 11149
submitted the application must notify the director that the county 11150
board or agency is ready to acquire a replacement facility to be 11151
used for the purpose stated in the application. The director may 11152
extend the deadline as many times as the director determines 11153
necessary. 11154

Sec. 5123.373. If, on or before the deadline or, if any, the 11155
last extended deadline established under section 5123.372 of the 11156
Revised Code for a county board of ~~mental retardation and~~ 11157
developmental disabilities or private, nonprofit agency, the 11158
county board or agency notifies the director of mental retardation 11159
and developmental disabilities that the county board or agency is 11160
ready to acquire the replacement facility, the director shall 11161
enter into an agreement with the county board or agency that 11162
provides for the director to pay to the county board or agency a 11163
percentage of the cost of acquiring the replacement facility. The 11164
agreement shall specify the amount that the director shall pay. 11165
The amount may be the amount of the security interest that the 11166
department of mental retardation and developmental disabilities 11167
had in the previous facility or a different amount. The agreement 11168
may provide for the department to hold a security interest in the 11169
replacement facility. 11170

Sec. 5123.374. (A) The director of mental retardation and 11171
developmental disabilities may rescind approval of an application 11172
submitted under section 5123.37 of the Revised Code if either of 11173
the following occurs: 11174

(1) The county board of ~~mental retardation and~~ developmental 11175
disabilities or private, nonprofit agency that submitted the 11176

application fails, on or before the deadline or, if any, the last 11177
extended deadline established under section 5123.372 of the 11178
Revised Code for the county board or agency, to notify the 11179
director that the county board or agency is ready to acquire the 11180
replacement facility. 11181

(2) The county board or agency at any time notifies the 11182
director that the county board or agency no longer intends to 11183
acquire a replacement facility. 11184

(B) If the director rescinds approval of an application, the 11185
director shall use any funds the county board or agency paid to 11186
the director under section 5123.371 of the Revised Code to assist 11187
mental retardation or developmental disabilities construction 11188
projects under section 5123.36 of the Revised Code. 11189

Sec. 5123.375. The MR/DD community capital replacement 11190
facilities fund is hereby created in the state treasury. The 11191
director of mental retardation and developmental disabilities 11192
shall credit all amounts paid to the director under section 11193
5123.371 of the Revised Code to the fund. The director shall use 11194
the money in the fund as follows: 11195

(A) To make payments to county boards of ~~mental retardation~~ 11196
~~and~~ developmental disabilities and private, nonprofit agencies 11197
pursuant to agreements entered into under section 5123.373 of the 11198
Revised Code; 11199

(B) To provide, pursuant to section 5123.374 of the Revised 11200
Code, assistance for mental retardation or developmental 11201
disabilities construction projects under section 5123.36 of the 11202
Revised Code. 11203

Sec. 5123.38. (A) Except as provided in division (B) and (C) 11204
of this section, if an individual receiving supported living or 11205
home and community-based services funded by a county board of 11206

~~mental retardation and~~ developmental disabilities is committed to 11207
a state-operated intermediate care facility for the mentally 11208
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 11209
Code, the department of mental retardation and developmental 11210
disabilities shall use the funds otherwise allocated to the county 11211
board as the nonfederal share of medicaid expenditures for the 11212
individual's care in the state-operated facility. 11213

(B) Division (A) of this section does not apply if the county 11214
board, not later than ninety days after the date of the commitment 11215
of a person receiving supported services, commences funding of 11216
supported living for an individual who resides in a state-operated 11217
intermediate care facility for the mentally retarded on the date 11218
of the commitment or another eligible individual designated by the 11219
department. 11220

(C) Division (A) of this section does not apply if the county 11221
board, not later than ninety days after the date of the commitment 11222
of a person receiving home and community-based services, commences 11223
funding of home and community-based services for an individual who 11224
resides in a state-operated intermediate care facility for the 11225
mentally retarded on the date of the commitment or another 11226
eligible individual designated by the department. 11227

Sec. 5123.41. As used in this section and sections 5123.42 to 11228
5123.47 of the Revised Code: 11229

(A) "Adult services" has the same meaning as in section 11230
5126.01 of the Revised Code. 11231

(B) "Certified supported living provider" means a person or 11232
government entity certified under section 5123.161 of the Revised 11233
Code. 11234

(C) "Drug" has the same meaning as in section 4729.01 of the 11235
Revised Code. 11236

(D) "Family support services" has the same meaning as in section 5126.01 of the Revised Code.	11237 11238
(E) "Health-related activities" means the following:	11239
(1) Taking vital signs;	11240
(2) Application of clean dressings that do not require health assessment;	11241 11242
(3) Basic measurement of bodily intake and output;	11243
(4) Oral suctioning;	11244
(5) Use of glucometers;	11245
(6) External urinary catheter care;	11246
(7) Emptying and replacing colostomy bags;	11247
(8) Collection of specimens by noninvasive means.	11248
(F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.	11249 11250 11251
(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:	11252 11253 11254 11255
(1) Through direct employment with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities;	11256 11257 11258
(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;	11259 11260 11261
(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities.	11262 11263 11264

(H) "Nursing delegation" means the process established in 11265
rules adopted by the board of nursing pursuant to Chapter 4723. of 11266
the Revised Code under which a registered nurse or licensed 11267
practical nurse acting at the direction of a registered nurse 11268
transfers the performance of a particular nursing activity or task 11269
to another person who is not otherwise authorized to perform the 11270
activity or task. 11271

(I) "Prescribed medication" means a drug that is to be 11272
administered according to the instructions of a licensed health 11273
professional authorized to prescribe drugs. 11274

(J) "Residential facility" means a facility licensed under 11275
section 5123.19 of the Revised Code or subject to section 5123.192 11276
of the Revised Code. 11277

(K) "Specialized services" has the same meaning as in section 11278
5123.50 of the Revised Code. 11279

(L) "Tube feeding" means the provision of nutrition to an 11280
individual through a gastrostomy tube or a jejunostomy tube. 11281

Sec. 5123.47. (A) As used in this section: 11282

(1) "In-home care" means the supportive services provided 11283
within the home of an individual with mental retardation or a 11284
developmental disability who receives funding for the services 11285
through a county board of ~~mental retardation and~~ developmental 11286
disabilities, including any recipient of residential services 11287
funded as home and community-based services, family support 11288
services provided under section 5126.11 of the Revised Code, or 11289
supported living provided in accordance with sections 5126.41 to 11290
5126.47 of the Revised Code. "In-home care" includes care that is 11291
provided outside an individual's home in places incidental to the 11292
home, and while traveling to places incidental to the home, except 11293
that "in-home care" does not include care provided in the 11294

facilities of a county board of mental retardation and	11295
developmental disabilities or care provided in schools.	11296
(2) "Parent" means either parent of a child, including an	11297
adoptive parent but not a foster parent.	11298
(3) "Unlicensed in-home care worker" means an individual who	11299
provides in-home care but is not a health care professional.	11300
(4) "Family member" means a parent, sibling, spouse, son,	11301
daughter, grandparent, aunt, uncle, cousin, or guardian of the	11302
individual with mental retardation or a developmental disability	11303
if the individual with mental retardation or developmental	11304
disabilities lives with the person and is dependent on the person	11305
to the extent that, if the supports were withdrawn, another living	11306
arrangement would have to be found.	11307
(5) "Health care professional" means any of the following:	11308
(a) A dentist who holds a valid license issued under Chapter	11309
4715. of the Revised Code;	11310
(b) A registered or licensed practical nurse who holds a	11311
valid license issued under Chapter 4723. of the Revised Code;	11312
(c) An optometrist who holds a valid license issued under	11313
Chapter 4725. of the Revised Code;	11314
(d) A pharmacist who holds a valid license issued under	11315
Chapter 4729. of the Revised Code;	11316
(e) A person who holds a valid certificate issued under	11317
Chapter 4731. of the Revised Code to practice medicine and	11318
surgery, osteopathic medicine and surgery, podiatric medicine and	11319
surgery, or a limited brand of medicine;	11320
(f) A physician assistant who holds a valid certificate	11321
issued under Chapter 4730. of the Revised Code;	11322
(g) An occupational therapist or occupational therapy	11323
assistant or a physical therapist or physical therapist assistant	11324

who holds a valid license issued under Chapter 4755. of the Revised Code;

(h) A respiratory care professional who holds a valid license issued under Chapter 4761. of the Revised Code.

(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.

(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:

(1) The family member is the primary supervisor of the care.

(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.

(3) The unlicensed in-home care worker is providing the care through an employment or other arrangement entered into directly with the family member and is not otherwise employed by or under contract with a person or government entity to provide services to individuals with mental retardation and developmental disabilities.

(C) A family member shall obtain a prescription, if applicable, and written instructions from a health care professional for the care to be provided to the individual. The family member shall authorize the unlicensed in-home care worker to provide the care by preparing a written document granting the authority. The family member shall provide the unlicensed in-home care worker with appropriate training and written instructions in

accordance with the instructions obtained from the health care professional. 11356
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(D) A family member who authorizes an unlicensed in-home care worker to administer oral and topical prescribed medications or perform other health care tasks retains full responsibility for the health and safety of the individual receiving the care and for ensuring that the worker provides the care appropriately and safely. No entity that funds or monitors the provision of in-home care may be held liable for the results of the care provided under this section by an unlicensed in-home care worker, including such entities as the county board of ~~mental retardation and~~ developmental disabilities and the department of mental retardation and developmental disabilities. 11358
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An unlicensed in-home care worker who is authorized under this section by a family member to provide care to an individual may not be held liable for any injury caused in providing the care, unless the worker provides the care in a manner that is not in accordance with the training and instructions received or the worker acts in a manner that constitutes wanton or reckless misconduct. 11369
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(E) A county board of ~~mental retardation and~~ developmental disabilities may evaluate the authority granted by a family member under this section to an unlicensed in-home care worker at any time it considers necessary and shall evaluate the authority on receipt of a complaint. If the board determines that a family member has acted in a manner that is inappropriate for the health and safety of the individual receiving the care, the authorization granted by the family member to an unlicensed in-home care worker is void, and the family member may not authorize other unlicensed in-home care workers to provide the care. In making such a determination, the board shall use appropriately licensed health care professionals and shall provide the family member an 11376
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opportunity to file a complaint under section 5126.06 of the Revised Code. 11388
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Sec. 5123.50. As used in this section and sections 5123.51, 5123.52, and 5123.541 of the Revised Code: 11390
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(A) "Abuse" means all of the following: 11392

(1) The use of physical force that can reasonably be expected to result in physical harm or serious physical harm; 11393
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(2) Sexual abuse; 11395

(3) Verbal abuse. 11396

(B) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of an individual by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code. 11397
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(C) "MR/DD employee" means all of the following: 11401

(1) An employee of the department of mental retardation and developmental disabilities; 11402
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(2) An employee of a county board of ~~mental retardation and~~ developmental disabilities; 11404
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(3) An employee in a position that includes providing specialized services to an individual with mental retardation or another developmental disability. 11406
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(D) "Neglect" means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods, or services that are necessary to maintain the health and safety of the individual. 11409
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(E) "Physical harm" and "serious physical harm" have the same meanings as in section 2901.01 of the Revised Code. 11413
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(F) "Sexual abuse" means unlawful sexual conduct or sexual 11415

contact. 11416

(G) "Specialized services" means any program or service 11417
designed and operated to serve primarily individuals with mental 11418
retardation or a developmental disability, including a program or 11419
service provided by an entity licensed or certified by the 11420
department of mental retardation and developmental disabilities. A 11421
program or service available to the general public is not a 11422
specialized service. 11423

(H) "Verbal abuse" means purposely using words to threaten, 11424
coerce, intimidate, harass, or humiliate an individual. 11425

(I) "Sexual conduct," "sexual contact," and "spouse" have the 11426
same meanings as in section 2907.01 of the Revised Code. 11427

Sec. 5123.52. (A) The department of mental retardation and 11428
developmental disabilities shall establish a registry of MR/DD 11429
employees consisting of the names of MR/DD employees included in 11430
the registry pursuant to section 5123.51 of the Revised Code. 11431

(B) Before a person or government entity hires, contracts 11432
with, or employs an individual as an MR/DD employee, the person or 11433
government entity shall inquire whether the individual is included 11434
in the registry. 11435

(C) When it receives an inquiry regarding whether an 11436
individual is included in the registry, the department shall 11437
inform the person making the inquiry whether the individual is 11438
included in the registry. 11439

(D)(1) Except as otherwise provided in a collective 11440
bargaining agreement entered into under Chapter 4117. of the 11441
Revised Code that is in effect on ~~the effective date of this~~ 11442
~~section~~ November 22, 2000, no person or government entity shall 11443
hire, contract with, or employ as an MR/DD employee an individual 11444
who is included in the registry. Notwithstanding sections 4117.08 11445

and 4117.10 of the Revised Code, no agreement entered into under 11446
Chapter 4117. of the Revised Code after ~~the effective date of this~~ 11447
~~section~~ November 22, 2000, may contain any provision that in any 11448
way limits the effect or operation of this section. 11449

(2) Neither the department nor any county board of ~~mental~~ 11450
~~retardation and~~ developmental disabilities may enter into a new 11451
contract or renew a contract with a person or government entity 11452
that fails to comply with division (D)(1) of this section until 11453
the department or board is satisfied that the person or government 11454
entity will comply. 11455

(3) A person or government entity that fails to hire or 11456
retain as an MR/DD employee a person because the person is 11457
included in the registry shall not be liable in damages in a civil 11458
action brought by the employee or applicant for employment. 11459
Termination of employment pursuant to division (D)(1) of this 11460
section constitutes a discharge for just cause for the purposes of 11461
section 4141.29 of the Revised Code. 11462

(E) Information contained in the registry is a public record 11463
for the purposes of section 149.43 of the Revised Code and is 11464
subject to inspection and copying under section 1347.08 of the 11465
Revised Code. 11466

Sec. 5123.542. (A) Each of the following shall annually 11467
provide a written notice to each of its MR/DD employees explaining 11468
the conduct for which an MR/DD employee may be included in the 11469
registry established under section 5123.52 of the Revised Code: 11470

(1) The department of mental retardation and developmental 11471
disabilities; 11472

(2) Each county board of ~~mental retardation and~~ developmental 11473
disabilities; 11474

(3) Each contracting entity, as defined in section 5126.281 11475

of the Revised Code; 11476

(4) Each owner, operator, or administrator of a residential facility, as defined in section 5123.19 of the Revised Code; 11477
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(5) Each owner, operator, or administrator of a program certified by the department to provide supported living. 11479
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(B) The notice described in division (A) of this section shall be in a form and provided in a manner prescribed by the department of mental retardation and developmental disabilities. 11481
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The form shall be the same for all persons and entities required to provide notice under division (A) of this section. 11484
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(C) The fact that an MR/DD employee does not receive the notice required by this section does not exempt the employee from inclusion in the registry established under section 5123.52 of the Revised Code. 11486
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Sec. 5123.60. (A) A legal rights service is hereby created and established to protect and advocate the rights of mentally ill persons, mentally retarded persons, developmentally disabled persons, and other disabled persons who may be represented by the service pursuant to division (L) of this section; to receive and act upon complaints concerning institutional and hospital practices and conditions of institutions for mentally retarded or developmentally disabled persons and hospitals for the mentally ill; and to assure that all persons detained, hospitalized, discharged, or institutionalized, and all persons whose detention, hospitalization, discharge, or institutionalization is sought or has been sought under this chapter or Chapter 5122. of the Revised Code are fully informed of their rights and adequately represented by counsel in proceedings under this chapter or Chapter 5122. of the Revised Code and in any proceedings to secure the rights of those persons. Notwithstanding the definitions of "mentally retarded person" and "developmentally disabled person" in section 11490
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5123.01 of the Revised Code, the legal rights service shall 11507
determine who is a mentally retarded or developmentally disabled 11508
person for purposes of this section and sections 5123.601 to 11509
5123.604 of the Revised Code. 11510

(B)(1) In regard to those persons detained, hospitalized, or 11511
institutionalized under Chapter 5122. of the Revised Code, the 11512
legal rights service shall undertake formal representation only of 11513
those persons who are involuntarily detained, hospitalized, or 11514
institutionalized pursuant to sections 5122.10 to 5122.15 of the 11515
Revised Code, and those voluntarily detained, hospitalized, or 11516
institutionalized who are minors, who have been adjudicated 11517
incompetent, who have been detained, hospitalized, or 11518
institutionalized in a public hospital, or who have requested 11519
representation by the legal rights service. 11520

(2) If a person referred to in division (A) of this section 11521
voluntarily requests in writing that the legal rights service 11522
terminate participation in the person's case, such involvement 11523
shall cease. 11524

(3) Persons described in divisions (A) and (B)(1) of this 11525
section who are represented by the legal rights service are 11526
clients of the legal rights service. 11527

(C) Any person voluntarily hospitalized or institutionalized 11528
in a public hospital under division (A) of section 5122.02 of the 11529
Revised Code, after being fully informed of the person's rights 11530
under division (A) of this section, may, by written request, waive 11531
assistance by the legal rights service if the waiver is knowingly 11532
and intelligently made, without duress or coercion. 11533

The waiver may be rescinded at any time by the voluntary 11534
patient or resident, or by the voluntary patient's or resident's 11535
legal guardian. 11536

(D)(1) The legal rights service commission is hereby created 11537

for the purposes of appointing an administrator of the legal 11538
rights service, advising the administrator, assisting the 11539
administrator in developing a budget, advising the administrator 11540
in establishing and annually reviewing a strategic plan, creating 11541
a procedure for filing and determination of grievances against the 11542
legal rights service, and establishing general policy guidelines, 11543
including guidelines for the commencement of litigation, for the 11544
legal rights service. The commission may adopt rules to carry 11545
these purposes into effect and may receive and act upon appeals of 11546
personnel decisions by the administrator. 11547

(2) The commission shall consist of seven members. One 11548
member, who shall serve as chairperson, shall be appointed by the 11549
chief justice of the supreme court, three members shall be 11550
appointed by the speaker of the house of representatives, and 11551
three members shall be appointed by the president of the senate. 11552
At least two members shall have experience in the field of 11553
developmental disabilities, and at least two members shall have 11554
experience in the field of mental health. No member shall be a 11555
provider or related to a provider of services to mentally 11556
retarded, developmentally disabled, or mentally ill persons. 11557

(3) Terms of office of the members of the commission shall be 11558
for three years, each term ending on the same day of the month of 11559
the year as did the term which it succeeds. Each member shall 11560
serve subsequent to the expiration of the member's term until a 11561
successor is appointed and qualifies, or until sixty days has 11562
elapsed, whichever occurs first. No member shall serve more than 11563
two consecutive terms. 11564

All vacancies in the membership of the commission shall be 11565
filled in the manner prescribed for regular appointments to the 11566
commission and shall be limited to the unexpired terms. 11567

(4) The commission shall meet at least four times each year. 11568
Members shall be reimbursed for their necessary and actual 11569

expenses incurred in the performance of their official duties. 11570

(5) The administrator of the legal rights service shall serve 11571
at the pleasure of the commission. 11572

The administrator shall be an attorney admitted to practice 11573
law in this state. The salary of the administrator shall be 11574
established in accordance with section 124.14 of the Revised Code. 11575

(E) The legal rights service shall be completely independent 11576
of the department of mental health and the department of mental 11577
retardation and developmental disabilities and, notwithstanding 11578
section 109.02 of the Revised Code, shall also be independent of 11579
the office of the attorney general. The administrator of the legal 11580
rights service, staff, and attorneys designated by the 11581
administrator to represent persons detained, hospitalized, or 11582
institutionalized under this chapter or Chapter 5122. of the 11583
Revised Code shall have ready access to the following: 11584

(1) During normal business hours and at other reasonable 11585
times, all records, except records of community residential 11586
facilities and records of contract agencies of county boards of 11587
~~mental retardation and~~ developmental disabilities and boards of 11588
alcohol, drug addiction and mental health services, relating to 11589
expenditures of state and federal funds or to the commitment, 11590
care, treatment, and habilitation of all persons represented by 11591
the legal rights service, including those who may be represented 11592
pursuant to division (L) of this section, or persons detained, 11593
hospitalized, institutionalized, or receiving services under this 11594
chapter or Chapter 340., 5119., 5122., or 5126. of the Revised 11595
Code that are records maintained by the following entities 11596
providing services for those persons: departments; institutions; 11597
hospitals; boards of alcohol, drug addiction, and mental health 11598
services; county boards of ~~mental retardation and~~ developmental 11599
disabilities; and any other entity providing services to persons 11600
who may be represented by the service pursuant to division (L) of 11601

this section; 11602

(2) Any records maintained in computerized data banks of the 11603
departments or boards or, in the case of persons who may be 11604
represented by the service pursuant to division (L) of this 11605
section, any other entity that provides services to those persons; 11606

(3) During their normal working hours, personnel of the 11607
departments, facilities, boards, agencies, institutions, 11608
hospitals, and other service-providing entities; 11609

(4) At any time, all persons detained, hospitalized, or 11610
institutionalized; persons receiving services under this chapter 11611
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 11612
persons who may be represented by the service pursuant to division 11613
(L) of this section. 11614

(5) Records of a community residential facility, a contract 11615
agency of a board of alcohol, drug addiction, and mental health 11616
services, or a contract agency of a county board of ~~mental~~ 11617
~~retardation and~~ developmental disabilities with one of the 11618
following consents: 11619

(a) The consent of the person, including when the person is a 11620
minor or has been adjudicated incompetent; 11621

(b) The consent of the person's guardian of the person, if 11622
any, or the parent if the person is a minor; 11623

(c) No consent, if the person is unable to consent for any 11624
reason, and the guardian of the person, if any, or the parent of 11625
the minor, has refused to consent or has not responded to a 11626
request for consent and either of the following has occurred: 11627

(i) A complaint regarding the person has been received by the 11628
legal rights service; 11629

(ii) The legal rights service has determined that there is 11630
probable cause to believe that such person has been subjected to 11631

abuse or neglect. 11632

(F) The administrator of the legal rights service shall do 11633
the following: 11634

(1) Administer and organize the work of the legal rights 11635
service and establish administrative or geographic divisions as 11636
the administrator considers necessary, proper, and expedient; 11637

(2) Adopt and promulgate rules that are not in conflict with 11638
rules adopted by the commission and prescribe duties for the 11639
efficient conduct of the business and general administration of 11640
the legal rights service; 11641

(3) Appoint and discharge employees, and hire experts, 11642
consultants, advisors, or other professionally qualified persons 11643
as the administrator considers necessary to carry out the duties 11644
of the legal rights service; 11645

(4) Apply for and accept grants of funds, and accept 11646
charitable gifts and bequests; 11647

(5) Prepare and submit a budget to the general assembly for 11648
the operation of the legal rights service. At least thirty days 11649
prior to submitting the budget to the general assembly, the 11650
administrator shall provide a copy of the budget to the commission 11651
for review and comment. When submitting the budget to the general 11652
assembly, the administrator shall include a copy of any written 11653
comments returned by the commission to the administrator. 11654

(6) Enter into contracts and make expenditures necessary for 11655
the efficient operation of the legal rights service; 11656

(7) Annually prepare a report of activities and submit copies 11657
of the report to the governor, the chief justice of the supreme 11658
court, the president of the senate, the speaker of the house of 11659
representatives, the director of mental health, and the director 11660
of mental retardation and developmental disabilities, and make the 11661

report available to the public; 11662

(8) Upon request of the commission or of the chairperson of 11663
the commission, report to the commission on specific litigation 11664
issues or activities. 11665

(G)(1) The legal rights service may act directly or contract 11666
with other organizations or individuals for the provision of the 11667
services envisioned under this section. 11668

(2) Whenever possible, the administrator shall attempt to 11669
facilitate the resolution of complaints through administrative 11670
channels. Subject to division (G)(3) of this section, if attempts 11671
at administrative resolution prove unsatisfactory, the 11672
administrator may pursue any legal, administrative, and other 11673
appropriate remedies or approaches that may be necessary to 11674
accomplish the purposes of this section. 11675

(3) The administrator may not pursue a class action lawsuit 11676
under division (G)(2) of this section when attempts at 11677
administrative resolution of a complaint prove unsatisfactory 11678
under that division unless both of the following have first 11679
occurred: 11680

(a) At least four members of the commission, by their 11681
affirmative vote, have consented to the pursuit of the class 11682
action lawsuit; 11683

(b) At least five members of the commission are present at 11684
the meeting of the commission at which that consent is obtained. 11685

(4) All records received or maintained by the legal rights 11686
service in connection with any investigation, representation, or 11687
other activity under this section shall be confidential and shall 11688
not be disclosed except as authorized by the person represented by 11689
the legal rights service or, subject to any privilege, a guardian 11690
of the person or parent of the minor. Subject to division (G)(5) 11691
of this section, relationships between personnel and the agents of 11692

the legal rights service and its clients shall be fiduciary 11693
relationships, and all communications shall be privileged as if 11694
between attorney and client. 11695

(5) Any person who has been represented by the legal rights 11696
service or who has applied for and been denied representation and 11697
who files a grievance with the service concerning the 11698
representation or application may appeal the decision of the 11699
service on the grievance to the commission. The person may appeal 11700
notwithstanding any objections of the person's legal guardian. The 11701
commission may examine any records relevant to the appeal and 11702
shall maintain the confidentiality of any records that are 11703
required to be kept confidential. 11704

(H) The legal rights service, on the order of the 11705
administrator, with the approval by an affirmative vote of at 11706
least four members of the commission, may compel by subpoena the 11707
appearance and sworn testimony of any person the administrator 11708
reasonably believes may be able to provide information or to 11709
produce any documents, books, records, papers, or other 11710
information necessary to carry out its duties. On the refusal of 11711
any person to produce or authenticate any requested documents, the 11712
legal rights service may apply to the Franklin county court of 11713
common pleas to compel the production or authentication of 11714
requested documents. If the court finds that failure to produce or 11715
authenticate any requested documents was improper, the court may 11716
hold the person in contempt as in the case of disobedience of the 11717
requirements of a subpoena issued from the court, or a refusal to 11718
testify in the court. 11719

(I) The legal rights service may conduct public hearings. 11720

(J) The legal rights service may request from any 11721
governmental agency any cooperation, assistance, services, or data 11722
that will enable it to perform its duties. 11723

(K) In any malpractice action filed against the administrator 11724
of the legal rights service, a member of the staff of the legal 11725
rights service, or an attorney designated by the administrator to 11726
perform legal services under division (E) of this section, the 11727
state shall, when the administrator, member, or attorney has acted 11728
in good faith and in the scope of employment, indemnify the 11729
administrator, member, or attorney for any judgment awarded or 11730
amount negotiated in settlement, and for any court costs or legal 11731
fees incurred in defense of the claim. 11732

This division does not limit or waive, and shall not be 11733
construed to limit or waive, any defense that is available to the 11734
legal rights service, its administrator or employees, persons 11735
under a personal services contract with it, or persons designated 11736
under division (E) of this section, including, but not limited to, 11737
any defense available under section 9.86 of the Revised Code. 11738

(L) In addition to providing services to mentally ill, 11739
mentally retarded, or developmentally disabled persons, when a 11740
grant authorizing the provision of services to other individuals 11741
is accepted pursuant to division (F)(4) of this section, the legal 11742
rights service and its ombudsperson section may provide advocacy 11743
or ombudsperson services to those other individuals and exercise 11744
any other authority granted by this section or sections 5123.601 11745
to 5123.604 of the Revised Code on behalf of those individuals. 11746
Determinations of whether an individual is eligible for services 11747
under this division shall be made by the legal rights service. 11748

Sec. 5123.602. (A) Except as provided in division (B) of this 11749
section, the ombudsperson section of the legal rights service may, 11750
in order to carry out its duties under this chapter, make 11751
necessary inquiries and obtain information it considers necessary. 11752
Upon receiving a complaint and in the course of conducting an 11753
investigation in accordance with division (B) of section 5123.601 11754

of the Revised Code, the section shall have ready access to the 11755
premises and records of all providers of services to mentally 11756
retarded, developmentally disabled, or mentally ill persons and 11757
shall have the right to communicate in a private and confidential 11758
setting with any mentally retarded, developmentally disabled, or 11759
mentally ill persons, with their parents, guardians, or advocates, 11760
and with employees of any provider. 11761

(B) Records held by community residential facilities, 11762
contract agencies of boards of alcohol, drug addiction, and mental 11763
health services, and contract agencies of county boards of ~~mental~~ 11764
~~retardation~~ and developmental disabilities shall only be 11765
accessible by the ombudsperson section of the legal rights service 11766
in a situation as described in division (E)(5) of section 5123.60 11767
of the Revised Code. 11768
11769

Sec. 5123.61. (A) As used in this section: 11770

(1) "Law enforcement agency" means the state highway patrol, 11771
the police department of a municipal corporation, or a county 11772
sheriff. 11773

(2) "Abuse" has the same meaning as in section 5123.50 of the 11774
Revised Code, except that it includes a misappropriation, as 11775
defined in that section. 11776

(3) "Neglect" has the same meaning as in section 5123.50 of 11777
the Revised Code. 11778

(B) The department of mental retardation and developmental 11779
disabilities shall establish a registry office for the purpose of 11780
maintaining reports of abuse, neglect, and other major unusual 11781
incidents made to the department under this section and reports 11782
received from county boards of ~~mental retardation~~ and 11783
developmental disabilities under section 5126.31 of the Revised 11784

Code. The department shall establish committees to review reports 11785
of abuse, neglect, and other major unusual incidents. 11786

(C)(1) Any person listed in division (C)(2) of this section, 11787
having reason to believe that a person with mental retardation or 11788
a developmental disability has suffered or faces a substantial 11789
risk of suffering any wound, injury, disability, or condition of 11790
such a nature as to reasonably indicate abuse or neglect of that 11791
person, shall immediately report or cause reports to be made of 11792
such information to the entity specified in this division. Except 11793
as provided in section 5120.173 of the Revised Code or as 11794
otherwise provided in this division, the person making the report 11795
shall make it to a law enforcement agency or to the county board 11796
of ~~mental retardation and~~ developmental disabilities. If the 11797
report concerns a resident of a facility operated by the 11798
department of mental retardation and developmental disabilities 11799
the report shall be made either to a law enforcement agency or to 11800
the department. If the report concerns any act or omission of an 11801
employee of a county board of ~~mental retardation and~~ developmental 11802
disabilities, the report immediately shall be made to the 11803
department and to the county board. 11804

(2) All of the following persons are required to make a 11805
report under division (C)(1) of this section: 11806

(a) Any physician, including a hospital intern or resident, 11807
any dentist, podiatrist, chiropractor, practitioner of a limited 11808
branch of medicine as specified in section 4731.15 of the Revised 11809
Code, hospital administrator or employee of a hospital, nurse 11810
licensed under Chapter 4723. of the Revised Code, employee of an 11811
ambulatory health facility as defined in section 5101.61 of the 11812
Revised Code, employee of a home health agency, employee of an 11813
adult care facility licensed under Chapter 3722. of the Revised 11814
Code, or employee of a community mental health facility; 11815

(b) Any school teacher or school authority, social worker, 11816

psychologist, attorney, peace officer, coroner, or residents' 11817
rights advocate as defined in section 3721.10 of the Revised Code; 11818

(c) A superintendent, board member, or employee of a county 11819
board of ~~mental retardation and~~ developmental disabilities; an 11820
administrator, board member, or employee of a residential facility 11821
licensed under section 5123.19 of the Revised Code; an 11822
administrator, board member, or employee of any other public or 11823
private provider of services to a person with mental retardation 11824
or a developmental disability, or any MR/DD employee, as defined 11825
in section 5123.50 of the Revised Code; 11826

(d) A member of a citizen's advisory council established at 11827
an institution or branch institution of the department of mental 11828
retardation and developmental disabilities under section 5123.092 11829
of the Revised Code; 11830

(e) A clergyman who is employed in a position that includes 11831
providing specialized services to an individual with mental 11832
retardation or another developmental disability, while acting in 11833
an official or professional capacity in that position, or a person 11834
who is employed in a position that includes providing specialized 11835
services to an individual with mental retardation or another 11836
developmental disability and who, while acting in an official or 11837
professional capacity, renders spiritual treatment through prayer 11838
in accordance with the tenets of an organized religion. 11839

(3)(a) The reporting requirements of this division do not 11840
apply to members of the legal rights service commission or to 11841
employees of the legal rights service. 11842

(b) An attorney or physician is not required to make a report 11843
pursuant to division (C)(1) of this section concerning any 11844
communication the attorney or physician receives from a client or 11845
patient in an attorney-client or physician-patient relationship, 11846
if, in accordance with division (A) or (B) of section 2317.02 of 11847

the Revised Code, the attorney or physician could not testify with 11848
respect to that communication in a civil or criminal proceeding, 11849
except that the client or patient is deemed to have waived any 11850
testimonial privilege under division (A) or (B) of section 2317.02 11851
of the Revised Code with respect to that communication and the 11852
attorney or physician shall make a report pursuant to division 11853
(C)(1) of this section, if both of the following apply: 11854

(i) The client or patient, at the time of the communication, 11855
is a person with mental retardation or a developmental disability. 11856

(ii) The attorney or physician knows or suspects, as a result 11857
of the communication or any observations made during that 11858
communication, that the client or patient has suffered or faces a 11859
substantial risk of suffering any wound, injury, disability, or 11860
condition of a nature that reasonably indicates abuse or neglect 11861
of the client or patient. 11862

(4) Any person who fails to make a report required under 11863
division (C) of this section and who is an MR/DD employee, as 11864
defined in section 5123.50 of the Revised Code, shall be eligible 11865
to be included in the registry regarding misappropriation, abuse, 11866
neglect, or other specified misconduct by MR/DD employees 11867
established under section 5123.52 of the Revised Code. 11868

(D) The reports required under division (C) of this section 11869
shall be made forthwith by telephone or in person and shall be 11870
followed by a written report. The reports shall contain the 11871
following: 11872

(1) The names and addresses of the person with mental 11873
retardation or a developmental disability and the person's 11874
custodian, if known; 11875

(2) The age of the person with mental retardation or a 11876
developmental disability; 11877

(3) Any other information that would assist in the 11878

investigation of the report. 11879

(E) When a physician performing services as a member of the 11880
staff of a hospital or similar institution has reason to believe 11881
that a person with mental retardation or a developmental 11882
disability has suffered injury, abuse, or physical neglect, the 11883
physician shall notify the person in charge of the institution or 11884
that person's designated delegate, who shall make the necessary 11885
reports. 11886

(F) Any person having reasonable cause to believe that a 11887
person with mental retardation or a developmental disability has 11888
suffered or faces a substantial risk of suffering abuse or neglect 11889
may report or cause a report to be made of that belief to the 11890
entity specified in this division. Except as provided in section 11891
5120.173 of the Revised Code or as otherwise provided in this 11892
division, the person making the report shall make it to a law 11893
enforcement agency or the county board of ~~mental retardation and~~ 11894
developmental disabilities. If the person is a resident of a 11895
facility operated by the department of mental retardation and 11896
developmental disabilities, the report shall be made to a law 11897
enforcement agency or to the department. If the report concerns 11898
any act or omission of an employee of a county board of ~~mental~~ 11899
~~retardation and~~ developmental disabilities, the report immediately 11900
shall be made to the department and to the county board. 11901

(G)(1) Upon the receipt of a report concerning the possible 11902
abuse or neglect of a person with mental retardation or a 11903
developmental disability, the law enforcement agency shall inform 11904
the county board of ~~mental retardation and~~ developmental 11905
disabilities or, if the person is a resident of a facility 11906
operated by the department of mental retardation and developmental 11907
disabilities, the director of the department or the director's 11908
designee. 11909

(2) On receipt of a report under this section that includes 11910

an allegation of action or inaction that may constitute a crime 11911
under federal law or the law of this state, the department of 11912
mental retardation and developmental disabilities shall notify the 11913
law enforcement agency. 11914

(3) When a county board of ~~mental retardation and~~ 11915
developmental disabilities receives a report under this section 11916
that includes an allegation of action or inaction that may 11917
constitute a crime under federal law or the law of this state, the 11918
superintendent of the board or an individual the superintendent 11919
designates under division (H) of this section shall notify the law 11920
enforcement agency. The superintendent or individual shall notify 11921
the department of mental retardation and developmental 11922
disabilities when it receives any report under this section. 11923

(4) When a county board of mental retardation and 11924
developmental disabilities receives a report under this section 11925
and believes that the degree of risk to the person is such that 11926
the report is an emergency, the superintendent of the board or an 11927
employee of the board the superintendent designates shall attempt 11928
a face-to-face contact with the person with mental retardation or 11929
a developmental disability who allegedly is the victim within one 11930
hour of the board's receipt of the report. 11931

(H) The superintendent of the board may designate an 11932
individual to be responsible for notifying the law enforcement 11933
agency and the department when the county board receives a report 11934
under this section. 11935

(I) An adult with mental retardation or a developmental 11936
disability about whom a report is made may be removed from the 11937
adult's place of residence only by law enforcement officers who 11938
consider that the adult's immediate removal is essential to 11939
protect the adult from further injury or abuse or in accordance 11940
with the order of a court made pursuant to section 5126.33 of the 11941
Revised Code. 11942

(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 report of its findings to the county board.

(K) Any person or any hospital, institution, school, health department, or agency participating in the making of reports pursuant to this section, any person participating as a witness in an administrative or judicial proceeding resulting from the reports, or any person or governmental entity that discharges

responsibilities under sections 5126.31 to 5126.33 of the Revised Code shall be immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of such actions except liability for perjury, unless the person or governmental entity has acted in bad faith or with malicious purpose.

(L) No employer or any person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, reduce pay or benefits, terminate work privileges, or take any other action detrimental to an employee or retaliate against an employee as a result of the employee's having made a report under this section. This division does not preclude an employer or person with authority from taking action with regard to an employee who has made a report under this section if there is another reasonable basis for the action.

(M) Reports made under this section are not public records as defined in section 149.43 of the Revised Code. Information contained in the reports on request shall be made available to the person who is the subject of the report, to the person's legal counsel, and to agencies authorized to receive information in the report by the department or by a county board of ~~mental retardation~~ and developmental disabilities.

(N) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding the injuries or physical neglect of a person with mental retardation or a developmental disability or the cause thereof in any judicial proceeding resulting from a report submitted pursuant to this section.

