

**As Reported by the House Local Government and Public
Administration Committee**

128th General Assembly

Regular Session

2009-2010

Sub. H. B. No. 118

Representatives Newcomb, Phillips

**Cosponsors: Representatives Murray, Harris, Dodd, Williams, B., Fende,
Harwood, Heard, Luckie, Chandler, Letson, Domenick, Okey, Ujvagi, Hagan,
DeGeeter, Skindell, Yuko, Weddington, Yates, Brown, Lehner, Derickson,
Hite, Zehringer, Gardner, Bacon, Evans**

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5735.142, 5815.28, and 5815.35; to amend section 88
5123.011 as it results from Am. Sub. S.B. 156 of 89
the 119th General Assembly; to amend, for the 90
purpose of adopting a new section number as 91
indicated in parentheses, section 5123.011 92
(5123.013) as it results from Am. Sub. S.B. 285 of 93
the 121st General Assembly; to amend, for the 94
purpose of adopting new section numbers as 95
indicated in parentheses, sections 5126.028 96
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(5126.023), 5126.0211 (5126.024), 5126.0212 98
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(5126.0219), 5126.0227 (5126.0220), 5126.0228 106
(5126.0221), and 5126.0229 (5126.0222); to enact 107
sections 5123.014 and 5126.011; to repeal sections 108
5126.021, 5126.022, 5126.023, 5126.024, 5126.025, 109
5126.026, and 5126.027 of the Revised Code; to 110
amend Sections 209.60.40, 209.60.50, and 501.40 of 111
H.B. 496 of the 127th General Assembly, to amend 112
Section 201.60.30 of H.B. 496 of the 127th General 113
Assembly, as subsequently amended, to amend 114
Sections 231.30.10, 231.30.20, and 253.10 of Am. 115
Sub. H.B. 562 of the 127th General Assembly, to 116
amend Section 231.20.30 of Am. Sub. H.B. 562 of 117
the 127th General Assembly, as subsequently 118

amended, and to amend Section 4 of Am. Sub. H.B. 119
516 of the 125th General Assembly, as subsequently 120
amended, to change the name of the Department of 121
Mental Retardation and Developmental Disabilities 122
to the Department of Developmental Disabilities 123
and the name of county boards of mental 124
retardation and developmental disabilities to 125
county boards of developmental disabilities, to 126
make similar name changes for the Joint Council on 127
Mental Retardation and Developmental Disabilities, 128
the Mental Retardation and Developmental 129
Disabilities Developmental Center Closure 130
Commission, and certain state and county funds, 131
and to repeal obsolete law regarding multi-county 132
boards of mental retardation and developmental 133
disabilities. 134
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 9.239, 9.55, 101.37, 101.39, 107.12, 136
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5705.191, 5705.222, 5705.28, 5705.44, 5735.142, 5815.28, and 200
5815.35 and section 5123.011 as it results from Am. Sub. S.B. 156 201
of the 119th General Assembly be amended; that section 5123.011 202
(5123.013) as it results from Am. Sub. S.B. 285 of the 121st 203
General Assembly be amended for the purpose of adopting a new 204
section number as indicated in parentheses; that sections 5126.028 205
(5126.021), 5126.029 (5126.022), 5126.0210 (5126.023), 5126.0211 206
(5126.024), 5126.0212 (5126.025), 5126.0213 (5126.026), 5126.0214 207
(5126.027), 5126.0215 (5126.028), 5126.0216 (5126.029), 5126.0217 208
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(5126.0215), 5126.0223 (5126.0216), 5126.0224 (5126.0217), 211
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(5126.0220), 5126.0228 (5126.0221), and 5126.0229 (5126.0222) be 213
amended for the purpose of adopting new section numbers as 214
indicated in parentheses; and sections 5123.014 and 5126.011 of 215
the Revised Code be enacted to read as follows: 216
217

Sec. 9.239. (A) There is hereby created the government 218
contracting advisory council. The attorney general and auditor of 219
state shall consult with the council on the performance of their 220
rule-making functions under sections 9.237 and 9.238 of the 221
Revised Code and shall consider any recommendations of the 222
council. The director of job and family services shall annually 223
report to the council the cost methodology of the medicaid-funded 224
services described in division (A)(3)(d) of section 9.231 of the 225
Revised Code. The council shall consist of the following members 226
or their designees: 227

- (1) The attorney general; 228
- (2) The auditor of state; 229
- (3) The director of administrative services; 230
- (4) The director of aging; 231
- (5) The director of alcohol and drug addiction services; 232
- (6) The director of budget and management; 233
- (7) The director of development; 234
- (8) The director of job and family services; 235
- (9) The director of mental health; 236
- (10) The director of ~~mental retardation and~~ developmental 237
disabilities; 238
- (11) The director of rehabilitation and correction; 239
- (12) The administrator of workers' compensation; 240

(13) The executive director of the county commissioners' association of Ohio;	241 242
(14) The president of the Ohio grantmakers forum;	243
(15) The president of the Ohio chamber of commerce;	244
(16) The president of the Ohio state bar association;	245
(17) The president of the Ohio society of certified public accountants;	246 247
(18) The executive director of the Ohio association of nonprofit organizations;	248 249
(19) The president of the Ohio united way;	250
(20) One additional member appointed by the attorney general;	251
(21) One additional member appointed by the auditor of state.	252
(B) If an agency or organization represented on the council ceases to exist in the form it has on the effective date of this section <u>September 29, 2005</u> , the successor agency or organization shall be represented in its place. If there is no successor agency or organization, or if it is not clear what agency or organization is the successor, the attorney general shall designate an agency or organization to be represented in place of the agency or organization originally represented on the council.	253 254 255 256 257 258 259 260
(C) The two members appointed to the council shall serve three-year terms. Original appointments shall be made not later than sixty days after the effective date of this section <u>September 29, 2005</u> . Vacancies on the council shall be filled in the same manner as the original appointment.	261 262 263 264 265
(D) The attorney general or the attorney general's designee shall be the chairperson of the council. The council shall meet at least once every two years to review the rules adopted under sections 9.237 and 9.238 of the Revised Code and to make recommendations to the attorney general and auditor of state	266 267 268 269 270

regarding the adoption, amendment, or repeal of those rules. The 271
council shall also meet at other times as requested by the 272
attorney general or auditor of state. 273

(E) Members of the council shall serve without compensation 274
or reimbursement. 275

(F) The office of the attorney general shall provide 276
necessary staff, facilities, supplies, and services to the 277
council. 278

(G) Sections 101.82 to 101.87 of the Revised Code do not 279
apply to the council. 280

Sec. 9.55. (A) As used in this section, "state agency" means 281
the house of representatives, the senate, the governor, the 282
secretary of state, the auditor of state, the treasurer of state, 283
the attorney general, the department of job and family services, 284
the department of commerce, the department of ~~mental-retardation~~ 285
~~and~~ developmental disabilities, the department of education, the 286
department of health, the department of aging, the governor's 287
office of advocacy for disabled persons, and the civil rights 288
commission. 289

(B) Each state agency shall install in its offices at least 290
one teletypewriter designed to receive printed messages from and 291
transmit printed messages to deaf or hearing-impaired persons. 292

Sec. 101.37. (A) There is hereby created the joint council on 293
~~mental-retardation and~~ developmental disabilities. The joint 294
council shall consist of three members of the house of 295
representatives appointed by the speaker of the house of 296
representatives, not more than two of whom shall be members of the 297
same political party, three members of the senate appointed by the 298
president of the senate, not more than two of whom shall be 299
members of the same political party, and the director of ~~mental~~ 300

~~retardation and~~ developmental disabilities. At least one member of 301
the joint council appointed by the speaker of the house of 302
representatives and at least one member appointed by the president 303
of the senate shall be a member of the house or senate committee 304
with primary responsibility for appropriation issues and at least 305
one member appointed by the speaker and at least one member 306
appointed by the president shall be a member of the house or 307
senate committee with primary responsibility for human services 308
issues. 309

