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Senator Spada

**Cosponsors: Senators Gardner, Clancy, Schuler, Amstutz, Padgett,
Miller, D., Smith, Cafaro, Schaffer, Austria, Bocchieri, Carey, Fedor, Goodman,
Harris, Kearney, Mason, Miller, R., Morano, Mumper, Sawyer, Wilson,
Roberts**

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A B I L L

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

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

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

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

intended:	17
(A) "Person" includes a private corporation.	18
(B) "Writing" includes printing.	19
(C) "Oath" includes affirmation.	20
(D) "Insane" and "lunatic" include every species of mental derangement.	21 22
(E) "Property" includes real, personal, and mixed estates and interests.	23 24
(F) (E) "Land" and "real estate" include rights and easements of an incorporeal nature.	25 26
(G) (F) "Plan of sewerage," "system of sewerage," "sewer," and "sewers" include sewers, sewage disposal works and treatment plants, and sewage pumping stations, together with facilities and appurtenances necessary and proper therefor.	27 28 29 30
This enumeration does not require a strict construction of any other words in such title.	31 32
Sec. 711.23. <u>If As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide.</u>	33 34 35 36 37 38 39
<u>If</u> the court of common pleas is of the opinion that any person owning a lot in a plat, addition, or part thereof proposed to be vacated or altered, and not assenting to such vacation or alteration, will sustain damage thereby, it may proceed to hear proof in reference thereto, and may render judgment against the petitioners for such damages as it thinks proper and just, to be	40 41 42 43 44 45

assessed ratably against the petitioners by the court, according 46
to the value of the property owned by the petitioners as it stands 47
taxed on the tax list of the county. When necessary, the court 48
shall appoint a guardian ad litem for all minors, or incompetent 49
persons ~~of insane mind~~, interested in the premises. The judgment 50
of the court vacating such plat, addition, or parts thereof, shall 51
be conditioned upon the payment of the damages thus assessed. 52

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

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

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

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

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

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

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

(6) Other circumstances render a dissolution equitable.	76
(B) On the application of the purchaser of a partner's interest under section 1775.26 or 1775.27 of the Revised Code, the court shall decree a dissolution:	77 78 79
(1) After the termination of the specified term or particular undertaking;	80 81
(2) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.	82 83 84
Sec. 2111.37. When a nonresident minor, incompetent, habitual drunkard, idiot, imbecile, lunatic, or person confined in a state, charitable, or correctional institution has real estate, chattels, rights, credits, or moneys in this state, the probate court of the county in which the property or a part of it is situated may appoint a resident guardian of the ward to manage, collect, lease, and take care of his <u>the ward's</u> property. The appointment may be made whether or not a ward has a guardian, trustee, or other conservator in the state of his <u>the ward's</u> residence, and, if he <u>the ward</u> has a guardian, trustee, or other conservator in the state of his <u>the ward's</u> residence, the control and authority of the resident guardian appointed in Ohio shall be superior as to all property of the ward in Ohio.	85 86 87 88 89 90 91 92 93 94 95 96 97
The first appointment of a resident guardian of a nonresident ward shall extend to all the property and effects of the ward in this state and exclude the jurisdiction of the probate court of any other county.	98 99 100 101
Sec. 2111.47. Upon reasonable notice to the guardian, to the ward, and to the person on whose application the appointment was made, and upon satisfactory proof that the necessity for the guardianship no longer exists or that the letters of appointment	102 103 104 105

were improperly issued, the probate court shall order that the guardianship of an incompetent terminate and shall make an appropriate entry upon the journal. Thereupon the guardianship shall cease, the accounts of the guardian shall be settled by the court, and the ward shall be restored to the full control of ~~his~~ the ward's property as before the appointment. Such entry terminating the guardianship of an ~~insane~~ incompetent person shall have the same effect as a determination by the court that such person is ~~restored to sanity~~ competent.

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

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

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

"Client" means a person, firm, partnership, corporation, or other association that, directly or through any representative, consults an attorney for the purpose of retaining the attorney or securing legal service or advice from ~~him~~ the attorney in ~~his~~ the

attorney's professional capacity, or consults an attorney employee 136
for legal service or advice, and who communicates, either directly 137
or through an agent, employee, or other representative, with such 138
attorney; and includes an incompetent person whose guardian so 139
consults the attorney in behalf of the incompetent person. 140

Where a corporation or association is a client having the 141
privilege and it has been dissolved, the privilege shall extend to 142
the last board of directors, their successors or assigns, or to 143
the trustees, their successors or assigns. 144