Sec. 5123.611. (A) As used in this section, "MR/DD employee" means all of the following:

(1) An employee of the department of mental retardation and developmental disabilities;

(2) An employee of a county board of ~~mental retardation and~~ 12006
developmental disabilities; 12007

(3) An employee in a position that includes providing 12008
specialized services, as defined in section 5123.50 of the Revised 12009
Code, to an individual with mental retardation or a developmental 12010
disability. 12011

(B) At the conclusion of a review of a report of abuse, 12012
neglect, or a major unusual incident that is conducted by a review 12013
committee established pursuant to section 5123.61 of the Revised 12014
Code, the committee shall issue recommendations to the department. 12015
The department shall review the committee's recommendations and 12016
issue a report of its findings. The department shall make the 12017
report available to all of the following: 12018

(1) The individual with mental retardation or a developmental 12019
disability who is the subject of the report; 12020

(2) That individual's guardian or legal counsel; 12021

(3) The licensee, as defined in section 5123.19 of the 12022
Revised Code, of a residential facility in which the individual 12023
resides; 12024

(4) The employer of any MR/DD employee who allegedly 12025
committed or was responsible for the abuse, neglect, or major 12026
unusual incident. 12027

(C) Except as provided in this section, the department shall 12028
not disclose its report to any person or government entity that is 12029
not authorized to investigate reports of abuse, neglect, or other 12030
major unusual incidents, unless the individual with mental 12031
retardation or a developmental disability who is the subject of 12032
the report or the individual's guardian gives the department 12033
written consent. 12034

Sec. 5123.613. (A) When a person who is the subject of a 12035

report under section 5123.61 of the Revised Code dies, the 12036
department of mental retardation and developmental disabilities or 12037
the county board of ~~mental retardation and~~ developmental 12038
disabilities, whichever is applicable, shall, on written request, 12039
provide to both of the following persons the report and any 12040
records relating to the report: 12041

(1) If the report or records are necessary to administer the 12042
estate of the person who is the subject of the report, to the 12043
executor or administrator of the person's estate; 12044

(2) To the guardian of the person who is the subject of the 12045
report or, if the individual had no guardian at the time of death, 12046
to a person in the first applicable of the following categories: 12047

(a) The person's spouse; 12048

(b) The person's children; 12049

(c) The person's parents; 12050

(d) The person's brothers or sisters; 12051

(e) The person's uncles or aunts; 12052

(f) The person's closest relative by blood or adoption; 12053

(g) The person's closest relative by marriage. 12054

(B) The department or county board shall provide the report 12055
and related records as required by this section not later than 12056
thirty days after receipt of the request. 12057

Sec. 5123.614. (A) Subject to division (B) of this section, 12058
on receipt of a report of a major unusual incident made pursuant 12059
to section 5123.61 or 5126.31 of the Revised Code or rules adopted 12060
under section 5123.612 of the Revised Code, the department of 12061
mental retardation and developmental disabilities may do either of 12062
the following: 12063

(1) Conduct an independent review or investigation of the 12064

incident; 12065

(2) Request that an independent review or investigation of 12066
the incident be conducted by a county board of ~~mental retardation~~ 12067
~~and~~ developmental disabilities that is not implicated in the 12068
report, a regional council of government, or any other entity 12069
authorized to conduct such investigations. 12070

(B) If a report described in division (A) of this section 12071
concerning the health or safety of a person with mental 12072
retardation or a developmental disability involves an allegation 12073
that an employee of a county board of ~~mental retardation and~~ 12074
developmental disabilities has created a substantial risk of 12075
serious physical harm to a person with mental retardation or a 12076
developmental disability, the department shall do one of the 12077
following: 12078

(1) Conduct an independent investigation regarding the 12079
incident; 12080

(2) Request that an independent review or investigation of 12081
the incident be conducted by a county board of ~~mental retardation~~ 12082
~~and~~ developmental disabilities that is not implicated in the 12083
report, a regional council of government, or any other entity 12084
authorized to conduct such investigations. 12085

Sec. 5123.63. Every state agency, county board of ~~mental~~ 12086
~~retardation and~~ developmental disabilities, or political 12087
subdivision that provides services, either directly or through a 12088
contract, to persons with mental retardation or a developmental 12089
disability shall give each provider a copy of the list of rights 12090
contained in section 5123.62 of the Revised Code. Each public and 12091
private provider of services shall carry out the requirements of 12092
this section in addition to any other posting or notification 12093
requirements imposed by local, state, or federal law or rules. 12094

The provider shall make copies of the list of rights and 12095
shall be responsible for an initial distribution of the list to 12096
each individual receiving services from the provider. If the 12097
individual is unable to read the list, the provider shall 12098
communicate the contents of the list to the individual to the 12099
extent practicable in a manner that the individual understands. 12100
The individual receiving services or the parent, guardian, or 12101
advocate of the individual shall sign an acknowledgement of 12102
receipt of a copy of the list of rights, and a copy of the signed 12103
acknowledgement shall be placed in the individual's file. The 12104
provider shall also be responsible for answering any questions and 12105
giving any explanations necessary to assist the individual to 12106
understand the rights enumerated. Instruction in these rights 12107
shall be documented. 12108

Each provider shall make available to all persons receiving 12109
services and all employees and visitors a copy of the list of 12110
rights and the addresses and telephone numbers of the legal rights 12111
service, the department of mental retardation and developmental 12112
disabilities, and the county board of ~~mental retardation and~~ 12113
developmental disabilities of the county in which the provider 12114
provides services. 12115

Sec. 5123.64. (A) Every provider of services to persons with 12116
mental retardation or a developmental disability shall establish 12117
policies and programs to ensure that all staff members are 12118
familiar with the rights enumerated in section 5123.62 of the 12119
Revised Code and observe those rights in their contacts with 12120
persons receiving services. Any policy, procedure, or rule of the 12121
provider that conflicts with any of the rights enumerated shall be 12122
null and void. Every provider shall establish written procedures 12123
for resolving complaints of violations of those rights. A copy of 12124
the procedures shall be provided to any person receiving services 12125
or to any parent, guardian, or advocate of a person receiving 12126

services.	12127
(B) Any person with mental retardation or a developmental disability who believes that the person's rights as enumerated in section 5123.62 of the Revised Code have been violated may:	12128 12129 12130
(1) Bring the violation to the attention of the provider for resolution;	12131 12132
(2) Report the violation to the department of mental retardation and developmental disabilities, the ombudsperson section of the legal rights service, or the appropriate county board of mental retardation and developmental disabilities;	12133 12134 12135 12136
(3) Take any other appropriate action to ensure compliance with sections 5123.60 to 5123.64 of the Revised Code, including the filing of a legal action to enforce rights or to recover damages for violation of rights.	12137 12138 12139 12140
Sec. 5123.71. (A)(1) Proceedings for the involuntary institutionalization of a person pursuant to sections 5123.71 to 5123.76 of the Revised Code shall be commenced by the filing of an affidavit with the probate division of the court of common pleas of the county where the person resides or where the person is institutionalized, in the manner and form prescribed by the department of mental retardation and developmental disabilities either on information or actual knowledge, whichever is determined to be proper by the court. The affidavit may be filed only by a person who has custody of the individual as a parent, guardian, or service provider or by a person acting on behalf of the department or a county board of mental retardation and developmental disabilities. This section does not apply regarding the institutionalization of a person pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code.	12141 12142 12143 12144 12145 12146 12147 12148 12149 12150 12151 12152 12153 12154 12155
The affidavit shall contain an allegation setting forth the	12156

specific category or categories under division (O) of section 12157
5123.01 of the Revised Code upon which the commencement of 12158
proceedings is based and a statement of the factual ground for the 12159
belief that the person is a mentally retarded person subject to 12160
institutionalization by court order. Except as provided in 12161
division (A)(2) of this section, the affidavit shall be 12162
accompanied by both of the following: 12163

(a) A comprehensive evaluation report prepared by the 12164
person's evaluation team that includes a statement by the members 12165
of the team certifying that they have performed a comprehensive 12166
evaluation of the person and that they are of the opinion that the 12167
person is a mentally retarded person subject to 12168
institutionalization by court order; 12169

(b) An assessment report prepared by the county board of 12170
~~mental retardation and~~ developmental disabilities under section 12171
5123.711 of the Revised Code specifying that the individual is in 12172
need of services on an emergency or priority basis. 12173

(2) In lieu of the comprehensive evaluation report, the 12174
affidavit may be accompanied by a written and sworn statement that 12175
the person or the guardian of a person adjudicated incompetent has 12176
refused to allow a comprehensive evaluation and county board 12177
assessment and assessment reports. Immediately after accepting an 12178
affidavit that is not accompanied by the reports of a 12179
comprehensive evaluation and county board assessment, the court 12180
shall cause a comprehensive evaluation and county board assessment 12181
of the person named in the affidavit to be performed. The 12182
evaluation shall be conducted in the least restrictive environment 12183
possible and the assessment shall be conducted in the same manner 12184
as assessments conducted under section 5123.711 of the Revised 12185
Code. The evaluation and assessment must be completed before a 12186
probable cause hearing or full hearing may be held under section 12187
5123.75 or 5123.76 of the Revised Code. 12188

A written report of the evaluation team's findings and the county board's assessment shall be filed with the court. The reports shall, consistent with the rules of evidence, be accepted as probative evidence in any proceeding under section 5123.75 or 5123.76 of the Revised Code. If the counsel for the person who is evaluated or assessed is known, the court shall send to the counsel a copy of the reports as soon as possible after they are filed and prior to any proceedings under section 5123.75 or 5123.76 of the Revised Code.

(B) Any person who is involuntarily detained in an institution or otherwise is in custody under this chapter shall be informed of the right to do the following:

(1) Immediately make a reasonable number of telephone calls or use other reasonable means to contact an attorney, a physician, or both, to contact any other person or persons to secure representation by counsel, or to obtain medical assistance, and be provided assistance in making calls if the assistance is needed and requested;

(2) Retain counsel and have independent expert evaluation and, if the person is an indigent person, be represented by court-appointed counsel and have independent expert evaluation at court expense;

(3) Upon request, have a hearing to determine whether there is probable cause to believe that the person is a mentally retarded person subject to institutionalization by court order.

(C) No person who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing may be ordered detained or involuntarily committed unless the court has determined that the person represents a very substantial risk of self-impairment, self-injury, or impairment or injury to others.

Sec. 5123.711. (A) As used in this section: 12220

(1) "Emergency" means either of the following that creates a 12221
risk of substantial harm to an individual or others if action is 12222
not taken within thirty days: 12223

(a) Health and safety conditions that pose a serious risk of 12224
immediate harm or death to the individual or others; 12225

(b) Changes in the emotional or physical condition of an 12226
individual that necessitates substantial accommodation that cannot 12227
reasonably be provided by the individual's existing caretaker. 12228

(2) "Priority" means a situation creating a risk of 12229
substantial harm to an individual or others, but for which action 12230
within thirty days is not necessary. 12231

(3) "Resources" has the same meaning as in section 5126.01 of 12232
the Revised Code. 12233

(B) Prior to filing an affidavit under section 5123.71 of the 12234
Revised Code for the involuntary institutionalization of an 12235
individual, a person who is eligible to file under that section 12236
and intends to do so shall request that the county board of ~~mental~~ 12237
~~retardation and~~ developmental disabilities conduct an assessment 12238
of the individual's needs. Not later than thirty days after the 12239
date a request is received, the board shall complete the 12240
assessment and provide to the person a report of its findings and 12241
recommendations. The report shall be delivered by certified mail. 12242

Within three working days after receiving a request for an 12243
assessment, the board shall notify the department of mental 12244
retardation and developmental disabilities that the request has 12245
been made and that there is the potential for court-ordered 12246
institutionalization of an individual. The department may provide 12247
assistance to the board in the performance of the assessment. 12248

(C) The board's assessment of an individual's needs shall 12249

include the following: 12250

(1) A determination of the current needs of the individual, 12251
including an appropriate plan for services; 12252

(2) A determination of whether the community is the least 12253
restrictive environment in which the individual may be 12254
appropriately served; 12255

(3) A determination of whether the individual meets the 12256
conditions for assistance on an emergency or priority basis; 12257

(4) Identification of available resources to meet the 12258
individual's needs, including service providers with the 12259
capability of appropriately meeting those needs, special ancillary 12260
services, and moneys to pay for the services necessary to meet the 12261
individual's needs within the community rather than in a state 12262
institution. 12263

(D) If the board's assessment of an individual identifies 12264
that county resources are available to meet the individual's needs 12265
in the community, the board shall provide services to the 12266
individual or arrange for the provision of services. If county 12267
resources are not available, the board shall petition the 12268
department of mental retardation and developmental disabilities 12269
for necessary resources that may be available from the department. 12270

Sec. 5123.74. (A) On receipt of an affidavit under section 12271
5123.71 of the Revised Code, the probate division of the court of 12272
common pleas may, if it has probable cause to believe that the 12273
person named in the affidavit is a mentally retarded person 12274
subject to institutionalization by court order and that emergency 12275
institutionalization is required, do any of the following: 12276

(1) Issue a temporary order of detention ordering any health 12277
or police officer or sheriff to take into custody and transport 12278
such person to an institution or other place as designated in 12279

section 5123.77 of the Revised Code; 12280

(2) Order the county board of ~~mental retardation and~~ 12281
developmental disabilities to provide services to the individual 12282
in the community if the board's assessment of the individual 12283
conducted under section 5123.711 of the Revised Code identifies 12284
that resources are available to meet the individual's needs in an 12285
appropriate manner within the community as an alternative to 12286
institutionalization; 12287

(3) Set the matter for further hearing. 12288

(B) A managing officer of a nonpublic institution may, and 12289
the managing officer of a public institution shall, receive for 12290
observation, diagnosis, habilitation, and care any person whose 12291
admission is ordered pursuant to division (A)(1) of this section. 12292

The alternatives to institutionalization that may be ordered 12293
under division (A)(2) of this section are limited to those that 12294
are necessary to remediate the emergency condition; necessary for 12295
the person's health, safety or welfare; and necessary for the 12296
protection of society, if applicable. 12297

(C) A person detained under this section may be observed and 12298
habilitated until the probable cause hearing provided for in 12299
section 5123.75 of the Revised Code. If no probable cause hearing 12300
is requested or held, the person may be evaluated and shall be 12301
provided with habilitative services until the full hearing is held 12302
pursuant to section 5123.76 of the Revised Code. 12303

Sec. 5126.01. As used in this chapter: 12304

(A) As used in this division, "adult" means an individual who 12305
is eighteen years of age or over and not enrolled in a program or 12306
service under Chapter 3323. of the Revised Code and an individual 12307
sixteen or seventeen years of age who is eligible for adult 12308
services under rules adopted by the director of mental retardation 12309

and developmental disabilities pursuant to Chapter 119. of the Revised Code. 12310
12311

(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills. 12312
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(2) "Adult services" includes all of the following: 12319

(a) Adult day habilitation services; 12320

(b) Adult day care; 12321

(c) Prevocational services; 12322

(d) Sheltered employment; 12323

(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports; 12324
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(f) Community employment services and supported employment services. 12331
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(B)(1) "Adult day habilitation services" means adult services that do the following: 12333
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(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure 12335
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activities, hobbies, maintaining family contacts, community 12340
events, and activities where individuals without disabilities are 12341
involved; 12342

(b) Provide supports or a combination of training and 12343
supports that afford an individual a wide variety of opportunities 12344
to facilitate and build relationships and social supports in the 12345
community. 12346

(2) "Adult day habilitation services" includes all of the 12347
following: 12348

(a) Personal care services needed to ensure an individual's 12349
ability to experience and participate in vocational services, 12350
educational services, community activities, and any other adult 12351
day habilitation services; 12352

(b) Skilled services provided while receiving adult day 12353
habilitation services, including such skilled services as behavior 12354
management intervention, occupational therapy, speech and language 12355
therapy, physical therapy, and nursing services; 12356

(c) Training and education in self-determination designed to 12357
help the individual do one or more of the following: develop 12358
self-advocacy skills, exercise the individual's civil rights, 12359
acquire skills that enable the individual to exercise control and 12360
responsibility over the services received, and acquire skills that 12361
enable the individual to become more independent, integrated, or 12362
productive in the community; 12363

(d) Recreational and leisure activities identified in the 12364
individual's service plan as therapeutic in nature or assistive in 12365
developing or maintaining social supports; 12366

(e) Counseling and assistance provided to obtain housing, 12367
including such counseling as identifying options for either rental 12368
or purchase, identifying financial resources, assessing needs for 12369
environmental modifications, locating housing, and planning for 12370

ongoing management and maintenance of the housing selected;	12371
(f) Transportation necessary to access adult day habilitation services;	12372 12373
(g) Habilitation management, as described in section 5126.14 of the Revised Code.	12374 12375
(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.	12376 12377 12378
(C) "Appointing authority" means the following:	12379
(1) In the case of a member of a county board of mental retardation and developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners;	12380 12381 12382 12383
(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge.	12384 12385 12386
(D) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following:	12387 12388 12389 12390 12391
(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment;	12392 12393 12394
(2) Supervised work experience through an employer paid to provide the supervised work experience;	12395 12396
(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;	12397 12398
(4) Ongoing supervision by an employer paid to provide the supervision.	12399 12400

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

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

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

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

(3) It is likely to continue indefinitely;

(4) It results in one of the following:

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

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

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

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

(F) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental

retardation or other developmental disabilities who have not 12431
attained compulsory school age. 12432

(G)(1) "Environmental modifications" means the physical 12433
adaptations to an individual's home, specified in the individual's 12434
service plan, that are necessary to ensure the individual's 12435
health, safety, and welfare or that enable the individual to 12436
function with greater independence in the home, and without which 12437
the individual would require institutionalization. 12438

(2) "Environmental modifications" includes such adaptations 12439
as installation of ramps and grab-bars, widening of doorways, 12440
modification of bathroom facilities, and installation of 12441
specialized electric and plumbing systems necessary to accommodate 12442
the individual's medical equipment and supplies. 12443

(3) "Environmental modifications" does not include physical 12444
adaptations or improvements to the home that are of general 12445
utility or not of direct medical or remedial benefit to the 12446
individual, including such adaptations or improvements as 12447
carpeting, roof repair, and central air conditioning. 12448

(H) "Family support services" means the services provided 12449
under a family support services program operated under section 12450
5126.11 of the Revised Code. 12451

(I) "Habilitation" means the process by which the staff of 12452
the facility or agency assists an individual with mental 12453
retardation or other developmental disability in acquiring and 12454
maintaining those life skills that enable the individual to cope 12455
more effectively with the demands of the individual's own person 12456
and environment, and in raising the level of the individual's 12457
personal, physical, mental, social, and vocational efficiency. 12458
Habilitation includes, but is not limited to, programs of formal, 12459
structured education and training. 12460

(J) "Home and community-based services" means medicaid-funded 12461

home and community-based services specified in division (B)(1) of 12462
section 5111.87 of the Revised Code and provided under the 12463
medicaid waiver components the department of mental retardation 12464
and developmental disabilities administers pursuant to section 12465
5111.871 of the Revised Code. 12466

(K) "Immediate family" means parents, grandparents, brothers, 12467
sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, 12468
fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and 12469
daughters-in-law. 12470

(L) "Medicaid" has the same meaning as in section 5111.01 of 12471
the Revised Code. 12472

(M) "Medicaid case management services" means case management 12473
services provided to an individual with mental retardation or 12474
other developmental disability that the state medicaid plan 12475
requires. 12476

(N) "Mental retardation" means a mental impairment manifested 12477
during the developmental period characterized by significantly 12478
subaverage general intellectual functioning existing concurrently 12479
with deficiencies in the effectiveness or degree with which an 12480
individual meets the standards of personal independence and social 12481
responsibility expected of the individual's age and cultural 12482
group. 12483

(O) "Residential services" means services to individuals with 12484
mental retardation or other developmental disabilities to provide 12485
housing, food, clothing, habilitation, staff support, and related 12486
support services necessary for the health, safety, and welfare of 12487
the individuals and the advancement of their quality of life. 12488
"Residential services" includes program management, as described 12489
in section 5126.14 of the Revised Code. 12490

(P) "Resources" means available capital and other assets, 12491
including moneys received from the federal, state, and local 12492

governments, private grants, and donations; appropriately 12493
qualified personnel; and appropriate capital facilities and 12494
equipment. 12495

(Q) "Senior probate judge" means the current probate judge of 12496
a county who has served as probate judge of that county longer 12497
than any of the other current probate judges of that county. If a 12498
county has only one probate judge, "senior probate judge" means 12499
that probate judge. 12500

(R) "Service and support administration" means the duties 12501
performed by a service and support administrator pursuant to 12502
section 5126.15 of the Revised Code. 12503

(S)(1) "Specialized medical, adaptive, and assistive 12504
equipment, supplies, and supports" means equipment, supplies, and 12505
supports that enable an individual to increase the ability to 12506
perform activities of daily living or to perceive, control, or 12507
communicate within the environment. 12508

(2) "Specialized medical, adaptive, and assistive equipment, 12509
supplies, and supports" includes the following: 12510

(a) Eating utensils, adaptive feeding dishes, plate guards, 12511
mylatex straps, hand splints, reaches, feeder seats, adjustable 12512
pointer sticks, interpreter services, telecommunication devices 12513
for the deaf, computerized communications boards, other 12514
communication devices, support animals, veterinary care for 12515
support animals, adaptive beds, supine boards, prone boards, 12516
wedges, sand bags, sidelayers, bolsters, adaptive electrical 12517
switches, hand-held shower heads, air conditioners, humidifiers, 12518
emergency response systems, folding shopping carts, vehicle lifts, 12519
vehicle hand controls, other adaptations of vehicles for 12520
accessibility, and repair of the equipment received. 12521

(b) Nondisposable items not covered by medicaid that are 12522
intended to assist an individual in activities of daily living or 12523

instrumental activities of daily living. 12524

(T) "Supportive home services" means a range of services to 12525
families of individuals with mental retardation or other 12526
developmental disabilities to develop and maintain increased 12527
acceptance and understanding of such persons, increased ability of 12528
family members to teach the person, better coordination between 12529
school and home, skills in performing specific therapeutic and 12530
management techniques, and ability to cope with specific 12531
situations. 12532

(U)(1) "Supported living" means services provided for as long 12533
as twenty-four hours a day to an individual with mental 12534
retardation or other developmental disability through any public 12535
or private resources, including moneys from the individual, that 12536
enhance the individual's reputation in community life and advance 12537
the individual's quality of life by doing the following: 12538

(a) Providing the support necessary to enable an individual 12539
to live in a residence of the individual's choice, with any number 12540
of individuals who are not disabled, or with not more than three 12541
individuals with mental retardation and developmental disabilities 12542
unless the individuals are related by blood or marriage; 12543

(b) Encouraging the individual's participation in the 12544
community; 12545

(c) Promoting the individual's rights and autonomy; 12546

(d) Assisting the individual in acquiring, retaining, and 12547
improving the skills and competence necessary to live successfully 12548
in the individual's residence. 12549

(2) "Supported living" includes the provision of all of the 12550
following: 12551

(a) Housing, food, clothing, habilitation, staff support, 12552
professional services, and any related support services necessary 12553

to ensure the health, safety, and welfare of the individual receiving the services;

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

(c) Personal care services and homemaker services;

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

(e) Respite care services;

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

Sec. 5126.011. Whenever a county board of mental retardation and developmental disabilities is referred to or designated in any statute, rule, contract, grant, or other document, the reference or designation shall be deemed to refer to a county board of developmental disabilities.

Sec. 5126.02. (A) Each county shall either have its own county board of ~~mental retardation and~~ developmental disabilities or, pursuant to section 5126.021 or 5126.022 of the Revised Code, be a member of a multicounty board of ~~mental retardation and~~ developmental disabilities. Subject to division (B) of this section:

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

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

(B) Division (A) of this section does not prohibit or

restrict any county board from sharing administrative functions or 12583
personnel with one or more other county boards, including entering 12584
into an arrangement authorized by division (B) of section 12585
5126.0226 of the Revised Code. 12586

Sec. 5126.021. Subject to sections 5126.024 and 5126.025 of 12587
the Revised Code, a multicounty board of ~~mental retardation and~~ 12588
developmental disabilities may be created if each of the 12589
following, before January 1, 2007, and within a 12590
one-hundred-eighty-day period, adopt an identical resolution or 12591
issue an identical order providing for the creation of the 12592
multicounty board: 12593

(A) A majority of the members of each of the boards of county 12594
commissioners seeking to create the multicounty board; 12595

(B) The senior probate judge of each county served by those 12596
boards of county commissioners. 12597

Sec. 5126.022. Subject to sections 5126.024 and 5126.025 of 12598
the Revised Code, a county that is not part of the creation of a 12599
multicounty board of ~~mental retardation and~~ developmental 12600
disabilities under section 5126.021 of the Revised Code may join 12601
the multicounty board if each of the following, within a sixty-day 12602
period, adopt an identical resolution or issue an identical order 12603
providing for the county to join the multicounty board: 12604

(A) A majority of the members of the board of county 12605
commissioners of the county seeking to join the multicounty board; 12606

(B) A majority of the members of each of the boards of county 12607
commissioners that are members of the multicounty board; 12608

(C) The senior probate judge of the county seeking to join 12609
the multicounty board; 12610

(D) The senior probate judge of each of the counties that are 12611

members of the multicounty board. 12612

Sec. 5126.023. (A) Subject to section 5126.024 of the Revised 12613
Code, the board of county commissioners of a county that is a 12614
member of a multicounty board of ~~mental retardation and~~ 12615
developmental disabilities and the senior probate judge of that 12616
county may terminate the county's membership in the multicounty 12617
board in the manner provided in this section. To terminate the 12618
county's membership in the multicounty board, the board of county 12619
commissioners shall adopt a resolution, and the senior probate 12620
judge shall issue an order, providing for the termination. 12621

(B) A resolution and order of termination adopted or issued 12622
under this section shall specify the last day that the county will 12623
be a member of the multicounty board. The resolution and order 12624
also shall provide for the county to do one of the following on 12625
the day immediately following the last day that the county will be 12626
a member of the multicounty board: 12627

(1) Create a single county board of ~~mental retardation and~~ 12628
developmental disabilities; 12629

(2) If the day immediately following the last day that the 12630
county will be a member of the current multicounty board is before 12631
January 1, 2007, co-create a new multicounty board pursuant to 12632
section 5126.021 of the Revised Code; 12633

(3) Join a different multicounty board pursuant to section 12634
5126.022 of the Revised Code. 12635

(C) A resolution and an order of termination adopted or 12636
issued under this section shall include a plan for the equitable 12637
adjustment and division of all services, assets, property, debts, 12638
and obligations, if any, of the multicounty board that the county 12639
will cease to be a member of. 12640

(D) Any county terminating its membership in a multicounty 12641

board shall continue to have levied against its tax list and 12642
duplicate any tax levied by the board of county commissioners for 12643
mental retardation and developmental disability services during 12644
the period in which the county was a member of the multicounty 12645
board until the levy expires or is renewed or replaced. 12646

Sec. 5126.024. (A) If a board of county commissioners and 12647
senior probate judge propose to join in the creation of, join, or 12648
terminate the county's membership in a multicounty board of ~~mental~~ 12649
~~retardation and~~ developmental disabilities as provided in section 12650
5126.021, 5126.022, or 5126.023 of the Revised Code, the board of 12651
county commissioners and judge shall do both of the following: 12652

(1) Notify the county board of ~~mental retardation and~~ 12653
developmental disabilities in writing of their intent to join in 12654
the creation of, join, or terminate the county's membership in a 12655
multicounty board, including a written explanation of the 12656
administrative, fiscal, and performance considerations underlying 12657
the proposed action; 12658

(2) Provide the county board an opportunity to comment on the 12659
proposed action. 12660

(B) If the county board, not more than sixty days after 12661
receiving the notice under division (A) of this section, votes to 12662
oppose the proposed action and notifies the board of county 12663
commissioners and judge of the vote, the county may join in 12664
creation of a multicounty board, join a multicounty board, or 12665
terminate the county's membership in a multicounty board only on 12666
the unanimous vote of the board of county commissioners and the 12667
order of that judge to proceed with the creation of, joining, or 12668
termination of the county's membership in a multicounty board. 12669

Sec. 5126.025. Not more than five counties may be members of 12670
the same multicounty board of ~~mental retardation and~~ developmental 12671

disabilities. Only contiguous counties may be members of the same 12672
multicounty board. 12673

Sec. 5126.027. (A) A reference to a county board of ~~mental~~ 12674
~~retardation and~~ developmental disabilities in a law enacted by the 12675
general assembly shall mean the following: 12676

(1) In the case of a county with its own county board, a 12677
single county board; 12678

(2) In the case of a county that is a member of a multicounty 12679
board, a multicounty board. 12680

(B) Unless the context provides otherwise, a law enacted by 12681
the general assembly that refers to a county, or an entity or 12682
official of a county, that a county board of ~~mental retardation~~ 12683
~~and~~ developmental disabilities serves shall be deemed to refer to 12684
the following: 12685

(1) In the case of a county with a single county board, that 12686
county or the county entity or official specified in the law; 12687

(2) In the case of a county that is a member of a multicounty 12688
board, each of the counties that are members of the multicounty 12689
board or the specified entity or official of each of those 12690
counties. 12691

Sec. 5126.028. Each county board of ~~mental retardation and~~ 12692
developmental disabilities shall consist of seven members. In the 12693
case of a single county board, the board of county commissioners 12694
of the county shall appoint five members and the senior probate 12695
judge of the county shall appoint two members. In the case of a 12696
multicounty board, the membership shall be appointed as follows: 12697

(A) If there are five member counties, the board of county 12698
commissioners of each of the member counties shall each appoint 12699
one member and the senior probate judges of the member counties 12700

with the largest and second largest population shall each appoint 12701
one member. 12702

(B) If there are four member counties, the board of county 12703
commissioners of the member county with the largest population 12704
shall appoint two members, the other three boards of county 12705
commissioners shall each appoint one member, and the senior 12706
probate judges of the member counties with the largest and second 12707
largest population shall each appoint one member. 12708

(C) If there are three member counties, the boards of county 12709
commissioners of the member counties with the largest and second 12710
largest populations shall each appoint two members, the other 12711
board of county commissioners shall appoint one member, and the 12712
senior probate judges of the member counties with the largest and 12713
second largest population shall each appoint one member. 12714

(D) If there are two member counties, the board of county 12715
commissioners of the member county with the largest population 12716
shall appoint three members, the board of county commissioners of 12717
the other county shall appoint two members, and the senior probate 12718
judge of each county shall each appoint one member. 12719

Sec. 5126.029. (A) When making appointments to a county board 12720
of ~~mental retardation and~~ developmental disabilities, an 12721
appointing authority shall do all of the following: 12722

(1) Appoint only individuals who are residents of the county 12723
the appointing authority serves, citizens of the United States, 12724
and interested and knowledgeable in the field of mental 12725
retardation and other allied fields; 12726

(2) If the appointing authority is a board of county 12727
commissioners, appoint, subject to division (B) of this section, 12728
at least two individuals who are immediate family members of 12729
individuals eligible for services provided by the county board 12730

and, whenever possible, ensure that one of those two members is an immediate family member of an individual eligible for adult services and the other is an immediate family member of an individual eligible for early intervention services or services for preschool or school-age children;

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

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

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

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

Sec. 5126.0210. (A) None of the following individuals may serve as a member of a county board of ~~mental retardation and~~ developmental disabilities:

(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 12761
section 102.01 of the Revised Code; 12762

(2) An immediate family member of another county board 12763
member; 12764

(3) A county board employee or immediate family member of a 12765
county board employee; 12766

(4) A former employee of the county board whose employment 12767
with the county board ceased less than one calendar year before 12768
the former employee would begin to serve as a member of the county 12769
board; 12770

(5) An individual who or whose immediate family member is a 12771
board member or an employee of an agency licensed or certified by 12772
the department of mental retardation and developmental 12773
disabilities to provide services to individuals with mental 12774
retardation or developmental disabilities; 12775

(6) An individual who or whose immediate family member is a 12776
board member or employee of an agency contracting with the county 12777
board that is not licensed or certified by the department of 12778
mental retardation and developmental disabilities to provide 12779
services to individuals with mental retardation or developmental 12780
disabilities unless there is no conflict of interest; 12781

(7) An individual with an immediate family member who serves 12782
as a county commissioner of a county served by the county board 12783
unless the individual was a member of the county board before 12784
October 31, 1980. 12785

(B) All questions relating to the existence of a conflict of 12786
interest for the purpose of division (A)(6) of this section shall 12787
be submitted to the local prosecuting attorney for resolution. The 12788
Ohio ethics commission may examine any issues arising under 12789
Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the 12790
Revised Code. 12791

Sec. 5126.0211. (A) No individual may be appointed or 12792
reappointed to a county board of ~~mental retardation and~~ 12793
developmental disabilities unless the individual, before the 12794
appointment or reappointment, provides to the appointing authority 12795
a written declaration specifying both of the following: 12796

(1) That no circumstance described in section 5126.0210 of 12797
the Revised Code exists that bars the individual from serving on 12798
the county board; 12799

(2) Whether the individual or an immediate family member of 12800
the individual has an ownership interest in or is under contract 12801
with an agency contracting with the county board, and, if such an 12802
ownership interest or contract exists, the identity of the agency 12803
and the nature of the relationship to that agency. 12804

(B) On appointment or reappointment of an individual to the 12805
county board, the appointing authority shall provide a copy of the 12806
individual's declaration to the superintendent of the county 12807
board. The declaration is a public record for the purpose of 12808
section 149.43 of the Revised Code. 12809

Sec. 5126.0212. Except for members appointed under section 12810
5126.0214 of the Revised Code to fill a vacancy, members of a 12811
county board of ~~mental retardation and~~ developmental disabilities 12812
shall be appointed or reappointed not later than the last day of 12813
November, commence their terms on the date of the stated annual 12814
organizational meeting in the following January as provided under 12815
section 5126.0216 of the Revised Code, and serve terms of four 12816
years. The membership of an individual appointed as an immediate 12817
family member of a recipient of services shall not be terminated 12818
because the services are no longer received. 12819

Sec. 5126.0213. Except as otherwise provided in this section 12820
and section 5126.0225 of the Revised Code, a member of a county 12821

board of ~~mental retardation and~~ developmental disabilities may be 12822
reappointed to the county board. Prior to making a reappointment, 12823
the appointing authority shall ascertain, through written 12824
communication with the board, that the member being considered for 12825
reappointment meets the requirements of sections 5126.029 and 12826
5126.0225 of the Revised Code. 12827

A member who has served during each of three consecutive 12828
terms shall not be reappointed for a subsequent term until two 12829
years after ceasing to be a member of the county board, except 12830
that a member who has served for ten years or less within three 12831
consecutive terms may be reappointed for a subsequent term before 12832
becoming ineligible for reappointment for two years. 12833

Sec. 5126.0214. Within sixty days after a vacancy on a county 12834
board of ~~mental retardation and~~ developmental disabilities occurs, 12835
including a vacancy created under section 5126.0220 of the Revised 12836
Code, the appointing authority shall fill the vacancy for the 12837
unexpired term. Before filling a vacancy, the appointing authority 12838
shall cause a notice of the vacancy to be published on at least 12839
two separate dates in one or more newspapers serving the county or 12840
counties the county board serves. 12841

A member appointed to fill a vacancy occurring before the 12842
expiration of the term for which the member's predecessor was 12843
appointed shall hold office for the remainder of that term. 12844

Sec. 5126.0215. Members of a county board of ~~mental~~ 12845
~~retardation and~~ developmental disabilities shall serve without 12846
compensation, but shall be reimbursed for necessary expenses 12847
incurred in the conduct of county board business, including 12848
expenses that are incurred in the member's county of residence in 12849
accordance with an established policy of the county board. 12850

Sec. 5126.0216. Each county board of ~~mental retardation and~~ 12851

developmental disabilities shall hold an organizational meeting no 12852
later than the thirty-first day of January of each year and shall 12853
elect its officers, which shall include a president, 12854
vice-president, and recording secretary. After its annual 12855
organizational meeting, the board shall meet in such manner and at 12856
such times as prescribed by rules adopted by the board, but the 12857
board shall meet at least ten times annually in regularly 12858
scheduled sessions in accordance with section 121.22 of the 12859
Revised Code, not including in-service training sessions. A 12860
majority of the board constitutes a quorum. The board shall adopt 12861
rules for the conduct of its business and a record shall be kept 12862
of board proceedings, which shall be open for public inspection. 12863

Sec. 5126.0217. Each year, each member of a county board of 12864
~~mental retardation and~~ developmental disabilities shall attend at 12865
least four hours of in-service training provided or approved by 12866
the department of mental retardation and developmental 12867
disabilities. This training shall not be considered regularly 12868
scheduled meetings of the county board. 12869

Sec. 5126.0218. A member of a county board of ~~mental~~ 12870
~~retardation and~~ developmental disabilities shall be considered 12871
present at an in-service training session even though the member 12872
is not physically present in the room in which the session is held 12873
if the member is connected to the session through a system that 12874
enables the member to communicate with the individuals 12875
participating in the session and such individuals to communicate 12876
with the member. 12877

Sec. 5126.0219. In no circumstance shall a member of a county 12878
board of ~~mental retardation and~~ developmental disabilities 12879
participate in or vote on any matter before the county board 12880
concerning a contract agency of which the member or an immediate 12881

family member of the member is also a board member or an employee. 12882

Sec. 5126.0220. (A) Subject to sections 5126.0221 and 12883
5126.0223 of the Revised Code, an appointing authority shall 12884
remove a member of a county board of ~~mental retardation and~~ 12885
developmental disabilities for any of the following reasons: 12886

(1) Neglect of duty; 12887

(2) Misconduct; 12888

(3) Malfeasance; 12889

(4) Ineligibility to serve on the county board pursuant to 12890
section 5126.0210 of the Revised Code; 12891

(5) Failure to attend at least four hours of in-service 12892
training session each year; 12893

(6) Failure to attend within one year four regularly 12894
scheduled board meetings; 12895

(7) Failure to attend within one year two regularly scheduled 12896
board meetings if the member gave no prior notice of the member's 12897
absence; 12898

(8) Consistently poor performance on the county board, as 12899
demonstrated by documentation that the president of the county 12900
board provides to the appointing authority and the appointing 12901
authority determines is convincing evidence. 12902

(B) The removal provisions of divisions (A)(6) and (7) of 12903
this section do not apply to absences from special meetings or 12904
work sessions. 12905

Sec. 5126.0221. An appointing authority shall not remove a 12906
member of a county board of ~~mental retardation and~~ developmental 12907
disabilities from the county board by reason of division (A)(5), 12908
(6), or (7) of section 5126.0220 of the Revised Code if the 12909

director of mental retardation and developmental disabilities 12910
waives the requirement that the member be removed. The director 12911
may issue the waiver only if the appointing authority requests 12912
that the director issue the waiver and provides the director 12913
evidence that is satisfactory to the director that the member's 12914
absences from the in-service training sessions or regularly 12915
scheduled board meetings are due to a serious health problem of 12916
the member or a member of the member's immediate family. The 12917
director's decision on whether to issue the waiver is final and 12918
not subject to appeal. 12919

The county board on which the member serves may pass a 12920
resolution urging the appointing authority to request that the 12921
director issue the waiver. The member whose absences from the 12922
sessions or meetings are at issue may not vote on the resolution. 12923
The appointing authority may request the waiver regardless of 12924
whether the county board adopts the resolution. 12925

Sec. 5126.0222. If there are grounds for the mandatory 12926
removal of a member of a county board of ~~mental retardation and~~ 12927
developmental disabilities under section 5126.0220 of the Revised 12928
Code, the county board shall supply the board member and the 12929
member's appointing authority with written notice of the grounds. 12930

Sec. 5126.0223. An appointing authority shall afford a member 12931
of a county board of ~~mental retardation and~~ developmental 12932
disabilities an opportunity for a hearing on the member's proposed 12933
removal in accordance with procedures the appointing authority 12934
shall establish, unless the appointing authority requested that 12935
the director of mental retardation and developmental disabilities 12936
waive the mandatory removal under section 5126.0221 of the Revised 12937
Code and the director refused to issue the waiver. The appointing 12938
authority shall hold the hearing if the member requests the 12939

hearing not later than thirty days after the date that the county board sends the member the notice required by section 5126.0222 of the Revised Code.

Sec. 5126.0224. If a member of a county board of ~~mental retardation~~ and developmental disabilities requests a hearing within the time required by section 5126.0223 of the Revised Code, the appointing authority may not remove the member from the board before the conclusion of the hearing.

Sec. 5126.0225. A member of a county board of ~~mental retardation~~ and developmental disabilities who is removed from the county board is ineligible for reappointment to the board for not less than one year. The appointing authority shall specify the time during which the member is ineligible for reappointment. If the member is removed under division (A)(5) of section 5126.0220 of the Revised Code, the county board shall specify the training the member must complete before being eligible for reappointment.