Members of the joint council shall be reimbursed for their 310
actual and necessary expenses incurred in the performance of their 311
official duties, provided that reimbursement for such expenses 312
shall not exceed limits imposed upon the department of ~~mental~~ 313
~~retardation and~~ developmental disabilities by administrative rules 314
regulating travel within this state. Members shall receive no 315
other compensation. 316

The joint council shall organize itself within fifteen days 317
after the commencement of each regular session of the general 318
assembly by electing a chairperson and vice-chairperson. The joint 319
council may meet upon the call of the chairperson, the director, 320
or on the request of any three members. 321

Members of the joint council who are appointed from the 322
general assembly shall serve until the expiration of their terms 323
in the general assembly. Any vacancies occurring among the general 324
assembly members of the joint council shall be filled in the 325
manner of the original appointment. 326

(B) The joint council shall do all of the following: 327

(1) Appoint the original members of the citizen's advisory 328
council at any institution under the control of the department of 329
~~mental retardation and~~ developmental disabilities that is created 330
after November 15, 1981; 331

(2) Make final determinations in any dispute between the 332
director of ~~mental retardation and~~ developmental disabilities and 333
a citizen's advisory council concerning the appointment of members 334
to the citizen's advisory council, as provided for in section 335
5123.092 of the Revised Code; 336

(3) Receive reports from citizen's advisory councils on or 337
before the thirty-first day of January of each year, as required 338
by section 5123.093 of the Revised Code; 339

(4) Receive reports as appropriate concerning extenuating 340
circumstances at institutions under the control of the department 341
of ~~mental retardation and~~ developmental disabilities; 342

(5) Conduct reviews and make recommendations to the director 343
of ~~mental retardation and~~ developmental disabilities with respect 344
to any disputes between the department of ~~mental retardation and~~ 345
developmental disabilities and entities that have entered into 346
contracts with the department for the provision of protective 347
services to individuals with mental retardation or developmental 348
disabilities; 349

(6) Provide the director of ~~mental retardation and~~ 350
developmental disabilities with advice on legislative and fiscal 351
issues affecting the department of ~~mental retardation and~~ 352
developmental disabilities, county boards of ~~mental retardation~~ 353
~~and~~ developmental disabilities, persons with mental retardation or 354
developmental disabilities, and providers of services to persons 355
with mental retardation or developmental disabilities and on 356
related issues the director requests the joint council to address; 357

(7) On behalf of the director of ~~mental retardation and~~ 358
developmental disabilities, advocate to the general assembly 359
legislative issues about which the joint council has provided 360
advice to the director. 361

(C) Reports and any correspondence received by the joint 362

council shall be deposited with the legislative service 363
commission, which shall retain them for not less than three years 364
after the date of deposit. 365

Sec. 101.39. (A) There is hereby created the joint 366
legislative committee on health care oversight. The committee may 367
review or study any matter related to the provision of health care 368
services that it considers of significance to the citizens of this 369
state, including the availability of health care, the quality of 370
health care, the effectiveness and efficiency of managed care 371
systems, and the operation of the medical assistance program 372
established under Chapter 5111. of the Revised Code or other 373
government health programs. 374

The department of job and family services, department of 375
health, department of aging, department of mental health, 376
department of ~~mental retardation and~~ developmental disabilities, 377
department of alcohol and drug addiction services, and other state 378
agencies shall cooperate with the committee in its study and 379
review of health care issues. On request, the departments shall 380
provide the committee with reports and other information 381
sufficient for the committee to fulfill its duties. 382

The committee may issue recommendations as it determines 383
appropriate. The recommendations may be made to the general 384
assembly, state agencies, private industry, or any other entity. 385

(B) The committee shall consist of the following members of 386
the general assembly: the chairperson of the senate's standing 387
committee with primary responsibility for health legislation, the 388
chairperson of the house of representatives' standing committee 389
with primary responsibility for health legislation, four members 390
of the house of representatives appointed by the speaker of the 391
house of representatives, and four members of the senate appointed 392
by the president of the senate. Not more than two members 393

appointed by the speaker of the house of representatives and not 394
more than two members appointed by the president of the senate may 395
be of the same political party. Except in 1995, appointments shall 396
be made not later than fifteen days after the commencement of the 397
first regular session of each general assembly. The chairpersons 398
of the standing committees with primary responsibility for health 399
legislation shall serve as co-chairpersons of the committee. 400

401

Each member of the committee shall hold office during the 402
general assembly in which the member is appointed and until a 403
successor has been appointed, notwithstanding the adjournment sine 404
die of the general assembly in which the member was appointed or 405
the expiration of the member's term as a member of the general 406
assembly. Any vacancies occurring among the members of the 407
committee shall be filled in the manner of the original 408
appointment. 409

The committee shall meet at least quarterly and at the call 410
of the co-chairpersons. The co-chairpersons shall determine the 411
time, place, and agenda for each meeting of the committee. 412

The committee has the same powers as other standing or select 413
committees of the general assembly. The committee may request 414
assistance from the legislative service commission ~~and the~~ 415
~~legislative budget office of the legislative service commission.~~ 416

Sec. 107.12. (A) As used in this section, "organization" 417
means a faith-based or other organization that is exempt from 418
federal income taxation under section 501(c)(3) of the "Internal 419
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, 420
and provides charitable services to needy residents of this state. 421

422

(B) There is hereby established within the office of the 423
governor the governor's office of faith-based and community 424

initiatives. The office shall: 425

(1) Serve as a clearinghouse of information on federal, 426
state, and local funding for charitable services performed by 427
organizations; 428

(2) Encourage organizations to seek public funding for their 429
charitable services; 430

(3) Assist local, state, and federal agencies in coordinating 431
their activities to secure maximum use of funds and efforts that 432
benefit people receiving charitable services from organizations; 433
434

(4) Advise the governor, general assembly, and the advisory 435
board of the governor's office of faith-based and community 436
initiatives on the barriers that exist to collaboration between 437
organizations and governmental entities and on ways to remove the 438
barriers. 439

(C) The governor shall appoint an executive director and such 440
other staff as may be necessary to manage the office and perform 441
or oversee the performance of the duties of the office. Within 442
sixty days after being appointed, and every twelve months 443
thereafter, the executive director shall distribute to the 444
advisory board and review with the board a strategic plan. The 445
executive director shall report to the board at least quarterly on 446
proposed initiatives and policies. A report shall include the 447
condition of the budget and the finances of the office. 448

(D)(1) There is hereby created the advisory board of the 449
governor's office of faith-based and community initiatives. The 450
board shall consist of the following members: 451

(a) The directors of aging, alcohol and drug addiction 452
services, rehabilitation and correction, health, job and family 453
services, ~~mental retardation and~~ developmental disabilities, 454
mental health, and youth services, or their designees; 455

(b) The speaker of the house of representatives shall appoint 456
to the board two members of the house of representatives, not more 457
than one of whom shall be from the same political party and at 458
least one of whom shall be from the legislative black caucus. The 459
president of the senate shall appoint to the board two members of 460
the senate, not more than one of whom shall be from the same 461
political party. 462

(c) The governor, the speaker of the house of 463
representatives, and the president of the senate shall each 464
appoint to the board three representatives of the nonprofit, 465
faith-based and other nonprofit community. 466

(2) Terms of the office shall be one year. Any vacancy that 467
occurs on the board shall be filled in the same manner as the 468
original appointment. 469

(3) Members of the board are not entitled to compensation, 470
but the members appointed by the governor, the speaker of the 471
house of representatives, and the president of the senate who are 472
representatives of the nonprofit, faith-based and other nonprofit 473
community shall be reimbursed for their actual and necessary 474
expenses that are incurred in relation to board meetings. 475

(4) The board shall be presided over by a chairperson and a 476
vice-chairperson, who shall be the members of the board who are 477
also members of the house of representatives or the senate. 478
Annually on the first day of January, the chairpersonship and 479
vice-chairpersonship shall alternate between the members of the 480
house of representatives and the senate. 481