This section shall be construed as in addition to, and not in 145
limitation of, other laws affording protection to communications 146
under the attorney-client privilege. 147

(B) As used in this section and in sections 2317.02 and 148
2317.03 of the Revised Code, "incompetent" or "incompetent person" 149
means a person who is so mentally impaired as a result of a mental 150
or physical illness or disability, or mental retardation, or as a 151
result of chronic substance abuse, that the person is incapable of 152
taking proper care of the person's self or property or fails to 153
provide for the person's family or other persons for whom the 154
person is charged by law to provide. 155

Sec. 2317.03. A party shall not testify when the adverse 156
party is the guardian or trustee of ~~either a deaf and dumb or an 157~~
~~insane~~ an incompetent person, or of a child of a deceased person, 158
or is an executor or administrator, or claims or defends as heir, 159
grantee, assignee, devisee, or legatee of a deceased person 160
except: 161

(A) As to facts which occurred after the appointment of the 162
guardian or trustee of an ~~insane~~ incompetent person, and, in the 163
other cases, after the time the decedent, grantor, assignor, or 164
testator died; 165

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

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

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

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

(F) If the claim or defense is founded on a book account, a party may testify that the book is ~~his~~ the party's account book, that it is a book of original entries, that the entries therein were made in the regular course of business by ~~himself~~ the party personally, a person since deceased, or a disinterested person,

and the book is then competent evidence in any case, without 198
regard to the parties, upon like proof by any competent witness; 199

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

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

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

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

(B)(1) If it is necessary in a civil action before the court 227
to procure the testimony of a person who is imprisoned in a 228

workhouse, juvenile detention facility, jail, or state 229
correctional institution within this state, or who is in the 230
custody of the department of youth services, the court shall 231
require that the person's testimony be taken by deposition 232
pursuant to the Civil Rules at the place of the person's 233
confinement, unless the court determines that the interests of 234
justice demand that the person be brought before the court for the 235
presentation of ~~his~~ the person's testimony. 236

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

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

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

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

Any person interested as or through an executor, 258
administrator, trustee, guardian, or other fiduciary, creditor, 259

devisee, legatee, heir, next of kin, or cestui que trust, in the 260
administration of a trust, or of the estate of a decedent, an 261
infant, ~~lunatic~~ an incompetent person, or an insolvent person, may 262
have a declaration of rights or legal relations in respect thereto 263
in any of the following cases: 264

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

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

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

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

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

for gaming purposes and to become liable on account thereof, shall 291
be liable to ~~his~~ the guardian's or trustee's ward for such amount. 292

Sec. 4303.272. ~~Any~~ As used in this section, "incompetent 293
person" means a person who is so mentally impaired as a result of 294
a mental or physical illness or disability, or mental retardation, 295
or as a result of chronic substance abuse, that the person is 296
incapable of taking proper care of the person's self or property 297
or fails to provide for the person's family or other persons for 298
whom the person is charged by law to provide. 299

Any permit holder whose permit premises are destroyed or made 300
unusable for any cause, or whose tenancy is terminated for any 301
cause, shall deliver the permit holder's permit to the division of 302
liquor control for safekeeping until such time as the original 303
permit premises are made available for occupancy or new premises 304
are secured by the permit holder or until new premises are secured 305
by the permit holder outside the precinct affected by a local 306
option election. 307

Unless the permit is to be cancelled as the result of a local 308
option election held pursuant to section 4301.352 of the Revised 309
Code, a permit holder whose permit is to be restricted or 310
cancelled as the result of a local option election pursuant to 311
sections 4301.32 to 4301.41 and 4305.14 of the Revised Code may, 312
within the thirty-day period after the certification of the 313
results of the election to the division, deliver the permit to the 314
division for safekeeping subject to the renewal and transfer 315
provision of this section. A permit holder whose permit is to be 316
cancelled as the result of a local option election held pursuant 317
to section 4301.352 of the Revised Code is not entitled to deliver 318
the permit to the division for safekeeping. 319

If, as the result of the election, the use of a permit is 320
made wholly unlawful and the permit holder does not deliver or is 321

not entitled to deliver the permit to the division for safekeeping 322
as provided in this section, the division shall forthwith cancel 323
and pick up the permit. 324

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

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

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

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

A permit held in safekeeping shall not be renewed more than 350
once while so held, unless the building from which the permit was 351
taken for safekeeping or the building to which the permit is to be 352

transferred is under construction or reconstruction, in which 353
event the permit shall be held in safekeeping and shall, upon the 354
application of the permit holder, be renewed at each expiration 355
date until the construction or reconstruction of the building is 356
completed. 357