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

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

superintendent's compensation and reimburse the superintendent for 12969
actual and necessary expenses. 12970

Each county board that employs its own superintendent shall 12971
employ the superintendent under a contract. To enter into a 12972
contract, the board shall adopt a resolution agreeing to the 12973
contract. Each contract for employment or re-employment of a 12974
superintendent shall be for a term of not less than one and not 12975
more than five years. At the expiration of a superintendent's 12976
current term of employment, the superintendent may be re-employed. 12977
If the board intends not to re-employ the superintendent, the 12978
board shall give the superintendent written notification of its 12979
intention. The notice shall be given not less than ninety days 12980
prior to the expiration of the superintendent's contract. 12981

(B) Two or more county boards may enter into an arrangement 12982
under which the superintendent of one county board acts as the 12983
superintendent of another county board. To enter into such an 12984
arrangement, each board shall adopt a resolution agreeing to the 12985
arrangement. The resolutions shall specify the duration of the 12986
arrangement and the contribution each board is to make to the 12987
superintendent's compensation and reimbursement for expenses. 12988

(C) If a vacancy occurs in the position of superintendent, a 12989
county board may appoint a person who holds a valid 12990
superintendent's certificate issued under the rules of the 12991
department to work under a contract for an interim period not to 12992
exceed one hundred eighty days until a permanent superintendent 12993
can be employed or arranged for under division (A) or (B) of this 12994
section. The director of the department may approve additional 12995
periods of time for these types of interim appointments when so 12996
requested by a resolution adopted by a county board, if the 12997
director determines that the additional periods are warranted and 12998
the services of a permanent superintendent are not available. 12999

Sec. 5126.0227. The superintendent of the county board of 13000
~~mental retardation and~~ developmental disabilities shall: 13001

(A) Administer the work of the board, subject to the board's 13002
rules; 13003

(B) Recommend to the board the changes necessary to increase 13004
the effectiveness of the programs and services offered pursuant to 13005
Chapters 3323. and 5126. of the Revised Code; 13006

(C) Employ persons for all positions authorized by the board, 13007
approve contracts of employment for management employees that are 13008
for a term of one year or less, and approve personnel actions that 13009
involve employees in the classified civil service as may be 13010
necessary for the work of the board; 13011

(D) Approve compensation for employees within the limits set 13012
by the salary schedule and budget set by the board and in 13013
accordance with section 5126.26 of the Revised Code, and ensure 13014
that all employees and consultants are properly reimbursed for 13015
actual and necessary expenses incurred in the performance of 13016
official duties; 13017

(E) Provide consultation to public agencies as defined in 13018
division (C) of section 102.01 of the Revised Code, including 13019
other county boards of ~~mental retardation and~~ developmental 13020
disabilities, and to individuals, agencies, or organizations 13021
providing services supported by the board. 13022

The superintendent may authorize the payment of board 13023
obligations by the county auditor. 13024

Sec. 5126.0228. (A) As used in this section, "specialized 13025
services" has the same meaning as in section 5126.281 of the 13026
Revised Code. 13027

(B) Except as provided in division (C) of section 5126.033 of 13028

the Revised Code, none of the following individuals may be 13029
employed by a county board of ~~mental retardation and~~ developmental 13030
disabilities: 13031

(1) An employee of an agency contracting with the county 13032
board; 13033

(2) An immediate family member of an employee of an agency 13034
contracting with the county board unless the county board adopts a 13035
resolution authorizing the immediate family member's employment 13036
with the county board or the employment is consistent with a 13037
policy adopted by the board establishing parameters for such 13038
employment and the policy is consistent with Chapter 102. and 13039
sections 2921.42, 2921.421, and 2921.43 of the Revised Code; 13040

(3) An individual with an immediate family member who serves 13041
as a county commissioner of any of the counties served by the 13042
county board unless the individual was an employee of the county 13043
board before October 31, 1980; 13044

(4) An individual who is employed by, has an ownership 13045
interest in, performs or provides administrative duties for, or is 13046
a member of the governing board of an entity that provides 13047
specialized services, regardless of whether the entity contracts 13048
with the county board to provide specialized services. 13049

Sec. 5126.0229. As used in this section, "specialized 13050
services" has the same meaning as in section 5126.281 of the 13051
Revised Code. 13052

Notwithstanding any provision of the Revised Code to the 13053
contrary, including applicable provisions of sections 102.03, 13054
102.04, 2921.42, and 2921.43 of the Revised Code, an employee of a 13055
county board of ~~mental retardation and~~ developmental disabilities 13056
also may be a member of the governing board of a political 13057
subdivision, including the board of education of a school 13058

district, or an agency that does not provide specialized services. 13059
The county board may contract with such a governing board even 13060
though the governing board includes an individual who is an 13061
employee of the county board. That member of the governing board 13062
may not vote on any matter before the governing board concerning a 13063
contract with the county board or participate in any discussion or 13064
debate regarding such a contract. 13065

Sec. 5126.03. As used in this section and in sections 13066
5126.031 to 5126.034 of the Revised Code: 13067

(A) "Direct services contract" means any legally enforceable 13068
agreement with an individual, agency, or other entity that, 13069
pursuant to its terms or operation, may result in a payment from a 13070
county board of ~~mental retardation and~~ developmental disabilities 13071
to an eligible person or to a member of the immediate family of an 13072
eligible person for services rendered to the eligible person. 13073
"Direct services contract" includes a contract for supported 13074
living pursuant to sections 5126.40 to 5126.47 of the Revised 13075
Code, family support services under section 5126.11 of the Revised 13076
Code, and reimbursement for transportation expenses. 13077

(B) "Eligible person" means a person eligible to receive 13078
services from a county board or from an entity under contract with 13079
a county board. 13080

(C) "Former board member" means a person whose service on the 13081
county board ended less than one year prior to commencement of 13082
services under a direct services contract. 13083

(D) "Former employee" means a person whose employment by the 13084
county board ended less than one year prior to commencement of 13085
services under a direct services contract. 13086

Sec. 5126.031. (A) Except as provided in division (B) of this 13087
section, annually at the organizational meeting required by 13088

section 5126.0216 of the Revised Code, the chairperson of the 13089
county board of ~~mental retardation and~~ developmental disabilities 13090
shall appoint three members of the board to an ethics council to 13091
review all direct services contracts. The board's chairperson may 13092
be one of those appointed. The superintendent of the board shall 13093
be a nonvoting member of the council. The chairperson shall not 13094
appoint a person to the council if the person, or any member of 13095
the person's immediate family, will have any interest in any 13096
direct services contract under review by the council while the 13097
person serves on the council or during the twelve-month period 13098
after completing service on the council. If a council member or a 13099
member of the council member's immediate family has or will have 13100
such an interest, the chairperson shall replace the member by 13101
appointing another board member to the council. 13102

The council shall meet regularly as directed by the board to 13103
perform its duties. Minutes shall be kept of the actions of the 13104
council. The minutes shall be part of the public record of the 13105
county board. 13106

Any action taken by the council on direct services contracts 13107
under its review shall be in public. The council shall afford an 13108
affected party the opportunity to meet with the council on matters 13109
related to a direct services contract or any action taken by the 13110
council. 13111

(B) If a county board establishes a policy specifying that 13112
the board is not willing to enter into direct services contracts 13113
with any person who is a board member or former board member or a 13114
member of the immediate family of a board member or former board 13115
member, the board may assume the responsibilities and perform the 13116
duties of an ethics council specified in section 5126.032 of the 13117
Revised Code. The policy shall be established by resolution 13118
adopted by a majority of the members of the board in attendance at 13119
a meeting at which there is a quorum and shall be in effect for 13120

one year after its adoption, at which time the board shall, by 13121
resolution adopted in the same manner as the initial resolution, 13122
either renew the policy or establish a new one. 13123

Sec. 5126.032. (A) The ethics council appointed for a county 13124
board of ~~mental retardation and~~ developmental disabilities shall 13125
review all direct services contracts, and approve or disapprove 13126
each contract in accordance with the standards in section 5126.033 13127
of the Revised Code. The council shall develop, in consultation 13128
with the prosecuting attorney, and recommend to the board ethical 13129
standards, contract audit procedures, and grievance procedures 13130
with respect to the award and reconciliation of direct services 13131
contracts. The superintendent, or an employee of the county board 13132
designated by the superintendent, shall, in accordance with a 13133
policy established by the county board, certify to the council a 13134
copy of each proposed direct services contract or contract renewal 13135
at a reasonable time before the contract would take effect if 13136
entered into or renewed, if, at the time the contract or renewal 13137
is proposed, resources approved by the board for such purposes are 13138
available. 13139

The council shall promptly review each direct services 13140
contract certified to it. If the contract does not meet the 13141
conditions specified in section 5126.033 of the Revised Code, the 13142
council shall recommend that the board not enter into the contract 13143
or suggest specified revisions. The superintendent shall provide 13144
all the information the council needs to make its determinations. 13145

The council shall certify to the board its recommendation 13146
with regard to each contract. Except as provided in division (B) 13147
of this section, the board, by resolution, shall enter into each 13148
direct services contract that the council recommends or recommends 13149
with specified revisions. The board shall not enter into any 13150
contract that is not recommended by the council or enter into any 13151

contract to which revisions are suggested if the contract does not 13152
include the specified revisions. 13153

(B) The prosecuting attorney, at the request of the board, 13154
shall prepare a legal review of any direct services contract that 13155
has been recommended, or recommended with revisions, by the 13156
council. The board shall enter into only those contracts submitted 13157
for review that are determined by the prosecuting attorney to be 13158
in compliance with state law. 13159

Sec. 5126.033. (A) A county board of ~~mental retardation and~~ 13160
developmental disabilities shall not enter into a direct services 13161
contract unless the contract is limited either to the actual 13162
amount of the expenses or to a reasonable and allowable amount 13163
projected by the board. 13164

(B) A county board shall not enter into a direct services 13165
contract that would result in payment to a board member, former 13166
board member, employee, former employee, or member of the 13167
immediate family of a board member, former board member, employee, 13168
or former employee if the person who would receive services under 13169
the contract stands to receive any preferential treatment or any 13170
unfair advantage over other eligible persons. 13171

(C) A county board shall not enter into a direct services 13172
contract for services provided in accordance with section 5126.11 13173
or sections 5126.40 to 5126.46 of the Revised Code under which an 13174
individual, agency, or other entity will employ an individual who 13175
is also an employee of that county board unless all of the 13176
following conditions are met: 13177

(1) The employee is not in a capacity to influence the award 13178
of the contract. 13179

(2) The employee has not attempted in any manner to secure 13180
the contract on behalf of the individual, agency, or other entity. 13181

(3) The employee is not employed in management level two or 13182
three according to rules adopted by the director of mental 13183
retardation and developmental disabilities and does not provide 13184
service and support administration. 13185

(4) The employee is not employed by the board during the 13186
period when the contract is developed as an administrator or 13187
supervisor responsible for approving or supervising services to be 13188
provided under the contract and agrees not to take such a position 13189
while the contract is in effect, regardless of whether the 13190
position is related to the services provided under the contract. 13191

(5) The employee has not taken any actions that create the 13192
need for the services to be provided under the contract. 13193

(6) The individual, agency, or other entity seeks the 13194
services of the employee because of the employee's expertise and 13195
familiarity with the care and condition of one or more eligible 13196
persons and other individuals with such expertise and familiarity 13197
are unavailable, or an eligible person has requested to have the 13198
services provided by that employee. 13199

The superintendent of the county board shall notify the 13200
employee and the individual, agency, or other entity that seeks 13201
the employee's services of the ethics council's determination 13202
under section 5126.032 of the Revised Code regarding the contract. 13203
The council's determination shall be binding on all parties. 13204

The employee who is the subject of the contract shall inform 13205
the superintendent of the county board of any employment the 13206
employee has outside the county board that is with any individual, 13207
agency, or other entity that has a contract with the county board. 13208

Sec. 5126.034. (A) If the requirements of section 5126.033 of 13209
the Revised Code have been met for a particular direct services 13210
contract, a member or former member of a county board of ~~mental~~ 13211

~~retardation and~~ developmental disabilities, an employee or former 13212
employee of a county board, or an immediate family member of a 13213
member, former member, employee, or former employee of a county 13214
board is not in violation of the restrictions in Chapter 102. and 13215
sections 2921.42 and 5126.0210 of the Revised Code with regard to 13216
that contract. 13217

(B) Nothing in section 5126.033 of the Revised Code shall be 13218
construed to allow a member or employee of a county board to 13219
authorize, or use the authority of the member's or employee's 13220
office or employment to secure authorization of, a contract that 13221
could result in receipt by the county board member or employee or 13222
a member of the immediate family of the county board member or 13223
employee of payment for expenses incurred on behalf of an 13224
immediate family member who is an eligible person. 13225

Sec. 5126.037. No county board of ~~mental retardation and~~ 13226
developmental disabilities shall contract with a nongovernmental 13227
agency whose board includes a county commissioner of any of the 13228
counties served by the county board. 13229

Sec. 5126.038. (A) As used in this section, "professional 13230
services" means all of the following services provided on behalf 13231
of a county board of ~~mental retardation and~~ developmental 13232
disabilities, members or employees of a county board, or both: 13233

(1) Lobbying and other governmental affairs services; 13234

(2) Legal services other than the legal services provided by 13235
a county prosecutor or provided for the purpose of collective 13236
bargaining; 13237

(3) Public relation services; 13238

(4) Consulting services; 13239

(5) Personnel training services, not including tuition or 13240

professional growth reimbursement programs for county board 13241
members or employees. 13242

(B) Each county board of ~~mental retardation and~~ developmental 13243
disabilities shall submit to the board of county commissioners of 13244
each county that is served by the county board, in accordance with 13245
the normal budget process and as part of its budget request, a 13246
list identifying the total expenditures projected for any of the 13247
following: 13248

(1) Any membership dues of the members or employees of the 13249
county board, in any organization, association, or other entity; 13250

(2) Any professional services of the county board, its 13251
members or employees, or both; 13252

(3) Any training of the members or employees of the county 13253
board. 13254

Sec. 5126.04. (A) Each county board of ~~mental retardation and~~ 13255
developmental disabilities shall plan and set priorities based on 13256
available resources for the provision of facilities, programs, and 13257
other services to meet the needs of county residents who are 13258
individuals with mental retardation and other developmental 13259
disabilities, former residents of the county residing in state 13260
institutions or placed under purchase of service agreements under 13261
section 5123.18 of the Revised Code, and children subject to a 13262
determination made pursuant to section 121.38 of the Revised Code. 13263

Each county board shall assess the facility and service needs 13264
of the individuals with mental retardation and other developmental 13265
disabilities who are residents of the county or former residents 13266
of the county residing in state institutions or placed under 13267
purchase of service agreements under section 5123.18 of the 13268
Revised Code. 13269

Each county board shall require individual habilitation or 13270

service plans for individuals with mental retardation and other 13271
developmental disabilities who are being served or who have been 13272
determined eligible for services and are awaiting the provision of 13273
services. Each board shall ensure that methods of having their 13274
service needs evaluated are available. 13275

(B)(1) If a foster child is in need of assessment for 13276
eligible services or is receiving services from a county board of 13277
~~mental retardation and~~ developmental disabilities and that child 13278
is placed in a different county, the agency that placed the child, 13279
immediately upon placement, shall inform the county board in the 13280
new county all of the following: 13281

(a) That a foster child has been placed in that county; 13282

(b) The name and other identifying information of the foster 13283
child; 13284

(c) The name of the foster child's previous county of 13285
residence; 13286

(d) That the foster child was in need of assessment for 13287
eligible services or was receiving services from the county board 13288
of ~~mental retardation and~~ developmental disabilities in the 13289
previous county. 13290

(2) Upon receiving the notice described in division (B)(1) of 13291
this section or otherwise learning that the child was in need of 13292
assessment for eligible services or was receiving services from a 13293
county board of ~~mental retardation and~~ developmental disabilities 13294
in the previous county, the county board in the new county shall 13295
communicate with the county board of the previous county to 13296
determine how services for the foster child shall be provided in 13297
accordance with each board's plan and priorities as described in 13298
division (A) of this section. 13299

If the two county boards are unable to reach an agreement 13300
within ten days of the child's placement, the county board in the 13301

new county shall send notice to the Ohio department of mental 13302
retardation and developmental disabilities of the failure to 13303
agree. The department shall decide how services shall be provided 13304
for the foster child within ten days of receiving notice that the 13305
county boards could not reach an agreement. The department may 13306
decide that one, or both, of the county boards shall provide 13307
services. The services shall be provided in accordance with the 13308
board's plan and priorities as described in division (A) of this 13309
section. 13310

(C) The department of mental retardation and developmental 13311
disabilities may adopt rules in accordance with Chapter 119. of 13312
the Revised Code as necessary to implement this section. To the 13313
extent that rules adopted under this section apply to the 13314
identification and placement of children with disabilities under 13315
Chapter 3323. of the Revised Code, the rules shall be consistent 13316
with the standards and procedures established under sections 13317
3323.03 to 3323.05 of the Revised Code. 13318

(D) The responsibility or authority of a county board to 13319
provide services under this chapter does not affect the 13320
responsibility of any other entity of state or local government to 13321
provide services to individuals with mental retardation and 13322
developmental disabilities. 13323

(E) On or before the first day of February prior to a school 13324
year, a county board of ~~mental retardation and~~ developmental 13325
disabilities may elect not to participate during that school year 13326
in the provision of or contracting for educational services for 13327
children ages six through twenty-one years of age, provided that 13328
on or before that date the board gives notice of this election to 13329
the superintendent of public instruction, each school district in 13330
the county, and the educational service center serving the county. 13331
If a board makes this election, it shall not have any 13332
responsibility for or authority to provide educational services 13333

that school year for children ages six through twenty-one years of 13334
age. If a board does not make an election for a school year in 13335
accordance with this division, the board shall be deemed to have 13336
elected to participate during that school year in the provision of 13337
or contracting for educational services for children ages six 13338
through twenty-one years of age. 13339

(F) If a county board of ~~mental retardation and~~ developmental 13340
disabilities elects to provide educational services during a 13341
school year to individuals six through twenty-one years of age who 13342
have multiple disabilities, the board may provide these services 13343
to individuals who are appropriately identified and determined 13344
eligible pursuant to Chapter 3323. of the Revised Code, and in 13345
accordance with applicable rules of the state board of education. 13346
The county board may also provide related services to individuals 13347
six through twenty-one years of age who have one or more disabling 13348
conditions, in accordance with section 3317.20 and Chapter 3323. 13349
of the Revised Code and applicable rules of the state board of 13350
education. 13351

Sec. 5126.041. (A) As used in this section: 13352

(1) "Biological risk" and "environmental risk" have the 13353
meanings established pursuant to section 5123.011 of the Revised 13354
Code. 13355

(2) "Preschool child with a disability" has the same meaning 13356
as in section 3323.01 of the Revised Code. 13357

(3) "State institution" means all or part of an institution 13358
under the control of the department of mental retardation and 13359
developmental disabilities pursuant to section 5123.03 of the 13360
Revised Code and maintained for the care, treatment, and training 13361
of the mentally retarded. 13362

(B) Except as provided in division (C) of this section, each 13363

county board of ~~mental retardation and~~ developmental disabilities 13364
shall make eligibility determinations in accordance with the 13365
definition of "developmental disability" in section 5126.01 of the 13366
Revised Code. Pursuant to rules the department of mental 13367
retardation and developmental disabilities shall adopt in 13368
accordance with Chapter 119. of the Revised Code, a county board 13369
may establish eligibility for programs and services for either of 13370
the following: 13371

(1) Individuals under age six who have a biological risk or 13372
environmental risk of a developmental delay; 13373

(2) Any preschool child with a disability eligible for 13374
services under section 3323.02 of the Revised Code whose 13375
disability is not attributable solely to mental illness as defined 13376
in section 5122.01 of the Revised Code. 13377

(C)(1) A county board shall make determinations of 13378
eligibility for service and support administration in accordance 13379
with rules adopted under section 5126.08 of the Revised Code. 13380

(2) All persons who were eligible for services and enrolled 13381
in programs offered by a county board of ~~mental retardation and~~ 13382
developmental disabilities pursuant to this chapter on July 1, 13383
1991, shall continue to be eligible for those services and to be 13384
enrolled in those programs as long as they are in need of 13385
services. 13386

(3) A person who resided in a state institution on or before 13387
October 29, 1993, is eligible for programs and services offered by 13388
a county board of ~~mental retardation and~~ developmental 13389
disabilities, unless the person is determined by the county board 13390
not to be in need of those programs and services. 13391

(D) A county board shall refer a person who requests but is 13392
not eligible for programs and services offered by the board to 13393
other entities of state and local government or appropriate 13394

private entities that provide services. 13395

(E) Membership of a person on, or employment of a person by, 13396
a county board of ~~mental retardation and~~ developmental 13397
disabilities does not affect the eligibility of any member of that 13398
person's family for services provided by the board or by any 13399
entity under contract with the board. 13400

Sec. 5126.042. (A) As used in this section: 13401

(1) "Emergency" means any situation that creates for an 13402
individual with mental retardation or developmental disabilities a 13403
risk of substantial self-harm or substantial harm to others if 13404
action is not taken within thirty days. An "emergency" may include 13405
one or more of the following situations: 13406

(a) Loss of present residence for any reason, including legal 13407
action; 13408

(b) Loss of present caretaker for any reason, including 13409
serious illness of the caretaker, change in the caretaker's 13410
status, or inability of the caretaker to perform effectively for 13411
the individual; 13412

(c) Abuse, neglect, or exploitation of the individual; 13413

(d) Health and safety conditions that pose a serious risk to 13414
the individual or others of immediate harm or death; 13415

(e) Change in the emotional or physical condition of the 13416
individual that necessitates substantial accommodation that cannot 13417
be reasonably provided by the individual's existing caretaker. 13418

(2) "Service substitution list" means a service substitution 13419
list established by a county board of ~~mental retardation and~~ 13420
developmental disabilities before ~~the effective date of this~~ 13421
~~amendment~~ September 1, 2008, pursuant to division (B) of this 13422
section as this section existed on the day immediately before ~~the~~ 13423
~~effective date of this amendment~~ September 1, 2008. 13424

(B) If a county board of ~~mental retardation and~~ developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request programs and services and may be offered the programs and services, it shall establish waiting lists for services. The board may establish priorities for making placements on its waiting lists according to an individual's emergency status and shall establish priorities in accordance with divisions (D) and (E) of this section.

The individuals who may be placed on a waiting list include individuals with a need for services on an emergency basis and individuals who have requested services for which resources are not available.

An individual placed on a county board's service substitution list before ~~the effective date of this amendment~~ September 1, 2008, for the purpose of obtaining home and community-based services shall be deemed to have been placed on the county board's waiting list for home and community-based services on the date the individual made a request to the county board that the individual receive home and community-based services instead of the services the individual received at the time the request for home and community-based services was made to the county board.

(C) A county board shall establish a separate waiting list for each of the following categories of services, and may establish separate waiting lists within the waiting lists:

(1) Early childhood services;

(2) Educational programs for preschool and school age children;

(3) Adult services;

(4) Service and support administration;

(5) Residential services and supported living;	13455
(6) Transportation services;	13456
(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;	13457 13458 13459
(8) Family support services provided under section 5126.11 of the Revised Code.	13460 13461
(D) Except as provided in division (G) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code:	13462 13463 13464 13465 13466
(1) For the purpose of obtaining additional federal medicaid funds for home and community-based services and medicaid case management services, do both of the following:	13467 13468 13469
(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services:	13470 13471 13472 13473 13474 13475
(i) Is twenty-two years of age or older;	13476
(ii) Receives supported living or family support services.	13477
(b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services:	13478 13479 13480 13481 13482
(i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after	13483 13484

enrollment in home and community-based services;	13485
(ii) Receives adult services from the county board.	13486
(2) As federal medicaid funds become available pursuant to	13487
division (D)(1) of this section, give an individual who is	13488
eligible for home and community-based services and meets any of	13489
the following requirements priority for such services over any	13490
other individual on a waiting list established under division (C)	13491
of this section:	13492
(a) Does not receive residential services or supported	13493
living, either needs services in the individual's current living	13494
arrangement or will need services in a new living arrangement, and	13495
has a primary caregiver who is sixty years of age or older;	13496
(b) Is less than twenty-two years of age and has at least one	13497
of the following service needs that are unusual in scope or	13498
intensity:	13499
(i) Severe behavior problems for which a behavior support	13500
plan is needed;	13501
(ii) An emotional disorder for which anti-psychotic	13502
medication is needed;	13503
(iii) A medical condition that leaves the individual	13504
dependent on life-support medical technology;	13505
(iv) A condition affecting multiple body systems for which a	13506
combination of specialized medical, psychological, educational, or	13507
habilitation services are needed;	13508
(v) A condition the county board determines to be comparable	13509
in severity to any condition described in divisions (D)(2)(b)(i)	13510
to (iv) of this section and places the individual at significant	13511
risk of institutionalization.	13512
(c) Is twenty-two years of age or older, does not receive	13513
residential services or supported living, and is determined by the	13514

county board to have intensive needs for home and community-based 13515
services on an in-home or out-of-home basis. 13516

(E) Except as provided in division (G) of this section and 13517
for a number of years and beginning on a date specified in rules 13518
adopted under division (K) of this section, a county board shall 13519
give an individual who is eligible for home and community-based 13520
services, resides in a nursing facility, and chooses to move to 13521
another setting with the help of home and community-based 13522
services, priority over any other individual on a waiting list 13523
established under division (C) of this section for home and 13524
community-based services who does not meet these criteria. 13525

(F) If two or more individuals on a waiting list established 13526
under division (C) of this section for home and community-based 13527
services have priority for the services pursuant to division 13528
(D)(1) or (2) or (E) of this section, a county board may use 13529
criteria specified in rules adopted under division (K)(2) of this 13530
section in determining the order in which the individuals with 13531
priority will be offered the services. Otherwise, the county board 13532
shall offer the home and community-based services to such 13533
individuals in the order they are placed on the waiting list. 13534

(G) No individual may receive priority for services pursuant 13535
to division (D) or (E) of this section over an individual placed 13536
on a waiting list established under division (C) of this section 13537
on an emergency status. 13538

(H) Prior to establishing any waiting list under this 13539
section, a county board shall develop and implement a policy for 13540
waiting lists that complies with this section and rules adopted 13541
under division (K) of this section. 13542

Prior to placing an individual on a waiting list, the county 13543
board shall assess the service needs of the individual in 13544
accordance with all applicable state and federal laws. The county 13545

board shall place the individual on the appropriate waiting list 13546
and may place the individual on more than one waiting list. The 13547
county board shall notify the individual of the individual's 13548
placement and position on each waiting list on which the 13549
individual is placed. 13550

At least annually, the county board shall reassess the 13551
service needs of each individual on a waiting list. If it 13552
determines that an individual no longer needs a program or 13553
service, the county board shall remove the individual from the 13554
waiting list. If it determines that an individual needs a program 13555
or service other than the one for which the individual is on the 13556
waiting list, the county board shall provide the program or 13557
service to the individual or place the individual on a waiting 13558
list for the program or service in accordance with the board's 13559
policy for waiting lists. 13560

When a program or service for which there is a waiting list 13561
becomes available, the county board shall reassess the service 13562
needs of the individual next scheduled on the waiting list to 13563
receive that program or service. If the reassessment demonstrates 13564
that the individual continues to need the program or service, the 13565
board shall offer the program or service to the individual. If it 13566
determines that an individual no longer needs a program or 13567
service, the county board shall remove the individual from the 13568
waiting list. If it determines that an individual needs a program 13569
or service other than the one for which the individual is on the 13570
waiting list, the county board shall provide the program or 13571
service to the individual or place the individual on a waiting 13572
list for the program or service in accordance with the board's 13573
policy for waiting lists. The county board shall notify the 13574
individual of the individual's placement and position on the 13575
waiting list on which the individual is placed. 13576

(I) A child subject to a determination made pursuant to 13577

section 121.38 of the Revised Code who requires the home and 13578
community-based services provided through a medicaid component 13579
that the department of mental retardation and developmental 13580
disabilities administers under section 5111.871 of the Revised 13581
Code shall receive services through that medicaid component. For 13582
all other services, a child subject to a determination made 13583
pursuant to section 121.38 of the Revised Code shall be treated as 13584
an emergency by the county boards and shall not be subject to a 13585
waiting list. 13586

(J) Not later than the fifteenth day of March of each 13587
even-numbered year, each county board shall prepare and submit to 13588
the director of mental retardation and developmental disabilities 13589
its recommendations for the funding of services for individuals 13590
with mental retardation and developmental disabilities and its 13591
proposals for reducing the waiting lists for services. 13592

(K)(1) The department of mental retardation and developmental 13593
disabilities shall adopt rules in accordance with Chapter 119. of 13594
the Revised Code governing waiting lists established under this 13595
section. The rules shall include procedures to be followed to 13596
ensure that the due process rights of individuals placed on 13597
waiting lists are not violated. 13598

(2) As part of the rules adopted under this division, the 13599
department shall adopt rules establishing criteria a county board 13600
may use under division (F) of this section in determining the 13601
order in which individuals with priority for home and 13602
community-based services will be offered the services. The rules 13603
shall also specify conditions under which a county board, when 13604
there is no individual with priority for home and community-based 13605
services pursuant to division (D)(1) or (2) or (E) of this section 13606
available and appropriate for the services, may offer the services 13607
to an individual on a waiting list for the services but not given 13608
such priority for the services. 13609

(3) As part of the rules adopted under this division, the department shall adopt rules specifying both of the following for the priority category established under division (E) of this section:

(a) The number of years, which shall not exceed five, that the priority category will be in effect;

(b) The date that the priority category is to go into effect.

(L) The following shall take precedence over the applicable provisions of this section:

(1) Medicaid rules and regulations;

(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.

Sec. 5126.044. (A) As used in this section, "eligible person" has the same meaning as in section 5126.03 of the Revised Code.

(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.

(D)(1) At the request of an eligible person or the person's guardian or, if the eligible person is a minor, the person's parent or guardian, a county board or entity under contract with a county board shall provide the person who made the request access to records and reports regarding the eligible person. On written request, the county board or entity shall provide copies of the records and reports to the eligible person, guardian, or parent. The county board or entity may charge a reasonable fee to cover the costs of copying. The county board or entity may waive the fee in cases of hardship.

(2) A county board shall provide access to any waiting list or record or report regarding an eligible person maintained by the board to any state agency responsible for monitoring and reviewing programs and services provided or arranged by the county board,

any state agency involved in the coordination of services for an 13672
eligible person, and any agency under contract with the department 13673
of mental retardation and developmental disabilities for the 13674
provision of protective service pursuant to section 5123.56 of the 13675
Revised Code. 13676

(3) When an eligible person who requests programs or services 13677
under this chapter dies, the county board or entity under contract 13678
with the county board, shall, on written request, provide to both 13679
of the following persons any reports and records in the board or 13680
entity's possession concerning the eligible person: 13681

(a) If the report or records are necessary to administer the 13682
estate of the person who is the subject of the reports or records, 13683
to the executor or administrator of the person's estate; 13684

(b) To the guardian of the person who is the subject of the 13685
reports or records or, if the individual had no guardian at the 13686
time of death, to a person in the first applicable of the 13687
following categories: 13688

(i) The person's spouse; 13689

(ii) The person's children; 13690

(iii) The person's parents; 13691

(iv) The person's brothers or sisters; 13692

(v) The person's uncles or aunts; 13693

(vi) The person's closest relative by blood or adoption; 13694

(vii) The person's closest relative by marriage. 13695

The county board or entity shall provide the reports and 13696
records as required by division (D)(3) of this section not later 13697
than thirty days after receipt of the request. 13698

(E) A county board shall notify an eligible person, the 13699
person's guardian, or, if the eligible person is a minor, the 13700

person's parent or guardian, prior to destroying any record or 13701
report regarding the eligible person. 13702

Sec. 5126.045. (A) As used in this section, "eligible person" 13703
means a person eligible to receive services from a county board of 13704
~~mental retardation and~~ developmental disabilities or from an 13705
entity under contract with a county board. 13706

(B) A county board shall establish fees for services rendered 13707
to eligible persons if such fees are required by federal 13708
regulation and by rule adopted by the director of mental 13709
retardation and developmental disabilities. 13710

A county board may provide services to a person who does not 13711
meet the standards for eligibility. The board may establish fees 13712
for these services, which may be paid for by the person, by 13713
another person on the person's behalf of the ineligible person, or 13714
by another governmental entity. 13715

Sec. 5126.046. (A) Each county board of ~~mental retardation~~ 13716
~~and~~ developmental disabilities that has medicaid local 13717
administrative authority under division (A) of section 5126.055 of 13718
the Revised Code for habilitation, vocational, or community 13719
employment services provided as part of home and community-based 13720
services shall create a list of all persons and government 13721
entities eligible to provide such habilitation, vocational, or 13722
community employment services. If the county board chooses and is 13723
eligible to provide such habilitation, vocational, or community 13724
employment services, the county board shall include itself on the 13725
list. The county board shall make the list available to each 13726
individual with mental retardation or other developmental 13727
disability who resides in the county and is eligible for such 13728
habilitation, vocational, or community employment services. The 13729
county board shall also make the list available to such 13730

individuals' families. 13731

An individual with mental retardation or other developmental 13732
disability who is eligible for habilitation, vocational, or 13733
community employment services may choose the provider of the 13734
services. 13735

(B) Each month, the department of mental retardation and 13736
developmental disabilities shall create a list of all persons and 13737
government entities eligible to provide residential services and 13738
supported living. The department shall include on the list all 13739
residential facilities licensed under section 5123.19 of the 13740
Revised Code and all supported living providers certified under 13741
section 5123.161 of the Revised Code. The department shall 13742
distribute the monthly lists to county boards that have local 13743
administrative authority under division (A) of section 5126.055 of 13744
the Revised Code for residential services and supported living 13745
provided as part of home and community-based services. A county 13746
board that receives a list shall make it available to each 13747
individual with mental retardation or other developmental 13748
disability who resides in the county and is eligible for such 13749
residential services or supported living. The county board shall 13750
also make the list available to the families of those individuals. 13751

An individual who is eligible for residential services or 13752
supported living may choose the provider of the residential 13753
services or supported living. 13754
13755

(C) If a county board that has medicaid local administrative 13756
authority under division (A) of section 5126.055 of the Revised 13757
Code for home and community-based services violates the right 13758
established by this section of an individual to choose a provider 13759
that is qualified and willing to provide services to the 13760
individual, the individual shall receive timely notice that the 13761
individual may request a hearing under section 5101.35 of the 13762

Revised Code. 13763

(D) The departments of mental retardation and developmental 13764
disabilities and job and family services shall adopt rules in 13765
accordance with Chapter 119. of the Revised Code governing the 13766
implementation of this section. The rules shall include procedures 13767
for individuals to choose their service providers. The rules shall 13768
not be limited by a provider selection system established under 13769
section 5126.42 of the Revised Code, including any pool of 13770
providers created pursuant to a provider selection system. 13771

Sec. 5126.05. (A) Subject to the rules established by the 13772
director of mental retardation and developmental disabilities 13773
pursuant to Chapter 119. of the Revised Code for programs and 13774
services offered pursuant to this chapter, and subject to the 13775
rules established by the state board of education pursuant to 13776
Chapter 119. of the Revised Code for programs and services offered 13777
pursuant to Chapter 3323. of the Revised Code, the county board of 13778
~~mental retardation and~~ developmental disabilities shall: 13779

(1) Administer and operate facilities, programs, and services 13780
as provided by this chapter and Chapter 3323. of the Revised Code 13781
and establish policies for their administration and operation; 13782

(2) Coordinate, monitor, and evaluate existing services and 13783
facilities available to individuals with mental retardation and 13784
developmental disabilities; 13785

(3) Provide early childhood services, supportive home 13786
services, and adult services, according to the plan and priorities 13787
developed under section 5126.04 of the Revised Code; 13788

(4) Provide or contract for special education services 13789
pursuant to Chapters 3317. and 3323. of the Revised Code and 13790
ensure that related services, as defined in section 3323.01 of the 13791
Revised Code, are available according to the plan and priorities 13792

developed under section 5126.04 of the Revised Code;	13793
(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;	13794 13795 13796 13797 13798 13799
(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;	13800 13801 13802 13803 13804
(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 Revised Code, and contract for employee benefits;	13805 13806 13807 13808 13809 13810
(8) Provide service and support administration in accordance with section 5126.15 of the Revised Code;	13811 13812
(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.	13813 13814 13815
(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.	13816 13817 13818 13819 13820
(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	13821 13822 13823

provide the facilities, programs, and services authorized or 13824
required, upon such terms as may be agreeable, and in accordance 13825
with this chapter and Chapter 3323. of the Revised Code and rules 13826
adopted thereunder and in accordance with sections 307.86 and 13827
5126.071 of the Revised Code. 13828

(D) A county board may combine transportation for children 13829
and adults enrolled in programs and services offered under section 13830
5126.12 with transportation for children enrolled in classes 13831
funded under section 3317.20 or units approved under section 13832
3317.05 of the Revised Code. 13833

(E) A county board may purchase all necessary insurance 13834
policies, may purchase equipment and supplies through the 13835
department of administrative services or from other sources, and 13836
may enter into agreements with public agencies or nonprofit 13837
organizations for cooperative purchasing arrangements. 13838

(F) A county board may receive by gift, grant, devise, or 13839
bequest any moneys, lands, or property for the benefit of the 13840
purposes for which the board is established and hold, apply, and 13841
dispose of the moneys, lands, and property according to the terms 13842
of the gift, grant, devise, or bequest. All money received by 13843
gift, grant, bequest, or disposition of lands or property received 13844
by gift, grant, devise, or bequest shall be deposited in the 13845
county treasury to the credit of such board and shall be available 13846
for use by the board for purposes determined or stated by the 13847
donor or grantor, but may not be used for personal expenses of the 13848
board members. Any interest or earnings accruing from such gift, 13849
grant, devise, or bequest shall be treated in the same manner and 13850
subject to the same provisions as such gift, grant, devise, or 13851
bequest. 13852

(G) The board of county commissioners shall levy taxes and 13853
make appropriations sufficient to enable the county board of 13854
~~mental retardation and~~ developmental disabilities to perform its 13855

functions and duties, and may utilize any available local, state, 13856
and federal funds for such purpose. 13857

Sec. 5126.051. (A) To the extent that resources are 13858
available, a county board of ~~mental retardation and~~ developmental 13859
disabilities shall provide for or arrange residential services and 13860
supported living for individuals with mental retardation and 13861
developmental disabilities. 13862

A county board may acquire, convey, lease, or sell property 13863
for residential services and supported living and enter into loan 13864
agreements, including mortgages, for the acquisition of such 13865
property. A county board is not required to comply with provisions 13866
of Chapter 307. of the Revised Code providing for competitive 13867
bidding or sheriff sales in the acquisition, lease, conveyance, or 13868
sale of property under this division, but the acquisition, lease, 13869
conveyance, or sale must be at fair market value determined by 13870
appraisal of one or more disinterested persons appointed by the 13871
board. 13872

Any action taken by a county board under this division that 13873
will incur debt on the part of the county shall be taken in 13874
accordance with Chapter 133. of the Revised Code. A county board 13875
shall not incur any debt on the part of the county without the 13876
prior approval of the board of county commissioners. 13877

(B)(1) To the extent that resources are available, in 13878
addition to sheltered employment and work activities provided as 13879
adult services pursuant to division (A)(3) of section 5126.05 of 13880
the Revised Code, a county board of ~~mental retardation and~~ 13881
developmental disabilities may provide or arrange for job 13882
training, vocational evaluation, and community employment services 13883
to mentally retarded and developmentally disabled individuals who 13884
are age eighteen and older and not enrolled in a program or 13885
service under Chapter 3323. of the Revised Code or age sixteen or 13886

seventeen and eligible for adult services under rules adopted by 13887
the director of mental retardation and developmental disabilities 13888
under Chapter 119. of the Revised Code. These services shall be 13889
provided in accordance with the individual's individual service or 13890
habilitation plan and shall include support services specified in 13891
the plan. 13892

(2) A county board may, in cooperation with the Ohio 13893
rehabilitation services commission, seek federal funds for job 13894
training and community employment. 13895

(3) A county board may contract with any agency, board, or 13896
other entity that is accredited by the commission on accreditation 13897
of rehabilitation facilities to provide services. A county board 13898
that is accredited by the commission on accreditation of 13899
rehabilitation facilities may provide services for which it is 13900
certified by the commission. 13901

(C) To the extent that resources are available, a county 13902
board may provide services to an individual with mental 13903
retardation or other developmental disability in addition to those 13904
provided pursuant to this section, section 5126.05 of the Revised 13905
Code, or any other section of this chapter. The services shall be 13906
provided in accordance with the individual's habilitation or 13907
service plan and may be provided in collaboration with other 13908
entities of state or local government. 13909

Sec. 5126.052. (A) The superintendent of a county board of 13910
~~mental retardation and~~ developmental disabilities providing 13911
transportation for pupils to special education programs under this 13912
chapter may establish a volunteer bus rider assistance program 13913
under which qualified persons may be authorized to ride with 13914
pupils to and from such programs. Volunteers shall not be 13915
compensated for their services and are not employees for purposes 13916
of Chapter 4117. or 4123. of the Revised Code. Nothing in this 13917

section authorizes a superintendent or board to adversely affect 13918
the employment of any employee of the board. 13919

Volunteers may be assigned duties or responsibilities by the 13920
superintendent, including but not limited to, assisting pupils in 13921
embarking and disembarking from buses and in crossing streets 13922
where necessary to ensure the safety of the pupil, assisting the 13923
bus driver, and such other activities as the superintendent 13924
determines will aid in the safe and efficient transportation of 13925
pupils. 13926

(B) The superintendent shall ensure that each pupil receiving 13927
transportation under this chapter is instructed in school bus 13928
safety, proper bus rider behavior, and the potential problems and 13929
hazards associated with school bus ridership. Such instruction 13930
shall occur within two weeks after the pupil first receives 13931
transportation under this chapter. 13932

Sec. 5126.054. (A) Each county board of ~~mental retardation~~ 13933
~~and~~ developmental disabilities shall, by resolution, develop a 13934
three-calendar year plan that includes the following three 13935
components: 13936

(1) An assessment component that includes all of the 13937
following: 13938

(a) The number of individuals with mental retardation or 13939
other developmental disability residing in the county who need the 13940
level of care provided by an intermediate care facility for the 13941
mentally retarded, may seek home and community-based services, are 13942
given priority for the services pursuant to division (D) of 13943
section 5126.042 of the Revised Code; the service needs of those 13944
individuals; and the projected annualized cost for services; 13945

(b) The source of funds available to the county board to pay 13946
the nonfederal share of medicaid expenditures that the county 13947

board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(c) Any other applicable information or conditions that the department of mental retardation and developmental disabilities requires as a condition of approving the component under section 5123.046 of the Revised Code.