(E) The board shall have the following duties: 482

(1) Provide direction, guidance, and oversight to the office; 483

(2) Assist in the dissemination of information about, and in 484
the stimulation of public awareness of, the service programs 485
supported by the office; 486

(3) Review the budget and finances of the office, proposed 487
initiatives and policies, and the executive director's annual 488
strategic plan at board meetings; 489

(4) Provide feedback for and proposed modifications of the 490
executive director's strategic plan. Within forty-five days after 491
submitting a strategic plan, the executive director shall contact 492
each advisory board member to obtain feedback. With the approval 493
of the advisory board chairperson, the executive director shall 494
lead a strategic plan discussion at the first board meeting 495
following the distribution of the strategic plan. 496

(5) Publish a report of its activities and accomplishments on 497
or before the first day of August of each year, and deliver copies 498
of the report to the governor, the speaker and minority leader of 499
the house of representatives, and the president and minority 500
leader of the senate. 501

(F) No member of the board or organization that the member is 502
affiliated or involved with is eligible to receive any grant that 503
the office administers or assists in administering. 504

Sec. 109.57. (A)(1) The superintendent of the bureau of 505
criminal identification and investigation shall procure from 506
wherever procurable and file for record photographs, pictures, 507
descriptions, fingerprints, measurements, and other information 508
that may be pertinent of all persons who have been convicted of 509
committing within this state a felony, any crime constituting a 510
misdemeanor on the first offense and a felony on subsequent 511
offenses, or any misdemeanor described in division (A)(1)(a), 512
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 513
of all children under eighteen years of age who have been 514
adjudicated delinquent children for committing within this state 515
an act that would be a felony or an offense of violence if 516
committed by an adult or who have been convicted of or pleaded 517

guilty to committing within this state a felony or an offense of 518
violence, and of all well-known and habitual criminals. The person 519
in charge of any county, multicounty, municipal, municipal-county, 520
or multicounty-municipal jail or workhouse, community-based 521
correctional facility, halfway house, alternative residential 522
facility, or state correctional institution and the person in 523
charge of any state institution having custody of a person 524
suspected of having committed a felony, any crime constituting a 525
misdemeanor on the first offense and a felony on subsequent 526
offenses, or any misdemeanor described in division (A)(1)(a), 527
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or 528
having custody of a child under eighteen years of age with respect 529
to whom there is probable cause to believe that the child may have 530
committed an act that would be a felony or an offense of violence 531
if committed by an adult shall furnish such material to the 532
superintendent of the bureau. Fingerprints, photographs, or other 533
descriptive information of a child who is under eighteen years of 534
age, has not been arrested or otherwise taken into custody for 535
committing an act that would be a felony or an offense of violence 536
who is not in any other category of child specified in this 537
division, if committed by an adult, has not been adjudicated a 538
delinquent child for committing an act that would be a felony or 539
an offense of violence if committed by an adult, has not been 540
convicted of or pleaded guilty to committing a felony or an 541
offense of violence, and is not a child with respect to whom there 542
is probable cause to believe that the child may have committed an 543
act that would be a felony or an offense of violence if committed 544
by an adult shall not be procured by the superintendent or 545
furnished by any person in charge of any county, multicounty, 546
municipal, municipal-county, or multicounty-municipal jail or 547
workhouse, community-based correctional facility, halfway house, 548
alternative residential facility, or state correctional 549
institution, except as authorized in section 2151.313 of the 550

Revised Code. 551

(2) Every clerk of a court of record in this state, other 552
than the supreme court or a court of appeals, shall send to the 553
superintendent of the bureau a weekly report containing a summary 554
of each case involving a felony, involving any crime constituting 555
a misdemeanor on the first offense and a felony on subsequent 556
offenses, involving a misdemeanor described in division (A)(1)(a), 557
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 558
or involving an adjudication in a case in which a child under 559
eighteen years of age was alleged to be a delinquent child for 560
committing an act that would be a felony or an offense of violence 561
if committed by an adult. The clerk of the court of common pleas 562
shall include in the report and summary the clerk sends under this 563
division all information described in divisions (A)(2)(a) to (f) 564
of this section regarding a case before the court of appeals that 565
is served by that clerk. The summary shall be written on the 566
standard forms furnished by the superintendent pursuant to 567
division (B) of this section and shall include the following 568
information: 569

(a) The incident tracking number contained on the standard 570
forms furnished by the superintendent pursuant to division (B) of 571
this section; 572

(b) The style and number of the case; 573

(c) The date of arrest, offense, summons, or arraignment; 574

(d) The date that the person was convicted of or pleaded 575
guilty to the offense, adjudicated a delinquent child for 576
committing the act that would be a felony or an offense of 577
violence if committed by an adult, found not guilty of the 578
offense, or found not to be a delinquent child for committing an 579
act that would be a felony or an offense of violence if committed 580
by an adult, the date of an entry dismissing the charge, an entry 581

declaring a mistrial of the offense in which the person is 582
discharged, an entry finding that the person or child is not 583
competent to stand trial, or an entry of a nolle prosequi, or the 584
date of any other determination that constitutes final resolution 585
of the case; 586

(e) A statement of the original charge with the section of 587
the Revised Code that was alleged to be violated; 588

(f) If the person or child was convicted, pleaded guilty, or 589
was adjudicated a delinquent child, the sentence or terms of 590
probation imposed or any other disposition of the offender or the 591
delinquent child. 592

If the offense involved the disarming of a law enforcement 593
officer or an attempt to disarm a law enforcement officer, the 594
clerk shall clearly state that fact in the summary, and the 595
superintendent shall ensure that a clear statement of that fact is 596
placed in the bureau's records. 597

(3) The superintendent shall cooperate with and assist 598
sheriffs, chiefs of police, and other law enforcement officers in 599
the establishment of a complete system of criminal identification 600
and in obtaining fingerprints and other means of identification of 601
all persons arrested on a charge of a felony, any crime 602
constituting a misdemeanor on the first offense and a felony on 603
subsequent offenses, or a misdemeanor described in division 604
(A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the 605
Revised Code and of all children under eighteen years of age 606
arrested or otherwise taken into custody for committing an act 607
that would be a felony or an offense of violence if committed by 608
an adult. The superintendent also shall file for record the 609
fingerprint impressions of all persons confined in a county, 610
multicounty, municipal, municipal-county, or multicounty-municipal 611
jail or workhouse, community-based correctional facility, halfway 612
house, alternative residential facility, or state correctional 613

institution for the violation of state laws and of all children 614
under eighteen years of age who are confined in a county, 615
multicounty, municipal, municipal-county, or multicounty-municipal 616
jail or workhouse, community-based correctional facility, halfway 617
house, alternative residential facility, or state correctional 618
institution or in any facility for delinquent children for 619
committing an act that would be a felony or an offense of violence 620
if committed by an adult, and any other information that the 621
superintendent may receive from law enforcement officials of the 622
state and its political subdivisions. 623

(4) The superintendent shall carry out Chapter 2950. of the 624
Revised Code with respect to the registration of persons who are 625
convicted of or plead guilty to a sexually oriented offense or a 626
child-victim oriented offense and with respect to all other duties 627
imposed on the bureau under that chapter. 628

(5) The bureau shall perform centralized recordkeeping 629
functions for criminal history records and services in this state 630
for purposes of the national crime prevention and privacy compact 631
set forth in section 109.571 of the Revised Code and is the 632
criminal history record repository as defined in that section for 633
purposes of that compact. The superintendent or the 634
superintendent's designee is the compact officer for purposes of 635
that compact and shall carry out the responsibilities of the 636
compact officer specified in that compact. 637

(B) The superintendent shall prepare and furnish to every 638
county, multicounty, municipal, municipal-county, or 639
multicounty-municipal jail or workhouse, community-based 640
correctional facility, halfway house, alternative residential 641
facility, or state correctional institution and to every clerk of 642
a court in this state specified in division (A)(2) of this section 643
standard forms for reporting the information required under 644
division (A) of this section. The standard forms that the 645

superintendent prepares pursuant to this division may be in a 646
tangible format, in an electronic format, or in both tangible 647
formats and electronic formats. 648