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

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

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

Sec. 4971.16. ~~Persons~~ As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide. 383
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Persons in interest who fail to become parties to the agreement within the four-month period referred to in section 4971.14 of the Revised Code are entitled to the same rights, interest, estate, remedy, liens, and action, and none other, which parties in interest of like class and amount who signed the agreement obtained by and under it. If a person in interest fails for six years after the publication of the notice mentioned in such section to apply at the principal office of the company, either in person or by proxy, to become a party in interest in the agreement, such person, unless an infant or ~~insane~~ incompetent person, shall be barred of all interest, claim, right, or action under the agreement or otherwise. In case of such disability such rights shall be extended for two years after the termination of the disability. 390
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Sec. 5301.22. ~~No~~ As used in this section, "incompetent person" means a person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide. 404
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No agreement described in section 5301.21 of the Revised Code shall be executed by a minor, ~~idiot, lunatic, or insane~~ incompetent person, but it may be executed and delivered for 411
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record, on ~~his~~ such a person's behalf, by ~~his~~ the person's 414
guardian. When executed, acknowledged, delivered for record, and 415
recorded, such agreement shall be as effectual against such minor, 416
~~idiot, lunatic,~~ or ~~insane~~ incompetent person, as if ~~he~~ the person 417
had been under no disability, and had performed such acts ~~himself~~ 418
personally. An owner, not under any of such disabilities, may 419
perform all such acts by an attorney in fact. The power of such 420
attorney must be in writing and first recorded in the county 421
recorder's office. 422

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

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

Sec. 5305.18. A person owning real property in this state, 440
encumbered by the contingent or vested right of dower of an ~~insane~~ 441
incompetent person, may apply, by petition to the court of common 442
pleas of the county in which the real estate, or any part thereof, 443
is situated, making defendants thereto such ~~insane~~ incompetent 444

person, and the spouse and guardian, if such ~~insane~~ incompetent 445
person has either or both, for leave to sell any part of such real 446
property, discharged and unencumbered of such contingent or vested 447
right of dower. The petition must set forth the ~~insanity~~ grounds 448
for the incompetency of the person, together with a description of 449
the land proposed to be sold. Thereupon the court shall appoint a 450
committee of six competent ~~men~~ individuals, of whom at least three 451
are physicians, who, under oath, shall inquire into the ~~insanity~~ 452
competence of such person, and hear testimony to be produced by 453
the spouse or guardian, or, if there is no such guardian, by a 454
guardian ad litem to be appointed in the action. The committee 455
shall make a report, in writing, of the result of its 456
investigation, signed by its members. 457

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

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

petitioner to invest an amount by it fixed, in the stock of a 476
company, or stocks created by the laws of this state, as the court 477
designates, the profits, and dividends or distributions, arising 478
from such investment to be applied to the support and maintenance 479
of the ~~insane~~ incompetent person after the death of the spouse of 480
such person. The petitioner, upon ~~his~~ compliance with the order of 481
the court, may sell all the real property ~~he~~ the petitioner is 482
possessed of, described in the petition, free and unencumbered of 483
the contingent or vested right of dower of such ~~insane~~ incompetent 484
person. 485

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

thereof. Upon compliance by the petitioner with the order made, 508
the court shall enter a judgment releasing and discharging the 509
real estate from the encumbrance of such right of dower, and 510
adjudge the holder of the legal title, or other party liable, to 511
pay to the petitioner any sum withheld or retained as indemnity 512
against such dower right. 513

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

Sec. 5307.19. The As used in this section and section 5307.20 535
of the Revised Code, "incompetent person" means a person who is so 536
mentally impaired as a result of a mental or physical illness or 537
disability, or mental retardation, or as a result of chronic 538

substance abuse, that the person is incapable of taking proper 539
care of the person's self or property or fails to provide for the 540
person's family or other persons for whom the person is charged by 541
law to provide. 542

The guardian of a minor, ~~idiot, imbecile, or insane~~ 543
incompetent person, on behalf of ~~his~~ the guardian's ward, may 544
perform any act, matter, or thing respecting the partition of an 545
estate which such ward could do under sections 5307.01 to 5307.25~~7~~, 546
~~inclusive,~~ of the Revised Code, if ~~he~~ the ward were of age and of 547
sound mind. On behalf of such ward, the guardian may elect to take 548
the estate, when it cannot be divided without injury, and make 549
payments therefor on the ward's behalf. 550