(2) (A preliminary implementation component that specifies the number of individuals to be provided, during the first year that the plan is in effect, home and community-based services pursuant to the priority given to them under divisions (D)(1) and (2) of section 5126.042 of the Revised Code and the types of home and community-based services the individuals are to receive;

(3) A component that provides for the implementation of medicaid case management services and home and community-based services for individuals who begin to receive the services on or after the date the plan is approved under section 5123.046 of the Revised Code. A county board shall include all of the following in the component:

(a) If the department of mental retardation and developmental disabilities or department of job and family services requires, an agreement to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(b) How the services are to be phased in over the period the plan covers, including how the county board will serve individuals on a waiting list established under division (C) of section 5126.042 who are given priority status under division (D)(1) of that section;

(c) Any agreement or commitment regarding the county board's funding of home and community-based services that the county board has with the department at the time the county board develops the

component; 13979

(d) Assurances adequate to the department that the county 13980
board will comply with all of the following requirements: 13981

(i) To provide the types of home and community-based services 13982
specified in the preliminary implementation component required by 13983
division (A)(2) of this section to at least the number of 13984
individuals specified in that component; 13985

(ii) To use any additional funds the county board receives 13986
for the services to improve the county board's resource 13987
capabilities for supporting such services available in the county 13988
at the time the component is developed and to expand the services 13989
to accommodate the unmet need for those services in the county; 13990

(iii) To employ a business manager who is either a new 13991
employee who has earned at least a bachelor's degree in business 13992
administration or a current employee who has the equivalent 13993
experience of a bachelor's degree in business administration. If 13994
the county board will employ a new employee, the county board 13995
shall include in the component a timeline for employing the 13996
employee. 13997

(iv) To employ or contract with a medicaid services manager 13998
who is either a new employee who has earned at least a bachelor's 13999
degree or a current employee who has the equivalent experience of 14000
a bachelor's degree. If the county board will employ a new 14001
employee, the county board shall include in the component a 14002
timeline for employing the employee. Two or three county boards 14003
that have a combined total enrollment in county board services not 14004
exceeding one thousand individuals as determined pursuant to 14005
certifications made under division (B) of section 5126.12 of the 14006
Revised Code may satisfy this requirement by sharing the services 14007
of a medicaid services manager or using the services of a medicaid 14008
services manager employed by or under contract with a regional 14009

council that the county boards establish under section 5126.13 of the Revised Code. 14010
14011

(e) Programmatic and financial accountability measures and projected outcomes expected from the implementation of the plan; 14012
14013

(f) Any other applicable information or conditions that the department requires as a condition of approving the component under section 5123.046 of the Revised Code. 14014
14015
14016

(B) A county board whose plan developed under division (A) of this section is approved by the department under section 5123.046 of the Revised Code shall update and renew the plan in accordance with a schedule the department shall develop. 14017
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Sec. 5126.055. (A) Except as provided in section 5126.056 of the Revised Code, a county board of ~~mental retardation and~~ developmental disabilities has medicaid local administrative authority to, and shall, do all of the following for an individual with mental retardation or other developmental disability who resides in the county that the county board serves and seeks or receives home and community-based services: 14021
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(1) Perform assessments and evaluations of the individual. As part of the assessment and evaluation process, the county board shall do all of the following: 14028
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(a) Make a recommendation to the department of mental retardation and developmental disabilities on whether the department should approve or deny the individual's application for the services, including on the basis of whether the individual needs the level of care an intermediate care facility for the mentally retarded provides; 14031
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(b) If the individual's application is denied because of the county board's recommendation and the individual requests a hearing under section 5101.35 of the Revised Code, present, with 14037
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14039

the department of mental retardation and developmental 14040
disabilities or department of job and family services, whichever 14041
denies the application, the reasons for the recommendation and 14042
denial at the hearing; 14043

(c) If the individual's application is approved, recommend to 14044
the departments of mental retardation and developmental 14045
disabilities and job and family services the services that should 14046
be included in the individual's individualized service plan and, 14047
if either department approves, reduces, denies, or terminates a 14048
service included in the individual's individualized service plan 14049
under section 5111.871 of the Revised Code because of the county 14050
board's recommendation, present, with the department that made the 14051
approval, reduction, denial, or termination, the reasons for the 14052
recommendation and approval, reduction, denial, or termination at 14053
a hearing under section 5101.35 of the Revised Code. 14054

(2) In accordance with the rules adopted under section 14055
5126.046 of the Revised Code, perform the county board's duties 14056
under that section regarding assisting the individual's right to 14057
choose a qualified and willing provider of the services and, at a 14058
hearing under section 5101.35 of the Revised Code, present 14059
evidence of the process for appropriate assistance in choosing 14060
providers; 14061

(3) If the county board is certified under section 5123.161 14062
of the Revised Code to provide the services and agrees to provide 14063
the services to the individual and the individual chooses the 14064
county board to provide the services, furnish, in accordance with 14065
the county board's medicaid provider agreement and for the 14066
authorized reimbursement rate, the services the individual 14067
requires; 14068

(4) Monitor the services provided to the individual and 14069
ensure the individual's health, safety, and welfare. The 14070
monitoring shall include quality assurance activities. If the 14071

county board provides the services, the department of mental 14072
retardation and developmental disabilities shall also monitor the 14073
services. 14074

(5) Develop, with the individual and the provider of the 14075
individual's services, an effective individualized service plan 14076
that includes coordination of services, recommend that the 14077
departments of mental retardation and developmental disabilities 14078
and job and family services approve the plan, and implement the 14079
plan unless either department disapproves it; 14080

(6) Have an investigative agent conduct investigations under 14081
section 5126.313 of the Revised Code that concern the individual; 14082

(7) Have a service and support administrator perform the 14083
duties under division (B)(9) of section 5126.15 of the Revised 14084
Code that concern the individual. 14085

(B) A county board shall perform its medicaid local 14086
administrative authority under this section in accordance with all 14087
of the following: 14088

(1) The county board's plan that the department of mental 14089
retardation and developmental disabilities approves under section 14090
5123.046 of the Revised Code; 14091

(2) All applicable federal and state laws; 14092

(3) All applicable policies of the departments of mental 14093
retardation and developmental disabilities and job and family 14094
services and the United States department of health and human 14095
services; 14096

(4) The department of job and family services' supervision 14097
under its authority under section 5111.01 of the Revised Code to 14098
act as the single state medicaid agency; 14099

(5) The department of mental retardation and developmental 14100
disabilities' oversight. 14101

(C) The departments of mental retardation and developmental 14102
disabilities and job and family services shall communicate with 14103
and provide training to county boards regarding medicaid local 14104
administrative authority granted by this section. The 14105
communication and training shall include issues regarding audit 14106
protocols and other standards established by the United States 14107
department of health and human services that the departments 14108
determine appropriate for communication and training. County 14109
boards shall participate in the training. The departments shall 14110
assess the county board's compliance against uniform standards 14111
that the departments shall establish. 14112

(D) A county board may not delegate its medicaid local 14113
administrative authority granted under this section but may 14114
contract with a person or government entity, including a council 14115
of governments, for assistance with its medicaid local 14116
administrative authority. A county board that enters into such a 14117
contract shall notify the director of mental retardation and 14118
developmental disabilities. The notice shall include the tasks and 14119
responsibilities that the contract gives to the person or 14120
government entity. The person or government entity shall comply in 14121
full with all requirements to which the county board is subject 14122
regarding the person or government entity's tasks and 14123
responsibilities under the contract. The county board remains 14124
ultimately responsible for the tasks and responsibilities. 14125

(E) A county board that has medicaid local administrative 14126
authority under this section shall, through the departments of 14127
mental retardation and developmental disabilities and job and 14128
family services, reply to, and cooperate in arranging compliance 14129
with, a program or fiscal audit or program violation exception 14130
that a state or federal audit or review discovers. The department 14131
of job and family services shall timely notify the department of 14132
mental retardation and developmental disabilities and the county 14133

board of any adverse findings. After receiving the notice, the 14134
county board, in conjunction with the department of mental 14135
retardation and developmental disabilities, shall cooperate fully 14136
with the department of job and family services and timely prepare 14137
and send to the department a written plan of correction or 14138
response to the adverse findings. The county board is liable for 14139
any adverse findings that result from an action it takes or fails 14140
to take in its implementation of medicaid local administrative 14141
authority. 14142

(F) If the department of mental retardation and developmental 14143
disabilities or department of job and family services determines 14144
that a county board's implementation of its medicaid local 14145
administrative authority under this section is deficient, the 14146
department that makes the determination shall require that county 14147
board do the following: 14148

(1) If the deficiency affects the health, safety, or welfare 14149
of an individual with mental retardation or other developmental 14150
disability, correct the deficiency within twenty-four hours; 14151

(2) If the deficiency does not affect the health, safety, or 14152
welfare of an individual with mental retardation or other 14153
developmental disability, receive technical assistance from the 14154
department or submit a plan of correction to the department that 14155
is acceptable to the department within sixty days and correct the 14156
deficiency within the time required by the plan of correction. 14157

Sec. 5126.056. (A) The department of mental retardation and 14158
developmental disabilities shall take action under division (B) of 14159
this section against a county board of ~~mental retardation and~~ 14160
developmental disabilities if any of the following are the case: 14161

(1) The county board fails to submit to the department all 14162
the components of its three-year plan required by section 5126.054 14163
of the Revised Code. 14164

(2) The department disapproves the county board's three-year plan under section 5123.046 of the Revised Code. 14165
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(3) The county board fails, as required by division (B) of section 5126.054 of the Revised Code, to update and renew its three-year plan in accordance with a schedule the department develops under that section. 14167
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(4) The county board fails to implement its initial or renewed three-year plan approved by the department. 14171
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(5) The county board fails to correct a deficiency within the time required by division (F) of section 5126.055 of the Revised Code to the satisfaction of the department. 14173
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(6) The county board fails to submit an acceptable plan of correction to the department within the time required by division (F)(2) of section 5126.055 of the Revised Code. 14176
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(B) If required by division (A) of this section to take action against a county board, the department shall issue an order terminating the county board's medicaid local administrative authority over all or part of home and community-based services, medicaid case management services, or all or part of both of those services. The department shall provide a copy of the order to the board of county commissioners, senior probate judge, county auditor, and president and superintendent of the county board. The department shall specify in the order the medicaid local administrative authority that the department is terminating, the reason for the termination, and the county board's option and responsibilities under this division. 14179
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A county board whose medicaid local administrative authority is terminated may, not later than thirty days after the department issues the termination order, recommend to the department that another county board that has not had any of its medicaid local administrative authority terminated or another entity the 14191
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department approves administer the services for which the county 14196
board's medicaid local administrative authority is terminated. The 14197
department may contract with the other county board or entity to 14198
administer the services. If the department enters into such a 14199
contract, the county board shall adopt a resolution giving the 14200
other county board or entity full medicaid local administrative 14201
authority over the services that the other county board or entity 14202
is to administer. The other county board or entity shall be known 14203
as the contracting authority. 14204

If the department rejects the county board's recommendation 14205
regarding a contracting authority, the county board may appeal the 14206
rejection under section 5123.043 of the Revised Code. 14207

If the county board does not submit a recommendation to the 14208
department regarding a contracting authority within the required 14209
time or the department rejects the county board's recommendation 14210
and the rejection is upheld pursuant to an appeal, if any, under 14211
section 5123.043 of the Revised Code, the department shall appoint 14212
an administrative receiver to administer the services for which 14213
the county board's medicaid local administrative authority is 14214
terminated. To the extent necessary for the department to appoint 14215
an administrative receiver, the department may utilize employees 14216
of the department, management personnel from another county board, 14217
or other individuals who are not employed by or affiliated with in 14218
any manner a person that provides home and community-based 14219
services or medicaid case management services pursuant to a 14220
contract with any county board. The administrative receiver shall 14221
assume full administrative responsibility for the county board's 14222
services for which the county board's medicaid local 14223
administrative authority is terminated. 14224

The contracting authority or administrative receiver shall 14225
develop and submit to the department a plan of correction to 14226
remediate the problems that caused the department to issue the 14227

termination order. If, after reviewing the plan, the department 14228
approves it, the contracting authority or administrative receiver 14229
shall implement the plan. 14230

The county board shall transfer control of state and federal 14231
funds it is otherwise eligible to receive for the services for 14232
which the county board's medicaid local administrative authority 14233
is terminated and funds the county board may use under division 14234
(A) of section 5126.0511 of the Revised Code to pay the nonfederal 14235
share of the services that the county board is required by 14236
sections 5126.059 and 5126.0510 of the Revised Code to pay. The 14237
county board shall transfer control of the funds to the 14238
contracting authority or administrative receiver administering the 14239
services. The amount the county board shall transfer shall be the 14240
amount necessary for the contracting authority or administrative 14241
receiver to fulfill its duties in administering the services, 14242
including its duties to pay its personnel for time worked, travel, 14243
and related matters. If the county board fails to make the 14244
transfer, the department may withhold the state and federal funds 14245
from the county board and bring a mandamus action against the 14246
county board in the court of common pleas of the county served by 14247
the county board or in the Franklin county court of common pleas. 14248
The mandamus action may not require that the county board transfer 14249
any funds other than the funds the county board is required by 14250
division (B) of this section to transfer. 14251

The contracting authority or administrative receiver has the 14252
right to authorize the payment of bills in the same manner that 14253
the county board may authorize payment of bills under this chapter 14254
and section 319.16 of the Revised Code. 14255

Sec. 5126.058. (A) Each county board of ~~mental retardation~~ 14256
~~and~~ developmental disabilities shall prepare a memorandum of 14257
understanding that is developed by all of the following and that 14258

is signed by the persons identified in divisions (A)(2) to (7) of 14259
this section: 14260

(1) The senior probate judge of the county or the senior 14261
probate judge's representative; 14262

(2) The county peace officer; 14263

(3) All chief municipal peace officers within the county; 14264

(4) Other law enforcement officers handling abuse, neglect, 14265
and exploitation of mentally retarded and developmentally disabled 14266
persons in the county; 14267

(5) The prosecuting attorney of the county; 14268

(6) The public children services agency; 14269

(7) The coroner of the county. 14270

(B) A memorandum of understanding shall set forth the normal 14271
operating procedure to be employed by all concerned officials in 14272
the execution of their respective responsibilities under this 14273
section and sections 313.12, 2151.421, 2903.16, 5126.31, and 14274
5126.33 of the Revised Code and shall have as its primary goal the 14275
elimination of all unnecessary interviews of persons who are the 14276
subject of reports made pursuant to this section. A failure to 14277
follow the procedure set forth in the memorandum by the concerned 14278
officials is not grounds for, and shall not result in, the 14279
dismissal of any charge or complaint arising from any reported 14280
case of abuse, neglect, or exploitation or the suppression of any 14281
evidence obtained as a result of any reported abuse, neglect, or 14282
exploitation and does not give any rights or grounds for appeal or 14283
post-conviction relief to any person. 14284

(C) A memorandum of understanding shall include, but is not 14285
limited to, all of the following: 14286

(1) The roles and responsibilities for handling emergency and 14287
nonemergency cases of abuse, neglect, or exploitation; 14288

(2) The roles and responsibilities for handling and 14289
coordinating investigations of reported cases of abuse, neglect, 14290
or exploitation and methods to be used in interviewing the person 14291
who is the subject of the report and who allegedly was abused, 14292
neglected, or exploited; 14293

(3) The roles and responsibilities for addressing the 14294
categories of persons who may interview the person who is the 14295
subject of the report and who allegedly was abused, neglected, or 14296
exploited; 14297

(4) The roles and responsibilities for providing victim 14298
services to mentally retarded and developmentally disabled persons 14299
pursuant to Chapter 2930. of the Revised Code; 14300

(5) The roles and responsibilities for the filing of criminal 14301
charges against persons alleged to have abused, neglected, or 14302
exploited mentally retarded or developmentally disabled persons. 14303

(D) A memorandum of understanding may be signed by victim 14304
advocates, municipal court judges, municipal prosecutors, and any 14305
other person whose participation furthers the goals of a 14306
memorandum of understanding, as set forth in this section. 14307

Sec. 5126.059. A county board of ~~mental retardation and~~ 14308
developmental disabilities shall pay the nonfederal share of 14309
medicaid expenditures for medicaid case management services the 14310
county board provides to an individual with mental retardation or 14311
other developmental disability who the county board determines 14312
under section 5126.041 of the Revised Code is eligible for county 14313
board services. 14314

Sec. 5126.0510. (A) Except as otherwise provided in an 14315
agreement entered into under section 5123.048 of the Revised Code 14316
and subject to divisions (B), (C), and (D) of this section, a 14317
county board of ~~mental retardation and~~ developmental disabilities 14318

shall pay the nonfederal share of medicaid expenditures for the 14319
following home and community-based services provided to an 14320
individual with mental retardation or other developmental 14321
disability who the county board determines under section 5126.041 14322
of the Revised Code is eligible for county board services: 14323

(1) Home and community-based services provided by the county 14324
board to such an individual; 14325

(2) Home and community-based services provided by a provider 14326
other than the county board to such an individual who is enrolled 14327
as of June 30, 2007, in the medicaid waiver component under which 14328
the services are provided; 14329

(3) Home and community-based services provided by a provider 14330
other than the county board to such an individual who, pursuant to 14331
a request the county board makes, enrolls in the medicaid waiver 14332
component under which the services are provided after June 30, 14333
2007; 14334

(4) Home and community-based services provided by a provider 14335
other than the county board to such an individual for whom there 14336
is in effect an agreement entered into under division (E) of this 14337
section between the county board and director of mental 14338
retardation and developmental disabilities. 14339

(B) In the case of medicaid expenditures for home and 14340
community-based services for which division (A)(2) of this section 14341
requires a county board to pay the nonfederal share, the following 14342
shall apply to such services provided during fiscal year 2008 14343
under the individual options medicaid waiver component: 14344

(1) The county board shall pay no less than the total amount 14345
the county board paid as the nonfederal share for home and 14346
community-based services provided in fiscal year 2007 under the 14347
individual options medicaid waiver component; 14348

(2) The county board shall pay no more than the sum of the 14349

following: 14350

(a) The total amount the county board paid as the nonfederal 14351
share for home and community-based services provided in fiscal 14352
year 2007 under the individual options medicaid waiver component; 14353

(b) An amount equal to one per cent of the total amount the 14354
department of mental retardation and developmental disabilities 14355
and county board paid as the nonfederal share for home and 14356
community-based services provided in fiscal year 2007 under the 14357
individual options medicaid waiver component to individuals the 14358
county board determined under section 5126.041 of the Revised Code 14359
are eligible for county board services. 14360

(C) A county board is not required to pay the nonfederal 14361
share of home and community-based services provided after June 30, 14362
2008, that the county board is otherwise required by division 14363
(A)(2) of this section to pay if the department of mental 14364
retardation and developmental disabilities fails to comply with 14365
division (A) of section 5123.0416 of the Revised Code. 14366

(D) A county board is not required to pay the nonfederal 14367
share of home and community-based services that the county board 14368
is otherwise required by division (A)(3) of this section to pay if 14369
both of the following apply: 14370

(1) The services are provided to an individual who enrolls in 14371
the medicaid waiver component under which the services are 14372
provided as the result of an order issued following a state 14373
hearing, administrative appeal, or appeal to a court of common 14374
pleas made under section 5101.35 of the Revised Code; 14375

(2) There are more individuals who are eligible for services 14376
from the county board enrolled in the medicaid waiver component 14377
than is required by section 5126.0512 of the Revised Code. 14378

(E) A county board may enter into an agreement with the 14379
director of mental retardation and developmental disabilities 14380

under which the county board agrees to pay the nonfederal share of 14381
medicaid expenditures for one or more home and community-based 14382
services that the county board is not otherwise required by 14383
division (A)(1), (2), or (3) of this section to pay and that are 14384
provided to an individual the county board determines under 14385
section 5126.041 of the Revised Code is eligible for county board 14386
services. The agreement shall specify which home and 14387
community-based services the agreement covers. The county board 14388
shall pay the nonfederal share of medicaid expenditures for the 14389
home and community-based services that the agreement covers as 14390
long as the agreement is in effect. 14391

Sec. 5126.0511. (A) A county board of ~~mental retardation and~~ 14392
developmental disabilities may use the following funds to pay the 14393
nonfederal share of the medicaid expenditures that the county 14394
board is required by sections 5126.059 and 5126.0510 of the 14395
Revised Code to pay: 14396

(1) To the extent consistent with the levy that generated the 14397
taxes, the following taxes: 14398

(a) Taxes levied pursuant to division (L) of section 5705.19 14399
of the Revised Code and section 5705.222 of the Revised Code; 14400

(b) Taxes levied under section 5705.191 of the Revised Code 14401
that the board of county commissioners allocates to the county 14402
board. 14403

(2) Funds that the department of mental retardation and 14404
developmental disabilities distributes to the county board under 14405
sections 5126.11 and 5126.18 of the Revised Code; 14406

(3) Earned federal revenue funds the county board receives 14407
for medicaid services the county board provides pursuant to the 14408
county board's valid medicaid provider agreement; 14409

(4) Funds that the department of mental retardation and 14410

developmental disabilities distributes to the county board as 14411
subsidy payments; 14412

(5) In the case of medicaid expenditures for home and 14413
community-based services, funds allocated to or otherwise made 14414
available for the county board under section 5123.0416 of the 14415
Revised Code to pay the nonfederal share of such medicaid 14416
expenditures. 14417

Each year, each county board shall adopt a resolution 14418
specifying the amount of funds it will use in the next year to pay 14419
the nonfederal share of the medicaid expenditures that the county 14420
board is required by sections 5126.059 and 5126.0510 of the 14421
Revised Code to pay. The amount specified shall be adequate to 14422
assure that the services for which the medicaid expenditures are 14423
made will be available in the county in a manner that conforms to 14424
all applicable state and federal laws. A county board shall state 14425
in its resolution that the payment of the nonfederal share 14426
represents an ongoing financial commitment of the county board. A 14427
county board shall adopt the resolution in time for the county 14428
auditor to make the determination required by division (C) of this 14429
section. 14430

(C) Each year, a county auditor shall determine whether the 14431
amount of funds a county board specifies in the resolution it 14432
adopts under division (B) of this section will be available in the 14433
following year for the county board to pay the nonfederal share of 14434
the medicaid expenditures that the county board is required by 14435
sections 5126.059 and 5126.0510 of the Revised Code to pay. The 14436
county auditor shall make the determination not later than the 14437
last day of the year before the year in which the funds are to be 14438
used. 14439

Sec. 5126.0512. (A) As used in this section, "medicaid waiver 14440
component" means a medicaid waiver component as defined in section 14441

5111.85 of the Revised Code under which home and community-based services are provided. 14442
14443

(B) Effective July 1, 2007, each county board of ~~mental~~ 14444
~~retardation and~~ developmental disabilities shall ensure, for each 14445
medicaid waiver component, that the number of individuals eligible 14446
under section 5126.041 of the Revised Code for services from the 14447
county board who are enrolled in a medicaid waiver component is no 14448
less than the sum of the following: 14449

(1) The number of individuals eligible for services from the 14450
county board who are enrolled in the medicaid waiver component on 14451
June 30, 2007; 14452

(2) The number of medicaid waiver component slots the county 14453
board requested before July 1, 2007, that were assigned to the 14454
county board before that date but in which no individual was 14455
enrolled before that date. 14456

(C) An individual enrolled in a medicaid waiver component 14457
after March 1, 2007, due to an emergency reserve capacity waiver 14458
assignment shall not be counted in determining the number of 14459
individuals a county board must ensure under division (B) of this 14460
section are enrolled in a medicaid waiver component. 14461

(D) An individual who is enrolled in a medicaid waiver 14462
component to comply with the terms of the consent order filed 14463
March 5, 2007, in *Martin v. Strickland*, Case No. 89-CV-00362, in 14464
the United States district court for the southern district of 14465
Ohio, eastern division, shall be excluded in determining whether a 14466
county board has complied with division (B) of this section. 14467

(E) A county board shall make as many requests for 14468
individuals to be enrolled in a medicaid waiver component as 14469
necessary for the county board to comply with division (B) of this 14470
section. 14471

Sec. 5126.06. (A) Except as provided in division (B) of this 14472
section, any person who has a complaint involving any of the 14473
programs, services, policies, or administrative practices of a 14474
county board of ~~mental retardation and~~ developmental disabilities 14475
or any of the entities under contract with the county board, may 14476
file a complaint with the board. Prior to commencing a civil 14477
action regarding the complaint, a person shall attempt to have the 14478
complaint resolved through the administrative resolution process 14479
established in the rules adopted under section 5123.043 of the 14480
Revised Code. After exhausting the administrative resolution 14481
process, the person may commence a civil action if the complaint 14482
is not settled to the person's satisfaction. 14483

(B) An employee of a county board may not file under this 14484
section a complaint related to the terms and conditions of 14485
employment of the employee. 14486

Sec. 5126.07. No county board of ~~mental retardation and~~ 14487
developmental disabilities or any agency, corporation, or 14488
association under contract with a county board of ~~mental~~ 14489
~~retardation and~~ developmental disabilities shall discriminate in 14490
the provision of services under its authority or contract on the 14491
basis of race, color, sex, creed, disability, national origin, or 14492
the inability to pay. 14493

Each county board of ~~mental retardation and~~ developmental 14494
disabilities shall provide a plan of affirmative action describing 14495
its goals and methods for the provision of equal employment 14496
opportunities for all persons under its authority and shall ensure 14497
nondiscrimination in employment under its authority or contract on 14498
the basis of race, color, sex, creed, disability, or national 14499
origin. 14500

Sec. 5126.071. (A) As used in this section, "minority 14501

business enterprise" has the meaning given in division (E)(1) of 14502
section 122.71 of the Revised Code. 14503

(B) Any minority business enterprise that desires to bid on a 14504
contract under division (C) or (D) of this section shall first 14505
apply to the equal employment opportunity coordinator in the 14506
department of administrative services for certification as a 14507
minority business enterprise. The coordinator shall approve the 14508
application of any minority business enterprise that complies with 14509
the rules adopted under section 122.71 of the Revised Code. The 14510
coordinator shall prepare and maintain a list of minority business 14511
enterprises certified under this section. 14512

(C) From the contracts to be awarded for the purchases of 14513
equipment, materials, supplies, insurance, and nonprogram 14514
services, other than contracts entered into and exempt under 14515
sections 307.86 and 5126.05 of the Revised Code, each county board 14516
of ~~mental retardation and~~ developmental disabilities shall select 14517
a number of contracts with an aggregate value of approximately 14518
fifteen per cent of the total estimated value of such contracts to 14519
be awarded in the current calendar year. The board shall set aside 14520
the contracts so selected for bidding by minority business 14521
enterprises only. The bidding procedures for such contracts shall 14522
be the same as for all other contracts awarded under section 14523
307.86 of the Revised Code, except that only minority business 14524
enterprises certified and listed under division (B) of this 14525
section shall be qualified to submit bids. Contracts set aside and 14526
awarded under this section shall not include contracts for the 14527
purchase of services such as direct and ancillary services, 14528
service and support administration, residential services, and 14529
family support services. 14530

(D) To the extent that a board is authorized to enter into 14531
contracts for construction which are not exempt from the 14532
competitive bidding requirements of section 307.86 of the Revised 14533

Code, the board shall set aside a number of contracts the 14534
aggregate value of which equals approximately five per cent of the 14535
aggregate value of construction contracts for the current calendar 14536
year for bidding by minority business enterprises only. The 14537
bidding procedures for the contracts set aside for minority 14538
business enterprises shall be the same as for all other contracts 14539
awarded by the board, except that only minority business 14540
enterprises certified and listed under division (B) of this 14541
section shall be qualified to submit bids. 14542

Any contractor awarded a construction contract pursuant to 14543
this section shall make every effort to ensure that certified 14544
minority business subcontractors and materials suppliers 14545
participate in the contract. In the case of contracts specified in 14546
this division, the total value of subcontracts awarded to and 14547
materials and services purchased from minority businesses shall be 14548
at least ten per cent of the total value of the contract, wherever 14549
possible and whenever the contractor awards subcontracts or 14550
purchases materials or services. 14551

(E) In the case of contracts set aside under divisions (C) 14552
and (D) of this section, if no bid is submitted by a minority 14553
business enterprise, the contract shall be awarded according to 14554
normal bidding procedures. The board shall from time to time set 14555
aside such additional contracts as are necessary to replace those 14556
contracts previously set aside on which no minority business 14557
enterprise bid. 14558

(F) This section does not preclude any minority business 14559
enterprise from bidding on any other contract not specifically set 14560
aside for minority business enterprises. 14561

(G) Within ninety days after the beginning of each calendar 14562
year, each county board of ~~mental retardation and~~ developmental 14563
disabilities shall file a report with the department of mental 14564
retardation and developmental disabilities that shows for that 14565

calendar year the name of each minority business enterprise with 14566
which the board entered into a contract, the value and type of 14567
each such contract, the total value of contracts awarded under 14568
divisions (C) and (D) of this section, the total value of 14569
contracts awarded for the purchases of equipment, materials, 14570
supplies, or services, other than contracts entered into under the 14571
exemptions of sections 307.86 and 5126.05 of the Revised Code, and 14572
the total value of contracts entered into for construction. 14573

(H) Any person who intentionally misrepresents that person as 14574
owning, controlling, operating, or participating in a minority 14575
business enterprise for the purpose of obtaining contracts or any 14576
other benefits under this section shall be guilty of theft by 14577
deception as provided for in section 2913.02 of the Revised Code. 14578

Sec. 5126.08. (A) The director of mental retardation and 14579
developmental disabilities shall adopt rules in accordance with 14580
Chapter 119. of the Revised Code for all programs and services 14581
offered by a county board of ~~mental retardation and~~ developmental 14582
disabilities. Such rules shall include, but are not limited to, 14583
the following: 14584

(1) Determination of what constitutes a program or service; 14585

(2) Standards to be followed by a board in administering, 14586
providing, arranging, or operating programs and services; 14587

(3) Standards for determining the nature and degree of mental 14588
retardation, including mild mental retardation, or developmental 14589
disability; 14590

(4) Standards for determining eligibility for programs and 14591
services under sections 5126.042 and 5126.15 of the Revised Code; 14592

(5) Procedures for obtaining consent for the arrangement of 14593
services under section 5126.31 of the Revised Code and for 14594
obtaining signatures on individual service plans under that 14595

section;	14596
(6) Specification of the service and support administration to be provided by a county board and standards for resolving grievances in connection with service and support administration;	14597 14598 14599
(7) Standards for the provision of environmental modifications, including standards that require adherence to all applicable state and local building codes;	14600 14601 14602
(8) Standards for the provision of specialized medical, adaptive, and assistive equipment, supplies, and supports.	14603 14604
(B) The director shall be the final authority in determining the nature and degree of mental retardation or developmental disability.	14605 14606 14607
Sec. 5126.081. (A) In addition to the rules adopted under division (A)(2) of section 5126.08 of the Revised Code establishing standards for the administration, provision, arrangement, and operation of programs and services by county boards of mental retardation and developmental disabilities, the department of mental retardation and developmental disabilities shall establish a system of accreditation for county boards of mental retardation and developmental disabilities to ensure that the boards are in compliance with federal and state statutes and rules. The department shall adopt rules in accordance with Chapter 119. of the Revised Code governing the system of accreditation. The rules shall include appropriate timelines for compliance when a board is found to be not in compliance and appropriate actions to be taken by boards in complying with the accreditation requirements.	14608 14609 14610 14611 14612 14613 14614 14615 14616 14617 14618 14619 14620 14621 14622
(B) Prior to accrediting a board, the department shall conduct a comprehensive, on-site review of the board. During the review, the department shall document the board's compliance with	14623 14624 14625

the department's accreditation requirements. After completing the 14626
review, the department shall conduct an exit conference with the 14627
president of the board, the superintendent of the board, and any 14628
other officials the board asks to have present. The department 14629
shall discuss its findings from the review with the board's 14630
representatives and provide a written report of its findings not 14631
later than thirty days following the exit conference. If the 14632
department finds that the board is in compliance with the 14633
requirements for accreditation, the department shall issue 14634
evidence of accreditation to the board. 14635

Accreditation may be granted for periods of up to five years 14636
and may be renewed. Not less than once prior to the date a board's 14637
accreditation is scheduled to expire, the department shall conduct 14638
a comprehensive, on-site review of the board. 14639

Each board shall conduct an annual audit of itself to 14640
evaluate its compliance with the requirements for accreditation. 14641
The department may conduct an interim review of any new program or 14642
service initiated by a board after its last comprehensive review. 14643
The department may conduct other reviews and investigations as 14644
necessary to enforce this section. 14645

(C) If the department determines through its review of a 14646
board that the board is not in compliance with the requirements 14647
for accreditation, the department shall, except as provided in 14648
division (F) of this section, grant the board an opportunity to 14649
correct the matters in which it is not in compliance. The 14650
department shall grant the board an appropriate length of time to 14651
comply with the requirements prior to taking any action to deny 14652
accreditation to the board. To avoid denial of accreditation, the 14653
board superintendent shall prepare a plan of correction to 14654
remediate the matters specified in the department's written report 14655
as not being in compliance with the requirements for 14656
accreditation. The superintendent shall submit the plan to the 14657

board for review, and the board shall review the plan. If the 14658
board believes that the plan is sufficient to correct the matters, 14659
the board shall approve the plan by resolution and submit the plan 14660
to the department for its review. The department shall review the 14661
plan of correction. If the department approves the plan, the board 14662
shall commence action to implement the plan. The department shall, 14663
as necessary, conduct follow-up reviews of the board to determine 14664
whether it has met the requirements for accreditation. If the plan 14665
of correction submitted by a board is disapproved, the department 14666
shall inform the board of the reasons for disapproval and may 14667
grant the board an opportunity to submit a revised plan of 14668
correction. 14669

A board may request technical assistance from the department, 14670
other boards, or professional organizations in preparing plans of 14671
correction and in implementing plans of correction. 14672

(D) If, after being given the opportunity to implement a plan 14673
of correction, a board continues to fail to meet the requirements 14674
for accreditation, the department shall issue an order denying 14675
accreditation to the board. The department may deny accreditation 14676
to the board for all or part of the programs or services offered 14677
by the board. 14678

The department shall simultaneously notify all of the 14679
following officials in the county: the members of the board of 14680
county commissioners, the senior probate judge, the county 14681
auditor, and the president and superintendent of the county board 14682
of ~~mental retardation and~~ developmental disabilities. The notice 14683
shall identify the programs and services that have been denied 14684
accreditation, the requirements for accreditation with which the 14685
board is not in compliance, and the responsibilities of the county 14686
officials to contract under division (E)(1) of this section to 14687
have the board's programs and services administered by another 14688
party or become subject to administrative receivership under 14689

division (E)(2) of this section. 14690

(E)(1) When a board is denied accreditation, the department 14691
shall first give the board the option of contracting to have the 14692
board's programs and services that were denied accreditation 14693
administered by an accredited county board of ~~mental retardation~~ 14694
~~and~~ developmental disabilities or another qualified entity subject 14695
to the approval of the department. The board may contract with 14696
more than one board that has been accredited. When a board enters 14697
into a contract, the board shall, by resolution, give the 14698
contractor full administrative authority over the programs and 14699
services that the contractor will administer. 14700

(2) If a board fails to exercise its option of entering into 14701
a contract under division (E)(1) of this section sooner than 14702
thirty days after the department denies accreditation, the 14703
department shall appoint an administrative receiver of the board's 14704
programs and services that were denied accreditation. The 14705
department may appoint employees of the department, management 14706
personnel from county boards of ~~mental retardation and~~ 14707
developmental disabilities, or individuals from other entities as 14708
necessary to meet its needs for appointing an administrative 14709
receiver, except that individuals from other entities may be 14710
appointed only when qualified department employees or board 14711
management personnel are unavailable. The department may not 14712
appoint an individual who is employed by or affiliated with an 14713
entity that is under contract with the board. The administrative 14714
receiver shall assume full administrative responsibility for the 14715
board's programs and services that were denied accreditation. 14716

(3) The board or entity that contracts with a board under 14717
division (E)(1) of this section, or the administrative receiver 14718
appointed under division (E)(2) of this section, shall develop and 14719
implement a plan of correction to remediate the matters that 14720
caused the department to deny accreditation. The contractor or 14721

administrative receiver shall submit the plan to the department, 14722
and the department shall review the plan. If the plan is approved 14723
by the department, the contractor or administrative receiver shall 14724
commence action to implement the plan. The contractor or 14725
administrative receiver shall report to the department any 14726
findings it can make pertaining to issues or circumstances that 14727
are beyond the control of the board and result in the unlikelihood 14728
that compliance with the requirements for accreditation can be 14729
achieved unless the issues or circumstances are remediated. 14730

(4) For purposes of divisions (E)(1) and (2) of this section, 14731
the department shall require the board that has been denied 14732
accreditation to transfer control of state and federal funds it is 14733
eligible to receive for the board's programs and services that 14734
have been denied accreditation in an amount necessary for the 14735
contractor or administrative receiver to fulfill its duties in 14736
administering the programs and services for the board. The 14737
transfer of control of funds does not cause any programs and 14738
services of the board that are accredited to lose their 14739
accreditation. If the board refuses to transfer control of funds, 14740
the department may withhold state and federal funds from the board 14741
in an amount necessary for the contractor or administrative 14742
receiver to fulfill its duties. The amount transferred or withheld 14743
from a board shall include reimbursements for the personnel of the 14744
contractor or administrative receiver, including amounts for time 14745
worked, travel, and related expenses. 14746

A contractor or administrative receiver that has assumed the 14747
administration of a board's programs and services has the right to 14748
authorize the payment of bills in the same manner that a board may 14749
authorize payment of bills under this chapter and section 319.16 14750
of the Revised Code. 14751

(F) When the department's review of a board reveals serious 14752
health and safety issues within the programs and services offered 14753

by the board, the department shall order the board to correct the 14754
violations immediately or appoint an administrative receiver. 14755

(G) At any time a board can demonstrate that it is capable of 14756
assuming its duties in compliance with the department's 14757
requirements for accreditation, the department shall reverse its 14758
order denying accreditation and issue evidence of accreditation to 14759
the board. 14760

A board may appeal the department's denial of accreditation 14761
or refusal to reverse a denial of accreditation only by filing a 14762
complaint under section 5123.043 of the Revised Code. If in its 14763
appeal the board can demonstrate that it is capable of assuming 14764
its duties in compliance with the department's requirements for 14765
accreditation, the department shall reverse its order denying 14766
accreditation and shall issue evidence of accreditation to the 14767
board. 14768

(H) All notices issued to a board by the department under 14769
this section shall be delivered to the board's president and 14770
superintendent. 14771

(I) A board's president may designate another member of the 14772
board as the individual to be responsible for fulfilling all or 14773
part of the president's responsibilities established under this 14774
section. 14775

Sec. 5126.082. (A) In addition to the rules adopted under 14776
division (A)(2) of section 5126.08 of the Revised Code 14777
establishing standards to be followed by county boards of ~~mental~~ 14778
~~retardation and~~ developmental disabilities in administering, 14779
providing, arranging, and operating programs and services and in 14780
addition to the board accreditation system established under 14781
section 5126.081 of the Revised Code, the director of mental 14782
retardation and developmental disabilities shall adopt rules in 14783
accordance with Chapter 119. of the Revised Code establishing 14784

standards for promoting and advancing the quality of life of 14785
individuals with mental retardation and developmental disabilities 14786
receiving any of the following: 14787

(1) Early childhood services pursuant to section 5126.05 of 14788
the Revised Code for children under age three; 14789

(2) Adult services pursuant to section 5126.05 and division 14790
(B) of section 5126.051 of the Revised Code for individuals age 14791
sixteen or older; 14792

(3) Family support services pursuant to section 5126.11 of 14793
the Revised Code. 14794

(B) The rules adopted under this section shall specify the 14795
actions county boards of ~~mental retardation and~~ developmental 14796
disabilities and the agencies with which they contract should take 14797
to do the following: 14798

(1) Offer individuals with mental retardation and 14799
developmental disabilities, and their families when appropriate, 14800
choices in programs and services that are centered on the needs 14801
and desires of those individuals; 14802

(2) Maintain infants with their families whenever possible by 14803
collaborating with other agencies that provide services to infants 14804
and their families and taking other appropriate actions; 14805

(3) Provide families that have children with mental 14806
retardation and developmental disabilities under age eighteen 14807
residing in their homes the resources necessary to allow the 14808
children to remain in their homes; 14809

(4) Create and implement community employment services based 14810
on the needs and desires of adults with mental retardation and 14811
developmental disabilities; 14812

(5) Create, in collaboration with other agencies, 14813
transportation systems that provide safe and accessible 14814

transportation within the county to individuals with disabilities; 14815

(6) Provide services that allow individuals with disabilities 14816
to be integrated into the community by engaging in educational, 14817
vocational, and recreational activities with individuals who do 14818
not have disabilities; 14819

(7) Provide age-appropriate retirement services for 14820
individuals age sixty-five and older with mental retardation and 14821
developmental disabilities; 14822

(8) Establish residential services and supported living for 14823
individuals with mental retardation and developmental disabilities 14824
in accordance with their needs. 14825

(C) To assist in funding programs and services that meet the 14826
standards established under this section, each county board of 14827
~~mental retardation and~~ developmental disabilities shall make a 14828
good faith effort to acquire available federal funds, including 14829
reimbursements under Title XIX of the "Social Security Act," 79 14830
Stat. 286 (1965), 42 U.S.C.A. 1396, as amended. 14831

(D) Each county board of ~~mental retardation and~~ developmental 14832
disabilities shall work toward full compliance with the standards 14833
established under this section, based on its available resources. 14834
Funds received under this chapter shall be used to comply with the 14835
standards. Annually, each board shall conduct a self audit to 14836
evaluate the board's progress in complying fully with the 14837
standards. 14838

(E) The department shall complete a program quality review of 14839
each county board of ~~mental retardation and~~ developmental 14840
disabilities to determine the extent to which the board has 14841
complied with the standards. The review shall be conducted in 14842
conjunction with the comprehensive accreditation review of the 14843
board that is conducted under section 5126.081 of the Revised 14844
Code. 14845

Notwithstanding any provision of this chapter or Chapter 14846
5123. of the Revised Code requiring the department to distribute 14847
funds to county boards of ~~mental retardation and~~ developmental 14848
disabilities, the department may withhold funds from a board if it 14849
finds that the board is not in substantial compliance with the 14850
standards established under this section. 14851

(F) When the standards for accreditation from the commission 14852
on accreditation of rehabilitation facilities, or another 14853
accrediting agency, meet or exceed the standards established under 14854
this section, the director may accept accreditation from the 14855
commission or other agency as evidence that the board is in 14856
compliance with all or part of the standards established under 14857
this section. Programs and services accredited by the commission 14858
or agency are exempt from the program quality reviews required by 14859
division (E) of this section. 14860

Sec. 5126.09. A county board of ~~mental retardation and~~ 14861
developmental disabilities may procure a policy or policies of 14862
insurance insuring board members or employees of the board or 14863
agencies with which the board contracts or volunteer bus rider 14864
assistants authorized by section 5126.061 of the Revised Code 14865
against liability arising from the performance of their official 14866
duties. 14867

Sec. 5126.10. The director of mental retardation and 14868
developmental disabilities shall adopt rules in accordance with 14869
Chapter 119. of the Revised Code establishing standard cost 14870
allocation procedures and shall require county boards of ~~mental~~ 14871
~~retardation and~~ developmental disabilities to use such procedures 14872
to allocate all indirect costs to services provided pursuant to 14873
Chapters 3323. and 5126. of the Revised Code. 14874

Sec. 5126.11. (A) As used in this section, "respite care" 14875

means appropriate, short-term, temporary care that is provided to 14876
a mentally retarded or developmentally disabled person to sustain 14877
the family structure or to meet planned or emergency needs of the 14878
family. 14879

(B) Subject to rules adopted by the director of mental 14880
retardation and developmental disabilities, and subject to the 14881
availability of money from state and federal sources, the county 14882
board of ~~mental retardation and~~ developmental disabilities shall 14883
establish a family support services program. Under such a program, 14884
the board shall make payments to an individual with mental 14885
retardation or other developmental disability or the family of an 14886
individual with mental retardation or other developmental 14887
disability who desires to remain in and be supported in the family 14888
home. Payments shall be made for all or part of costs incurred or 14889
estimated to be incurred for services that would promote 14890
self-sufficiency and normalization, prevent or reduce 14891
inappropriate institutional care, and further the unity of the 14892
family by enabling the family to meet the special needs of the 14893
individual and to live as much like other families as possible. 14894
Payments may be made in the form of reimbursement for expenditures 14895
or in the form of vouchers to be used to purchase services. 14896

(C) Payment shall not be made under this section to an 14897
individual or the individual's family if the individual is living 14898
in a residential facility that is providing residential services 14899
under contract with the department of mental retardation and 14900
developmental disabilities or a county board. 14901

(D) Payments may be made for the following services: 14902

(1) Respite care, in or out of the home; 14903

(2) Counseling, supervision, training, and education of the 14904
individual, the individual's caregivers, and members of the 14905
individual's family that aid the family in providing proper care 14906

for the individual, provide for the special needs of the family, 14907
and assist in all aspects of the individual's daily living; 14908

(3) Special diets, purchase or lease of special equipment, or 14909
modifications of the home, if such diets, equipment, or 14910
modifications are necessary to improve or facilitate the care and 14911
living environment of the individual; 14912

(4) Providing support necessary for the individual's 14913
continued skill development, including such services as 14914
development of interventions to cope with unique problems that may 14915
occur within the complexity of the family, enrollment of the 14916
individual in special summer programs, provision of appropriate 14917
leisure activities, and other social skills development 14918
activities; 14919

(5) Any other services that are consistent with the purposes 14920
specified in division (B) of this section and specified in the 14921
individual's service plan. 14922

(E) In order to be eligible for payments under a family 14923
support services program, the individual or the individual's 14924
family must reside in the county served by the county board, and 14925
the individual must be in need of habilitation. Payments shall be 14926
adjusted for income in accordance with the payment schedule 14927
established in rules adopted under this section. Payments shall be 14928
made only after the county board has taken into account all other 14929
available assistance for which the individual or family is 14930
eligible. 14931

(F) Before incurring expenses for a service for which payment 14932
will be sought under a family support services program, the 14933
individual or family shall apply to the county board for a 14934
determination of eligibility and approval of the service. The 14935
service need not be provided in the county served by the county 14936
board. After being determined eligible and receiving approval for 14937

the service, the individual or family may incur expenses for the 14938
service or use the vouchers received from the county board for the 14939
purchase of the service. 14940

If the county board refuses to approve a service, an appeal 14941
may be made in accordance with rules adopted by the department 14942
under this section. 14943

(G) To be reimbursed for expenses incurred for approved 14944
services, the individual or family shall submit to the county 14945
board a statement of the expenses incurred accompanied by any 14946
evidence required by the board. To redeem vouchers used to 14947
purchase approved services, the entity that provided the service 14948
shall submit to the county board evidence that the service was 14949
provided and a statement of the charges. The county board shall 14950
make reimbursements and redeem vouchers no later than forty-five 14951
days after it receives the statements and evidence required by 14952
this division. 14953

(H) A county board shall consider the following objectives in 14954
carrying out a family support services program: 14955

(1) Enabling individuals to return to their families from an 14956
institution under the jurisdiction of the department of mental 14957
retardation and developmental disabilities; 14958

(2) Enabling individuals found to be subject to 14959
institutionalization by court order under section 5123.76 of the 14960
Revised Code to remain with their families with the aid of 14961
payments provided under this section; 14962

(3) Providing services to eligible children and adults 14963
currently residing in the community; 14964

(4) Providing services to individuals with developmental 14965
disabilities who are not receiving other services from the board. 14966

(I) The director shall adopt, and may amend and rescind, 14967

rules for the implementation of family support services programs	14968
by county boards. Such rules shall include the following:	14969
(1) A payment schedule adjusted for income;	14970
(2) A formula for distributing to county boards the money	14971
appropriated for family support services;	14972
(3) Standards for supervision, training, and quality control	14973
in the provision of respite care services;	14974
(4) Eligibility standards and procedures for providing	14975
temporary emergency respite care;	14976
(5) Procedures for hearing and deciding appeals made under	14977
division (F) of this section;	14978
(6) Requirements to be followed by county boards regarding	14979
reports submitted under division (K) of this section.	14980
Rules adopted under divisions (I)(1) and (2) of this section	14981
shall be adopted in accordance with section 111.15 of the Revised	14982
Code. Rules adopted under divisions (I)(3) to (6) of this section	14983
shall be adopted in accordance with Chapter 119. of the Revised	14984
Code.	14985
(J) All individuals certified by the superintendent of the	14986
county board as eligible for temporary emergency respite care in	14987
accordance with rules adopted under this section shall be	14988
considered eligible for temporary emergency respite care for not	14989
more than five days to permit the determination of eligibility for	14990
family support services. The requirements of divisions (E) and (F)	14991
of this section do not apply to temporary emergency respite care.	14992
(K) The department of mental retardation and developmental	14993
disabilities shall distribute to county boards money appropriated	14994
for family support services in quarterly installments of equal	14995
amounts. The installments shall be made not later than the	14996
thirtieth day of September, the thirty-first day of December, the	14997

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.