(C)(1) The superintendent may operate a center for 649
electronic, automated, or other data processing for the storage 650
and retrieval of information, data, and statistics pertaining to 651
criminals and to children under eighteen years of age who are 652
adjudicated delinquent children for committing an act that would 653
be a felony or an offense of violence if committed by an adult, 654
criminal activity, crime prevention, law enforcement, and criminal 655
justice, and may establish and operate a statewide communications 656
network to gather and disseminate information, data, and 657
statistics for the use of law enforcement agencies and for other 658
uses specified in this division. The superintendent may gather, 659
store, retrieve, and disseminate information, data, and statistics 660
that pertain to children who are under eighteen years of age and 661
that are gathered pursuant to sections 109.57 to 109.61 of the 662
Revised Code together with information, data, and statistics that 663
pertain to adults and that are gathered pursuant to those 664
sections. 665

(2) The superintendent or the superintendent's designee shall 666
gather information of the nature described in division (C)(1) of 667
this section that pertains to the offense and delinquency history 668
of a person who has been convicted of, pleaded guilty to, or been 669
adjudicated a delinquent child for committing a sexually oriented 670
offense or a child-victim oriented offense for inclusion in the 671
state registry of sex offenders and child-victim offenders 672
maintained pursuant to division (A)(1) of section 2950.13 of the 673
Revised Code and in the internet database operated pursuant to 674
division (A)(13) of that section and for possible inclusion in the 675
internet database operated pursuant to division (A)(11) of that 676
section. 677

(3) In addition to any other authorized use of information, 678
data, and statistics of the nature described in division (C)(1) of 679
this section, the superintendent or the superintendent's designee 680
may provide and exchange the information, data, and statistics 681
pursuant to the national crime prevention and privacy compact as 682
described in division (A)(5) of this section. 683

(D) The information and materials furnished to the 684
superintendent pursuant to division (A) of this section and 685
information and materials furnished to any board or person under 686
division (F) or (G) of this section are not public records under 687
section 149.43 of the Revised Code. The superintendent or the 688
superintendent's designee shall gather and retain information so 689
furnished under division (A) of this section that pertains to the 690
offense and delinquency history of a person who has been convicted 691
of, pleaded guilty to, or been adjudicated a delinquent child for 692
committing a sexually oriented offense or a child-victim oriented 693
offense for the purposes described in division (C)(2) of this 694
section. 695

(E) The attorney general shall adopt rules, in accordance 696
with Chapter 119. of the Revised Code, setting forth the procedure 697
by which a person may receive or release information gathered by 698
the superintendent pursuant to division (A) of this section. A 699
reasonable fee may be charged for this service. If a temporary 700
employment service submits a request for a determination of 701
whether a person the service plans to refer to an employment 702
position has been convicted of or pleaded guilty to an offense 703
listed in division (A)(1), (3), (4), (5), or (6) of section 704
109.572 of the Revised Code, the request shall be treated as a 705
single request and only one fee shall be charged. 706

(F)(1) As used in division (F)(2) of this section, "head 707
start agency" means an entity in this state that has been approved 708
to be an agency for purposes of subchapter II of the "Community 709

Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 710
as amended. 711

(2)(a) In addition to or in conjunction with any request that 712
is required to be made under section 109.572, 2151.86, 3301.32, 713
3301.541, 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 714
5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 715
Code or that is made under section 3314.41, 3319.392, or 3326.25 716
of the Revised Code, the board of education of any school 717
district; the director of ~~mental retardation and~~ developmental 718
disabilities; any county board of ~~mental retardation and~~ 719
developmental disabilities; any entity under contract with a 720
county board of ~~mental retardation and~~ developmental disabilities; 721
the chief administrator of any chartered nonpublic school; the 722
chief administrator of any home health agency; the chief 723
administrator of or person operating any child day-care center, 724
type A family day-care home, or type B family day-care home 725
licensed or certified under Chapter 5104. of the Revised Code; the 726
administrator of any type C family day-care home certified 727
pursuant to Section 1 of Sub. H.B. 62 of the 121st general 728
assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general 729
assembly; the chief administrator of any head start agency; the 730
executive director of a public children services agency; a private 731
company described in section 3314.41, 3319.392, or 3326.25 of the 732
Revised Code; or an employer described in division (J)(2) of 733
section 3327.10 of the Revised Code may request that the 734
superintendent of the bureau investigate and determine, with 735
respect to any individual who has applied for employment in any 736
position after October 2, 1989, or any individual wishing to apply 737
for employment with a board of education may request, with regard 738
to the individual, whether the bureau has any information gathered 739
under division (A) of this section that pertains to that 740
individual. On receipt of the request, the superintendent shall 741
determine whether that information exists and, upon request of the 742

person, board, or entity requesting information, also shall 743
request from the federal bureau of investigation any criminal 744
records it has pertaining to that individual. The superintendent 745
or the superintendent's designee also may request criminal history 746
records from other states or the federal government pursuant to 747
the national crime prevention and privacy compact set forth in 748
section 109.571 of the Revised Code. Within thirty days of the 749
date that the superintendent receives a request, the 750
superintendent shall send to the board, entity, or person a report 751
of any information that the superintendent determines exists, 752
including information contained in records that have been sealed 753
under section 2953.32 of the Revised Code, and, within thirty days 754
of its receipt, shall send the board, entity, or person a report 755
of any information received from the federal bureau of 756
investigation, other than information the dissemination of which 757
is prohibited by federal law. 758

759

(b) When a board of education is required to receive 760
information under this section as a prerequisite to employment of 761
an individual pursuant to section 3319.39 of the Revised Code, it 762
may accept a certified copy of records that were issued by the 763
bureau of criminal identification and investigation and that are 764
presented by an individual applying for employment with the 765
district in lieu of requesting that information itself. In such a 766
case, the board shall accept the certified copy issued by the 767
bureau in order to make a photocopy of it for that individual's 768
employment application documents and shall return the certified 769
copy to the individual. In a case of that nature, a district only 770
shall accept a certified copy of records of that nature within one 771
year after the date of their issuance by the bureau. 772

(3) The state board of education may request, with respect to 773
any individual who has applied for employment after October 2, 774

1989, in any position with the state board or the department of 775
education, any information that a school district board of 776
education is authorized to request under division (F)(2) of this 777
section, and the superintendent of the bureau shall proceed as if 778
the request has been received from a school district board of 779
education under division (F)(2) of this section. 780

(4) When the superintendent of the bureau receives a request 781
for information under section 3319.291 of the Revised Code, the 782
superintendent shall proceed as if the request has been received 783
from a school district board of education under division (F)(2) of 784
this section. 785

(5) When a recipient of a classroom reading improvement grant 786
paid under section 3301.86 of the Revised Code requests, with 787
respect to any individual who applies to participate in providing 788
any program or service funded in whole or in part by the grant, 789
the information that a school district board of education is 790
authorized to request under division (F)(2)(a) of this section, 791
the superintendent of the bureau shall proceed as if the request 792
has been received from a school district board of education under 793
division (F)(2)(a) of this section. 794

(G) In addition to or in conjunction with any request that is 795
required to be made under section 3701.881, 3712.09, 3721.121, or 796
3722.151 of the Revised Code with respect to an individual who has 797
applied for employment in a position that involves providing 798
direct care to an older adult, the chief administrator of a home 799
health agency, hospice care program, home licensed under Chapter 800
3721. of the Revised Code, adult day-care program operated 801
pursuant to rules adopted under section 3721.04 of the Revised 802
Code, or adult care facility may request that the superintendent 803
of the bureau investigate and determine, with respect to any 804
individual who has applied after January 27, 1997, for employment 805
in a position that does not involve providing direct care to an 806

older adult, whether the bureau has any information gathered under 807
division (A) of this section that pertains to that individual. 808