Sec. 5307.20. A person appointed according to the laws of any 551
other state or country~~7~~, to take charge of the estate of an ~~idiot~~ 552
~~or insane~~ incompetent person not a resident of this state, upon 553
being authorized in this state to take charge of such estate 554
situated therein, may act in the partition of the estate the same 555
as the guardian of an ~~idiot or insane~~ incompetent person is 556
authorized to do by section 5307.19 of the Revised Code. 557

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

No action or proceeding for compensation from the assurance 565
fund provided for in section 5310.05 of the Revised Code for, or 566
by reason of, any deprivation, loss, or damage shall be made, 567
brought or taken, except within a period of six years from the 568

time when the right to bring such action or proceeding first 569
accrued. If at the time when such right of action first accrues 570
the person entitled to bring such action or take such proceedings 571
is within the age of eighteen years, ~~insane~~ an incompetent person, 572
imprisoned, or absent from the United States in the service of the 573
United States or of this state, such person or anyone claiming 574
from, by, or under ~~him~~ the person, may bring the action at any 575
time within two years after such disability is removed. 576

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

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

All taxable property belonging to the persons named or 599

indicated shall be returned by the fiduciaries named, as follows: 600

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

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

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

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

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

All the taxable property, except investments and other 629
taxable intangible property yielding income, of a person for whose 630

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

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

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

Sec. 5711.07. Personal property used in business shall be listed and assessed in the taxing district in which such business is carried on. If such business is carried on in more than one taxing district in the same county, the return shall set forth the amount of the property used therein which is situated in each taxing district in such county, and the value of all the personal property used in business shall be apportioned to and assessed in each of such taxing districts in proportion to the value of the personal property situated therein. Domestic animals not used in business shall be listed and assessed in the taxing district where kept. Ships, vessels, boats, and aircraft, and shares and interests therein, shall be listed and assessed in the taxing

district in which the owner resides. All other taxable property 662
shall be listed and assessed in the municipal corporation in which 663
the owner resides, or, if the owner resides outside a municipal 664
corporation, then in the county in which ~~he~~ the owner resides 665
except as provided in sections 5711.01 to 5711.36, inclusive, of 666
the Revised Code. Whenever, under such sections, taxable property 667
required by this section to be listed and assessed in the taxing 668
district or county in which the owner resides is required to be 669
listed by a fiduciary, such property shall be listed and assessed 670
by such fiduciary in the taxing district or county in which such 671
fiduciary resides, or, in the case of joint fiduciaries, in which 672
either such fiduciary resides; but such property belonging to the 673
estate of a deceased resident of this state shall be listed and 674
assessed in the taxing district or county in which ~~he~~ the deceased 675
resident resided at the time of ~~his~~ death, regardless of the 676
residence of ~~his~~ the deceased resident's executors, 677
administrators, or personal representatives, and such property 678
belonging to a ward, minor, ~~insane~~ incompetent person, or 679
beneficiary of a trust residing in this state, title, custody, or 680
possession of which is vested in a nonresident fiduciary, shall be 681
listed and assessed in the taxing district or county in which such 682
ward, minor, ~~insane~~ incompetent person, or beneficiary resides. 683

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

Sec. 5907.08. When a resident of a veterans' home becomes 691
~~insane~~ dangerous to the community due to a mental illness, the 692

superintendent of the Ohio veterans' home agency shall file with 693
the probate judge of the county in which the home is located 694
substantially the following affidavit: 695

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

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

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

Section 3. The General Assembly declares its intent that the 721
amendments made by this act to sections 701.01, 711.23, 1775.31, 722

2111.37, 2111.47, 2307.14, 2317.021, 2317.03, 2317.06, 2721.05, 723
3763.06, 4303.272, 4399.05, 4971.16, 5301.22, 5305.17, 5305.18, 724
5305.19, 5305.20, 5305.21, 5305.22, 5307.19, 5307.20, 5310.12, 725
5711.05, 5711.07, 5907.06, 5907.08, and 5907.09 of the Revised 726
Code are not substantive in nature but are intended to replace 727
certain outdated terms with current, synonymous terms. 728

These amendments shall not be construed to expand, impair, or 729
otherwise affect any power, authority, duty, right, obligation, 730
remedy, or liability contained in the foregoing sections prior to 731
the effective date of this act. 732

Section 4. Section 4303.272 of the Revised Code is presented 733
in this act as a composite of the section as amended by both Am. 734
Sub. S.B. 149 and Am. Sub. S.B. 162 of the 121st General Assembly. 735
The General Assembly, applying the principle stated in division 736
(B) of section 1.52 of the Revised Code that amendments are to be 737
harmonized if reasonably capable of simultaneous operation, finds 738
that the composite is the resulting version of the section in 739
effect prior to the effective date of the section as presented in 740
this act. 741