(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.

Sec. 5126.12. (A) As used in this section:

(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.

(2) "Approved preschool unit" means a class or unit operated by a county board of ~~mental retardation and~~ developmental disabilities and approved under division (B) of section 3317.05 of the Revised Code.

(3) "Active treatment" means a continuous treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services, that is directed toward the acquisition of behaviors necessary for an individual with mental retardation or other developmental disability to function with as much self-determination and independence as possible and toward the prevention of deceleration, regression, or loss of current optimal functional status.

(4) "Eligible for active treatment" means that an individual with mental retardation or other developmental disability resides in an intermediate care facility for the mentally retarded

certified under Title XIX of the "Social Security Act," 79 Stat. 15028
286 (1965), 42 U.S.C. 1396, as amended; resides in a state 15029
institution operated by the department of mental retardation and 15030
developmental disabilities; or is enrolled in home and 15031
community-based services. 15032

(5) "Traditional adult services" means vocational and 15033
nonvocational activities conducted within a sheltered workshop or 15034
adult activity center or supportive home services. 15035

(B) Each county board of ~~mental retardation and~~ developmental 15036
disabilities shall certify to the director of mental retardation 15037
and developmental disabilities all of the following: 15038

(1) On or before the fifteenth day of October, the average 15039
daily membership for the first full week of programs and services 15040
during October receiving: 15041

(a) Early childhood services provided pursuant to section 15042
5126.05 of the Revised Code for children who are less than three 15043
years of age on the thirtieth day of September of the academic 15044
year; 15045

(b) Special education for children with disabilities in 15046
approved school age classes; 15047

(c) Adult services for persons sixteen years of age and older 15048
operated pursuant to section 5126.05 and division (B) of section 15049
5126.051 of the Revised Code. Separate counts shall be made for 15050
the following: 15051

(i) Persons enrolled in traditional adult services who are 15052
eligible for but not enrolled in active treatment; 15053

(ii) Persons enrolled in traditional adult services who are 15054
eligible for and enrolled in active treatment; 15055

(iii) Persons enrolled in traditional adult services but who 15056
are not eligible for active treatment; 15057

(iv) Persons participating in community employment services. 15058
To be counted as participating in community employment services, a 15059
person must have spent an average of no less than ten hours per 15060
week in that employment during the preceding six months. 15061

(d) Other programs in the county for individuals with mental 15062
retardation and developmental disabilities that have been approved 15063
for payment of subsidy by the department of mental retardation and 15064
developmental disabilities. 15065

The membership in each such program and service in the county 15066
shall be reported on forms prescribed by the department of mental 15067
retardation and developmental disabilities. 15068

The department of mental retardation and developmental 15069
disabilities shall adopt rules defining full-time equivalent 15070
enrollees and for determining the average daily membership 15071
therefrom, except that certification of average daily membership 15072
in approved school age classes shall be in accordance with rules 15073
adopted by the state board of education. The average daily 15074
membership figure shall be determined by dividing the amount 15075
representing the sum of the number of enrollees in each program or 15076
service in the week for which the certification is made by the 15077
number of days the program or service was offered in that week. No 15078
enrollee may be counted in average daily membership for more than 15079
one program or service. 15080

(2) By the fifteenth day of December, the number of children 15081
enrolled in approved preschool units on the first day of December; 15082

(3) On or before the thirtieth day of April, an itemized 15083
report of all income and operating expenditures for the 15084
immediately preceding calendar year, in the format specified by 15085
the department of mental retardation and developmental 15086
disabilities; 15087

(4) That each required certification and report is in 15088

accordance with rules established by the department of mental 15089
retardation and developmental disabilities and the state board of 15090
education for the operation and subsidization of the programs and 15091
services. 15092

Sec. 5126.121. Each county board of ~~mental retardation and~~ 15093
developmental disabilities may be eligible to receive a subsidy 15094
from the department of mental retardation and developmental 15095
disabilities for the employment of a business manager as provided 15096
in this section. The department shall adopt rules in accordance 15097
with Chapter 119. of the Revised Code specifying standards for the 15098
employment of such a business manager. The rules shall include the 15099
minimum education and experience requirements for the position of 15100
business manager and shall specify requirements for courses in 15101
fiscal and business management that are annually sponsored or 15102
certified by the department and that are applicable to the 15103
position and designed to teach effective business practices. Each 15104
county board of ~~mental retardation and~~ developmental disabilities 15105
that employs a business manager in accordance with the standards 15106
adopted under this section may receive a subsidy from the 15107
department. 15108

The department shall distribute this subsidy to eligible 15109
county boards in quarterly installments of equal amounts. The 15110
installments shall be made not later than the thirtieth day of 15111
September, the thirty-first day of December, the thirty-first day 15112
of March, and the thirtieth day of June. 15113

Sec. 5126.13. (A) A county board of ~~mental retardation and~~ 15114
developmental disabilities may enter into an agreement with one or 15115
more other county boards of ~~mental retardation and~~ developmental 15116
disabilities to establish a regional council in accordance with 15117
Chapter 167. of the Revised Code. The agreement shall specify the 15118
duties and functions to be performed by the council, which may 15119

include any duty or function a county board is required or 15120
authorized to perform under this chapter. If directed to do so by 15121
a resolution adopted by a county board that is a member of a 15122
regional council, the department of mental retardation and 15123
developmental disabilities shall make any distributions of money 15124
for that county for the duties or functions performed by the 15125
council pursuant to its agreement that are otherwise required to 15126
be made to the county board under this chapter to the fiscal 15127
officer of the council designated under section 167.04 of the 15128
Revised Code. 15129

A county board may also enter into an agreement with one or 15130
more school districts or other political subdivisions to establish 15131
a regional council in accordance with Chapter 167. of the Revised 15132
Code. 15133

(B) On or before the thirtieth day of March, the fiscal 15134
officer of a regional council described in this section shall 15135
report to the department of mental retardation and developmental 15136
disabilities, in the format specified by the department, all 15137
income and operating expenditures of the council for the 15138
immediately preceding calendar year. 15139

Sec. 5126.14. The entity responsible for the habilitation 15140
management included in adult day habilitation services, the 15141
program management included in residential services, and the 15142
program management included in supported living shall provide 15143
administrative oversight by doing all of the following: 15144

(A) Having available supervisory personnel to monitor and 15145
ensure implementation of all interventions in accordance with 15146
every individual service plan implemented by the staff who work 15147
with the individuals receiving the services; 15148

(B) Providing appropriate training and technical assistance 15149
for all staff who work with the individuals receiving services; 15150

(C) Communicating with service and support administration 15151
staff for the purpose of coordinating activities to ensure that 15152
services are provided to individuals in accordance with individual 15153
service plans and intended outcomes; 15154

(D) Monitoring for unusual and major unusual incidents and 15155
cases of abuse, neglect, exploitation, or misappropriation of 15156
funds involving the individual under the care of staff who are 15157
providing the services; taking immediate actions as necessary to 15158
maintain the health, safety, and welfare of the individuals 15159
receiving the services; and providing notice of unusual and major 15160
unusual incidents and suspected cases of abuse, neglect, 15161
exploitation, or misappropriation of funds to the county board of 15162
~~mental retardation~~ and developmental disabilities; 15163

(E) Performing other administrative duties as required by 15164
state or federal law or by the county board of ~~mental retardation~~ 15165
~~and~~ developmental disabilities through contracts with providers. 15166

Sec. 5126.15. (A) A county board of ~~mental retardation~~ and 15167
developmental disabilities shall provide service and support 15168
administration to each individual three years of age or older who 15169
is eligible for service and support administration if the 15170
individual requests, or a person on the individual's behalf 15171
requests, service and support administration. A board shall 15172
provide service and support administration to each individual 15173
receiving home and community-based services. A board may provide, 15174
in accordance with the service coordination requirements of 34 15175
C.F.R. 303.23, service and support administration to an individual 15176
under three years of age eligible for early intervention services 15177
under 34 C.F.R. part 303. A board may provide service and support 15178
administration to an individual who is not eligible for other 15179
services of the board. Service and support administration shall be 15180
provided in accordance with rules adopted under section 5126.08 of 15181

the Revised Code. 15182

A board may provide service and support administration by 15183
directly employing service and support administrators or by 15184
contracting with entities for the performance of service and 15185
support administration. Individuals employed or under contract as 15186
service and support administrators shall not be in the same 15187
collective bargaining unit as employees who perform duties that 15188
are not administrative. 15189

Individuals employed by a board as service and support 15190
administrators shall not be assigned responsibilities for 15191
implementing other services for individuals and shall not be 15192
employed by or serve in a decision-making or policy-making 15193
capacity for any other entity that provides programs or services 15194
to individuals with mental retardation or developmental 15195
disabilities. An individual employed as a conditional status 15196
service and support administrator shall perform the duties of 15197
service and support administration only under the supervision of a 15198
management employee who is a service and support administration 15199
supervisor. 15200

(B) The individuals employed by or under contract with a 15201
board to provide service and support administration shall do all 15202
of the following: 15203

(1) Establish an individual's eligibility for the services of 15204
the county board of ~~mental retardation and~~ developmental 15205
disabilities; 15206

(2) Assess individual needs for services; 15207

(3) Develop individual service plans with the active 15208
participation of the individual to be served, other persons 15209
selected by the individual, and, when applicable, the provider 15210
selected by the individual, and recommend the plans for approval 15211
by the department of mental retardation and developmental 15212

disabilities when services included in the plans are funded	15213
through medicaid;	15214
(4) Establish budgets for services based on the individual's	15215
assessed needs and preferred ways of meeting those needs;	15216
(5) Assist individuals in making selections from among the	15217
providers they have chosen;	15218
(6) Ensure that services are effectively coordinated and	15219
provided by appropriate providers;	15220
(7) Establish and implement an ongoing system of monitoring	15221
the implementation of individual service plans to achieve	15222
consistent implementation and the desired outcomes for the	15223
individual;	15224
(8) Perform quality assurance reviews as a distinct function	15225
of service and support administration;	15226
(9) Incorporate the results of quality assurance reviews and	15227
identified trends and patterns of unusual incidents and major	15228
unusual incidents into amendments of an individual's service plan	15229
for the purpose of improving and enhancing the quality and	15230
appropriateness of services rendered to the individual;	15231
(10) Ensure that each individual receiving services has a	15232
designated person who is responsible on a continuing basis for	15233
providing the individual with representation, advocacy, advice,	15234
and assistance related to the day-to-day coordination of services	15235
in accordance with the individual's service plan. The service and	15236
support administrator shall give the individual receiving services	15237
an opportunity to designate the person to provide daily	15238
representation. If the individual declines to make a designation,	15239
the administrator shall make the designation. In either case, the	15240
individual receiving services may change at any time the person	15241
designated to provide daily representation.	15242

Sec. 5126.18. (A) As used in this section:	15243
(1) "County board" means a county board of mental retardation and developmental disabilities.	15244 15245
(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:	15246 15247 15248 15249 15250 15251 15252
(a) Assessment;	15253
(b) Home service;	15254
(c) Adult program;	15255
(d) Community employment services;	15256
(e) Retirement.	15257
(3) "Adult services enrollment" means a county board's average daily membership in adult services, exclusive of such services provided to individuals served solely through service and support administration provided pursuant to section 5126.15 of the Revised Code or family support services provided pursuant to section 5126.11 of the Revised Code.	15258 15259 15260 15261 15262 15263
(4) "Taxable value" means the taxable value of a county board certified under division (B)(1) of this section.	15264 15265
(5) "Per-mill yield" of a county board means the quotient obtained by dividing (a) the taxable value of the county board by (b) one thousand.	15266 15267 15268
(6) "Local adult services cost" means a county board's expenditures for adult services, excluding all federal and state reimbursements and subsidy allocations received by such boards and	15269 15270 15271

expended for such services, as certified under section 5126.12 of the Revised Code. 15272
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(7) "Statewide average millage" means one thousand multiplied by the quotient obtained by dividing (a) the total of the local adult services costs of all county boards by (b) the total of the taxable values of all county boards. 15274
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(8) "County yield" of a county board means the product obtained by multiplying (a) the statewide average millage by (b) the per-mill yield of the county board. 15278
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(9) "County yield per enrollee" of a county board means the quotient obtained by dividing (a) the county yield of the county board by (b) the adult enrollment of the county board. 15281
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(10) "Statewide yield per enrollee" means the quotient 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. 15284
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(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. 15288
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(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. 15292
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(13) "Funding-adjusted required millage" for a fiscal year means the statewide average millage multiplied by the funding percentage for that fiscal year. 15297
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(B)(1) On the request of the director of mental retardation and developmental disabilities, the tax commissioner shall provide 15300
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to the department of mental retardation and developmental 15302
disabilities information specifying the taxable value of property 15303
on each county's tax list of real and public utility property and 15304
tax list of personal property for the most recent tax year for 15305
which such information is available. The director may request any 15306
other tax information necessary for the purposes of this section. 15307

(2) On the request of the director, each county board shall 15308
report the county board's adult services enrollment and local 15309
adult services cost. 15310

(C) Each year, the department of mental retardation and 15311
developmental disabilities shall compute the following: 15312

(1) For each county board, the amount, if any, by which the 15313
statewide yield per enrollee exceeds the county yield per 15314
enrollee; 15315

(2) For each county board, the amount of any excess computed 15316
under division (C)(1) of this section multiplied by the adult 15317
services enrollment of the county board; 15318

(3) The sum of the amounts computed under division (C)(2) of 15319
this section for all county boards. 15320

(D) From money appropriated for the purpose, the department 15321
shall provide for payment to each county board of the amount 15322
computed for that county board under division (C)(2) of this 15323
section, subject to any reduction or adjustment under division 15324
(E), (F), or (G) of this section. The department shall make the 15325
payments in quarterly installments of equal amounts. The 15326
installments shall be made not later than the thirtieth day of 15327
September, thirty-first day of December, thirty-first day of 15328
March, and thirtieth day of June. 15329

(E) If a county board's local tax effort for adult services 15330
is less than the funding-adjusted required millage, the director 15331
shall reduce the amount of payment otherwise computed under 15332

division (C)(2) of this section so that the amount paid, after the
reduction, is the same percentage of the amount computed under
division (C)(2) of this section as the county board's local tax
effort for adult services is of the funding-adjusted required
millage.

If the director reduces the amount of a county board's
payment under this division, the department, not later than the
fifteenth day of July, shall notify the county board of the
reduction and the amount of the reduction. The notice shall
include a statement that the county board may request to be
exempted from the reduction by filing a request with the director,
in the manner and form prescribed by the director, within
twenty-one days after such notification is issued. The board may
present evidence of its attempt to obtain passage of levies or any
other extenuating circumstances the board considers relevant. If
the county board requests a hearing before the director to present
such evidence, the director shall conduct a hearing on the request
unless the director exempts the board from the reduction on the
basis of the evidence presented in the request filed by the board.
Upon receiving a properly and timely filed request for exemption,
but not later than the thirty-first day of August, the director
shall determine whether the county board shall be exempted from
all or a part of the reduction. The director may exempt the board
from all or part of the reduction if the director finds that the
board has made good faith efforts to obtain passage of tax levies
or that there are extenuating circumstances.

(F) If a payment is reduced under division (E) of this
section and the director does not exempt the county board from the
reduction, the amount of the reduction shall be apportioned among
all county boards entitled to payments under this section for
which payments were not so reduced. The amount apportioned to each
county board shall be proportionate to the amount of the board's

payment as computed under division (C)(2) of this section. 15365

(G) If, for any fiscal year, the amount appropriated to the 15366
department for the purpose of this section is less than the amount 15367
computed under division (C)(3) of this section for the fiscal 15368
year, the department shall adjust the amount of each payment as 15369
computed under divisions (C)(2), (E), and (F) of this section by 15370
multiplying that amount by the funding percentage. 15371

(H) The payments authorized by this section are supplemental 15372
to all other funds that may be received by a county board. A 15373
county board shall use the payments solely to pay the nonfederal 15374
share of medicaid expenditures that sections 5126.059 and 15375
5126.0510 of the Revised Code require the county board to pay. 15376

Sec. 5126.19. (A) The director of mental retardation and 15377
developmental disabilities may grant temporary funding from the 15378
community mental retardation and developmental disabilities trust 15379
fund based on allocations to county boards of ~~mental retardation~~ 15380
~~and~~ developmental disabilities. The director may distribute all or 15381
part of the funding directly to a county board, the persons who 15382
provide the services for which the funding is granted, or persons 15383
with mental retardation or developmental disabilities who are to 15384
receive those services. 15385

(B) Funding granted under division (A) of this section shall 15386
be granted according to the availability of moneys in the fund and 15387
priorities established by the director. Funding may be granted for 15388
any of the following purposes: 15389

(1) Behavioral or short-term interventions for persons with 15390
mental retardation or developmental disabilities that assist them 15391
in remaining in the community by preventing institutionalization; 15392

(2) Emergency respite care services, as defined in section 15393
5126.11 of the Revised Code; 15394

(3) Family support services provided under section 5126.11 of the Revised Code;	15395 15396
(4) Supported living, as defined in section 5126.01 of the Revised Code;	15397 15398
(5) Staff training for county board employees, employees of providers of residential services as defined in section 5126.01 of the Revised Code, and other personnel under contract with a county board, to provide the staff with necessary training in serving mentally retarded or developmentally disabled persons in the community;	15399 15400 15401 15402 15403 15404
(6) Short-term provision of early childhood services provided under section 5126.05, adult services provided under sections 5126.05 and 5126.051, and service and support administration provided under section 5126.15 of the Revised Code, when local moneys are insufficient to meet the need for such services due to the successive failure within a two-year period of three or more proposed levies for the services;	15405 15406 15407 15408 15409 15410 15411
(7) Contracts with providers of residential services to maintain persons with mental retardation and developmental disabilities in their programs and avoid institutionalization.	15412 15413 15414
(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	15415 15416 15417 15418 15419 15420 15421 15422 15423 15424 15425

preceding state fiscal year. 15426

(D) In addition to making grants under division (A) of this 15427
section, the director may use money available in the trust fund 15428
for the same purposes that rules adopted under section 5123.0413 15429
of the Revised Code provide for money in the state MR/DD risk fund 15430
and the state insurance against MR/DD risk fund, both created 15431
under that section, to be used. 15432

Sec. 5126.20. As used in this section and sections 5126.21 to 15433
5126.29 of the Revised Code: 15434

(A) "Service employee" means a person employed by a county 15435
board of ~~mental retardation and~~ developmental disabilities in a 15436
position which may require evidence of registration under section 15437
5126.25 of the Revised Code but for which a bachelor's degree from 15438
an accredited college or university is not required, and includes 15439
employees in the positions listed in division (C) of section 15440
5126.22 of the Revised Code. 15441

(B)(1) "Professional employee" means both of the following: 15442

(a) A person employed by a board in a position for which 15443
either a bachelor's degree from an accredited college or 15444
university or a license or certificate issued under Title XLVII of 15445
the Revised Code is a minimum requirement; 15446

(b) A person employed by a board as a conditional status 15447
service and support administrator. 15448

(2) "Professional employee" includes employees in the 15449
positions listed in division (B) of section 5126.22 of the Revised 15450
Code. 15451

(C) "Management employee" means a person employed by a board 15452
in a position having supervisory or managerial responsibilities 15453
and duties, and includes employees in the positions listed in 15454
division (A) of section 5126.22 of the Revised Code. 15455

(D) "Limited contract" means a contract of limited duration 15456
which is renewable at the discretion of the superintendent. 15457

(E) "Continuing contract" means a contract of employment that 15458
was issued prior to June 24, 1988, to a classified employee under 15459
which the employee has completed the employee's probationary 15460
period and under which the employee retains employment until the 15461
employee retires or resigns, is removed pursuant to section 15462
5126.23 of the Revised Code, or is laid off. 15463

(F) "Supervisory responsibilities and duties" includes the 15464
authority to hire, transfer, suspend, lay off, recall, promote, 15465
discharge, assign, reward, or discipline other employees of the 15466
board; to responsibly direct them; to adjust their grievances; or 15467
to effectively recommend such action, if the exercise of that 15468
authority is not of a merely routine or clerical nature but 15469
requires the use of independent judgment. 15470

(G) "Managerial responsibilities and duties" includes 15471
formulating policy on behalf of the board, responsibly directing 15472
the implementation of policy, assisting in the preparation for the 15473
conduct of collective negotiations, administering collectively 15474
negotiated agreements, or having a major role in personnel 15475
administration. 15476

(H) "Investigative agent" means an individual who conducts 15477
investigations under section 5126.313 of the Revised Code. 15478

Sec. 5126.201. A person may be employed by a county board of 15479
~~mental retardation and~~ developmental disabilities as a conditional 15480
status service and support administrator only if either of the 15481
following is true: 15482

(A) The person has at least an appropriate associate degree; 15483

(B) The person meets both of the following requirements: 15484

(1) The person was employed by the county board and performed 15485

service and support administration duties on June 30, 2005; 15486

(2) The person holds a high school diploma or a general 15487
educational development certificate of high school equivalence. 15488

Sec. 5126.21. As used in this section, "management employee" 15489
does not include the superintendent of a county board of ~~mental~~ 15490
~~retardation and~~ developmental disabilities. 15491

(A)(1) Each management employee of a county board of ~~mental~~ 15492
~~retardation and~~ developmental disabilities shall hold a limited 15493
contract for a period of not less than one year and not more than 15494
five years, except that a management employee hired after the 15495
beginning of a program year may be employed under a limited 15496
contract expiring at the end of the program year. The board shall 15497
approve all contracts of employment for management employees that 15498
are for a term of more than one year. A management employee shall 15499
receive notice of the superintendent's intention not to rehire the 15500
employee at least ninety days prior to the expiration of the 15501
contract. If the superintendent fails to notify a management 15502
employee, the employee shall be reemployed under a limited 15503
contract of one year at the same salary plus any authorized salary 15504
increases. 15505

(2) During the term of a contract a management employee's 15506
salary may be increased, but shall not be reduced unless the 15507
reduction is part of a uniform plan affecting all employees of the 15508
board. 15509

(B) All management employees may be removed, suspended, or 15510
demoted for cause pursuant to section 5126.23 of the Revised Code. 15511

(C) All management employees shall receive employee benefits 15512
that shall include sick leave, vacation leave, holiday pay, and 15513
such other benefits as are established by the board. Sections 15514
124.38 and 325.19 of the Revised Code do not apply to management 15515

employees. 15516

(D) The superintendent of a county board of ~~mental~~ 15517
~~retardation and~~ developmental disabilities shall notify all 15518
management employees of the board of their salary no later than 15519
thirty days before the first day of the new contract year. 15520

(E) All management employees of a county board of ~~mental~~ 15521
~~retardation and~~ developmental disabilities who were given 15522
continuing contract status prior to the effective date of this 15523
section have continuing contract status so long as they maintain 15524
employment with the board. 15525

(F) All management employees who were probationary employees 15526
on the effective date of this section shall, upon completion of 15527
their probationary period, be granted continuing contract status 15528
if retained in employment. 15529

(G) Each county board of ~~mental retardation and~~ developmental 15530
disabilities shall establish a lay-off policy to be followed if it 15531
determines a reduction in the number of management employees is 15532
necessary. 15533

Sec. 5126.22. (A) Employees who hold the following positions 15534
in a county board of ~~mental retardation and~~ developmental 15535
disabilities are management employees: 15536

assistant superintendent 15537

director of business 15538

director of personnel 15539

adult services director 15540

workshop director 15541

habilitation manager 15542

director of residential services 15543

principal (director of children services)	15544
program or service supervisor	15545
plant manager	15546
production manager	15547
service and support administration supervisor	15548
investigative agent	15549
confidential employees as defined in section 4117.01 of the Revised Code	15550 15551
positions designated by the director of mental retardation and developmental disabilities as having managerial or supervisory responsibilities and duties	15552 15553 15554
positions designated by the county board in accordance with division (D) of this section.	15555 15556
(B) Employees who hold the following positions in a board are professional employees:	15557 15558
personnel certified pursuant to Chapter 3319. of the Revised Code	15559 15560
early intervention specialist	15561
physical development specialist	15562
habilitation specialist	15563
work adjustment specialist	15564
placement specialist	15565
vocational evaluator	15566
psychologist	15567
occupational therapist	15568
speech and language pathologist	15569
recreation specialist	15570

behavior management specialist	15571
physical therapist	15572
supportive home services specialist	15573
licensed practical nurse or registered nurse	15574
rehabilitation counselor	15575
doctor of medicine and surgery or of osteopathic medicine and surgery	15576 15577
dentist	15578
service and support administrator	15579
conditional status service and support administrator	15580
social worker	15581
any position that is not a management position and for which the standards for certification established by the director of mental retardation and developmental disabilities under section 5126.25 of the Revised Code require a bachelor's or higher degree	15582 15583 15584 15585
professional positions designated by the director	15586
professional positions designated by the county board in accordance with division (D) of this section.	15587 15588
(C) Employees who hold positions in a board that are neither management positions nor professional positions are service employees. Service employee positions include:	15589 15590 15591
workshop specialist	15592
workshop specialist assistant	15593
contract procurement specialist	15594
community employment specialist	15595
any assistant to a professional employee certified to provide, or supervise the provision of, adult services or service	15596 15597

and support administration 15598

 service positions designated by the director 15599

 service positions designated by a county board in accordance 15600
with division (D) of this section. 15601

 (D) A county board may designate a position only if the 15602
position does not include directly providing, or supervising 15603
employees who directly provide, service or instruction to 15604
individuals with mental retardation or developmental disabilities. 15605

 (E) If a county board desires to have a position established 15606
that is not specifically listed in this section that includes 15607
directly providing, or supervising employees who directly provide, 15608
services or instruction to individuals with mental retardation or 15609
developmental disabilities, the board shall submit to the director 15610
a written description of the position and request that the 15611
director designate the position as a management, professional, or 15612
service position under this section. The director shall consider 15613
each request submitted under this division and respond within 15614
thirty days. If the director approves the request, the director 15615
shall designate the position as a management, professional, or 15616
service position. 15617

 (F) A county board shall not terminate its employment of any 15618
management, professional, or service employee solely because a 15619
position is added to or eliminated from those positions listed in 15620
this section or because a position is designated or no longer 15621
designated by the director or a county board. 15622

Sec. 5126.221. Each county board of ~~mental retardation and~~ 15623
developmental disabilities shall employ at least one investigative 15624
agent or contract with a person or government entity, including 15625
another county board of ~~mental retardation and~~ developmental 15626
disabilities or a regional council established under section 15627

5126.13 of the Revised Code, for the services of an investigative agent. Neither a county board nor a person or government entity with which a county board contracts for the services of an investigative agent shall assign any duties to an investigative agent other than conducting investigations under section 5126.313 of the Revised Code.

All investigative agents shall be trained in civil and criminal investigatory practices. The person responsible for supervising the work of the investigative agents shall report directly to a county board's superintendent regarding the investigative agents.

No investigative agent shall do anything that interferes with the investigative agent's objectivity in conducting investigations under section 5126.313 of the Revised Code.

Sec. 5126.23. (A) As used in this section, "employee" means a management employee or superintendent of a county board of ~~mental retardation and~~ developmental disabilities.

(B) An employee may be removed, suspended, or demoted in accordance with this section for violation of written rules set forth by the board or for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, or other acts of misfeasance, malfeasance, or nonfeasance.

(C) Prior to the removal, suspension, or demotion of an employee pursuant to this section, the employee shall be notified in writing of the charges against ~~him~~ the employee. Except as otherwise provided in division (H) of this section, not later than thirty days after receiving such notification, a predisciplinary conference shall be held to provide the employee an opportunity to refute the charges against ~~him~~ the employee. At least seventy-two

hours prior to the conference, the employee shall be given a copy 15658
of the charges against ~~him~~ the employee. 15659

If the removal, suspension, or demotion action is directed 15660
against a management employee, the conference shall be held by the 15661
superintendent or a person ~~he~~ the superintendent designates, and 15662
the superintendent shall notify the management employee within 15663
fifteen days after the conference of the decision made with 15664
respect to the charges. If the removal, suspension, or demotion 15665
action is directed against a superintendent, the conference shall 15666
be held by the members of the board or their designees, and the 15667
board shall notify the superintendent within fifteen days after 15668
the conference of its decision with respect to the charges. 15669

(D) Within fifteen days after receiving notification of the 15670
results of the predisciplinary conference, an employee may file 15671
with the board a written demand for a hearing before the board or 15672
before a referee, and the board shall set a time for the hearing 15673
which shall be within thirty days from the date of receipt of the 15674
written demand, and the board shall give the employee at least 15675
twenty days notice in writing of the time and place of the 15676
hearing. 15677

(E) If a referee is demanded by an employee or a county 15678
board, the hearing shall be conducted by a referee selected in 15679
accordance with division (F) of this section; otherwise, it shall 15680
be conducted by a majority of the members of the board and shall 15681
be confined to the charges enumerated at the predisciplinary 15682
conference. 15683

(F) Referees for the hearings required by this section shall 15684
be selected from the list of names compiled by the superintendent 15685
of public instruction pursuant to section 3319.161 of the Revised 15686
Code. Upon receipt of notice that a referee has been demanded by 15687
an employee or a county board, the superintendent of public 15688
instruction shall immediately designate three persons from such 15689

list, from whom the referee for the hearing shall be chosen, and 15690
he the superintendent of public instruction shall immediately 15691
notify the designees, the county board, and the employee. If 15692
within five days of receipt of the notice, the county board and 15693
employee are unable to agree upon one of the designees to serve as 15694
referee, the superintendent of public instruction shall appoint 15695
one of the designees to serve as referee. The appointment of the 15696
referee shall be entered in the minutes of the county board. The 15697
referee appointed shall be paid ~~his~~ the referee's usual and 15698
customary fee for attending the hearing which shall be paid from 15699
the general fund of the county board of ~~mental retardation and~~ 15700
developmental disabilities. 15701

(G) The board shall provide for a complete stenographic 15702
record of the proceedings, and a copy of the record shall be 15703
furnished to the employee. 15704

Both parties may be present at the hearing, be represented by 15705
counsel, require witnesses to be under oath, cross-examine 15706
witnesses, take a record of the proceedings, and require the 15707
presence of witnesses in their behalf upon subpoena to be issued 15708
by the county board. If any person fails to comply with a 15709
subpoena, a judge of the court of common pleas of the county in 15710
which the person resides, upon application of any interested 15711
party, shall compel attendance of the person by attachment 15712
proceedings as for contempt. Any member of the board or the 15713
referee may administer oaths to witnesses. After a hearing by a 15714
referee, the referee shall file ~~his~~ a report within ten days after 15715
the termination of the hearing. After consideration of the 15716
referee's report, the board, by a majority vote, may accept or 15717
reject the referee's recommendation. After a hearing by the board, 15718
the board, by majority vote, may enter its determination upon its 15719
minutes. If the decision, after hearing, is in favor of the 15720
employee, the charges and the record of the hearing shall be 15721

physically expunged from the minutes and, if the employee has 15722
suffered any loss of salary by reason of being suspended, ~~he~~ the 15723
employee shall be paid ~~his~~ the employee's full salary for the 15724
period of such suspension. 15725

Any employee affected by a determination of the board under 15726
this division may appeal to the court of common pleas of the 15727
county in which the board is located within thirty days after 15728
receipt of notice of the entry of such determination. The appeal 15729
shall be an original action in the court and shall be commenced by 15730
the filing of a complaint against the board, in which complaint 15731
the facts shall be alleged upon which the employee relies for a 15732
reversal or modification of such determination. Upon service or 15733
waiver of summons in that appeal, the board immediately shall 15734
transmit to the clerk of the court for filing a transcript of the 15735
original papers filed with the board, a certified copy of the 15736
minutes of the board into which the determination was entered, and 15737
a certified transcript of all evidence adduced at the hearing or 15738
hearings before the board or a certified transcript of all 15739
evidence adduced at the hearing or hearings before the referee, 15740
whereupon the cause shall be at issue without further pleading and 15741
shall be advanced and heard without delay. The court shall examine 15742
the transcript and record of the hearing and shall hold such 15743
additional hearings as it considers advisable, at which it may 15744
consider other evidence in addition to the transcript and record. 15745

Upon final hearing, the court shall grant or deny the relief 15746
prayed for in the complaint as may be proper in accordance with 15747
the evidence adduced in the hearing. Such an action is a special 15748
proceeding, and either the employee or the board may appeal from 15749
the decision of the court of common pleas pursuant to the Rules of 15750
Appellate Procedure and, to the extent not in conflict with those 15751
rules, Chapter 2505. of the Revised Code. 15752

(H) Notwithstanding divisions (C) to (G) of this section, a 15753

county board and an employee may agree to submit issues regarding 15754
the employee's removal, suspension, or demotion to binding 15755
arbitration. The terms of the submission, including the method of 15756
selecting the arbitrator or arbitrators and the responsibility for 15757
compensating the arbitrator, shall be provided for in the 15758
arbitration agreement. The arbitrator shall be selected within 15759
fifteen days of the execution of the agreement. Chapter 2711. of 15760
the Revised Code governs the arbitration proceedings. 15761

Sec. 5126.24. (A) As used in this section: 15762

(1) "License" means an educator license issued by the state 15763
board of education under section 3319.22 of the Revised Code or a 15764
certificate issued by the department of mental retardation and 15765
developmental disabilities. 15766

(2) "Teacher" means a person employed by a county board of 15767
~~mental retardation and~~ developmental disabilities in a position 15768
that requires a license. 15769

(3) "Nonteaching employee" means a person employed by a 15770
county board of ~~mental retardation and~~ developmental disabilities 15771
in a position that does not require a license. 15772

(4) "Years of service" includes all service described in 15773
division (A) of section 3317.13 of the Revised Code. 15774

(B) Subject to rules established by the director of mental 15775
retardation and developmental disabilities pursuant to Chapter 15776
119. of the Revised Code, each county board of ~~mental retardation~~ 15777
~~and~~ developmental disabilities shall annually adopt separate 15778
salary schedules for teachers and nonteaching employees. 15779

(C) The teachers' salary schedule shall provide for 15780
increments based on training and years of service. The board may 15781
establish its own service requirements provided no teacher 15782
receives less than the salary the teacher would be paid under 15783

section 3317.13 of the Revised Code if the teacher were employed 15784
by a school district board of education and provided full credit 15785
for a minimum of five years of actual teaching and military 15786
experience as defined in division (A) of such section is given to 15787
each teacher. 15788

Each teacher who has completed training that would qualify 15789
the teacher for a higher salary bracket pursuant to this section 15790
shall file by the fifteenth day of September with the fiscal 15791
officer of the board, satisfactory evidence of the completion of 15792
such additional training. The fiscal officer shall then 15793
immediately place the teacher, pursuant to this section, in the 15794
proper salary bracket in accordance with training and years of 15795
service. No teacher shall be paid less than the salary to which 15796
the teacher would be entitled under section 3317.13 of the Revised 15797
Code if the teacher were employed by a school district board of 15798
education. 15799

The superintendent of each county board, on or before the 15800
fifteenth day of October of each year, shall certify to the state 15801
board of education the name of each teacher employed, on an annual 15802
salary, in each special education program operated pursuant to 15803
section 3323.09 of the Revised Code during the first full school 15804
week of October. The superintendent further shall certify, for 15805
each teacher, the number of years of training completed at a 15806
recognized college, the degrees earned from a college recognized 15807
by the state board, the type of license held, the number of months 15808
employed by the board, the annual salary, and other information 15809
that the state board may request. 15810

(D) The nonteaching employees' salary schedule established by 15811
the board shall be based on training, experience, and 15812
qualifications with initial salaries no less than salaries in 15813
effect on July 1, 1985. Each board shall prepare and may amend 15814
from time to time, specifications descriptive of duties, 15815

responsibilities, requirements, and desirable qualifications of 15816
the classifications of employees required to perform the duties 15817
specified in the salary schedule. All nonteaching employees shall 15818
be notified of the position classification to which they are 15819
assigned and the salary for the classification. The compensation 15820
of all nonteaching employees working for a particular board shall 15821
be uniform for like positions except as compensation would be 15822
affected by salary increments based upon length of service. 15823

On the fifteenth day of October of each year the nonteaching 15824
employees' salary schedule and list of job classifications and 15825
salaries in effect on that date shall be filed by each board with 15826
the superintendent of public instruction. If such salary schedule 15827
and classification plan is not filed, the superintendent of public 15828
instruction shall order the board to file such schedule and list 15829
forthwith. If this condition is not corrected within ten days 15830
after receipt of the order from the superintendent, no money shall 15831
be distributed to the district under Chapter 3317. of the Revised 15832
Code until the superintendent has satisfactory evidence of the 15833
board's full compliance with such order. 15834

Sec. 5126.25. (A) The director of mental retardation and 15835
developmental disabilities shall adopt rules in accordance with 15836
Chapter 119. of the Revised Code establishing uniform standards 15837
and procedures for the certification of persons for employment by 15838
county boards of ~~mental retardation and~~ developmental disabilities 15839
as superintendents, management employees, and professional 15840
employees and uniform standards and procedures for the 15841
registration of persons for employment by county boards as 15842
registered service employees. As part of the rules, the director 15843
may establish continuing education and professional training 15844
requirements for renewal of certificates and evidence of 15845
registration and shall establish such requirements for renewal of 15846
an investigative agent certificate. In the rules, the director 15847

shall establish certification standards for employment in the 15848
position of investigative agent that require an individual to have 15849
or obtain no less than an associate degree from an accredited 15850
college or university or have or obtain comparable experience or 15851
training. The director shall not adopt rules that require any 15852
service employee to have or obtain a bachelor's or higher degree. 15853

The director shall adopt the rules in a manner that provides 15854
for the issuance of certificates and evidence of registration 15855
according to categories, levels, and grades. The rules shall 15856
describe each category, level, and grade. 15857

The rules adopted under this division shall apply to persons 15858
employed or seeking employment in a position that includes 15859
directly providing, or supervising persons who directly provide, 15860
services or instruction to or on behalf of individuals with mental 15861
retardation or developmental disabilities, except that the rules 15862
shall not apply to persons who hold a valid license issued under 15863
Chapter 3319. of the Revised Code and perform no duties other than 15864
teaching or supervision of a teaching program or persons who hold 15865
a valid license or certificate issued under Title XLVII of the 15866
Revised Code and perform only those duties governed by the license 15867
or certificate. The rules shall specify the positions that require 15868
certification or registration. The rules shall specify that the 15869
position of investigative agent requires certification. 15870

(B) The director shall adopt rules in accordance with Chapter 15871
119. of the Revised Code establishing standards for approval of 15872
courses of study to prepare persons to meet certification 15873
requirements. The director shall approve courses of study meeting 15874
the standards and provide for the inspection of the courses to 15875
ensure the maintenance of satisfactory training procedures. The 15876
director shall approve courses of study only if given by a state 15877
university or college as defined in section 3345.32 of the Revised 15878
Code, a state university or college of another state, or an 15879

institution that has received a certificate of authorization to 15880
confer degrees from the board of regents pursuant to Chapter 1713. 15881
of the Revised Code or from a comparable agency of another state. 15882

(C) Each applicant for a certificate for employment or 15883
evidence of registration for employment by a county board shall 15884
apply to the department of mental retardation and developmental 15885
disabilities on forms that the director of the department shall 15886
prescribe and provide. The application shall be accompanied by the 15887
application fee established in rules adopted under this section. 15888

(D) The director shall issue a certificate for employment to 15889
each applicant who meets the standards for certification 15890
established under this section and shall issue evidence of 15891
registration for employment to each applicant who meets the 15892
standards for registration established under this section. Each 15893
certificate or evidence of registration shall state the category, 15894
level, and grade for which it is issued. 15895

The director shall issue, renew, deny, suspend, or revoke 15896
certificates and evidence of registration in accordance with rules 15897
adopted under this section. The director shall deny, suspend, or 15898
revoke a certificate or evidence of registration if the director 15899
finds, pursuant to an adjudication conducted in accordance with 15900
Chapter 119. of the Revised Code, that the applicant for or holder 15901
of the certificate or evidence of registration is guilty of 15902
intemperate, immoral, or other conduct unbecoming to the 15903
applicant's or holder's position, or is guilty of incompetence or 15904
negligence within the scope of the applicant's or holder's duties. 15905
The director shall deny or revoke a certificate or evidence of 15906
registration if the director finds, pursuant to an adjudication 15907
conducted in accordance with Chapter 119. of the Revised Code, 15908
that the applicant for or holder of the certificate or evidence of 15909
registration has been convicted of or pleaded guilty to any of the 15910
offenses described in division (E) of section 5126.28 of the 15911