In addition to or in conjunction with any request that is 809
required to be made under section 173.27 of the Revised Code with 810
respect to an individual who has applied for employment in a 811
position that involves providing ombudsperson services to 812
residents of long-term care facilities or recipients of 813
community-based long-term care services, the state long-term care 814
ombudsperson, ombudsperson's designee, or director of health may 815
request that the superintendent investigate and determine, with 816
respect to any individual who has applied for employment in a 817
position that does not involve providing such ombudsperson 818
services, whether the bureau has any information gathered under 819
division (A) of this section that pertains to that applicant. 820

In addition to or in conjunction with any request that is 821
required to be made under section 173.394 of the Revised Code with 822
respect to an individual who has applied for employment in a 823
position that involves providing direct care to an individual, the 824
chief administrator of a community-based long-term care agency may 825
request that the superintendent investigate and determine, with 826
respect to any individual who has applied for employment in a 827
position that does not involve providing direct care, whether the 828
bureau has any information gathered under division (A) of this 829
section that pertains to that applicant. 830

On receipt of a request under this division, the 831
superintendent shall determine whether that information exists 832
and, on request of the individual requesting information, shall 833
also request from the federal bureau of investigation any criminal 834
records it has pertaining to the applicant. The superintendent or 835
the superintendent's designee also may request criminal history 836
records from other states or the federal government pursuant to 837
the national crime prevention and privacy compact set forth in 838

section 109.571 of the Revised Code. Within thirty days of the 839
date a request is received, the superintendent shall send to the 840
requester a report of any information determined to exist, 841
including information contained in records that have been sealed 842
under section 2953.32 of the Revised Code, and, within thirty days 843
of its receipt, shall send the requester a report of any 844
information received from the federal bureau of investigation, 845
other than information the dissemination of which is prohibited by 846
federal law. 847

(H) Information obtained by a government entity or person 848
under this section is confidential and shall not be released or 849
disseminated. 850

(I) The superintendent may charge a reasonable fee for 851
providing information or criminal records under division (F)(2) or 852
(G) of this section. 853

(J) As used in this section, "sexually oriented offense" and 854
"child-victim oriented offense" have the same meanings as in 855
section 2950.01 of the Revised Code. 856

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 857
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 858
a completed form prescribed pursuant to division (C)(1) of this 859
section, and a set of fingerprint impressions obtained in the 860
manner described in division (C)(2) of this section, the 861
superintendent of the bureau of criminal identification and 862
investigation shall conduct a criminal records check in the manner 863
described in division (B) of this section to determine whether any 864
information exists that indicates that the person who is the 865
subject of the request previously has been convicted of or pleaded 866
guilty to any of the following: 867

(a) A violation of section 2903.01, 2903.02, 2903.03, 868
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 869

2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 870
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 871
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 872
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 873
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 874
2925.06, or 3716.11 of the Revised Code, felonious sexual 875
penetration in violation of former section 2907.12 of the Revised 876
Code, a violation of section 2905.04 of the Revised Code as it 877
existed prior to July 1, 1996, a violation of section 2919.23 of 878
the Revised Code that would have been a violation of section 879
2905.04 of the Revised Code as it existed prior to July 1, 1996, 880
had the violation been committed prior to that date, or a 881
violation of section 2925.11 of the Revised Code that is not a 882
minor drug possession offense; 883

(b) A violation of an existing or former law of this state, 884
any other state, or the United States that is substantially 885
equivalent to any of the offenses listed in division (A)(1)(a) of 886
this section. 887

(2) On receipt of a request pursuant to section 5123.081 of 888
the Revised Code with respect to an applicant for employment in 889
any position with the department of ~~mental retardation and~~ 890
developmental disabilities, pursuant to section 5126.28 of the 891
Revised Code with respect to an applicant for employment in any 892
position with a county board of ~~mental retardation and~~ 893
developmental disabilities, or pursuant to section 5126.281 of the 894
Revised Code with respect to an applicant for employment in a 895
direct services position with an entity contracting with a county 896
board for employment, a completed form prescribed pursuant to 897
division (C)(1) of this section, and a set of fingerprint 898
impressions obtained in the manner described in division (C)(2) of 899
this section, the superintendent of the bureau of criminal 900
identification and investigation shall conduct a criminal records 901

check. The superintendent shall conduct the criminal records check 902
in the manner described in division (B) of this section to 903
determine whether any information exists that indicates that the 904
person who is the subject of the request has been convicted of or 905
pleaded guilty to any of the following: 906

(a) A violation of section 2903.01, 2903.02, 2903.03, 907
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 908
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 909
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 910
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 911
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 912
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 913
2925.03, or 3716.11 of the Revised Code; 914

(b) An existing or former municipal ordinance or law of this 915
state, any other state, or the United States that is substantially 916
equivalent to any of the offenses listed in division (A)(2)(a) of 917
this section. 918

(3) On receipt of a request pursuant to section 173.27, 919
173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a 920
completed form prescribed pursuant to division (C)(1) of this 921
section, and a set of fingerprint impressions obtained in the 922
manner described in division (C)(2) of this section, the 923
superintendent of the bureau of criminal identification and 924
investigation shall conduct a criminal records check with respect 925
to any person who has applied for employment in a position for 926
which a criminal records check is required by those sections. The 927
superintendent shall conduct the criminal records check in the 928
manner described in division (B) of this section to determine 929
whether any information exists that indicates that the person who 930
is the subject of the request previously has been convicted of or 931
pleaded guilty to any of the following: 932

(a) A violation of section 2903.01, 2903.02, 2903.03, 933

2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 934
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 935
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 936
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 937
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 938
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 939
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 940
2925.22, 2925.23, or 3716.11 of the Revised Code; 941

(b) An existing or former law of this state, any other state, 942
or the United States that is substantially equivalent to any of 943
the offenses listed in division (A)(3)(a) of this section. 944

(4) On receipt of a request pursuant to section 3701.881 of 945
the Revised Code with respect to an applicant for employment with 946
a home health agency as a person responsible for the care, 947
custody, or control of a child, a completed form prescribed 948
pursuant to division (C)(1) of this section, and a set of 949
fingerprint impressions obtained in the manner described in 950
division (C)(2) of this section, the superintendent of the bureau 951
of criminal identification and investigation shall conduct a 952
criminal records check. The superintendent shall conduct the 953
criminal records check in the manner described in division (B) of 954
this section to determine whether any information exists that 955
indicates that the person who is the subject of the request 956
previously has been convicted of or pleaded guilty to any of the 957
following: 958

(a) A violation of section 2903.01, 2903.02, 2903.03, 959
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 960
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 961
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 962
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 963
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 964
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 965

2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 966
violation of section 2925.11 of the Revised Code that is not a 967
minor drug possession offense; 968

(b) An existing or former law of this state, any other state, 969
or the United States that is substantially equivalent to any of 970
the offenses listed in division (A)(4)(a) of this section. 971

(5) On receipt of a request pursuant to section 5111.032, 972
5111.033, or 5111.034 of the Revised Code, a completed form 973
prescribed pursuant to division (C)(1) of this section, and a set 974
of fingerprint impressions obtained in the manner described in 975
division (C)(2) of this section, the superintendent of the bureau 976
of criminal identification and investigation shall conduct a 977
criminal records check. The superintendent shall conduct the 978
criminal records check in the manner described in division (B) of 979
this section to determine whether any information exists that 980
indicates that the person who is the subject of the request 981
previously has been convicted of, has pleaded guilty to, or has 982
been found eligible for intervention in lieu of conviction for any 983
of the following: 984

(a) A violation of section 2903.01, 2903.02, 2903.03, 985
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 986
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 987
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 988
2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 989
2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 990
2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 991
2913.40, 2913.43, 2913.47, 2913.48, 2913.49, 2913.51, 2917.11, 992
2919.12, 2919.22, 2919.24, 2919.25, 2921.13, 2921.36, 2923.02, 993
2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 994
2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, or 995
3716.11 of the Revised Code, felonious sexual penetration in 996
violation of former section 2907.12 of the Revised Code, a 997

violation of section 2905.04 of the Revised Code as it existed 998
prior to July 1, 1996, a violation of section 2919.23 of the 999
Revised Code that would have been a violation of section 2905.04 1000
of the Revised Code as it existed prior to July 1, 1996, had the 1001
violation been committed prior to that date; 1002

(b) An existing or former law of this state, any other state, 1003
or the United States that is substantially equivalent to any of 1004
the offenses listed in division (A)(5)(a) of this section. 1005

(6) On receipt of a request pursuant to section 3701.881 of 1006
the Revised Code with respect to an applicant for employment with 1007
a home health agency in a position that involves providing direct 1008
care to an older adult, a completed form prescribed pursuant to 1009
division (C)(1) of this section, and a set of fingerprint 1010
impressions obtained in the manner described in division (C)(2) of 1011
this section, the superintendent of the bureau of criminal 1012
identification and investigation shall conduct a criminal records 1013
check. The superintendent shall conduct the criminal records check 1014
in the manner described in division (B) of this section to 1015
determine whether any information exists that indicates that the 1016
person who is the subject of the request previously has been 1017
convicted of or pleaded guilty to any of the following: 1018

(a) A violation of section 2903.01, 2903.02, 2903.03, 1019
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1020
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1021
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1022
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1023
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1024
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1025
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1026
2925.22, 2925.23, or 3716.11 of the Revised Code; 1027

(b) An existing or former law of this state, any other state, 1028
or the United States that is substantially equivalent to any of 1029

the offenses listed in division (A)(6)(a) of this section. 1030

(7) When conducting a criminal records check upon a request 1031
pursuant to section 3319.39 of the Revised Code for an applicant 1032
who is a teacher, in addition to the determination made under 1033
division (A)(1) of this section, the superintendent shall 1034
determine whether any information exists that indicates that the 1035
person who is the subject of the request previously has been 1036
convicted of or pleaded guilty to any offense specified in section 1037
3319.31 of the Revised Code. 1038

(8) On receipt of a request pursuant to section 2151.86 of 1039
the Revised Code, a completed form prescribed pursuant to division 1040
(C)(1) of this section, and a set of fingerprint impressions 1041
obtained in the manner described in division (C)(2) of this 1042
section, the superintendent of the bureau of criminal 1043
identification and investigation shall conduct a criminal records 1044
check in the manner described in division (B) of this section to 1045
determine whether any information exists that indicates that the 1046
person who is the subject of the request previously has been 1047
convicted of or pleaded guilty to any of the following: 1048

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 1049
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 1050
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 1051
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 1052
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 1053
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 1054
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 1055
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 1056
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 1057
of the Revised Code, a violation of section 2905.04 of the Revised 1058
Code as it existed prior to July 1, 1996, a violation of section 1059
2919.23 of the Revised Code that would have been a violation of 1060
section 2905.04 of the Revised Code as it existed prior to July 1, 1061

1996, had the violation been committed prior to that date, a 1062
violation of section 2925.11 of the Revised Code that is not a 1063
minor drug possession offense, two or more OVI or OVUAC violations 1064
committed within the three years immediately preceding the 1065
submission of the application or petition that is the basis of the 1066
request, or felonious sexual penetration in violation of former 1067
section 2907.12 of the Revised Code; 1068

(b) A violation of an existing or former law of this state, 1069
any other state, or the United States that is substantially 1070
equivalent to any of the offenses listed in division (A)(8)(a) of 1071
this section. 1072

(9) Upon receipt of a request pursuant to section 5104.012 or 1073
5104.013 of the Revised Code, a completed form prescribed pursuant 1074
to division (C)(1) of this section, and a set of fingerprint 1075
impressions obtained in the manner described in division (C)(2) of 1076
this section, the superintendent of the bureau of criminal 1077
identification and investigation shall conduct a criminal records 1078
check in the manner described in division (B) of this section to 1079
determine whether any information exists that indicates that the 1080
person who is the subject of the request has been convicted of or 1081
pleaded guilty to any of the following: 1082

(a) A violation of section 2903.01, 2903.02, 2903.03, 1083
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 1084
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 1085
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 1086
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 1087
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 1088
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 1089
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 1090
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 1091
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 1092
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 1093

3716.11 of the Revised Code, felonious sexual penetration in 1094
violation of former section 2907.12 of the Revised Code, a 1095
violation of section 2905.04 of the Revised Code as it existed 1096
prior to July 1, 1996, a violation of section 2919.23 of the 1097
Revised Code that would have been a violation of section 2905.04 1098
of the Revised Code as it existed prior to July 1, 1996, had the 1099
violation been committed prior to that date, a violation of 1100
section 2925.11 of the Revised Code that is not a minor drug 1101
possession offense, a violation of section 2923.02 or 2923.03 of 1102
the Revised Code that relates to a crime specified in this 1103
division, or a second violation of section 4511.19 of the Revised 1104
Code within five years of the date of application for licensure or 1105
certification. 1106

(b) A violation of an existing or former law of this state, 1107
any other state, or the United States that is substantially 1108
equivalent to any of the offenses or violations described in 1109
division (A)(9)(a) of this section. 1110

(10) Upon receipt of a request pursuant to section 5153.111 1111
of the Revised Code, a completed form prescribed pursuant to 1112
division (C)(1) of this section, and a set of fingerprint 1113
impressions obtained in the manner described in division (C)(2) of 1114
this section, the superintendent of the bureau of criminal 1115
identification and investigation shall conduct a criminal records 1116
check in the manner described in division (B) of this section to 1117
determine whether any information exists that indicates that the 1118
person who is the subject of the request previously has been 1119
convicted of or pleaded guilty to any of the following: 1120

(a) A violation of section 2903.01, 2903.02, 2903.03, 1121
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1122
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1123
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1124
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 1125

2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1126
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1127
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 1128
felonious sexual penetration in violation of former section 1129
2907.12 of the Revised Code, a violation of section 2905.04 of the 1130
Revised Code as it existed prior to July 1, 1996, a violation of 1131
section 2919.23 of the Revised Code that would have been a 1132
violation of section 2905.04 of the Revised Code as it existed 1133
prior to July 1, 1996, had the violation been committed prior to 1134
that date, or a violation of section 2925.11 of the Revised Code 1135
that is not a minor drug possession offense; 1136

(b) A violation of an existing or former law of this state, 1137
any other state, or the United States that is substantially 1138
equivalent to any of the offenses listed in division (A)(10)(a) of 1139
this section. 1140

(11) On receipt of a request for a criminal records check 1141
from an individual pursuant to section 4749.03 or 4749.06 of the 1142
Revised Code, accompanied by a completed copy of the form 1143
prescribed in division (C)(1) of this section and a set of 1144
fingerprint impressions obtained in a manner described in division 1145
(C)(2) of this section, the superintendent of the bureau of 1146
criminal identification and investigation shall conduct a criminal 1147
records check in the manner described in division (B) of this 1148
section to determine whether any information exists indicating 1149
that the person who is the subject of the request has been 1150
convicted of or pleaded guilty to a felony in this state or in any 1151
other state. If the individual indicates that a firearm will be 1152
carried in the course of business, the superintendent shall 1153
require information from the federal bureau of investigation as 1154
described in division (B)(2) of this section. The superintendent 1155
shall report the findings of the criminal records check and any 1156
information the federal bureau of investigation provides to the 1157

director of public safety. 1158

(12) On receipt of a request pursuant to section 1321.37, 1159
1322.03, 1322.031, or 4763.05 of the Revised Code, a completed 1160
form prescribed pursuant to division (C)(1) of this section, and a 1161
set of fingerprint impressions obtained in the manner described in 1162
division (C)(2) of this section, the superintendent of the bureau 1163
of criminal identification and investigation shall conduct a 1164
criminal records check with respect to any person who has applied 1165
for a license, permit, or certification from the department of 1166
commerce or a division in the department. The superintendent shall 1167
conduct the criminal records check in the manner described in 1168
division (B) of this section to determine whether any information 1169
exists that indicates that the person who is the subject of the 1170
request previously has been convicted of or pleaded guilty to any 1171
of the following: a violation of section 2913.02, 2913.11, 1172
2913.31, 2913.51, or 2925.03 of the Revised Code; any other 1173
criminal offense involving theft, receiving stolen property, 1174
embezzlement, forgery, fraud, passing bad checks, money 1175
laundering, or drug trafficking, or any criminal offense involving 1176
money or securities, as set forth in Chapters 2909., 2911., 2913., 1177
2915., 2921., 2923., and 2925. of the Revised Code; or any 1178
existing or former law of this state, any other state, or the 1179
United States that is substantially equivalent to those offenses. 1180