Revised Code, unless the individual meets standards for 15912
rehabilitation that the director establishes in the rules adopted 15913
under that section. Evidence supporting such allegations shall be 15914
presented to the director in writing and the director shall 15915
provide prompt notice of the allegations to the person who is the 15916
subject of the allegations. A denial, suspension, or revocation 15917
may be appealed in accordance with procedures the director shall 15918
establish in the rules adopted under this section. 15919

(E)(1) A person holding a valid certificate under this 15920
section on the effective date of any rules adopted under this 15921
section that increase certification standards shall have such 15922
period as the rules prescribe, but not less than one year after 15923
the effective date of the rules, to meet the new certification 15924
standards. 15925

A person who is registered under this section on the 15926
effective date of any rule that changes the standards adopted 15927
under this section shall have such period as the rules prescribe, 15928
but not less than one year, to meet the new registration 15929
standards. 15930

(2) If an applicant for a certificate for employment has not 15931
completed the courses of instruction necessary to meet the 15932
department's standards for certification, the department shall 15933
inform the applicant of the courses the applicant must 15934
successfully complete to meet the standards and shall specify the 15935
time within which the applicant must complete the courses. The 15936
department shall grant the applicant at least one year to complete 15937
the courses and shall not require the applicant to complete more 15938
than four courses in any one year. The applicant is not subject to 15939
any changes regarding the courses required for certification that 15940
are made after the department informs the applicant of the courses 15941
the applicant must complete, unless the applicant does not 15942
successfully complete the courses within the time specified by the 15943

department. 15944

(F) A person who holds a certificate or evidence of 15945
registration, other than one designated as temporary, is qualified 15946
to be employed according to that certificate or evidence of 15947
registration by any county board. 15948

(G) The director shall monitor county boards to ensure that 15949
their employees who must be certified or registered are 15950
appropriately certified or registered and performing those 15951
functions they are authorized to perform under their certificate 15952
or evidence of registration. 15953

(H) A county board superintendent or the superintendent's 15954
designee may certify to the director that county board employees 15955
who are required to meet continuing education or professional 15956
training requirements as a condition of renewal of certificates or 15957
evidence of registration have met the requirements. The 15958
superintendent or the superintendent's designee shall maintain in 15959
appropriate personnel files evidence acceptable to the director 15960
that the employees have met the requirements and permit 15961
representatives of the department access to the evidence on 15962
request. 15963

(I) All fees collected pursuant to this section shall be 15964
deposited in the state treasury to the credit of the program fee 15965
fund created under section 5123.033 of the Revised Code. 15966

(J) Employees of entities that contract with county boards of 15967
~~mental retardation and~~ developmental disabilities to operate 15968
programs and services for individuals with mental retardation and 15969
developmental disabilities are subject to the certification and 15970
registration requirements established under section 5123.082 of 15971
the Revised Code. 15972

Sec. 5126.252. Notwithstanding sections 5123.082, 5126.25, 15973

and 5126.26 of the Revised Code, the department of mental 15974
retardation and developmental disabilities may authorize county 15975
boards of ~~mental retardation and~~ developmental disabilities to 15976
establish and administer in their counties programs for the 15977
certification and registration of persons for employment by the 15978
boards. A certificate or evidence of registration issued by a 15979
board participating in programs under this section shall have the 15980
same force and effect as a certificate or evidence of registration 15981
issued by the department under section 5123.082 or 5126.25 of the 15982
Revised Code. 15983

Sec. 5126.253. (A) As used in this section: 15984

(1) "Conduct unbecoming to the teaching profession" shall be 15985
as described in rules adopted by the state board of education. 15986

(2) "Intervention in lieu of conviction" means intervention 15987
in lieu of conviction under section 2951.041 of the Revised Code. 15988

(3) "License" has the same meaning as in section 3319.31 of 15989
the Revised Code. 15990

(4) "Pre-trial diversion program" means a pre-trial diversion 15991
program under section 2935.36 of the Revised Code or a similar 15992
diversion program under rules of a court. 15993

(B) The superintendent of each county board of ~~mental~~ 15994
~~retardation and~~ developmental disabilities or the president of the 15995
board, if division (C) of this section applies, shall promptly 15996
submit to the superintendent of public instruction the information 15997
prescribed in division (D) of this section when any of the 15998
following conditions applies to an employee of the board who holds 15999
a license issued by the state board of education: 16000

(1) The superintendent or president knows that the employee 16001
has pleaded guilty to, has been found guilty by a jury or court 16002
of, has been convicted of, has been found to be eligible for 16003

intervention in lieu of conviction for, or has agreed to 16004
participate in a pre-trial diversion program for an offense 16005
described in division (B)(2) or (C) of section 3319.31 or division 16006
(B)(1) of section 3319.39 of the Revised Code. 16007

(2) The board has initiated termination or nonrenewal 16008
proceedings against, has terminated, or has not renewed the 16009
contract of the employee because the board has reasonably 16010
determined that the employee has committed an act unbecoming to 16011
the teaching profession or an offense described in division (B)(2) 16012
or (C) of section 3319.31 or division (B)(1) of section 3319.39 of 16013
the Revised Code. 16014

(3) The employee has resigned under threat of termination or 16015
nonrenewal as described in division (B)(2) of this section. 16016

(4) The employee has resigned because of or in the course of 16017
an investigation by the board regarding whether the employee has 16018
committed an act unbecoming to the teaching profession or an 16019
offense described in division (B)(2) or (C) of section 3319.31 or 16020
division (B)(1) of section 3319.39 of the Revised Code. 16021

(C) If the employee to whom any of the conditions prescribed 16022
in divisions (B)(1) to (4) of this section applies is the 16023
superintendent of a county board of ~~mental retardation and~~ 16024
developmental disabilities, the president of the board shall make 16025
the report required under this section. 16026

(D) If a report is required under this section, the 16027
superintendent or president shall submit to the superintendent of 16028
public instruction the name and social security number of the 16029
employee about whom information is required and a factual 16030
statement regarding any of the conditions prescribed in divisions 16031
(B)(1) to (4) of this section that applies to the employee. 16032

(E) A determination made by the board as described in 16033
division (B)(2) of this section or a termination, nonrenewal, 16034

resignation, or other separation described in divisions (B)(2) to 16035
(4) of this section does not create a presumption of the 16036
commission or lack of the commission by the employee of an act 16037
unbecoming to the teaching profession or an offense described in 16038
division (B)(2) or (C) of section 3319.31 or division (B)(1) of 16039
section 3319.39 of the Revised Code. 16040

(F) No individual required to submit a report under division 16041
(B) of this section shall knowingly fail to comply with that 16042
division. 16043

(G) An individual who provides information to the 16044
superintendent of public instruction in accordance with this 16045
section in good faith shall be immune from any civil liability 16046
that otherwise might be incurred or imposed for injury, death, or 16047
loss to person or property as a result of the provision of that 16048
information. 16049

Sec. 5126.254. The superintendent of each county board of 16050
~~mental retardation and~~ developmental disabilities shall require 16051
that the reports of any investigation by the board of an employee 16052
regarding whether the employee has committed an act or offense for 16053
which the superintendent is required to make a report to the 16054
superintendent of public instruction under section 5126.253 of the 16055
Revised Code be kept in the employee's personnel file. If, after 16056
an investigation under division (A) of section 3319.311 of the 16057
Revised Code, the superintendent of public instruction determines 16058
that the results of that investigation do not warrant initiating 16059
action under section 3319.31 of the Revised Code, the 16060
superintendent of the county board shall require the reports of 16061
the board's investigation to be moved from the employee's 16062
personnel file to a separate public file. 16063

Sec. 5126.26. Except as otherwise provided in this section 16064

and section 5126.27 of the Revised Code, no person shall be 16065
employed or compensated by a county board of ~~mental retardation~~ 16066
~~and~~ developmental disabilities if ~~he~~ the person does not hold the 16067
certificate, evidence of registration, or license required for the 16068
position under the rules of the department or the department of 16069
education, but the superintendent of a county board may employ, 16070
and the board shall compensate, a person pending the issuance of 16071
an initial certificate or registration if ~~he~~ the person meets the 16072
requirements for certification or registration, ~~he~~ the person has 16073
applied for certification or registration, and the application has 16074
not been denied. A person's employment shall be terminated if a 16075
required license, certificate, or registration is denied, 16076
permanently revoked, or not renewed. 16077

Sec. 5126.27. (A) A county board of ~~mental retardation and~~ 16078
developmental disabilities shall allow a professional employee 16079
hired by the board prior to July 17, 1990, who does not meet the 16080
standards for certification established under section 5126.25 of 16081
the Revised Code for the position he holds on July 17, 1990, to 16082
elect to do one of the following: 16083

(1) Accept a position with the board, if such a position is 16084
available, for which ~~he~~ the employee meets the certification 16085
standards; 16086

(2) Remain in the position ~~he~~ the employee holds on July 17, 16087
1990, and comply with the provisions of a professional development 16088
plan prescribed by the director of mental retardation and 16089
developmental disabilities under division (B) of this section. 16090

If the employee accepts a position under division (A)(1) of 16091
this section, ~~his~~ the employee's compensation shall be not less 16092
than the compensation ~~he~~ the employee received in the position ~~he~~ 16093
the employee held on July 17, 1990. 16094

(B) If an employee elects the option described in division 16095

(A)(2) of this section, the board shall notify the department. The 16096
director shall issue a temporary certificate to the employee for 16097
the position ~~he~~ the employee holds and develop a professional 16098
development plan for ~~him~~ the employee. The temporary certificate 16099
shall be valid only during the period required for completion of 16100
the professional development plan and only while the employee is 16101
employed by the board by which ~~he~~ the employee was employed on 16102
July 17, 1990. The plan shall specify the coursework the employee 16103
must successfully complete and any other requirements for 16104
certification and the schedule for completion of the plan, except: 16105

(1) The plan shall not require that the employee complete 16106
more than six semester hours, or the equivalent, of coursework in 16107
any twelve-month period; 16108

(2) All coursework must be completed at an accredited college 16109
or university recognized by the department; 16110

(3) The plan shall not require the employee to complete more 16111
than sixty semester hours, or the equivalent, of coursework, or to 16112
obtain a bachelor's or higher degree if a greater number of hours 16113
of coursework would be required to do so. 16114

Notwithstanding any standards for certification established 16115
by the director under section 5126.25 of the Revised Code, if the 16116
employee successfully completes the professional development plan 16117
within the time specified, the director shall grant ~~him~~ the 16118
employee the appropriate certificate for the position ~~he~~ the 16119
employer holds. 16120

Sec. 5126.28. (A) As used in this section: 16121

(1) "Applicant" means a person who is under final 16122
consideration for appointment to or employment in a position with 16123
a county board of ~~mental retardation and~~ developmental 16124
disabilities, including, but not limited to, a person who is being 16125

transferred to the county board and an employee who is being 16126
recalled or reemployed after a layoff. 16127

(2) "Criminal records check" has the same meaning as in 16128
section 109.572 of the Revised Code. 16129

(3) "Minor drug possession offense" has the same meaning as 16130
in section 2925.01 of the Revised Code. 16131

(B) The superintendent of a county board of ~~mental~~ 16132
~~retardation~~ and developmental disabilities shall request the 16133
superintendent of the bureau of criminal identification and 16134
investigation to conduct a criminal records check with respect to 16135
any applicant who has applied to the board for employment in any 16136
position, except that a county board superintendent is not 16137
required to request a criminal records check for an employee of 16138
the board who is being considered for a different position or is 16139
returning after a leave of absence or seasonal break in 16140
employment, as long as the superintendent has no reason to believe 16141
that the employee has committed any of the offenses listed or 16142
described in division (E) of this section. 16143

If the applicant does not present proof that the applicant 16144
has been a resident of this state for the five-year period 16145
immediately prior to the date upon which the criminal records 16146
check is requested, the county board superintendent shall request 16147
that the superintendent of the bureau obtain information from the 16148
federal bureau of investigation as a part of the criminal records 16149
check for the applicant. If the applicant presents proof that the 16150
applicant has been a resident of this state for that five-year 16151
period, the county board superintendent may request that the 16152
superintendent of the bureau include information from the federal 16153
bureau of investigation in the criminal records check. For 16154
purposes of this division, an applicant may provide proof of 16155
residency in this state by presenting, with a notarized statement 16156
asserting that the applicant has been a resident of this state for 16157

that five-year period, a valid driver's license, notification of 16158
registration as an elector, a copy of an officially filed federal 16159
or state tax form identifying the applicant's permanent residence, 16160
or any other document the superintendent considers acceptable. 16161

(C) The county board superintendent shall provide to each 16162
applicant a copy of the form prescribed pursuant to division 16163
(C)(1) of section 109.572 of the Revised Code, provide to each 16164
applicant a standard impression sheet to obtain fingerprint 16165
impressions prescribed pursuant to division (C)(2) of section 16166
109.572 of the Revised Code, obtain the completed form and 16167
impression sheet from each applicant, and forward the completed 16168
form and impression sheet to the superintendent of the bureau of 16169
criminal identification and investigation at the time the criminal 16170
records check is requested. 16171

Any applicant who receives pursuant to this division a copy 16172
of the form prescribed pursuant to division (C)(1) of section 16173
109.572 of the Revised Code and a copy of an impression sheet 16174
prescribed pursuant to division (C)(2) of that section and who is 16175
requested to complete the form and provide a set of fingerprint 16176
impressions shall complete the form or provide all the information 16177
necessary to complete the form and shall provide the impression 16178
sheet with the impressions of the applicant's fingerprints. If an 16179
applicant, upon request, fails to provide the information 16180
necessary to complete the form or fails to provide impressions of 16181
the applicant's fingerprints, the county board superintendent 16182
shall not employ that applicant. 16183

(D) A county board superintendent may request any other state 16184
or federal agency to supply the board with a written report 16185
regarding the criminal record of each applicant. With regard to an 16186
applicant who becomes a board employee, if the employee holds an 16187
occupational or professional license or other credentials, the 16188
superintendent may request that the state or federal agency that 16189

regulates the employee's occupation or profession supply the board 16190
with a written report of any information pertaining to the 16191
employee's criminal record that the agency obtains in the course 16192
of conducting an investigation or in the process of renewing the 16193
employee's license or other credentials. 16194

(E) Except as provided in division (K)(2) of this section and 16195
in rules adopted by the department of mental retardation and 16196
developmental disabilities in accordance with division (M) of this 16197
section, no county board of ~~mental retardation and~~ developmental 16198
disabilities shall employ a person to fill a position with the 16199
board who has been convicted of or pleaded guilty to any of the 16200
following: 16201

(1) A violation of section 2903.01, 2903.02, 2903.03, 16202
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 16203
2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 16204
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 16205
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 16206
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 16207
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 16208
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of 16209
section 2905.04 of the Revised Code as it existed prior to July 1, 16210
1996, a violation of section 2919.23 of the Revised Code that 16211
would have been a violation of section 2905.04 of the Revised Code 16212
as it existed prior to July 1, 1996, had the violation occurred 16213
prior to that date, a violation of section 2925.11 of the Revised 16214
Code that is not a minor drug possession offense, or felonious 16215
sexual penetration in violation of former section 2907.12 of the 16216
Revised Code; 16217

(2) A felony contained in the Revised Code that is not listed 16218
in this division, if the felony bears a direct and substantial 16219
relationship to the duties and responsibilities of the position 16220
being filled; 16221

(3) Any offense contained in the Revised Code constituting a misdemeanor of the first degree on the first offense and a felony on a subsequent offense, if the offense bears a direct and substantial relationship to the position being filled and the nature of the services being provided by the county board;

(4) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States, if the offense is substantially equivalent to any of the offenses listed or described in division (E)(1), (2), or (3) of this section.

(F) Prior to employing an applicant, the county board superintendent shall require the applicant to submit a statement with the applicant's signature attesting that the applicant has not been convicted of or pleaded guilty to any of the offenses listed or described in division (E) of this section. The superintendent also shall require the applicant to sign an agreement under which the applicant agrees to notify the superintendent within fourteen calendar days if, while employed by the board, the applicant is ever formally charged with, convicted of, or pleads guilty to any of the offenses listed or described in division (E) of this section. The agreement shall inform the applicant that failure to report formal charges, a conviction, or a guilty plea may result in being dismissed from employment.

(G) A county board of ~~mental retardation and~~ developmental disabilities shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check requested and conducted pursuant to this section.

(H)(1) Any report obtained pursuant to this section is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person, other than the applicant who is the subject of the records check or criminal

records check or the applicant's representative, the board 16254
requesting the records check or criminal records check or its 16255
representative, the department of mental retardation and 16256
developmental disabilities, and any court, hearing officer, or 16257
other necessary individual involved in a case dealing with the 16258
denial of employment to the applicant or the denial, suspension, 16259
or revocation of a certificate or evidence of registration under 16260
section 5126.25 of the Revised Code. 16261

(2) An individual for whom a county board superintendent has 16262
obtained reports under this section may submit a written request 16263
to the county board to have copies of the reports sent to any 16264
state agency, entity of local government, or private entity. The 16265
individual shall specify in the request the agencies or entities 16266
to which the copies are to be sent. On receiving the request, the 16267
county board shall send copies of the reports to the agencies or 16268
entities specified. 16269

A county board may request that a state agency, entity of 16270
local government, or private entity send copies to the board of 16271
any report regarding a records check or criminal records check 16272
that the agency or entity possesses, if the county board obtains 16273
the written consent of the individual who is the subject of the 16274
report. 16275

(I) Each county board superintendent shall request the 16276
registrar of motor vehicles to supply the superintendent with a 16277
certified abstract regarding the record of convictions for 16278
violations of motor vehicle laws of each applicant who will be 16279
required by the applicant's employment to transport individuals 16280
with mental retardation or developmental disabilities or to 16281
operate the board's vehicles for any other purpose. For each 16282
abstract provided under this section, the board shall pay the 16283
amount specified in section 4509.05 of the Revised Code. 16284

(J) The county board superintendent shall provide each 16285

applicant with a copy of any report or abstract obtained about the 16286
applicant under this section. At the request of the director of 16287
mental retardation and developmental disabilities, the 16288
superintendent also shall provide the director with a copy of a 16289
report or abstract obtained under this section. 16290

(K)(1) The county board superintendent shall inform each 16291
person, at the time of the person's initial application for 16292
employment, that the person is required to provide a set of 16293
impressions of the person's fingerprints and that a criminal 16294
records check is required to be conducted and satisfactorily 16295
completed in accordance with section 109.572 of the Revised Code 16296
if the person comes under final consideration for appointment or 16297
employment as a precondition to employment in a position. 16298

(2) A board may employ an applicant pending receipt of 16299
reports requested under this section. The board shall terminate 16300
employment of any such applicant if it is determined from the 16301
reports that the applicant failed to inform the county board that 16302
the applicant had been convicted of or pleaded guilty to any of 16303
the offenses listed or described in division (E) of this section. 16304

(L) The board may charge an applicant a fee for costs it 16305
incurs in obtaining reports, abstracts, or fingerprint impressions 16306
under this section. A fee charged under this division shall not 16307
exceed the amount of the fees the board pays under divisions (G) 16308
and (I) of this section. If a fee is charged under this division, 16309
the board shall notify the applicant of the amount of the fee at 16310
the time of the applicant's initial application for employment and 16311
that, unless the fee is paid, the board will not consider the 16312
applicant for employment. 16313

(M) The department of mental retardation and developmental 16314
disabilities shall adopt rules pursuant to Chapter 119. of the 16315
Revised Code to implement this section and section 5126.281 of the 16316
Revised Code, including rules specifying circumstances under which 16317

a county board or contracting entity may hire a person who has 16318
been convicted of or pleaded guilty to an offense listed or 16319
described in division (E) of this section but who meets standards 16320
in regard to rehabilitation set by the department. The rules may 16321
not authorize a county board or contracting entity to hire an 16322
individual who is included in the registry established under 16323
section 5123.52 of the Revised Code. 16324

Sec. 5126.281. (A) As used in this section: 16325

(1) "Contracting entity" means an entity under contract with 16326
a county board of ~~mental retardation and~~ developmental 16327
disabilities for the provision of specialized services to 16328
individuals with mental retardation or a developmental disability. 16329

(2) "Direct services position" means an employment position 16330
in which the employee has physical contact with, the opportunity 16331
to be alone with, or exercises supervision or control over one or 16332
more individuals with mental retardation or a developmental 16333
disability. 16334

(3) "Specialized services" means any program or service 16335
designed and operated to serve primarily individuals with mental 16336
retardation or a developmental disability, including a program or 16337
service provided by an entity licensed or certified by the 16338
department of mental retardation and developmental disabilities. 16339
If there is a question as to whether a contracting entity is 16340
providing specialized services, the contracting entity may request 16341
that the director of mental retardation and developmental 16342
disabilities make a determination. The director's determination is 16343
final. 16344

(B)(1) Except as provided in division (B)(2) of this section, 16345
each contracting entity shall conduct background investigations in 16346
the same manner county boards conduct investigations under section 16347
5126.28 of the Revised Code of all persons under final 16348

consideration for employment with the contracting entity in a 16349
direct services position. On request, the county board shall 16350
assist a contracting entity in obtaining reports from the bureau 16351
of criminal identification and investigation or any other state or 16352
federal agency and in obtaining abstracts from the registrar of 16353
motor vehicles. 16354

(2) A contracting entity is not required to request a 16355
criminal records check for either of the following: 16356

(a) An employee of the entity who is in a direct services 16357
position and being considered for a different direct services 16358
position or is returning after a leave of absence or seasonal 16359
break in employment, as long as the contracting entity has no 16360
reason to believe that the employee has committed any of the 16361
offenses listed or described in division (E) of section 5126.28 of 16362
the Revised Code; 16363

(b) A person who will provide only respite care under a 16364
family support services program established under section 5126.11 16365
of the Revised Code, if the person is selected by a family member 16366
of the individual with mental retardation or a developmental 16367
disability who is to receive the respite care. 16368

(C) No contracting entity shall place a person in a direct 16369
services position if the person has been convicted of or pleaded 16370
guilty to any offense listed or described in division (E) of 16371
section 5126.28 of the Revised Code, unless the person meets the 16372
standards for rehabilitation established by rules adopted under 16373
section 5126.28 of the Revised Code. 16374

(D) A contracting entity may place a person in a direct 16375
services position pending receipt of information concerning the 16376
person's background investigation from the bureau of criminal 16377
identification and investigation, the registrar of motor vehicles, 16378
or any other state or federal agency if the person submits to the 16379

contracting entity a statement with the person's signature that 16380
the person has not been convicted of or pleaded guilty to any of 16381
the offenses listed or described in division (E) of section 16382
5126.28 of the Revised Code. No contracting entity shall fail to 16383
terminate the placement of such person if the contracting entity 16384
is informed that the person has been convicted of or pleaded 16385
guilty to any of the offenses listed or described in division (E) 16386
of section 5126.28 of the Revised Code. 16387

(E) Prior to employing a person in a direct services 16388
position, the contracting entity shall require the person to 16389
submit a statement with the applicant's signature attesting that 16390
the applicant has not been convicted of or pleaded guilty to any 16391
of the offenses listed or described in division (E) of section 16392
5126.28 of the Revised Code. The contracting entity also shall 16393
require the person to sign an agreement to notify the contracting 16394
entity within fourteen calendar days if, while employed by the 16395
entity, the person is ever formally charged with, convicted of, or 16396
pleads guilty to any of the offenses listed or described in 16397
division (E) of section 5126.28 of the Revised Code. The agreement 16398
shall inform the person that failure to report formal charges, a 16399
conviction, or a guilty plea may result in being dismissed from 16400
employment. 16401

(F) A county board may take appropriate action against a 16402
contracting entity that violates this section, including 16403
terminating the contracting entity's contract with the board. 16404

Sec. 5126.29. (A) No professional or management employee in a 16405
position that requires a license issued by the state board of 16406
education under sections 3319.22 to 3319.31 of the Revised Code or 16407
a certificate issued by the director of mental retardation and 16408
developmental disabilities under section 5126.25 of the Revised 16409
Code shall terminate the employee's employment contract with a 16410

county board of ~~mental retardation and~~ developmental disabilities 16411
without obtaining the written consent of the board prior to the 16412
termination or giving the board written notice of the termination 16413
at least thirty days before its effective date. 16414

(B) Upon complaint by a county board of ~~mental retardation~~ 16415
~~and~~ developmental disabilities that a person holding a license 16416
issued under sections 3319.22 to 3319.31 of the Revised Code has 16417
violated division (A) of this section, the state board of 16418
education shall investigate the complaint. If the state board 16419
determines that the person did violate division (A) of this 16420
section, it may suspend the person's license for a period of time 16421
not exceeding one year as determined by the state board. 16422

(C) Upon complaint by a county board of ~~mental retardation~~ 16423
~~and~~ developmental disabilities that a person holding a certificate 16424
issued under section 5126.25 of the Revised Code has violated 16425
division (A) of this section, the director of mental retardation 16426
and developmental disabilities shall investigate the complaint. If 16427
the director determines that the person did violate division (A) 16428
of this section, the director may suspend the person's certificate 16429
for a period of time not exceeding one year as determined by the 16430
director. 16431

Sec. 5126.30. As used in sections 5126.30 to 5126.34 of the 16432
Revised Code: 16433

(A) "Adult" means a person eighteen years of age or older 16434
with mental retardation or a developmental disability. 16435

(B) "Caretaker" means a person who is responsible for the 16436
care of an adult by order of a court, including an order of 16437
guardianship, or who assumes the responsibility for the care of an 16438
adult as a volunteer, as a family member, by contract, or by the 16439
acceptance of payment for care. 16440

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

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

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

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

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

(H) "Emergency protective services" means protective services furnished to a person with mental retardation or a developmental disability to prevent immediate physical harm.

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

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

(K) "Substantial risk" has the same meaning as in section 2901.01 of the Revised Code. 16472
16473

(L) "Party" means all of the following: 16474

(1) An adult who is the subject of a probate proceeding under sections 5126.30 to 5126.33 of the Revised Code; 16475
16476

(2) A caretaker, unless otherwise ordered by the probate court; 16477
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(3) Any other person designated as a party by the probate court including but not limited to, the adult's spouse, custodian, guardian, or parent. 16479
16480
16481

(M) "Board" means a county board of ~~mental retardation and~~ developmental disabilities. 16482
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Sec. 5126.31. (A) A county board of ~~mental retardation and~~ developmental disabilities shall review reports of abuse and neglect made under section 5123.61 of the Revised Code and reports referred to it under section 5101.611 of the Revised Code to determine whether the person who is the subject of the report is an adult with mental retardation or a developmental disability in need of services to deal with the abuse or neglect. The board shall give notice of each report to the registry office of the department of mental retardation and developmental disabilities established pursuant to section 5123.61 of the Revised Code on the first working day after receipt of the report. If the report alleges that there is a substantial risk to the adult of immediate physical harm or death, the board shall initiate review within twenty-four hours of its receipt of the report. If the board determines that the person is sixty years of age or older but does not have mental retardation or a developmental disability, it shall refer the case to the county department of job and family services. If the board determines that the person is an adult with 16484
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mental retardation or a developmental disability, it shall 16502
continue its review of the case. 16503

(B) For each review over which the board retains 16504
responsibility under division (A) of this section, it shall do all 16505
of the following: 16506

(1) Give both written and oral notice of the purpose of the 16507
review to the adult and, if any, to the adult's legal counsel or 16508
caretaker, in simple and clear language; 16509

(2) Visit the adult, in the adult's residence if possible, 16510
and explain the notice given under division (B)(1) of this 16511
section; 16512

(3) Request from the registry office any prior reports 16513
concerning the adult or other principals in the case; 16514

(4) Consult, if feasible, with the person who made the report 16515
under section 5101.61 or 5123.61 of the Revised Code and with any 16516
agencies or persons who have information about the alleged abuse 16517
or neglect; 16518

(5) Cooperate fully with the law enforcement agency 16519
responsible for investigating the report and for filing any 16520
resulting criminal charges and, on request, turn over evidence to 16521
the agency; 16522

(6) Determine whether the adult needs services, and prepare a 16523
written report stating reasons for the determination. No adult 16524
shall be determined to be abused, neglected, or in need of 16525
services for the sole reason that, in lieu of medical treatment, 16526
the adult relies on or is being furnished spiritual treatment 16527
through prayer alone in accordance with the tenets and practices 16528
of a church or religious denomination of which the adult is a 16529
member or adherent. 16530

(C) The board shall arrange for the provision of services for 16531

the prevention, correction or discontinuance of abuse or neglect 16532
or of a condition resulting from abuse or neglect for any adult 16533
who has been determined to need the services and consents to 16534
receive them. These services may include, but are not limited to, 16535
service and support administration, fiscal management, medical, 16536
mental health, home health care, homemaker, legal, and residential 16537
services and the provision of temporary accommodations and 16538
necessities such as food and clothing. The services do not include 16539
acting as a guardian, trustee, or protector as defined in section 16540
5123.55 of the Revised Code. If the provision of residential 16541
services would require expenditures by the department of mental 16542
retardation and developmental disabilities, the board shall obtain 16543
the approval of the department prior to arranging the residential 16544
services. 16545

To arrange services, the board shall: 16546

(1) Develop an individualized service plan identifying the 16547
types of services required for the adult, the goals for the 16548
services, and the persons or agencies that will provide them; 16549

(2) In accordance with rules established by the director of 16550
mental retardation and developmental disabilities, obtain the 16551
consent of the adult or the adult's guardian to the provision of 16552
any of these services and obtain the signature of the adult or 16553
guardian on the individual service plan. An adult who has been 16554
found incompetent under Chapter 2111. of the Revised Code may 16555
consent to services. If the board is unable to obtain consent, it 16556
may seek, if the adult is incapacitated, a court order pursuant to 16557
section 5126.33 of the Revised Code authorizing the board to 16558
arrange these services. 16559

(D) The board shall ensure that the adult receives the 16560
services arranged by the board from the provider and shall have 16561
the services terminated if the adult withdraws consent. 16562

(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
major unusual incident made in accordance with rules adopted under
section 5123.612 of the Revised Code, a county board of ~~mental~~
~~retardation and~~ developmental disabilities shall conduct an
investigation if circumstances specified in rules adopted under
division (B) of this section exist. If the circumstances specified
in the rules exist, the county board shall conduct the
investigation in the manner specified by the rules.

(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 a county
board shall conduct investigations under division (A) of this
section and the manner in which the county board shall conduct the
investigation.

Sec. 5126.33. (A) A county board of ~~mental retardation and~~
developmental disabilities may file a complaint with the probate
court of the county in which an adult with mental retardation or a
developmental disability resides for an order authorizing the
board to arrange services described in division (C) of section
5126.31 of the Revised Code for that adult if the adult is
eligible to receive services or support under section 5126.041 of
the Revised Code and the board has been unable to secure consent.
The complaint shall include:

(1) The name, age, and address of the adult;

(2) Facts describing the nature of the abuse, neglect, or
exploitation and supporting the board's belief that services are
needed;

(3) The types of services proposed by the board, as set forth
in the protective service plan described in division (J) of
section 5126.30 of the Revised Code and filed with the complaint;

(4) Facts showing the board's attempts to obtain the consent of the adult or the adult's guardian to the services. 16623
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(B) The board shall give the adult notice of the filing of the complaint and in simple and clear language shall inform the adult of the adult's rights in the hearing under division (C) of this section and explain the consequences of a court order. This notice shall be personally served upon all parties, and also shall be given to the adult's legal counsel, if any, and the legal rights service. The notice shall be given at least twenty-four hours prior to the hearing, although the court may waive this requirement upon a showing that there is a substantial risk that the adult will suffer immediate physical harm in the twenty-four hour period and that the board has made reasonable attempts to give the notice required by this division. 16625
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(C) Upon the filing of a complaint for an order under this section, the court shall hold a hearing at least twenty-four hours and no later than seventy-two hours after the notice under division (B) of this section has been given unless the court has waived the notice. All parties shall have the right to be present at the hearing, present evidence, and examine and cross-examine witnesses. The Ohio Rules of Evidence shall apply to a hearing conducted pursuant to this division. The adult shall be represented by counsel unless the court finds that the adult has made a voluntary, informed, and knowing waiver of the right to counsel. If the adult is indigent, the court shall appoint counsel to represent the adult. The board shall be represented by the county prosecutor or an attorney designated by the board. 16637
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(D)(1) The court shall issue an order authorizing the board to arrange the protective services if it finds, on the basis of clear and convincing evidence, all of the following: 16650
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(a) The adult has been abused, neglected, or exploited; 16653

(b) The adult is incapacitated; 16654

(c) There is a substantial risk to the adult of immediate 16655
physical harm or death; 16656

(d) The adult is in need of the services; 16657

(e) No person authorized by law or court order to give 16658
consent for the adult is available or willing to consent to the 16659
services. 16660

(2) The board shall develop a detailed protective service 16661
plan describing the services that the board will provide, or 16662
arrange for the provision of, to the adult to prevent further 16663
abuse, neglect, or exploitation. The board shall submit the plan 16664
to the court for approval. The protective service plan may be 16665
changed only by court order. 16666

(3) In formulating the order, the court shall consider the 16667
individual protective service plan and shall specifically 16668
designate the services that are necessary to deal with the abuse, 16669
neglect, or exploitation or condition resulting from abuse, 16670
neglect, or exploitation and that are available locally, and 16671
authorize the board to arrange for these services only. The court 16672
shall limit the provision of these services to a period not 16673
exceeding six months, renewable for an additional six-month period 16674
on a showing by the board that continuation of the order is 16675
necessary. 16676

(E) If the court finds that all other options for meeting the 16677
adult's needs have been exhausted, it may order that the adult be 16678
removed from the adult's place of residence and placed in another 16679
residential setting. Before issuing that order, the court shall 16680
consider the adult's choice of residence and shall determine that 16681
the new residential setting is the least restrictive alternative 16682
available for meeting the adult's needs and is a place where the 16683
adult can obtain the necessary requirements for daily living in 16684

safety. The court shall not order an adult to a hospital or public hospital as defined in section 5122.01 or a state institution as defined in section 5123.01 of the Revised Code.

(F) The court shall not authorize a change in an adult's placement ordered under division (E) of this section unless it finds compelling reasons to justify a change. The parties to whom notice was given in division (B) of this section shall be given notice of a proposed change at least five working days prior to the change.

(G) The adult, the board, or any other person who received notice of the petition may file a motion for modification of the court order at any time.

(H) The county board shall pay court costs incurred in proceedings brought pursuant to this section. The adult shall not be required to pay for court-ordered services.

(I)(1) After the filing of a complaint for an order under this section, the court, prior to the final disposition, may enter any temporary order that the court finds necessary to protect the adult with mental retardation or a developmental disability from abuse, neglect, or exploitation including, but not limited to, the following:

(a) A temporary protection order;

(b) An order requiring the evaluation of the adult;

(c) An order requiring a party to vacate the adult's place of residence or legal settlement, provided that, subject to division (K)(1)(d) of this section, no operator of a residential facility licensed by the department may be removed under this division;

(d) In the circumstances described in, and in accordance with the procedures set forth in, section 5123.191 of the Revised Code, an order of the type described in that section that appoints a

receiver to take possession of and operate a residential facility 16715
licensed by the department. 16716

(2) The court may grant an ex parte order pursuant to this 16717
division on its own motion or if a party files a written motion or 16718
makes an oral motion requesting the issuance of the order and 16719
stating the reasons for it if it appears to the court that the 16720
best interest and the welfare of the adult require that the court 16721
issue the order immediately. The court, if acting on its own 16722
motion, or the person requesting the granting of an ex parte 16723
order, to the extent possible, shall give notice of its intent or 16724
of the request to all parties, the adult's legal counsel, if any, 16725
and the legal rights service. If the court issues an ex parte 16726
order, the court shall hold a hearing to review the order within 16727
seventy-two hours after it is issued or before the end of the next 16728
day after the day on which it is issued, whichever occurs first. 16729
The court shall give written notice of the hearing to all parties 16730
to the action. 16731

Sec. 5126.331. (A) A probate court, through a probate judge 16732
or magistrate, may issue by telephone an ex parte emergency order 16733
authorizing any of the actions described in division (B) of this 16734
section if all of the following are the case: 16735

(1) The court receives notice from the county board of ~~mental~~ 16736
~~retardation and~~ developmental disabilities, or an authorized 16737
employee of the board, that the board or employee believes an 16738
emergency order is needed as described in this section. 16739

(2) The adult who is the subject of the notice is eligible to 16740
receive services or support under section 5126.041 of the Revised 16741
Code. 16742

(3) There is reasonable cause to believe that the adult is 16743
incapacitated. 16744

(4) There is reasonable cause to believe that there is a substantial risk to the adult of immediate physical harm or death. 16745
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(B) An order issued under this section may authorize the county board of ~~mental retardation and~~ developmental disabilities to do any of the following: 16747
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(1) Provide, or arrange for the provision of, emergency protective services for the adult; 16750
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(2) Remove the adult from the adult's place of residence or legal settlement; 16752
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(3) Remove the adult from the place where the abuse, neglect, or exploitation occurred. 16754
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(C) A court shall not issue an order under this section to remove an adult from a place described in division (B)(2) or (3) of this section until the court is satisfied that reasonable efforts have been made to notify the adult and any person with whom the adult resides of the proposed removal and the reasons for it, except that, the court may issue an order prior to giving the notice if one of the following is the case: 16756
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(1) Notification could jeopardize the physical or emotional safety of the adult. 16763
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(2) The notification could result in the adult being removed from the court's jurisdiction. 16765
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(D) An order issued under this section shall be in effect for not longer than twenty-four hours, except that if the day following the day on which the order is issued is a weekend-day or legal holiday, the order shall remain in effect until the next business day. 16767
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(E)(1) Except as provided in division (E)(2) of this section, not later than twenty-four hours after an order is issued under this section, the county board or employee that provided notice to 16772
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the probate court shall file a complaint with the court in 16775
accordance with division (A) of section 5126.33 of the Revised 16776
Code. 16777

(2) If the day following the day on which the order was 16778
issued is a weekend-day or a holiday, the county board or employee 16779
shall file the complaint with the probate court on the next 16780
business day. 16781

(3) Except as provided in section 5126.332 of the Revised 16782
Code, proceedings on the complaint filed pursuant to this division 16783
shall be conducted in accordance with section 5126.33 of the 16784
Revised Code. 16785

Sec. 5126.333. Any person who has reason to believe that 16786
there is a substantial risk to an adult with mental retardation or 16787
a developmental disability of immediate physical harm or death and 16788
that the responsible county board of ~~mental retardation and~~ 16789
developmental disabilities has failed to seek an order pursuant to 16790
section 5126.33 or 5126.331 of the Revised Code may notify the 16791
department of mental retardation and developmental disabilities. 16792
Within twenty-four hours of receipt of such notice, the department 16793
shall cause an investigation to be conducted regarding the notice. 16794
The department shall provide assistance to the county board to 16795
provide for the health and safety of the adult as permitted by 16796
law. 16797

Sec. 5126.34. Each county board of ~~mental retardation and~~ 16798
developmental disabilities shall provide comprehensive, formal 16799
training for county board employees and other persons authorized 16800
to implement sections 5126.30 to 5126.34 of the Revised Code. 16801

The department of mental retardation and developmental 16802
disabilities shall adopt rules establishing minimum standards for 16803
the training provided by county boards pursuant to this section. 16804

The training provided by the county boards shall meet the minimum 16805
standards prescribed by the rules. 16806

Sec. 5126.36. (A) As used in this section, "health-related 16807
activities," "prescribed medication," and "tube feeding" have the 16808
same meanings as in section 5123.41 of the Revised Code. 16809

(B) In accordance with sections 5123.42 and 5123.651 of the 16810
Revised Code, an employee of a county board of ~~mental retardation~~ 16811
~~or~~ developmental disabilities or an entity under contract with the 16812
board who is not specifically authorized by other provisions of 16813
the Revised Code to administer prescribed medications, perform 16814
health-related activities, perform tube feedings, or provide 16815
assistance in the self-administration of prescribed medications 16816
may do so pursuant to the authority granted under those sections. 16817

Sec. 5126.41. The county board of ~~mental retardation and~~ 16818
developmental disabilities shall identify residents of the county 16819
for whom supported living is to be provided. Identification of the 16820
residents shall be made in accordance with the priorities set 16821
under section 5126.04 of the Revised Code and the waiting list 16822
policies developed under section 5126.042 of the Revised Code. The 16823
board shall assist the residents in identifying their individual 16824
service needs. 16825

To arrange supported living for an individual, the board 16826
shall assist the individual in developing an individual service 16827
plan. In developing the plan, the individual shall choose a 16828
residence that is appropriate according to local standards; the 16829
individuals, if any, with whom the individual will live in the 16830
residence; the services the individual needs to live in the 16831
individual's residence of choice; and the providers from which the 16832
services will be received. The choices available to an individual 16833
shall be based on available resources. 16834

The board shall obtain the consent of the individual or the individual's guardian and the signature of the individual or guardian on the individual service plan. The county board shall ensure that the individual receives from the provider the services contracted for under section 5126.45 of the Revised Code.

An individual service plan for supported living shall be effective for a period of time agreed to by the county board and the individual. In determining that period, the county board and the individual shall consider the nature of the services to be provided and the manner in which they are customarily provided.

Sec. 5126.42. (A) A county board of ~~mental retardation and~~ developmental disabilities shall establish an advisory council composed of board members or employees of the board, providers, individuals receiving supported living, and advocates for individuals receiving supported living to provide on-going communication among all persons concerned with supported living.

(B) The board shall develop procedures for the resolution of grievances between the board and providers or between the board and an entity with which it has a shared funding agreement.

(C) The board shall develop and implement a provider selection system. Each system shall enable an individual to choose to continue receiving supported living from the same providers, to select additional providers, or to choose alternative providers. Annually, the board shall review its provider selection system to determine whether it has been implemented in a manner that allows individuals fair and equitable access to providers.