1181

(13) On receipt of a request for a criminal records check 1182
from the treasurer of state under section 113.041 of the Revised 1183
Code or from an individual under section 4701.08, 4715.101, 1184
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 1185
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 1186
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 1187
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 1188
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 1189

a completed form prescribed under division (C)(1) of this section 1190
and a set of fingerprint impressions obtained in the manner 1191
described in division (C)(2) of this section, the superintendent 1192
of the bureau of criminal identification and investigation shall 1193
conduct a criminal records check in the manner described in 1194
division (B) of this section to determine whether any information 1195
exists that indicates that the person who is the subject of the 1196
request has been convicted of or pleaded guilty to any criminal 1197
offense in this state or any other state. The superintendent shall 1198
send the results of a check requested under section 113.041 of the 1199
Revised Code to the treasurer of state and shall send the results 1200
of a check requested under any of the other listed sections to the 1201
licensing board specified by the individual in the request. 1202

1203

(14) On receipt of a request pursuant to section 1121.23, 1204
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 1205
Code, a completed form prescribed pursuant to division (C)(1) of 1206
this section, and a set of fingerprint impressions obtained in the 1207
manner described in division (C)(2) of this section, the 1208
superintendent of the bureau of criminal identification and 1209
investigation shall conduct a criminal records check in the manner 1210
described in division (B) of this section to determine whether any 1211
information exists that indicates that the person who is the 1212
subject of the request previously has been convicted of or pleaded 1213
guilty to any criminal offense under any existing or former law of 1214
this state, any other state, or the United States. 1215

(15) Not later than thirty days after the date the 1216
superintendent receives a request of a type described in division 1217
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), 1218
or (14) of this section, the completed form, and the fingerprint 1219
impressions, the superintendent shall send the person, board, or 1220
entity that made the request any information, other than 1221

information the dissemination of which is prohibited by federal 1222
law, the superintendent determines exists with respect to the 1223
person who is the subject of the request that indicates that the 1224
person previously has been convicted of or pleaded guilty to any 1225
offense listed or described in division (A)(1), (2), (3), (4), 1226
(5), (6), (7), (8), (9), (10), (11), (12), or (14) of this 1227
section, as appropriate. The superintendent shall send the person, 1228
board, or entity that made the request a copy of the list of 1229
offenses specified in division (A)(1), (2), (3), (4), (5), (6), 1230
(7), (8), (9), (10), (11), (12), or (14) of this section, as 1231
appropriate. If the request was made under section 3701.881 of the 1232
Revised Code with regard to an applicant who may be both 1233
responsible for the care, custody, or control of a child and 1234
involved in providing direct care to an older adult, the 1235
superintendent shall provide a list of the offenses specified in 1236
divisions (A)(4) and (6) of this section. 1237

Not later than thirty days after the superintendent receives 1238
a request for a criminal records check pursuant to section 113.041 1239
of the Revised Code, the completed form, and the fingerprint 1240
impressions, the superintendent shall send the treasurer of state 1241
any information, other than information the dissemination of which 1242
is prohibited by federal law, the superintendent determines exist 1243
with respect to the person who is the subject of the request that 1244
indicates that the person previously has been convicted of or 1245
pleaded guilty to any criminal offense in this state or any other 1246
state. 1247

(B) The superintendent shall conduct any criminal records 1248
check requested under section 113.041, 121.08, 173.27, 173.394, 1249
1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 1733.47, 1250
1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 1251
3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 1252
4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 1253

4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 1254
4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 1255
4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 1256
4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 1257
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as 1258
follows: 1259

(1) The superintendent shall review or cause to be reviewed 1260
any relevant information gathered and compiled by the bureau under 1261
division (A) of section 109.57 of the Revised Code that relates to 1262
the person who is the subject of the request, including, if the 1263
criminal records check was requested under section 113.041, 1264
121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1265
1321.37, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 1266
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 1267
4749.06, 4763.05, 5104.012, 5104.013, 5111.032, 5111.033, 1268
5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 1269
Code, any relevant information contained in records that have been 1270
sealed under section 2953.32 of the Revised Code; 1271

(2) If the request received by the superintendent asks for 1272
information from the federal bureau of investigation, the 1273
superintendent shall request from the federal bureau of 1274
investigation any information it has with respect to the person 1275
who is the subject of the request, including fingerprint-based 1276
checks of national crime information databases as described in 42 1277
U.S.C. 671 if the request is made pursuant to section 2151.86, 1278
5104.012, or 5104.013 of the Revised Code or if any other Revised 1279
Code section requires fingerprint-based checks of that nature, and 1280
shall review or cause to be reviewed any information the 1281
superintendent receives from that bureau. 1282

(3) The superintendent or the superintendent's designee may 1283
request criminal history records from other states or the federal 1284
government pursuant to the national crime prevention and privacy 1285

compact set forth in section 109.571 of the Revised Code. 1286

(C)(1) The superintendent shall prescribe a form to obtain 1287
the information necessary to conduct a criminal records check from 1288
any person for whom a criminal records check is requested under 1289
section 113.041 of the Revised Code or required by section 121.08, 1290
173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1291
1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 1292
3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 1293
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 1294
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 1295
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 1296
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 1297
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 1298
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 1299
5126.281, or 5153.111 of the Revised Code. The form that the 1300
superintendent prescribes pursuant to this division may be in a 1301
tangible format, in an electronic format, or in both tangible and 1302
electronic formats. 1303

(2) The superintendent shall prescribe standard impression 1304
sheets to obtain the fingerprint impressions of any person for 1305
whom a criminal records check is requested under section 113.041 1306
of the Revised Code or required by section 121.08, 173.27, 1307
173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 1308
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 1309
3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 1310
4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 1311
4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 1312
4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 1313
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 1314
4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 1315
5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 1316
5153.111 of the Revised Code. Any person for whom a records check 1317

is requested under or required by any of those sections shall 1318
obtain the fingerprint impressions at a county sheriff's office, 1319
municipal police department, or any other entity with the ability 1320
to make fingerprint impressions on the standard impression sheets 1321
prescribed by the superintendent. The office, department, or 1322
entity may charge the person a reasonable fee for making the 1323
impressions. The standard impression sheets the superintendent 1324
prescribes pursuant to this division may be in a tangible format, 1325
in an electronic format, or in both tangible and electronic 1326
formats. 1327

(3) Subject to division (D) of this section, the 1328
superintendent shall prescribe and charge a reasonable fee for 1329
providing a criminal records check requested under section 1330
113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1331
1315.141, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 1332
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 1333
4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 1334
4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 1335
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 1336
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 1337
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 1338
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 1339
5126.281, or 5153.111 of the Revised Code. The person making a 1340
criminal records request under any of those sections shall pay the 1341
fee prescribed pursuant to this division. A person making a 1342
request under section 3701.881 of the Revised Code for a criminal 1343
records check for an applicant who may be both responsible for the 1344
care, custody, or control of a child and involved in providing 1345
direct care to an older adult shall pay one fee for the request. 1346
In the case of a request under section 1121.23, 1155.03, 1163.05, 1347
1315.141, 1733.47, 1761.26, or 5111.032 of the Revised Code, the 1348
fee shall be paid in the manner specified in that section. 1349