In developing a provider selection system, the county board shall create a pool of providers for individuals to use in choosing their providers of supported living. The pool shall be created by placing in the pool all providers on record with the board or by placing in the pool all providers approved by the

board through soliciting requests for proposals for supported 16866
living contracts. In either case, only providers that are 16867
certified by the director of mental retardation and developmental 16868
disabilities may be placed in the pool. 16869

If the board places all providers on record in the pool, the 16870
board shall review the pool at least annually to determine whether 16871
each provider has continued interest in being a provider and has 16872
maintained its certification by the department. At any time, an 16873
interested and certified provider may make a request to the board 16874
that it be added to the pool, and the board shall add the provider 16875
to the pool not later than seven days after receiving the request. 16876

If the board solicits requests for proposals for inclusion of 16877
providers in the pool, the board shall develop standards for 16878
selecting the providers to be included. Requests for proposals 16879
shall be solicited at least annually. When requests are solicited, 16880
the board shall cause legal notices to be published at least once 16881
each week for two consecutive weeks in a newspaper with general 16882
circulation within the county. The board's formal request for 16883
proposals shall include a description of any applicable contract 16884
terms, the standards that are used to select providers for 16885
inclusion in the pool, and the process the board uses to resolve 16886
disputes arising from the selection process. The board shall 16887
accept requests from any entity interested in being a provider of 16888
supported living for individuals served by the board. Requests 16889
shall be approved or denied according to the standards developed 16890
by the board. Providers that previously have been placed in the 16891
pool are not required to resubmit a request for proposal to be 16892
included in the pool, unless the board's standards have been 16893
changed. 16894

In assisting an individual in choosing a provider, the county 16895
board shall provide the individual with uniform and consistent 16896
information pertaining to each provider in the pool. An individual 16897

may choose to receive supported living from a provider that is not 16898
included in the pool, if the provider is certified by the director 16899
of mental retardation and developmental disabilities. 16900

Sec. 5126.43. (A) After receiving notice from the department 16901
of mental retardation and developmental disabilities of the amount 16902
of state funds to be distributed to it for planning, developing, 16903
contracting for, and providing supported living, the county board 16904
of ~~mental retardation and~~ developmental disabilities shall arrange 16905
for supported living on behalf of and with the consent of 16906
individuals based on their individual service plans developed 16907
under section 5126.41 of the Revised Code. With the state 16908
distribution and any other money designated by the board for 16909
supported living, the board shall arrange for supported living in 16910
one or more of the following ways: 16911

(1) By contracting under section 5126.45 of the Revised Code 16912
with providers selected by the individual to be served; 16913

(2) By entering into shared funding agreements with state 16914
agencies, local public agencies, or political subdivisions at 16915
rates negotiated by the board; 16916

(3) By providing direct payment or vouchers to be used to 16917
purchase supported living, pursuant to a written contract in an 16918
amount determined by the board, to the individual or a person 16919
providing the individual with protective services as defined in 16920
section 5123.55 of the Revised Code. 16921

(B) The board may arrange for supported living only with 16922
providers that are certified by the director of mental retardation 16923
and developmental disabilities. 16924

When no certified provider is willing and able to provide 16925
supported living for an individual in accordance with the terms of 16926
the individual service plan for that individual, a county board 16927

may provide supported living directly if it is certified by the 16928
director of mental retardation and developmental disabilities to 16929
provide supported living. 16930

A county board may, for a period not to exceed ninety days, 16931
contract for or provide supported living without meeting the 16932
requirements of this section for an individual it determines to be 16933
in emergency need of supported living. Thereafter, the individual 16934
shall choose providers in accordance with sections 5126.41 and 16935
5126.42 of the Revised Code. 16936

Sec. 5126.45. (A) A contract between a county board of ~~mental~~ 16937
~~retardation and~~ developmental disabilities and a provider of 16938
supported living shall be in writing and shall be based on the 16939
individual service plan developed by the individual under section 16940
5126.41 of the Revised Code. The plan may be submitted as an 16941
addendum to the contract. An individual receiving services 16942
pursuant to a contract shall be considered a third-party 16943
beneficiary to the contract. 16944

(B) The contract shall be negotiated between the provider and 16945
the county board. The terms of the contract shall include at least 16946
the following: 16947

(1) The contract period and conditions for renewal; 16948

(2) The services to be provided pursuant to the individual 16949
service plan; 16950

(3) The rights and responsibilities of all parties to the 16951
contract; 16952

(4) The methods that will be used to evaluate the services 16953
delivered by the provider; 16954

(5) Procedures for contract modification that ensure all 16955
parties affected by the modification are involved and agree; 16956

(6) A process for resolving conflicts between individuals 16957

receiving services, the county board, and the provider, as applicable;	16958 16959
(7) Procedures for the retention of applicable records;	16960
(8) Provisions for contract termination by any party involved that include requirements for an appropriate notice of intent to terminate the contract;	16961 16962 16963
(9) Methods to be used to document services provided;	16964
(10) Procedures for submitting reports required by the county board as a condition of receiving payment under the contract;	16965 16966
(11) The method and schedule the board will use to make payments to the provider and whether periodic payment adjustments will be made to the provider;	16967 16968 16969
(12) Provisions for conducting fiscal reconciliations for payments made through methods other than a fee-for-service arrangement.	16970 16971 16972
(C) Payments to the provider under a supported living contract must be determined by the board to be reasonable in accordance with policies and procedures developed by the board. Goods or services provided without charge to the provider shall not be included as expenditures of the provider.	16973 16974 16975 16976 16977
(D) The board shall establish procedures for reconciling expenditures and payments, other than those made under a fee-for-service arrangement, for the prior contract year when a contract is not renewed and shall reconcile expenditures and payments in accordance with these procedures.	16978 16979 16980 16981 16982
(E) A provider or an entity with which the board has entered into a shared funding agreement may appeal a negotiated contract or proposed shared funding rate to the county board using the procedures established by the board under section 5126.42 of the Revised Code.	16983 16984 16985 16986 16987

Sec. 5126.46. (A) No county board of ~~mental retardation and~~ 16988
developmental disabilities shall be obligated to use any money 16989
other than money in the community ~~mental retardation and~~ 16990
developmental disabilities residential services fund to furnish 16991
residential services. 16992

(B) Except with respect to a child required to be provided 16993
services pursuant to section 121.38 of the Revised Code, no court 16994
or other entity of state or local government shall order or 16995
otherwise require a county board of ~~mental retardation and~~ 16996
developmental disabilities to use money from local sources for 16997
residential services for an individual with mental retardation or 16998
developmental disabilities or to arrange for residential services 16999
for such an individual unless a vacancy exists in an appropriate 17000
residential setting within the county. 17001

Sec. 5126.47. A county board of ~~mental retardation and~~ 17002
developmental disabilities may, pursuant to a resolution adopted 17003
by an affirmative vote of the majority of its members, establish, 17004
by agreement with one or more other county boards of ~~mental~~ 17005
~~retardation and~~ developmental disabilities, a residential services 17006
consortium to jointly provide residential services and supported 17007
living. The agreement shall designate one board to assume the 17008
fiscal responsibilities for the consortium. The county auditor of 17009
the designated county shall establish a community ~~mental~~ 17010
~~retardation and~~ developmental disabilities residential services 17011
fund for the consortium. Each board that is a member of the 17012
consortium shall cause to be deposited in the fund any state or 17013
federal money received for community residential services the 17014
county board has agreed to contribute to the consortium. 17015

Sec. 5126.49. The county board of ~~mental retardation and~~ 17016
developmental disabilities may adopt a resolution requesting the 17017

board of county commissioners to implement a residential facility 17018
linked deposit program under sections 5126.51 to 5126.62 of the 17019
Revised Code if the county board of ~~mental retardation and~~ 17020
developmental disabilities finds all of the following: 17021

(A) There is a shortage of residential facilities in the 17022
county for individuals with mental retardation or developmental 17023
disabilities. 17024

(B) Eligible organizations, otherwise willing and able to 17025
develop residential facilities in the county, have been unable to 17026
do so because of high interest rates. 17027

(C) Placement of residential facility linked deposits will 17028
assist in financing the development of residential facilities in 17029
the county that otherwise would not be developed because of high 17030
interest rates. 17031

The board shall transmit a certified copy of the resolution 17032
to the board of county commissioners. 17033

Sec. 5126.50. If the board of county commissioners adopts a 17034
resolution under sections 135.801 and 135.802 of the Revised Code 17035
implementing a residential facility linked deposit program, the 17036
county board of ~~mental retardation and~~ developmental disabilities 17037
shall adopt a resolution that does all of the following: 17038

(A) Establishes standards for its review of applications and 17039
its approval or disapproval of proposed residential facilities 17040
under section 5126.55 of the Revised Code; 17041

(B) Prescribes the form of applications under section 5126.54 17042
of the Revised Code; 17043

(C) Establishes standards for approval or disapproval of 17044
applications for linked deposit loans under section 5126.58 of the 17045
Revised Code. 17046

Sec. 5126.54. An eligible organization that seeks a 17047
residential facility linked deposit loan to finance all or part of 17048
the development of a residential facility shall obtain approval of 17049
the proposed project from the county board of ~~mental retardation~~ 17050
~~and~~ developmental disabilities of the county in which the facility 17051
will be developed. The application shall be in the form prescribed 17052
by the board and include all of the following: 17053

(A) The organization's name, business address, and telephone 17054
number; 17055

(B) The name of an officer or employee of the organization 17056
who may be contacted with regard to the application; 17057

(C) A description of the residential facility and a timetable 17058
showing the time at which each phase of its development is 17059
expected to be completed; 17060

(D) The amount of the loan to be applied for; 17061

(E) Any other information the board considers necessary to 17062
successfully review the application. 17063

Whoever knowingly makes a false statement on an application 17064
is guilty of the offense of falsification under section 2921.13 of 17065
the Revised Code. 17066

Sec. 5126.55. The county board of ~~mental retardation and~~ 17067
developmental disabilities shall review each application filed 17068
under section 5126.54 of the Revised Code and adopt a resolution 17069
approving or disapproving development of the proposed residential 17070
facility. The board shall not approve development of the proposed 17071
residential facility unless it finds, based upon the application 17072
and its evaluation of the applicant, that development of the 17073
residential facility is consistent with its plan and priorities, 17074
under section 5126.05 of the Revised Code, for the provision of 17075
residential facilities for individuals with mental retardation or 17076

developmental disabilities residing in the county. 17077

The resolution shall include specific findings of fact 17078
justifying the approval or disapproval. 17079

The board shall transmit a certified copy of the resolution 17080
to the applicant and to the board of county commissioners. 17081

Sec. 5126.57. In reviewing an application for a residential 17082
facility linked deposit loan, the eligible lending institution 17083
shall apply the same lending standards as it customarily applies 17084
to applications for loans for the development of residential 17085
property. The lending institution shall either approve or 17086
disapprove an application for a residential facility linked 17087
deposit loan within a reasonable time, in accordance with 17088
commercial practice. 17089

If the lending institution approves an application, it shall 17090
prepare and transmit each of the following to the county board of 17091
~~mental retardation and~~ developmental disabilities: 17092

(A) A certification that it is an eligible lending 17093
institution; 17094

(B) A statement that it has approved a residential facility 17095
linked deposit loan to the eligible organization and the amount of 17096
the loan; 17097

(C) A copy of the eligible organization's loan application 17098
and a copy of the resolution of the eligible organization's board 17099
of trustees included with the loan application; 17100

(D) Any other information the board of county commissioners 17101
requires in the resolution adopted under sections 135.801 and 17102
135.802 of the Revised Code. 17103

If the lending institution does not approve an application 17104
for a residential facility linked deposit loan, it shall promptly 17105
notify the county board of ~~mental retardation and~~ developmental 17106

disabilities of such disapproval. 17107

Sec. 5126.58. The county board of ~~mental retardation and~~ 17108
developmental disabilities shall adopt a resolution approving or 17109
disapproving an eligible organization's application for a 17110
residential facility linked deposit loan. The board shall 17111
disapprove an application unless it finds, based on the 17112
application and its evaluation of the applicant, each of the 17113
following: 17114

(A) The applicant has fully complied with sections 5126.54 17115
and 5126.56 of the Revised Code. 17116

(B) Development of the residential facility will materially 17117
contribute to alleviating the shortage of residential facilities 17118
in the county for individuals with mental retardation or 17119
developmental disabilities. 17120

(C) The applicant is ready to proceed with development of the 17121
residential facility, but is unable to do so because of high 17122
interest rates. 17123

(D) The board of county commissioners has certified that 17124
public moneys of the county are currently available for placement 17125
of the residential facility linked deposit necessary to provide 17126
low-cost financing to the applicant. 17127

(E) Placement of the residential facility linked deposit, 17128
considered in the aggregate with all other residential facility 17129
linked deposits under the county's residential facility linked 17130
deposit program, will not cause the total amount of the county's 17131
residential facility linked deposits to exceed an amount equal to 17132
ten per cent of the operating budget of the county board of ~~mental~~ 17133
~~retardation and~~ developmental disabilities for the current year. 17134
If placement of the residential facility linked deposit would 17135
cause the total amount of the county's residential facility linked 17136

deposits to exceed the maximum established by this division, the 17137
board may accept the application but limit the amount of the 17138
residential facility linked deposit accordingly. 17139

The resolution shall include specific findings of fact 17140
justifying acceptance or rejection of the application. If the 17141
board accepts the application, it shall specify the amount of the 17142
residential facility linked deposit in the resolution. 17143

The board shall transmit a certified copy of the resolution 17144
to the applicant, the eligible lending institution, and the 17145
county's investing authority. 17146

Sec. 5126.59. On acceptance of a residential facility linked 17147
deposit loan by the county board of ~~mental retardation and~~ 17148
developmental disabilities, the county's investing authority shall 17149
enter into a residential facility linked deposit agreement with 17150
the eligible lending institution. The agreement shall include all 17151
of the following terms: 17152

(A) An agreement by the investing authority to place 17153
certificates of deposit with the eligible lending institution, in 17154
the amount of the residential facility linked deposit specified in 17155
the resolution, at an interest rate of up to five per cent per 17156
year below current annual market rates, for a term considered 17157
appropriate by the investing authority, not to exceed five years, 17158
and to renew the certificates of deposit for up to four additional 17159
terms, each additional term not to exceed five years; 17160

(B) An agreement by the eligible lending institution to lend 17161
the value of the certificates of deposit placed with the 17162
institution to the eligible organization at an annual interest 17163
rate that is the same number of percentage points below the annual 17164
borrowing rate currently applicable to similar loans as the annual 17165
interest rate agreed to for certificates of deposit placed 17166
pursuant to division (A) of this section is below current annual 17167

market rates; 17168

(C) An agreement by the eligible lending institution to pay 17169
interest on the certificates of deposit at times determined by the 17170
investing authority; 17171

(D) The form in which the eligible lending institution is to 17172
make the certification required by section 5126.60 of the Revised 17173
Code; 17174

(E) Any other terms necessary to carry out the purpose of 17175
sections 5126.51 to 5126.62 of the Revised Code. 17176

The agreement may contain terms specifying the period of time 17177
during which the eligible lending institution is to lend funds 17178
upon placement of the residential facility linked deposit. 17179

The investing authority shall determine current market rates 17180
under the agreement. 17181

Sec. 5126.61. The county investing authority shall monitor 17182
the compliance with sections 5126.51 to 5126.62 of the Revised 17183
Code of eligible lending institutions and eligible organizations 17184
receiving residential facility linked deposits and loans. 17185

The investing authority shall annually report to the board of 17186
county commissioners and county board of ~~mental retardation and~~ 17187
developmental disabilities with regard to the operation of the 17188
county's residential facility linked deposit program. The report 17189
shall list the eligible organizations receiving residential 17190
facility linked deposit loans under the residential facility 17191
linked deposit program. 17192

Sec. 5126.62. The county, board of county commissioners, 17193
county board of ~~mental retardation and~~ developmental disabilities, 17194
and county investing authority are not liable to any eligible 17195
lending institution in any manner for payment of the principal or 17196

interest on a loan to an eligible organization. Delay in payment 17197
or default on the part of an eligible organization does not in any 17198
manner affect the residential facility linked deposit agreement 17199
between the county investing authority and the eligible lending 17200
institution. 17201

Sec. 5126.99. (A) Whoever violates division (B) of section 17202
5126.044 of the Revised Code is guilty of a misdemeanor of the 17203
first degree. 17204

(B) Whoever violates division (F) of section 5126.253 of the 17205
Revised Code shall be punished as follows: 17206

(1) Except as otherwise provided in division (B)(2) of this 17207
section, the person is guilty of a misdemeanor of the fourth 17208
degree. 17209

(2) The person is guilty of a misdemeanor of the first degree 17210
if both of the following conditions apply: 17211

(a) The employee who is the subject of the report that the 17212
person fails to submit was required to be reported for the 17213
commission or alleged commission of an act or offense involving 17214
the infliction on a child of any physical or mental wound, injury, 17215
disability, or condition of a nature that constitutes abuse or 17216
neglect of the child; 17217

(b) During the period between the violation of division (F) 17218
of section 5126.253 of the Revised Code and the conviction of or 17219
plea of guilty by the person for that violation, the employee who 17220
is the subject of the report that the person fails to submit 17221
inflicts on any child attending a school district, educational 17222
service center, public or nonpublic school, or county board of 17223
~~mental retardation and~~ developmental disabilities where the 17224
employee works any physical or mental wound, injury, disability, 17225
or condition of a nature that constitutes abuse or neglect of the 17226

child. 17227

Sec. 5153.16. (A) Except as provided in section 2151.422 of 17228
the Revised Code, in accordance with rules adopted under section 17229
5153.166 of the Revised Code, and on behalf of children in the 17230
county whom the public children services agency considers to be in 17231
need of public care or protective services, the public children 17232
services agency shall do all of the following: 17233

(1) Make an investigation concerning any child alleged to be 17234
an abused, neglected, or dependent child; 17235

(2) Enter into agreements with the parent, guardian, or other 17236
person having legal custody of any child, or with the department 17237
of job and family services, department of mental health, 17238
department of mental retardation and developmental disabilities, 17239
other department, any certified organization within or outside the 17240
county, or any agency or institution outside the state, having 17241
legal custody of any child, with respect to the custody, care, or 17242
placement of any child, or with respect to any matter, in the 17243
interests of the child, provided the permanent custody of a child 17244
shall not be transferred by a parent to the public children 17245
services agency without the consent of the juvenile court; 17246

(3) Accept custody of children committed to the public 17247
children services agency by a court exercising juvenile 17248
jurisdiction; 17249

(4) Provide such care as the public children services agency 17250
considers to be in the best interests of any child adjudicated to 17251
be an abused, neglected, or dependent child the agency finds to be 17252
in need of public care or service; 17253

(5) Provide social services to any unmarried girl adjudicated 17254
to be an abused, neglected, or dependent child who is pregnant 17255
with or has been delivered of a child; 17256

- (6) Make available to the bureau for children with medical handicaps of the department of health at its request any information concerning a crippled child found to be in need of treatment under sections 3701.021 to 3701.028 of the Revised Code who is receiving services from the public children services agency; 17257
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- (7) Provide temporary emergency care for any child considered by the public children services agency to be in need of such care, without agreement or commitment; 17263
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- (8) Find certified foster homes, within or outside the county, for the care of children, including handicapped children from other counties attending special schools in the county; 17266
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- (9) Subject to the approval of the board of county commissioners and the state department of job and family services, establish and operate a training school or enter into an agreement with any municipal corporation or other political subdivision of the county respecting the operation, acquisition, or maintenance of any children's home, training school, or other institution for the care of children maintained by such municipal corporation or political subdivision; 17269
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- (10) Acquire and operate a county children's home, establish, maintain, and operate a receiving home for the temporary care of children, or procure certified foster homes for this purpose; 17277
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- (11) Enter into an agreement with the trustees of any district children's home, respecting the operation of the district children's home in cooperation with the other county boards in the district; 17280
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- (12) Cooperate with, make its services available to, and act as the agent of persons, courts, the department of job and family services, the department of health, and other organizations within and outside the state, in matters relating to the welfare of 17284
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children, except that the public children services agency shall 17288
not be required to provide supervision of or other services 17289
related to the exercise of parenting time rights granted pursuant 17290
to section 3109.051 or 3109.12 of the Revised Code or 17291
companionship or visitation rights granted pursuant to section 17292
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 17293
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 17294
a common pleas court, pursuant to division (E)(6) of section 17295
3113.31 of the Revised Code, requires the provision of supervision 17296
or other services related to the exercise of the parenting time 17297
rights or companionship or visitation rights; 17298

(13) Make investigations at the request of any superintendent 17299
of schools in the county or the principal of any school concerning 17300
the application of any child adjudicated to be an abused, 17301
neglected, or dependent child for release from school, where such 17302
service is not provided through a school attendance department; 17303

(14) Administer funds provided under Title IV-E of the 17304
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 17305
amended, in accordance with rules adopted under section 5101.141 17306
of the Revised Code; 17307

(15) In addition to administering Title IV-E adoption 17308
assistance funds, enter into agreements to make adoption 17309
assistance payments under section 5153.163 of the Revised Code; 17310

(16) Implement a system of safety and risk assessment, in 17311
accordance with rules adopted by the director of job and family 17312
services, to assist the public children services agency in 17313
determining the risk of abuse or neglect to a child; 17314

(17) Enter into a plan of cooperation with the board of 17315
county commissioners under section 307.983 of the Revised Code and 17316
comply with each fiscal agreement the board enters into under 17317
section 307.98 of the Revised Code that include family services 17318

duties of public children services agencies and contracts the 17319
board enters into under sections 307.981 and 307.982 of the 17320
Revised Code that affect the public children services agency; 17321

(18) Make reasonable efforts to prevent the removal of an 17322
alleged or adjudicated abused, neglected, or dependent child from 17323
the child's home, eliminate the continued removal of the child 17324
from the child's home, or make it possible for the child to return 17325
home safely, except that reasonable efforts of that nature are not 17326
required when a court has made a determination under division 17327
(A)(2) of section 2151.419 of the Revised Code; 17328

(19) Make reasonable efforts to place the child in a timely 17329
manner in accordance with the permanency plan approved under 17330
division (E) of section 2151.417 of the Revised Code and to 17331
complete whatever steps are necessary to finalize the permanent 17332
placement of the child; 17333

(20) Administer a Title IV-A program identified under 17334
division (A)(4)(c) or (f) of section 5101.80 of the Revised Code 17335
that the department of job and family services provides for the 17336
public children services agency to administer under the 17337
department's supervision pursuant to section 5101.801 of the 17338
Revised Code; 17339

(21) Administer the kinship permanency incentive program 17340
created under section 5101.802 of the Revised Code under the 17341
supervision of the director of job and family services; 17342

(22) Provide independent living services pursuant to sections 17343
2151.81 to 2151.84 of the Revised Code. 17344

(B) The public children services agency shall use the system 17345
implemented pursuant to division (A)(16) of this section in 17346
connection with an investigation undertaken pursuant to division 17347
(F)(1) of section 2151.421 of the Revised Code to assess both of 17348
the following: 17349

(1) The ongoing safety of the child;	17350
(2) The appropriateness of the intensity and duration of the services provided to meet child and family needs throughout the duration of a case.	17351 17352 17353
(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:	17354 17355 17356 17357 17358 17359
(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;	17360 17361 17362 17363
(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:	17364 17365 17366
(i) County departments of job and family services;	17367
(ii) Boards of alcohol, drug addiction, and mental health services;	17368 17369
(iii) County boards of mental retardation and developmental disabilities;	17370 17371
(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;	17372 17373
(v) Private and government providers of services;	17374
(vi) Managed care organizations and prepaid health plans.	17375
(b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not	17376 17377 17378 17379

authorized by the department's rules. 17380

(c) Only a county children services board appointed under 17381
section 5153.03 of the Revised Code that is a public children 17382
services agency may contract under division (C)(2)(a) of this 17383
section. If an entity specified in division (B) or (C) of section 17384
5153.02 of the Revised Code is the public children services agency 17385
for a county, the board of county commissioners may enter into 17386
contracts pursuant to section 307.982 of the Revised Code 17387
regarding the agency's duties. 17388

Sec. 5153.99. Whoever violates division (F) of section 17389
5153.176 of the Revised Code shall be punished as follows: 17390

(A) Except as otherwise provided in division (B) of this 17391
section, the person is guilty of a misdemeanor of the fourth 17392
degree. 17393

(B) The person is guilty of a misdemeanor of the first degree 17394
if, during the period between the violation and the conviction of 17395
or plea of guilty by the person for that violation, the license 17396
holder who is the subject of the investigation about which the 17397
person fails to provide information inflicts on any child 17398
attending a school district, educational service center, public or 17399
nonpublic school, or county board of ~~mental retardation and~~ 17400
developmental disabilities where the license holder works any 17401
physical or mental wound, injury, disability, or condition of a 17402
nature that constitutes abuse or neglect of the child. 17403

Sec. 5543.011. A county engineer may sell directly to a 17404
county board of ~~mental retardation and~~ developmental disabilities 17405
gasoline and diesel fuel that has been purchased for the use of 17406
the county engineer's office. 17407

Sec. 5705.091. The board of county commissioners of each 17408

county shall establish a county ~~mental retardation and~~ 17409
developmental disabilities general fund. Notwithstanding section 17410
5705.10 of the Revised Code, proceeds from levies under section 17411
5705.222 and division (L) of section 5705.19 of the Revised Code 17412
shall be deposited to the credit of the county ~~mental retardation~~ 17413
~~and~~ developmental disabilities general fund. Accounts shall be 17414
established within the county ~~mental retardation and~~ developmental 17415
disabilities general fund for each of the several particular 17416
purposes of the levies as specified in the resolutions under which 17417
the levies were approved, and proceeds from different levies that 17418
were approved for the same particular purpose shall be credited to 17419
accounts for that purpose. Other money received by the county for 17420
the purposes of Chapters 3323. and 5126. of the Revised Code and 17421
not required by state or federal law to be deposited to the credit 17422
of a different fund shall also be deposited to the credit of the 17423
county ~~mental retardation and~~ developmental disabilities general 17424
fund, in an account appropriate to the particular purpose for 17425
which the money was received. Unless otherwise provided by law, an 17426
unexpended balance at the end of a fiscal year in any account in 17427
the county ~~mental retardation and~~ developmental disabilities 17428
general fund shall be appropriated the next fiscal year to the 17429
same fund. 17430

A county board of ~~mental retardation and~~ developmental 17431
disabilities may request, by resolution, that the board of county 17432
commissioners establish a county ~~mental retardation and~~ 17433
developmental disabilities capital fund for money to be used for 17434
acquisition, construction, or improvement of capital facilities or 17435
acquisition of capital equipment used in providing services to 17436
mentally retarded and developmentally disabled persons. The county 17437
board of ~~mental retardation and~~ developmental disabilities shall 17438
transmit a certified copy of the resolution to the board of county 17439
commissioners. Upon receiving the resolution, the board of county 17440
commissioners shall establish a county ~~mental retardation and~~ 17441

developmental disabilities capital fund. 17442

Sec. 5705.14. No transfer shall be made from one fund of a 17443
subdivision to any other fund, by order of the court or otherwise, 17444
except as follows: 17445

(A) The unexpended balance in a bond fund that is no longer 17446
needed for the purpose for which such fund was created shall be 17447
transferred to the sinking fund or bond retirement fund from which 17448
such bonds are payable. 17449

(B) The unexpended balance in any specific permanent 17450
improvement fund, other than a bond fund, after the payment of all 17451
obligations incurred in the acquisition of such improvement, shall 17452
be transferred to the sinking fund or bond retirement fund of the 17453
subdivision; provided that if such money is not required to meet 17454
the obligations payable from such funds, it may be transferred to 17455
a special fund for the acquisition of permanent improvements, or, 17456
with the approval of the court of common pleas of the county in 17457
which such subdivision is located, to the general fund of the 17458
subdivision. 17459

(C) The unexpended balance in the sinking fund or bond 17460
retirement fund of a subdivision, after all indebtedness, 17461
interest, and other obligations for the payment of which such fund 17462
exists have been paid and retired, shall be transferred, in the 17463
case of the sinking fund, to the bond retirement fund, and in the 17464
case of the bond retirement fund, to the sinking fund; provided 17465
that if such transfer is impossible by reason of the nonexistence 17466
of the fund to receive the transfer, such unexpended balance, with 17467
the approval of the court of common pleas of the county in which 17468
such division is located, may be transferred to any other fund of 17469
the subdivision. 17470

(D) The unexpended balance in any special fund, other than an 17471
improvement fund, existing in accordance with division (D), (F), 17472

or (G) of section 5705.09 or section 5705.12 of the Revised Code, 17473
may be transferred to the general fund or to the sinking fund or 17474
bond retirement fund after the termination of the activity, 17475
service, or other undertaking for which such special fund existed, 17476
but only after the payment of all obligations incurred and payable 17477
from such special fund. 17478

(E) Money may be transferred from the general fund to any 17479
other fund of the subdivision. 17480

(F) Moneys retained or received by a county under section 17481
4501.04 or division (A)(3) of section 5735.27 of the Revised Code 17482
may be transferred from the fund into which they were deposited to 17483
the sinking fund or bond retirement fund from which any principal, 17484
interest, or charges for which such moneys may be used is payable. 17485

(G) Moneys retained or received by a municipal corporation 17486
under section 4501.04 or division (A)(1) or (2) of section 5735.27 17487
of the Revised Code may be transferred from the fund into which 17488
they were deposited to the sinking fund or bond retirement fund 17489
from which any principal, interest, or charges for which such 17490
moneys may be used is payable. 17491

(H)(1) Money may be transferred from the county ~~mental~~ 17492
~~retardation and~~ developmental disabilities general fund to the 17493
county ~~mental retardation and~~ developmental disabilities capital 17494
fund established under section 5705.091 of the Revised Code or to 17495
any other fund created for the purposes of the county board of 17496
~~mental retardation and~~ developmental disabilities, so long as 17497
money in the fund to which the money is transferred can be spent 17498
for the particular purpose of the transferred money. The county 17499
board of ~~mental retardation and~~ developmental disabilities may 17500
request, by resolution, that the board of county commissioners 17501
make the transfer. The county board of ~~mental retardation and~~ 17502
developmental disabilities shall transmit a certified copy of the 17503
resolution to the board of county commissioners. Upon receiving 17504

the resolution, the board of county commissioners may make the 17505
transfer. Money transferred to a fund shall be credited to an 17506
account appropriate to its particular purpose. 17507

(2) An unexpended balance in an account in the county ~~mental~~ 17508
~~retardation and~~ developmental disabilities capital fund or any 17509
other fund created for the purposes of the county board of ~~mental~~ 17510
~~retardation and~~ developmental disabilities may be transferred back 17511
to the county ~~mental retardation and~~ developmental disabilities 17512
general fund. The transfer may be made if the unexpended balance 17513
is no longer needed for its particular purpose and all outstanding 17514
obligations have been paid. Money transferred back to the county 17515
~~mental retardation and~~ developmental disabilities general fund 17516
shall be credited to an account for current expenses within that 17517
fund. The county board of ~~mental retardation and~~ developmental 17518
disabilities may request, by resolution, that the board of county 17519
commissioners make the transfer. The county board of ~~mental~~ 17520
~~retardation and~~ developmental disabilities shall transmit a 17521
certified copy of the resolution to the board of county 17522
commissioners. Upon receiving the resolution, the board of county 17523
commissioners may make the transfer. 17524

Except in the case of transfer pursuant to division (E) of 17525
this section, transfers authorized by this section shall only be 17526
made by resolution of the taxing authority passed with the 17527
affirmative vote of two-thirds of the members. 17528

Sec. 5705.191. The taxing authority of any subdivision, other 17529
than the board of education of a school district or the taxing 17530
authority of a county school financing district, by a vote of 17531
two-thirds of all its members, may declare by resolution that the 17532
amount of taxes that may be raised within the ten-mill limitation 17533
by levies on the current tax duplicate will be insufficient to 17534
provide an adequate amount for the necessary requirements of the 17535

subdivision, and that it is necessary to levy a tax in excess of 17536
such limitation for any of the purposes in section 5705.19 of the 17537
Revised Code, or to supplement the general fund for the purpose of 17538
making appropriations for one or more of the following purposes: 17539
public assistance, human or social services, relief, welfare, 17540
hospitalization, health, and support of general hospitals, and 17541
that the question of such additional tax levy shall be submitted 17542
to the electors of the subdivision at a general, primary, or 17543
special election to be held at a time therein specified. Such 17544
resolution shall not include a levy on the current tax list and 17545
duplicate unless such election is to be held at or prior to the 17546
general election day of the current tax year. Such resolution 17547
shall conform to the requirements of section 5705.19 of the 17548
Revised Code, except that a levy to supplement the general fund 17549
for the purposes of public assistance, human or social services, 17550
relief, welfare, hospitalization, health, or the support of 17551
general or tuberculosis hospitals may not be for a longer period 17552
than ten years. All other levies under this section may not be for 17553
a longer period than five years unless a longer period is 17554
permitted by section 5705.19 of the Revised Code, and the 17555
resolution shall specify the date of holding such election, which 17556
shall not be earlier than seventy-five days after the adoption and 17557
certification of such resolution. The resolution shall go into 17558
immediate effect upon its passage and no publication of the same 17559
is necessary other than that provided for in the notice of 17560
election. A copy of such resolution, immediately after its 17561
passage, shall be certified to the board of elections of the 17562
proper county or counties in the manner provided by section 17563
5705.25 of the Revised Code, and such section shall govern the 17564
arrangements for the submission of such question and other matters 17565
with respect to such election, to which section 5705.25 of the 17566
Revised Code refers, excepting that such election shall be held on 17567
the date specified in the resolution, which shall be consistent 17568

with the requirements of section 3501.01 of the Revised Code, 17569
provided that only one special election for the submission of such 17570
question may be held in any one calendar year and provided that a 17571
special election may be held upon the same day a primary election 17572
is held. Publication of notice of that election shall be made in 17573
one or more newspapers of general circulation in the county once a 17574
week for two consecutive weeks prior to the election, and, if the 17575
board of elections operates and maintains a web site, the board of 17576
elections shall post notice of the election on its web site for 17577
thirty days prior to the election. 17578

If a majority of the electors voting on the question vote in 17579
favor thereof, the taxing authority of the subdivision may make 17580
the necessary levy within such subdivision at the additional rate 17581
or at any lesser rate outside the ten-mill limitation on the tax 17582
list and duplicate for the purpose stated in the resolution. Such 17583
tax levy shall be included in the next annual tax budget that is 17584
certified to the county budget commission. 17585

After the approval of such a levy by the electors, the taxing 17586
authority of the subdivision may anticipate a fraction of the 17587
proceeds of such levy and issue anticipation notes. In the case of 17588
a continuing levy that is not levied for the purpose of current 17589
expenses, notes may be issued at any time after approval of the 17590
levy in an amount not more than fifty per cent of the total 17591
estimated proceeds of the levy for the succeeding ten years, less 17592
an amount equal to the fraction of the proceeds of the levy 17593
previously anticipated by the issuance of anticipation notes. In 17594
the case of a levy for a fixed period that is not for the purpose 17595
of current expenses, notes may be issued at any time after 17596
approval of the levy in an amount not more than fifty per cent of 17597
the total estimated proceeds of the levy throughout the remaining 17598
life of the levy, less an amount equal to the fraction of the 17599
proceeds of the levy previously anticipated by the issuance of 17600

anticipation notes. In the case of a levy for current expenses, 17601
notes may be issued after the approval of the levy by the electors 17602
and prior to the time when the first tax collection from the levy 17603
can be made. Such notes may be issued in an amount not more than 17604
fifty per cent of the total estimated proceeds of the levy 17605
throughout the term of the levy in the case of a levy for a fixed 17606
period, or fifty per cent of the total estimated proceeds for the 17607
first ten years of the levy in the case of a continuing levy. 17608

No anticipation notes that increase the net indebtedness of a 17609
county may be issued without the prior consent of the board of 17610
county commissioners of that county. The notes shall be issued as 17611
provided in section 133.24 of the Revised Code, shall have 17612
principal payments during each year after the year of their 17613
issuance over a period not exceeding the life of the levy 17614
anticipated, and may have a principal payment in the year of their 17615
issuance. 17616

"Taxing authority" and "subdivision" have the same meanings 17617
as in section 5705.01 of the Revised Code. 17618

"Human or social services" includes a county's contributions 17619
to a multicounty board of ~~mental retardation and~~ developmental 17620
disabilities of which the county is a member. 17621

This section is supplemental to and not in derogation of 17622
sections 5705.20, 5705.21, and 5705.22 of the Revised Code. 17623

Sec. 5705.222. (A) At any time the board of county 17624
commissioners of any county by a majority vote of the full 17625
membership may declare by resolution and certify to the board of 17626
elections of the county that the amount of taxes which may be 17627
raised within the ten-mill limitation by levies on the current tax 17628
duplicate will be insufficient to provide the necessary 17629
requirements of the single county board of ~~mental retardation and~~ 17630
developmental disabilities established pursuant to Chapter 5126. 17631

of the Revised Code, or the county's contribution to a multicounty 17632
board created under that chapter of which the county is a member, 17633
and that it is necessary to levy a tax in excess of such 17634
limitation for the operation of programs and services by county 17635
boards of ~~mental retardation and~~ developmental disabilities and 17636
for the acquisition, construction, renovation, financing, 17637
maintenance, and operation of mental retardation and developmental 17638
disabilities facilities. 17639

Such resolution shall conform to section 5705.19 of the 17640
Revised Code, except that the increased rate may be in effect for 17641
any number of years not exceeding ten or for a continuing period 17642
of time. 17643

The resolution shall be certified and submitted in the manner 17644
provided in section 5705.25 of the Revised Code, except that it 17645
may be placed on the ballot in any election, and shall be 17646
certified to the board of elections not less than seventy-five 17647
days before the election at which it will be voted upon. 17648

If the majority of the electors voting on a levy for the 17649
support of the programs and services of the county board of ~~mental~~ 17650
~~retardation and~~ developmental disabilities vote in favor of the 17651
levy, the board of county commissioners may levy a tax within the 17652
county at the additional rate outside the ten-mill limitation 17653
during the specified or continuing period, for the purpose stated 17654
in the resolution. The county board of ~~mental retardation and~~ 17655
developmental disabilities, within its budget and with the 17656
approval of the board of county commissioners through annual 17657
appropriations, shall use the proceeds of a levy approved under 17658
this section solely for the purposes authorized by this section. 17659

(B) When electors have approved a tax levy under this 17660
section, the county commissioners may anticipate a fraction of the 17661
proceeds of the levy and issue anticipation notes in accordance 17662
with section 5705.191 or 5705.193 of the Revised Code. 17663

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

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

Sec. 5705.28. (A) Except as provided in division (B)(1) or (2) of this section or in section 5705.281 of the Revised Code, the taxing authority of each subdivision or other taxing unit shall adopt a tax budget for the next succeeding fiscal year:

(1) On or before the fifteenth day of January in the case of a school district;

(2) On or before the fifteenth day of July in the case of all

other subdivisions and taxing units. 17695

(B)(1) Before the first day of June in each year, the board 17696
of trustees of a school library district entitled to participate 17697
in any appropriation or revenue of a school district or to have a 17698
tax proposed by the board of education of a school district shall 17699
file with the board of education of the school district a tax 17700
budget for the ensuing fiscal year. On or before the fifteenth day 17701
of July in each year, the board of education of a school district 17702
to which a school library district tax budget was submitted under 17703
this division shall adopt such tax budget on behalf of the library 17704
district, but such budget shall not be part of the school 17705
district's tax budget. 17706

(2)(a) The taxing authority of a taxing unit that does not 17707
levy a tax is not required to adopt a tax budget pursuant to 17708
division (A) of this section. Instead, on or before the fifteenth 17709
day of July each year, such taxing authority shall adopt an 17710
operating budget for the taxing unit for the ensuing fiscal year. 17711
The operating budget shall include an estimate of receipts from 17712
all sources, a statement of all taxing unit expenses that are 17713
anticipated to occur, and the amount required for debt charges 17714
during the fiscal year. The operating budget is not required to be 17715
filed with the county auditor or the county budget commission. 17716

(b) Except for this section and sections 5705.36, 5705.38, 17717
5705.40, 5705.41, 5705.43, 5705.44, and 5705.45 of the Revised 17718
Code, a taxing unit that does not levy a tax is not a taxing unit 17719
for purposes of Chapter 5705. of the Revised Code. Documents 17720
prepared in accordance with such sections are not required to be 17721
filed with the county auditor or county budget commission. 17722

(c) The total appropriations from each fund of a taxing unit 17723
that does not levy a tax shall not exceed the total estimated 17724
revenue available for expenditures from the fund, and 17725
appropriations shall be made from each fund only for the purposes 17726

for which the fund is established. 17727

(C)(1) To assist in the preparation of the tax budget, the 17728
head of each department, board, commission, and district authority 17729
entitled to participate in any appropriation or revenue of a 17730
subdivision shall file with the taxing authority, or in the case 17731
of a municipal corporation, with its chief executive officer, 17732
before the forty-fifth day prior to the date on which the budget 17733
must be adopted, an estimate of contemplated revenue and 17734
expenditures for the ensuing fiscal year, in such form as is 17735
prescribed by the taxing authority of the subdivision or by the 17736
auditor of state. The taxing authority shall include in its budget 17737
of expenditures the full amounts requested by district 17738
authorities, not to exceed the amount authorized by law, if such 17739
authorities may fix the amount of revenue they are to receive from 17740
the subdivision. In a municipal corporation in which a special 17741
levy for a municipal university has been authorized to be levied 17742
in excess of the ten-mill limitation, or is required by the 17743
charter of the municipal corporation, the taxing authority shall 17744
include an amount not less than the estimated yield of such levy, 17745
if such amount is requested by the board of directors of the 17746
municipal university. 17747

(2) A county board of ~~mental retardation and~~ developmental 17748
disabilities may include within its estimate of contemplated 17749
revenue and expenditures a reserve balance account in the 17750
community ~~mental retardation and~~ developmental disabilities 17751
residential services fund. The account shall contain money that is 17752
not needed to pay for current expenses for residential services 17753
and supported living but will be needed to pay for expenses for 17754
such services in the future or may be needed for unanticipated 17755
emergency expenses. On the request of the county board of ~~mental~~ 17756
~~retardation and~~ developmental disabilities, the board of county 17757
commissioners shall include such an account in its budget of 17758

expenditures and appropriate money to the account from residential 17759
service moneys for the county board. 17760

(D) The board of trustees of any public library desiring to 17761
participate in the distribution of the county public library fund 17762
shall adopt appropriate rules extending the benefits of the 17763
library service of such library to all the inhabitants of the 17764
county on equal terms, unless such library service is by law 17765
available to all such inhabitants, and shall certify a copy of 17766
such rules to the taxing authority with its estimate of 17767
contemplated revenue and expenditures. Where such rules have been 17768
so certified or where the adoption of such rules is not required, 17769
the taxing authority shall include in its budget of receipts such 17770
amounts as are specified by such board as contemplated revenue 17771
from the county public library fund, and in its budget of 17772
expenditures the full amounts requested therefrom by such board. 17773
No library association, incorporated or unincorporated, is 17774
entitled to participate in the proceeds of the county public 17775
library fund unless such association both was organized and 17776
operating prior to January 1, 1968, and participated in the 17777
distribution of the proceeds of the county public library fund 17778
prior to December 31, 2005. 17779

Sec. 5705.44. When contracts or leases run beyond the 17780
termination of the fiscal year in which they are made, the fiscal 17781
officer of the taxing authority shall make a certification for the 17782
amount required to meet the obligation of such contract or lease 17783
maturing in such fiscal year. The amount of the obligation under 17784
such contract or lease remaining unfulfilled at the end of a 17785
fiscal year, and which will become payable during the next fiscal 17786
year, shall be included in the annual appropriation measure for 17787
the next year as a fixed charge. 17788

The certificate required by section 5705.41 of the Revised 17789

Code as to money in the treasury shall not be required for 17790
contracts on which payments are to be made from the earnings of a 17791
publicly operated water works or public utility, but in the case 17792
of any such contract made without such certification, no payment 17793
shall be made on account thereof, and no claim or demand thereon 17794
shall be recoverable, except out of such earnings. That 17795
certificate also shall not be required if requiring the 17796
certificate makes it impossible for a county board of ~~mental~~ 17797
~~retardation and~~ developmental disabilities to pay the nonfederal 17798
share of medicaid expenditures that the county board is required 17799
by sections 5126.059 and 5126.0510 of the Revised Code to pay. 17800

Sec. 5735.142. (A)(1) Any person who uses any motor fuel, on 17801
which the tax imposed by sections 5735.05, 5735.25, and 5735.29 of 17802
the Revised Code has been paid, for the purpose of operating a 17803
transit bus shall be reimbursed in the amount of the tax paid on 17804
motor fuel used by public transportation systems providing transit 17805
or paratransit service on a regular and continuing basis within 17806
the state; 17807

(2) A city, exempted village, joint vocational, or local 17808
school district or educational service center that purchases any 17809
motor fuel for school district or service center operations, on 17810
which any tax imposed by section 5735.29 of the Revised Code that 17811
became effective on or after July 1, 2003, has been paid, may, if 17812
an application is filed under this section, be reimbursed in the 17813
amount of all but two cents per gallon of the total tax imposed by 17814
such section and paid on motor fuel. 17815

(3) A county board of ~~mental retardation and~~ developmental 17816
disabilities that, on or after July 1, 2005, purchases any motor 17817
fuel for county board operations, on which any tax imposed by 17818
section 5735.29 of the Revised Code has been paid may, if an 17819
application is filed under this section, be reimbursed in the 17820

amount of all but two cents per gallon of the total tax imposed by 17821
such section and paid on motor fuel purchased on or after July 1, 17822
2005. 17823

(B) Such person, school district, educational service center, 17824
or county board shall file with the tax commissioner an 17825
application for refund within one year from the date of purchase, 17826
stating the quantity of fuel used for operating transit buses used 17827
by local transit systems in furnishing scheduled common carrier, 17828
public passenger land transportation service along regular routes 17829
primarily in one or more municipal corporations or for operating 17830
vehicles used for school district, service center, or county board 17831
operations. However, no claim shall be made for the tax on fewer 17832
than one hundred gallons of motor fuel. A school district, 17833
educational service center, or county board shall not apply for a 17834
refund for any tax paid on motor fuel that is sold by the 17835
district, service center, or county board. The application shall 17836
be accompanied by the statement described in section 5735.15 of 17837
the Revised Code showing the purchase, together with evidence of 17838
payment thereof. 17839

(C) After consideration of the application and statement, the 17840
commissioner shall determine the amount of refund to which the 17841
applicant is entitled. If the amount is not less than that 17842
claimed, the commissioner shall certify the amount to the director 17843
of budget and management and treasurer of state for payment from 17844
the tax refund fund created by section 5703.052 of the Revised 17845
Code. If the amount is less than that claimed, the commissioner 17846
shall proceed in accordance with section 5703.70 of the Revised 17847
Code. 17848

The commissioner may require that the application be 17849
supported by the affidavit of the claimant. No refund shall be 17850
authorized or ordered for any single claim for the tax on fewer 17851
than one hundred gallons of motor fuel. No refund shall be 17852

authorized or ordered on motor fuel that is sold by a school 17853
district, educational service center, or county board. 17854

(D) The refund authorized by this section or section 5703.70 17855
of the Revised Code shall be reduced by the cents per gallon 17856
amount of any qualified fuel credit received under section 17857
5735.145 of the Revised Code, as determined by the commissioner, 17858
for each gallon of qualified fuel included in the total gallonage 17859
of motor fuel upon which the refund is computed. 17860

(E) The right to receive any refund under this section or 17861
section 5703.70 of the Revised Code is not assignable. The payment 17862
of this refund shall not be made to any person or entity other 17863
than the person or entity originally entitled thereto who used the 17864
motor fuel upon which the claim for refund is based, except that 17865
the refund when allowed and certified, as provided in this 17866
section, may be paid to the executor, the administrator, the 17867
receiver, the trustee in bankruptcy, or the assignee in insolvency 17868
proceedings of the person. 17869

Sec. 5815.28. (A) As used in this section: 17870

(1) "Ascertainable standard" includes a standard in a trust 17871
instrument requiring the trustee to provide for the care, comfort, 17872
maintenance, welfare, education, or general well-being of the 17873
beneficiary. 17874

(2) "Disability" means any substantial, medically 17875
determinable impairment that can be expected to result in death or 17876
that has lasted or can be expected to last for a continuous period 17877
of at least twelve months, except that "disability" does not 17878
include an impairment that is the result of abuse of alcohol or 17879
drugs. 17880

(3) "Political subdivision" and "state" have the same 17881
meanings as in section 2744.01 of the Revised Code. 17882

(4) "Supplemental services" means services specified by rule 17883
of the department of mental health under section 5119.01 of the 17884
Revised Code or the department of mental retardation and 17885
developmental disabilities under section 5123.04 of the Revised 17886
Code that are provided to an individual with a disability in 17887
addition to services the individual is eligible to receive under 17888
programs authorized by federal or state law. 17889

(B) Any person may create a trust under this section to 17890
provide funding for supplemental services for the benefit of 17891
another individual who meets either of the following conditions: 17892

(1) The individual has a physical or mental disability and is 17893
eligible to receive services through the department of mental 17894
retardation and developmental disabilities or a county board of 17895
~~mental retardation and~~ developmental disabilities; 17896

(2) The individual has a mental disability and is eligible to 17897
receive services through the department of mental health or a 17898
board of alcohol, drug addiction, and mental health services. 17899

The trust may confer discretion upon the trustee and may 17900
contain specific instructions or conditions governing the exercise 17901
of the discretion. 17902

(C) The general division of the court of common pleas and the 17903
probate court of the county in which the beneficiary of a trust 17904
authorized by division (B) of this section resides or is confined 17905
have concurrent original jurisdiction to hear and determine 17906
actions pertaining to the trust. In any action pertaining to the 17907
trust in a court of common pleas or probate court and in any 17908
appeal of the action, all of the following apply to the trial or 17909
appellate court: 17910

(1) The court shall render determinations consistent with the 17911
testator's or other settlor's intent in creating the trust, as 17912
evidenced by the terms of the trust instrument. 17913

(2) The court may order the trustee to exercise discretion 17914
that the trust instrument confers upon the trustee only if the 17915
instrument contains specific instructions or conditions governing 17916
the exercise of that discretion and the trustee has failed to 17917
comply with the instructions or conditions. In issuing an order 17918
pursuant to this division, the court shall require the trustee to 17919
exercise the trustee's discretion only in accordance with the 17920
instructions or conditions. 17921

(3) The court may order the trustee to maintain the trust and 17922
distribute assets in accordance with rules adopted by the director 17923
of mental health under section 5119.01 of the Revised Code or the 17924
director of mental retardation and developmental disabilities 17925
under section 5123.04 of the Revised Code if the trustee has 17926
failed to comply with such rules. 17927

(D) To the extent permitted by federal law and subject to the 17928
provisions of division (C)(2) of this section pertaining to the 17929
enforcement of specific instructions or conditions governing a 17930
trustee's discretion, a trust authorized by division (B) of this 17931
section that confers discretion upon the trustee shall not be 17932
considered an asset or resource of the beneficiary, the 17933
beneficiary's estate, the settlor, or the settlor's estate and 17934
shall be exempt from the claims of creditors, political 17935
subdivisions, the state, other governmental entities, and other 17936
claimants against the beneficiary, the beneficiary's estate, the 17937
settlor, or the settlor's estate, including claims based on 17938
provisions of Chapters 5111., 5121., or 5123. of the Revised Code 17939
and claims sought to be satisfied by way of a civil action, 17940
subrogation, execution, garnishment, attachment, judicial sale, or 17941
other legal process, if all of the following apply: 17942

(1) At the time the trust is created, the trust principal 17943
does not exceed the maximum amount determined under division (E) 17944
of this section; 17945

(2) The trust instrument contains a statement of the settlor's intent, or otherwise clearly evidences the settlor's intent, that the beneficiary does not have authority to compel the trustee under any circumstances to furnish the beneficiary with minimal or other maintenance or support, to make payments from the principal of the trust or from the income derived from the principal, or to convert any portion of the principal into cash, whether pursuant to an ascertainable standard specified in the instrument or otherwise;

(3) The trust instrument provides that trust assets can be used only to provide supplemental services, as defined by rule of the director of mental health under section 5119.01 of the Revised Code or the director of mental retardation and developmental disabilities under section 5123.04 of the Revised Code, to the beneficiary;

(4) The trust is maintained and assets are distributed in accordance with rules adopted by the director of mental health under section 5119.01 of the Revised Code or the director of mental retardation and developmental disabilities under section 5123.04 of the Revised Code;

(5) The trust instrument provides that on the death of the beneficiary, a portion of the remaining assets of the trust, which shall be not less than fifty per cent of such assets, will be deposited to the credit of the services fund for individuals with mental illness created by section 5119.17 of the Revised Code or the services fund for individuals with mental retardation and developmental disabilities created by section 5123.40 of the Revised Code.

(E) In 1994, the trust principal maximum amount for a trust created under this section shall be two hundred thousand dollars. The maximum amount for a trust created under this section prior to November 11, 1994, may be increased to two hundred thousand

dollars. 17978

In 1995, the maximum amount for a trust created under this 17979
section shall be two hundred two thousand dollars. Each year 17980
thereafter, the maximum amount shall be the prior year's amount 17981
plus two thousand dollars. 17982

(F) This section does not limit or otherwise affect the 17983
creation, validity, interpretation, or effect of any trust that is 17984
not created under this section. 17985

(G) Once a trustee takes action on a trust created by a 17986
settlor under this section and disburses trust funds on behalf of 17987
the beneficiary of the trust, then the trust may not be terminated 17988
or otherwise revoked by a particular event or otherwise without 17989
payment into the services fund created pursuant to section 5119.17 17990
or 5123.40 of the Revised Code of an amount that is equal to the 17991
disbursements made on behalf of the beneficiary for medical care 17992
by the state from the date the trust vests but that is not more 17993
than fifty per cent of the trust corpus. 17994

Section 2. That existing sections 101.37, 109.57, 109.572, 17995
117.102, 121.36, 121.37, 124.11, 124.23, 124.241, 124.38, 135.801, 17996
135.802, 135.803, 140.03, 140.05, 145.297, 305.14, 307.10, 307.86, 17997
309.10, 319.16, 325.19, 329.06, 1751.01, 1751.02, 2108.521, 17998
2151.421, 3109.18, 3301.07, 3301.52, 3301.53, 3301.55, 3301.57, 17999
3301.58, 3314.022, 3314.99, 3317.01, 3317.02, 3317.024, 3317.03, 18000
3317.032, 3317.05, 3317.051, 3317.052, 3317.07, 3317.15, 3317.20, 18001
3319.22, 3319.99, 3323.01, 3323.02, 3323.021, 3323.03, 3323.04, 18002
3323.05, 3323.09, 3323.091, 3323.12, 3323.141, 3323.142, 3326.99, 18003
3701.93, 3701.932, 3701.933, 4109.06, 4141.29, 4511.21, 4511.75, 18004
5101.35, 5101.46, 5101.611, 5111.151, 5111.871, 5111.872, 18005
5111.873, 5123.033, 5123.04, 5123.042, 5123.043, 5123.044, 18006
5123.046, 5123.047, 5123.048, 5123.049, 5123.0411, 5123.0412, 18007
5123.0413, 5123.0416, 5123.081, 5123.082, 5123.16, 5123.166, 18008

5123.169, 5123.171, 5123.172, 5123.18, 5123.19, 5123.191, 18009
5123.211, 5123.351, 5123.36, 5123.37, 5123.371, 5123.372, 18010
5123.373, 5123.374, 5123.375, 5123.38, 5123.41, 5123.47, 5123.50, 18011
5123.52, 5123.542, 5123.60, 5123.602, 5123.61, 5123.611, 5123.613, 18012
5123.614, 5123.63, 5123.64, 5123.71, 5123.711, 5123.74, 5126.01, 18013
5126.02, 5126.021, 5126.022, 5126.023, 5126.024, 5126.025, 18014
5126.027, 5126.028, 5126.029, 5126.0210, 5126.0211, 5126.0212, 18015
5126.0213, 5126.0214, 5126.0215, 5126.0216, 5126.0217, 5126.0218, 18016
5126.0219, 5126.0220, 5126.0221, 5126.0222, 5126.0223, 5126.0224, 18017
5126.0225, 5126.0226, 5126.0227, 5126.0228, 5126.0229, 5126.03, 18018
5126.031, 5126.032, 5126.033, 5126.034, 5126.037, 5126.038, 18019
5126.04, 5126.041, 5126.042, 5126.044, 5126.045, 5126.046, 18020
5126.05, 5126.051, 5126.052, 5126.054, 5126.055, 5126.056, 18021
5126.058, 5126.059, 5126.0510, 5126.0511, 5126.0512, 5126.06, 18022
5126.07, 5126.071, 5126.08, 5126.081, 5126.082, 5126.09, 5126.10, 18023
5126.11, 5126.12, 5126.121, 5126.13, 5126.14, 5126.15, 5126.18, 18024
5126.19, 5126.20, 5126.201, 5126.21, 5126.22, 5126.221, 5126.23, 18025
5126.24, 5126.25, 5126.252, 5126.253, 5126.254, 5126.26, 5126.27, 18026
5126.28, 5126.281, 5126.29, 5126.30, 5126.31, 5126.311, 5126.313, 18027
5126.33, 5126.331, 5126.333, 5126.34, 5126.36, 5126.41, 5126.42, 18028
5126.43, 5126.45, 5126.46, 5126.47, 5126.49, 5126.50, 5126.54, 18029
5126.55, 5126.57, 5126.58, 5126.59, 5126.61, 5126.62, 5126.99, 18030
5153.16, 5153.99, 5543.011, 5705.091, 5705.14, 5705.191, 5705.222, 18031
5705.28, 5705.44, 5735.142, and 5815.28 of the Revised Code are 18032
hereby repealed. 18033

Section 3. That Sections 269.20.40, 269.20.80, 269.20.90, 18034
269.30.50, 337.30.30, 337.30.40, 337.30.60, and 337.40.30 of Am. 18035
Sub. H.B. 119 of the 127th General Assembly be amended to read as 18036
follows: 18037

Sec. 269.20.40. EDUCATION MANAGEMENT INFORMATION SYSTEM 18038

The foregoing appropriation item 200-446, Education 18039

Management Information System, shall be used by the Department of 18040
Education to improve the Education Management Information System 18041
(EMIS). 18042

Of the foregoing appropriation item 200-446, Education 18043
Management Information System, up to \$1,338,620 in fiscal year 18044
2008 and up to \$1,372,085 in fiscal year 2009 shall be distributed 18045
to designated information technology centers for costs relating to 18046
processing, storing, and transferring data for the effective 18047
operation of the EMIS. These costs may include, but are not 18048
limited to, personnel, hardware, software development, 18049
communications connectivity, professional development, and support 18050
services, and to provide services to participate in the State 18051
Education Technology Plan pursuant to section 3301.07 of the 18052
Revised Code. 18053

Of the foregoing appropriation item 200-446, Education 18054
Management Information System, up to \$8,256,569 in fiscal year 18055
2008 and up to \$8,462,984 in fiscal year 2009 shall be distributed 18056
on a per-pupil basis to school districts, community schools 18057
established under Chapter 3314. of the Revised Code, educational 18058
service centers, joint vocational school districts, and any other 18059
education entity that reports data through EMIS. From this 18060
funding, each school district or community school established 18061
under Chapter 3314. of the Revised Code with enrollment greater 18062
than 100 students and each vocational school district shall 18063
receive a minimum of \$5,000 in each fiscal year. Each school 18064
district or community school established under Chapter 3314. of 18065
the Revised Code with enrollment between one and one hundred and 18066
each educational service center and each county board of ~~MR/DD~~ 18067
developmental disabilities that submits data through EMIS shall 18068
receive \$3,000 in each fiscal year. This subsidy shall be used for 18069
costs relating to reporting, processing, storing, transferring, 18070
and exchanging data necessary to meet requirements of the 18071

Department of Education's data system. 18072

The remainder of appropriation item 200-446, Education 18073
Management Information System, shall be used to develop and 18074
support a common core of data definitions and standards as adopted 18075
by the Education Management Information System Advisory Board, 18076
including the ongoing development and maintenance of the data 18077
dictionary and data warehouse. In addition, such funds shall be 18078
used to support the development and implementation of data 18079
standards and the design, development, and implementation of a new 18080
data exchange system. 18081

Any provider of software meeting the standards approved by 18082
the Education Management Information System Advisory Board shall 18083
be designated as an approved vendor and may enter into contracts 18084
with local school districts, community schools, information 18085
technology centers, or other educational entities for the purpose 18086
of collecting and managing data required under Ohio's education 18087
management information system (EMIS) laws. On an annual basis, the 18088
Department of Education shall convene an advisory group of school 18089
districts, community schools, and other education-related entities 18090
to review the Education Management Information System data 18091
definitions and data format standards. The advisory group shall 18092
recommend changes and enhancements based upon surveys of its 18093
members, education agencies in other states, and current industry 18094
practices, to reflect best practices, align with federal 18095
initiatives, and meet the needs of school districts. 18096

School districts and community schools not implementing a 18097
common and uniform set of data definitions and data format 18098
standards for Education Management Information System purposes 18099
shall have all EMIS funding withheld until they are in compliance. 18100

Sec. 269.20.80. PUPIL TRANSPORTATION 18101

Of the foregoing appropriation item 200-502, Pupil 18102

Transportation, up to \$830,624 in fiscal year 2008 and up to 18103
\$838,930 in fiscal year 2009 may be used by the Department of 18104
Education for training prospective and experienced school bus 18105
drivers in accordance with training programs prescribed by the 18106
Department. Up to \$59,870,514 in fiscal year 2008 and up to 18107
\$60,469,220 in fiscal year 2009 may be used by the Department of 18108
Education for special education transportation reimbursements to 18109
school districts and county ~~MR/DD~~ boards of developmental 18110
disabilities for transportation operating costs as provided in 18111
division (J) of section 3317.024 of the Revised Code. The 18112
remainder of appropriation item 200-502, Pupil Transportation, 18113
shall be used for the state reimbursement of public school 18114
districts' costs in transporting pupils to and from the school 18115
they attend in accordance with the district's policy, State Board 18116
of Education standards, and the Revised Code. 18117

Notwithstanding the distribution formula outlined in division 18118
(D) of section 3317.022 of the Revised Code, each school district 18119
shall receive an additional one per cent in state funding for 18120
transportation in fiscal year 2008 over what was received in 18121
fiscal year 2007, and the local share of transportation costs that 18122
is used in the calculation of the charge-off supplement under 18123
section 3317.0216 of the Revised Code and the excess cost 18124
supplement under division (F) of section 3317.022 of the Revised 18125
Code for each school district in fiscal year 2008 shall be 18126
increased by one per cent from that used in calculations in fiscal 18127
year 2007. 18128

Notwithstanding the distribution formula outlined in division 18129
(D) of section 3317.022 of the Revised Code, each school district 18130
shall receive an additional one per cent in state funding for 18131
transportation in fiscal year 2009 over what was received in 18132
fiscal year 2008, and the local share of transportation costs that 18133
is used in the calculation of the charge-off supplement under 18134

section 3317.0216 of the Revised Code and the excess cost 18135
supplement under division (F) of section 3317.022 of the Revised 18136
Code for each school district in fiscal year 2009 shall be 18137
increased by one per cent from that used in calculations in fiscal 18138
year 2008. 18139

School districts not receiving state funding for 18140
transportation in fiscal year 2005 under division (D) of section 18141
3317.022 of the Revised Code shall not receive state funding for 18142
transportation in fiscal year 2008 or fiscal year 2009. 18143

Sec. 269.20.90. BUS PURCHASE ALLOWANCE 18144

The foregoing appropriation item 200-503, Bus Purchase 18145
Allowance, shall be distributed to school districts, educational 18146
service centers, and county ~~MR/DD~~ boards of developmental 18147
disabilities pursuant to rules adopted under section 3317.07 of 18148
the Revised Code. Up to 28 per cent of the amount appropriated may 18149
be used to reimburse school districts and educational service 18150
centers for the purchase of buses to transport students with 18151
disabilities and nonpublic school students and to county ~~MR/DD~~ 18152
boards of developmental disabilities, the Ohio School for the 18153
Deaf, and the Ohio School for the Blind for the purchase of buses 18154
to transport students with disabilities. 18155

SCHOOL LUNCH MATCH 18156

The foregoing appropriation item 200-505, School Lunch Match, 18157
shall be used to provide matching funds to obtain federal funds 18158
for the school lunch program. 18159

Sec. 269.30.50. SPECIAL EDUCATION ENHANCEMENTS 18160

Of the foregoing appropriation item 200-540, Special 18161
Education Enhancements, up to \$2,906,875 in each fiscal year shall 18162
be used for home instruction for children with disabilities; up to 18163
\$1,462,500 in each fiscal year shall be used for parent mentoring 18164

programs; and up to \$2,783,396 in each fiscal year may be used for 18165
school psychology interns. 18166

Of the foregoing appropriation item 200-540, Special 18167
Education Enhancements, \$750,000 in each fiscal year shall be used 18168
for the Out of School Initiative of Sinclair Community College. 18169

Of the foregoing appropriation item 200-540, Special 18170
Education Enhancements, \$200,000 shall be used for a preschool 18171
special education pilot program in Bowling Green City School 18172
District. 18173

Of the foregoing appropriation item 200-540, Special 18174
Education Enhancements, \$200,000 in each fiscal year shall be used 18175
to support the Bellefaire Jewish Children's Bureau. 18176

Of the foregoing appropriation item 200-540, Special 18177
Education Enhancements, up to \$82,707,558 in fiscal year 2008 and 18178
up to \$83,371,505 in fiscal year 2009 shall be distributed by the 18179
Department of Education to county boards of ~~mental retardation and~~ 18180
developmental disabilities, educational service centers, and 18181
school districts for preschool special education units and 18182
preschool supervisory units under section 3317.052 of the Revised 18183
Code. To the greatest extent possible, the Department of Education 18184
shall allocate these units to school districts and educational 18185
service centers. 18186

The Department may reimburse county ~~MR/DD~~ boards of 18187
developmental disabilities, educational service centers, and 18188
school districts for services provided by instructional 18189
assistants, related services as defined in rule 3301-51-11 of the 18190
Administrative Code, physical therapy services provided by a 18191
licensed physical therapist or physical therapist assistant under 18192
the supervision of a licensed physical therapist as required under 18193
Chapter 4755. of the Revised Code and Chapter 4755-27 of the 18194
Administrative Code and occupational therapy services provided by 18195

a licensed occupational therapist or occupational therapy 18196
assistant under the supervision of a licensed occupational 18197
therapist as required under Chapter 4755. of the Revised Code and 18198
Chapter 4755-7 of the Administrative Code. Nothing in this section 18199
authorizes occupational therapy assistants or physical therapist 18200
assistants to generate or manage their own caseloads. 18201

18202

The Department of Education shall require school districts, 18203
educational service centers, and county ~~MR/DD~~ boards of 18204
developmental disabilities serving preschool children with 18205
disabilities to document child progress using research-based 18206
indicators prescribed by the Department and report results 18207
annually. The reporting dates and method shall be determined by 18208
the Department. 18209

Of the foregoing appropriation item 200-540, Special 18210
Education Enhancements, \$650,000 in each fiscal year shall be used 18211
for the Collaborative Language and Literacy Instruction Project. 18212

18213

Of the foregoing appropriation item 200-540, Special 18214
Education Enhancements, \$325,000 in each fiscal year shall be used 18215
by the Ohio Center for Autism and Low Incidence to contract with 18216
the Delaware-Union Educational Service Center for the provision of 18217
autism transition services. 18218

Of the foregoing appropriation item 200-540, Special 18219
Education Enhancements, \$75,000 in each fiscal year shall be used 18220
for Leaf Lake/Geauga Educational Assistance Funding. 18221

Of the foregoing appropriation item 200-540, Special 18222
Education Enhancements, \$650,000 in each fiscal year shall be used 18223
to support Project More for one-to-one reading mentoring. 18224

The remainder of appropriation item 200-540, Special 18225
Education Enhancements, shall be used to fund special education 18226

and related services at county boards of ~~mental retardation and~~ 18227
developmental disabilities for eligible students under section 18228
3317.20 of the Revised Code and at institutions for eligible 18229
students under section 3317.201 of the Revised Code. 18230

Sec. 337.30.30. MEDICAID WAIVER - STATE MATCH (GRF) 18231

Except as otherwise provided in section 5123.0416 of the 18232
Revised Code, the purposes for which the foregoing appropriation 18233
item 322-416, Medicaid Waiver - State Match, shall be used include 18234
the following: 18235

(A) Home and community-based waiver services under Title XIX 18236
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 18237
as amended. 18238

(B) To pay the nonfederal share of the cost of one or more 18239
new intermediate care facility for the mentally retarded certified 18240
beds, if the Director of Mental Retardation and Developmental 18241
Disabilities is required by ~~this act~~ Am. Sub. H.B. 119 of the 18242
127th General Assembly to transfer to the Director of Job and 18243
Family Services funds to pay such nonfederal share. 18244

Except as otherwise provided in section 5123.0416 of the 18245
Revised Code, the Department of Mental Retardation and 18246
Developmental Disabilities may designate a portion of 18247
appropriation item 322-416, Medicaid Waiver - State Match, to 18248
county boards of ~~mental retardation and~~ developmental disabilities 18249
that have greater need for various residential and support 18250
services because of a low percentage of residential and support 18251
services development in comparison to the number of individuals 18252
with mental retardation or developmental disabilities in the 18253
county. 18254

Sec. 337.30.40. STATE SUBSIDY TO COUNTY ~~MR/DD~~ BOARDS OF 18255
DEVELOPMENTAL DISABILITIES 18256

Except as otherwise provided in Section 337.40.30 of ~~this act~~ 18257
Am. Sub. H.B. 119 of the 127th General Assembly, the Department of 18258
Mental Retardation and Developmental Disabilities shall use the 18259
foregoing appropriation item 322-501, County Boards Subsidy, to 18260
pay each county board of ~~mental retardation and~~ developmental 18261
disabilities in each fiscal year of the biennium an amount that is 18262
equal to the amount such board received in fiscal year 2007 from 18263
former appropriation items 322-417, Supported Living; 322-452, 18264
Service and Support Administration; and 322-501, County Boards 18265
Subsidies. 18266

Except as otherwise provided in section 5126.0511 of the 18267
Revised Code, county boards shall use the subsidy for early 18268
childhood services and adult services provided under section 18269
5126.05 of the Revised Code, service and support administration 18270
provided under section 5126.15 of the Revised Code, and supported 18271
living as defined in section 5126.01 of the Revised Code. 18272

In the event that the appropriation in appropriation item 18273
322-501, County Board Subsidy, for fiscal year 2008 or fiscal year 18274
2009 is greater than the subsidy paid by the Department for fiscal 18275
year 2007 from former appropriation items 332-417, Supported 18276
Living; 322-452, Services and Support Administration; and 322-501, 18277
County Boards Subsidies, the Department and county boards shall 18278
develop a formula for allocating the additional appropriation to 18279
each county board to support priorities determined by the 18280
Department and county boards. 18281

The Department shall distribute this subsidy to county boards 18282
in quarterly installments of equal amounts. The installments shall 18283
be made not later than the thirtieth day of September, the 18284
thirty-first day of December, the thirty-first day of March, and 18285
thirtieth day of June. 18286

The Department also may use the foregoing appropriation item 18287
322-501, County Boards Subsidy, to pay the nonfederal share of the 18288

cost of one or more new intermediate care facility for the 18289
mentally retarded certified beds, if the Director of Mental 18290
Retardation and Developmental Disabilities is required by ~~this act~~ 18291
Am. Sub. H.B. 119 of the 127th General Assembly to transfer to the 18292
Director of Job and Family Services funds to pay such nonfederal 18293
share. 18294

Sec. 337.30.60. TARGETED CASE MANAGEMENT SERVICES 18295

County boards of ~~mental retardation and~~ developmental 18296
disabilities shall pay the nonfederal portion of targeted case 18297
management costs to the Department of Mental Retardation and 18298
Developmental Disabilities. The Director of Mental Retardation and 18299
Developmental Disabilities shall withhold any amount owed to the 18300
Department from subsequent disbursements from any appropriation 18301
item or money otherwise due to a nonpaying county. 18302

The Departments of Mental Retardation and Developmental 18303
Disabilities and Job and Family Services may enter into an 18304
interagency agreement under which the Department of Mental 18305
Retardation and Developmental Disabilities shall pay the 18306
Department of Job and Family Services the nonfederal portion of 18307
the cost of targeted case management services paid by county 18308
boards and the Department of Job and Family Services shall pay the 18309
total cost of targeted case management claims. 18310

Sec. 337.40.30. NONFEDERAL SHARE OF NEW ICF/MR BEDS 18311

(A) As used in this section, "intermediate care facility for 18312
the mentally retarded" has the same meaning as in section 5111.20 18313
of the Revised Code. 18314

(B) If one or more new beds obtain certification as an 18315
intermediate care facility for the mentally retarded bed on or 18316
after July 1, 2007, the Director of Mental Retardation and 18317
Developmental Disabilities shall transfer funds to the Department 18318

of Job and Family Services to pay the nonfederal share of the cost 18319
under the Medicaid Program for those beds. Except as otherwise 18320
provided in section 5123.0416 of the Revised Code, the Director 18321
shall use only the following funds for the transfer: 18322

(1) Funds appropriated to the Department of Mental 18323
Retardation and Developmental Disabilities in appropriation item 18324
322-416, Medicaid Waiver - State Match; 18325

(2) Funds appropriated to the Department in appropriation 18326
item 322-501, County Boards Subsidies. 18327

(C) If the beds are located in a county served by a county 18328
board of ~~mental retardation and~~ developmental disabilities that 18329
initiates or supports the beds' certification, the funds that the 18330
Director transfers under division (B) of this section shall be 18331
funds that the Director has allocated to the county board serving 18332
the county in which the beds are located unless the amount of the 18333
allocation is insufficient to pay the entire nonfederal share of 18334
the cost under the Medicaid Program for those beds. If the 18335
allocation is insufficient, the Director shall use as much of such 18336
funds allocated to other counties as is needed to make up the 18337
difference. 18338

Section 4. That existing Sections 269.20.40, 269.20.80, 18339
269.20.90, 269.30.50, 337.30.30, 337.30.40, 337.30.60, and 18340
337.40.30 of Am. Sub. H.B. 119 of the 127th General Assembly are 18341
hereby repealed. 18342

Section 5. That Section 337.30.43 of Am. Sub. H.B. 119 of the 18343
127th General Assembly, as amended by Am. Sub. H.B. 562 of the 18344
127th General Assembly, be amended to read as follows: 18345

Sec. 337.30.43. TAX EQUITY 18346

Notwithstanding section 5126.18 of the Revised Code, for 18347

fiscal year 2009, if the Department of Mental Retardation and 18348
Developmental Disabilities determines that sufficient funds are 18349
available, the Department shall use the foregoing appropriation 18350
item 322-503, Tax Equity, to pay each county board of ~~mental~~ 18351
~~retardation and~~ developmental disabilities an amount that is equal 18352
to the amount the board received for fiscal year 2008. If the 18353
Department determines that there are not sufficient funds 18354
available in the appropriation item for this purpose, the 18355
Department shall pay to each county board an amount that is 18356
proportionate to the amount the board received for fiscal year 18357
2008. Proportionality shall be determined by dividing the total 18358
tax equity payments distributed to county boards for fiscal year 18359
2008 by the tax equity payment a county board received for fiscal 18360
year 2008. 18361

Section 6. That existing Section 337.30.43 of Am. Sub. H.B. 18362
119 of the 127th General Assembly, as amended by Am. Sub. H.B. 562 18363
of the 127th General Assembly, is hereby repealed. 18364

Section 7. That Section 201.60.30 of H.B. 496 of the 127th 18365
General Assembly be amended to read as follows: 18366

Reappropriations

Sec. 201.60.30. DMR DEPARTMENT OF MENTAL RETARDATION AND 18367
DEVELOPMENTAL DISABILITIES 18368

STATEWIDE PROJECTS 18369

C59000	Asbestos Abatement	\$	999,637	18370
C59004	Community Assistance Projects	\$	1,202,040	18371
C59019	North Olmsted Welcome House	\$	100,000	18372
C59020	Kamp Dovetail Project at Rocky Fork Lake	\$	100,000	18373
	State Park			
C59022	Razing of Buildings	\$	80,595	18374
C59024	Telecommunications Systems Improvement	\$	774,454	18375

C59029	Emergency Generator Replacement	\$	1,049,606	18376
C59034	Statewide Developmental Centers	\$	5,479,662	18377
C59050	Emergency Improvements	\$	634,970	18378
Total Statewide and Central Office Projects		\$	10,420,964	18379

COMMUNITY ASSISTANCE PROJECTS 18380

The foregoing appropriation item C59004, Community Assistance 18381
 Projects, may be used to provide community assistance funds for 18382
 the construction or renovation of facilities for day programs or 18383
 residential programs that provide services to persons eligible for 18384
 services from the Department of Mental Retardation and 18385
 Developmental Disabilities or county boards of ~~mental retardation~~ 18386
~~and~~ developmental disabilities. Any funds provided to nonprofit 18387
 agencies for the construction or renovation of facilities for 18388
 persons eligible for services from the Department of Mental 18389
 Retardation and Developmental Disabilities and county boards of 18390
~~mental retardation and~~ developmental disabilities are subject to 18391
 the prevailing wage provisions in section 176.05 of the Revised 18392
 Code. 18393

Notwithstanding any other provision of law to the contrary, 18394
 of the foregoing appropriation item C59004, Community Assistance 18395
 Projects, \$75,000 shall be used for the Hanson Home. 18396

STATEWIDE DEVELOPMENTAL CENTERS 18397

CAMBRIDGE DEVELOPMENTAL CENTER 18398

C59005	Residential Renovations - CAMDC	\$	41,398	18399
C59023	HVAC Renovations - Residential Buildings	\$	1,000	18400
C59025	Cambridge HVAC Upgrade - Activity Center	\$	3,538	18401
C59046	Utility Upgrade Centerwide	\$	5,960	18402
Total Cambridge Developmental Center		\$	51,896	18403

COLUMBUS DEVELOPMENTAL CENTER 18404

C59036	Columbus Developmental Center	\$	8,162	18405
Total Columbus Developmental Center		\$	8,162	18406

GALLIPOLIS DEVELOPMENTAL CENTER 18407

C59027	HVAC Replacements	\$	4,873	18408
C59037	Gallipolis Developmental Center	\$	21,849	18409
Total Gallipolis Developmental Center		\$	26,722	18410
MONTGOMERY DEVELOPMENTAL CENTER				18411
C59038	Montgomery Developmental Center	\$	43,634	18412
Total Montgomery Developmental Center		\$	43,634	18413
MOUNT VERNON DEVELOPMENTAL CENTER				18414
C59039	Mount Vernon Developmental Center	\$	160,353	18415
Total Mount Vernon Developmental Center		\$	160,353	18416
NORTHWEST OHIO DEVELOPMENTAL CENTER				18417
C59030	Replace Chiller	\$	8,535	18418
C59040	Northwest Ohio Developmental Center	\$	11,171	18419
Total Northwest Ohio Developmental Center		\$	19,706	18420
SOUTHWEST OHIO DEVELOPMENTAL CENTER				18421
C59016	Residential Renovation - HVAC Upgrade	\$	23,075	18422
C59041	Southwest Ohio Developmental Center	\$	14,566	18423
C59048	Renovation Program and Support Services Building	\$	3,900	18424
Total Southwest Ohio Developmental Center		\$	41,541	18425
TIFFIN DEVELOPMENTAL CENTER				18426
C59026	Roof and Exterior Renovations	\$	19,666	18427
C59043	Tiffin Developmental Center	\$	20,696	18428
Total Tiffin Developmental Center		\$	40,362	18429
WARRENSVILLE DEVELOPMENTAL CENTER				18430
C59017	Residential Renovations - WDC	\$	5,057	18431
C59021	Water Line Replacement - WDC	\$	16,267	18432
C59031	ADA Compliance - WDC	\$	3,628	18433
C59044	Warrensville Developmental Center	\$	29,860	18434
Total Warrensville Developmental Center		\$	54,812	18435
YOUNGSTOWN DEVELOPMENTAL CENTER				18436
C59045	Youngstown Developmental Center	\$	24,400	18437
Total Youngstown Developmental Center		\$	24,400	18438
TOTAL Department of Mental Retardation				18439

and Developmental Disabilities	\$	10,892,552	18440
TOTAL Mental Health Facilities Improvement Fund	\$	43,684,415	18441

Section 8. That existing Section 201.60.30 of H.B. 496 of the	18443
127th General Assembly is hereby repealed.	18444

Section 9. That Section 231.20.30 of Am. Sub. H.B. 562 of the	18445
127th General Assembly be amended to read as follows:	18446

Appropriations

Sec. 231.20.30. DMR DEPARTMENT OF MENTAL RETARDATION AND	18447
DEVELOPMENTAL DISABILITIES	18448

STATEWIDE AND CENTRAL OFFICE PROJECTS 18449

C59004	Community Assistance Projects	\$	13,301,537	18450
C59022	Razing of Buildings	\$	200,000	18451
C59024	Telecommunications	\$	400,000	18452
C59029	Generator Replacement	\$	1,000,000	18453
C59034	Statewide Developmental Centers	\$	4,294,237	18454
C59050	Emergency Improvements	\$	500,000	18455
C59051	Energy Conservation	\$	500,000	18456
C59052	Guernsey County MRDD Boiler Replacement	\$	275,000	18457
C59053	Magnolia Clubhouse	\$	250,000	18458
C59054	Recreation Unlimited Life Center - Delaware	\$	150,000	18459
C59055	Camp McKinley Improvements	\$	30,000	18460
C59056	The Hope Learning Center	\$	250,000	18461
C59057	North Olmstead Welcome House	\$	150,000	18462
Total Statewide and Central Office Projects		\$	21,300,774	18463
TOTAL Department of Mental Retardation and Developmental Disabilities		\$	21,300,774	18464

TOTAL Mental Health Facilities Improvement Fund	\$	127,330,774	18465
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COMMUNITY ASSISTANCE PROJECTS	18466
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The foregoing appropriation item C59004, Community Assistance	18467
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Projects, may be used to provide community assistance funds for 18468
the development, purchase, construction, or renovation of 18469
facilities for day programs or residential programs that provide 18470
services to persons eligible for services from the Department of 18471
Mental Retardation and Developmental Disabilities or county boards 18472
of ~~mental retardation and~~ developmental disabilities. Any funds 18473
provided to nonprofit agencies for the construction or renovation 18474
of facilities for persons eligible for services from the 18475
Department of Mental Retardation and Developmental Disabilities 18476
and county boards of ~~mental retardation and~~ developmental 18477
disabilities shall be governed by the prevailing wage provisions 18478
in section 176.05 of the Revised Code. 18479

Section 10. That existing Section 231.20.30 of Am. Sub. H.B. 18480
562 of the 127th General Assembly is hereby repealed. 18481

Section 11. The General Assembly, applying the principle 18482
stated in division (B) of section 1.52 of the Revised Code that 18483
amendments are to be harmonized if reasonably capable of 18484
simultaneous operation, finds that the following sections, 18485
presented in this act as composites of the sections as amended by 18486
the acts indicated, are the resulting versions of the sections in 18487
effect prior to the effective date of the sections as presented in 18488
this act: 18489

Section 109.57 of the Revised Code as amended by both Sub. 18490
H.B. 428 and Sub. S.B. 163 of the 127th General Assembly. 18491

Section 109.572 of the Revised Code as amended by Sub. H.B. 18492
195, Sub. H.B. 545, and Sub. S.B. 247, all of the 127th General 18493
Assembly. 18494

Section 121.37 of the Revised Code as amended by both Sub. 18495
H.B. 289 and Am. Sub. H.B. 530 of the 126th General Assembly. 18496

Section 325.19 of the Revised Code as amended by both Sub. 18497

H.B. 187 and Sub. S.B. 126 of the 126th General Assembly.	18498
Section 1751.01 of the Revised Code as amended by both Am.	18499
Sub. H.B. 562 and Sub. S.B. 186 of the 127th General Assembly.	18500
Section 2151.421 of the Revised Code as amended by both Am.	18501
H.B. 314 and Sub. S.B. 163 of the 127th General Assembly.	18502
Section 3109.18 of the Revised Code as amended by both Am.	18503
Sub. H.B. 11 and Sub. S.B. 66 of the 125th General Assembly.	18504
Section 5126.04 of the Revised Code as amended by both Am.	18505
Sub. H.B. 119 and Am. Sub. H.B. 214 of the 127th General Assembly.	18506