1350

(4) The superintendent of the bureau of criminal 1351
identification and investigation may prescribe methods of 1352
forwarding fingerprint impressions and information necessary to 1353
conduct a criminal records check, which methods shall include, but 1354
not be limited to, an electronic method. 1355

(D) A determination whether any information exists that 1356
indicates that a person previously has been convicted of or 1357
pleaded guilty to any offense listed or described in division 1358
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 1359
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), 1360
(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), or (A)(14) of this 1361
section, or that indicates that a person previously has been 1362
convicted of or pleaded guilty to any criminal offense in this 1363
state or any other state regarding a criminal records check of a 1364
type described in division (A)(13) of this section, and that is 1365
made by the superintendent with respect to information considered 1366
in a criminal records check in accordance with this section is 1367
valid for the person who is the subject of the criminal records 1368
check for a period of one year from the date upon which the 1369
superintendent makes the determination. During the period in which 1370
the determination in regard to a person is valid, if another 1371
request under this section is made for a criminal records check 1372
for that person, the superintendent shall provide the information 1373
that is the basis for the superintendent's initial determination 1374
at a lower fee than the fee prescribed for the initial criminal 1375
records check. 1376

(E) As used in this section: 1377

(1) "Criminal records check" means any criminal records check 1378
conducted by the superintendent of the bureau of criminal 1379
identification and investigation in accordance with division (B) 1380
of this section. 1381

(2) "Minor drug possession offense" has the same meaning as 1382

in section 2925.01 of the Revised Code. 1383

(3) "Older adult" means a person age sixty or older. 1384

(4) "OVI or OVUAC violation" means a violation of section 1385
4511.19 of the Revised Code or a violation of an existing or 1386
former law of this state, any other state, or the United States 1387
that is substantially equivalent to section 4511.19 of the Revised 1388
Code. 1389

Sec. 109.71. There is hereby created in the office of the 1390
attorney general the Ohio peace officer training commission. The 1391
commission shall consist of nine members appointed by the governor 1392
with the advice and consent of the senate and selected as follows: 1393
one member representing the public; two members who are incumbent 1394
sheriffs; two members who are incumbent chiefs of police; one 1395
member from the bureau of criminal identification and 1396
investigation; one member from the state highway patrol; one 1397
member who is the special agent in charge of a field office of the 1398
federal bureau of investigation in this state; and one member from 1399
the department of education, trade and industrial education 1400
services, law enforcement training. 1401

This section does not confer any arrest authority or any 1402
ability or authority to detain a person, write or issue any 1403
citation, or provide any disposition alternative, as granted under 1404
Chapter 2935. of the Revised Code. 1405

As used in sections 109.71 to 109.801 of the Revised Code: 1406

(A) "Peace officer" means: 1407

(1) A deputy sheriff, marshal, deputy marshal, member of the 1408
organized police department of a township or municipal 1409
corporation, member of a township police district or joint 1410
township police district police force, member of a police force 1411
employed by a metropolitan housing authority under division (D) of 1412

section 3735.31 of the Revised Code, or township constable, who is 1413
commissioned and employed as a peace officer by a political 1414
subdivision of this state or by a metropolitan housing authority, 1415
and whose primary duties are to preserve the peace, to protect 1416
life and property, and to enforce the laws of this state, 1417
ordinances of a municipal corporation, resolutions of a township, 1418
or regulations of a board of county commissioners or board of 1419
township trustees, or any of those laws, ordinances, resolutions, 1420
or regulations; 1421

(2) A police officer who is employed by a railroad company 1422
and appointed and commissioned by the secretary of state pursuant 1423
to sections 4973.17 to 4973.22 of the Revised Code; 1424

(3) Employees of the department of taxation engaged in the 1425
enforcement of Chapter 5743. of the Revised Code and designated by 1426
the tax commissioner for peace officer training for purposes of 1427
the delegation of investigation powers under section 5743.45 of 1428
the Revised Code; 1429

(4) An undercover drug agent; 1430

(5) Enforcement agents of the department of public safety 1431
whom the director of public safety designates under section 1432
5502.14 of the Revised Code; 1433

(6) An employee of the department of natural resources who is 1434
a natural resources law enforcement staff officer designated 1435
pursuant to section 1501.013, a park officer designated pursuant 1436
to section 1541.10, a forest officer designated pursuant to 1437
section 1503.29, a preserve officer designated pursuant to section 1438
1517.10, a wildlife officer designated pursuant to section 1439
1531.13, or a state watercraft officer designated pursuant to 1440
section 1547.521 of the Revised Code; 1441

(7) An employee of a park district who is designated pursuant 1442
to section 511.232 or 1545.13 of the Revised Code; 1443

(8) An employee of a conservancy district who is designated	1444
pursuant to section 6101.75 of the Revised Code;	1445
(9) A police officer who is employed by a hospital that	1446
employs and maintains its own proprietary police department or	1447
security department, and who is appointed and commissioned by the	1448
secretary of state pursuant to sections 4973.17 to 4973.22 of the	1449
Revised Code;	1450
(10) Veterans' homes police officers designated under section	1451
5907.02 of the Revised Code;	1452
(11) A police officer who is employed by a qualified	1453
nonprofit corporation police department pursuant to section	1454
1702.80 of the Revised Code;	1455
(12) A state university law enforcement officer appointed	1456
under section 3345.04 of the Revised Code or a person serving as a	1457
state university law enforcement officer on a permanent basis on	1458
June 19, 1978, who has been awarded a certificate by the executive	1459
director of the Ohio peace officer training commission attesting	1460
to the person's satisfactory completion of an approved state,	1461
county, municipal, or department of natural resources peace	1462
officer basic training program;	1463
(13) A special police officer employed by the department of	1464
mental health pursuant to section 5119.14 of the Revised Code or	1465
the department of mental retardation and developmental	1466
disabilities pursuant to section 5123.13 of the Revised Code;	1467
(14) A member of a campus police department appointed under	1468
section 1713.50 of the Revised Code;	1469
(15) A member of a police force employed by a regional	1470
transit authority under division (Y) of section 306.35 of the	1471
Revised Code;	1472
(16) Investigators appointed by the auditor of state pursuant	1473

to section 117.091 of the Revised Code and engaged in the 1474
enforcement of Chapter 117. of the Revised Code; 1475

(17) A special police officer designated by the 1476
superintendent of the state highway patrol pursuant to section 1477
5503.09 of the Revised Code or a person who was serving as a 1478
special police officer pursuant to that section on a permanent 1479
basis on October 21, 1997, and who has been awarded a certificate 1480
by the executive director of the Ohio peace officer training 1481
commission attesting to the person's satisfactory completion of an 1482
approved state, county, municipal, or department of natural 1483
resources peace officer basic training program; 1484

(18) A special police officer employed by a port authority 1485
under section 4582.04 or 4582.28 of the Revised Code or a person 1486
serving as a special police officer employed by a port authority 1487
on a permanent basis on May 17, 2000, who has been awarded a 1488
certificate by the executive director of the Ohio peace officer 1489
training commission attesting to the person's satisfactory 1490
completion of an approved state, county, municipal, or department 1491
of natural resources peace officer basic training program; 1492

(19) A special police officer employed by a municipal 1493
corporation who has been awarded a certificate by the executive 1494
director of the Ohio peace officer training commission for 1495
satisfactory completion of an approved peace officer basic 1496
training program and who is employed on a permanent basis on or 1497
after March 19, 2003, at a municipal airport, or other municipal 1498
air navigation facility, that has scheduled operations, as defined 1499
in section 119.3 of Title 14 of the Code of Federal Regulations, 1500
14 C.F.R. 119.3, as amended, and that is required to be under a 1501
security program and is governed by aviation security rules of the 1502
transportation security administration of the United States 1503
department of transportation as provided in Parts 1542. and 1544. 1504
of Title 49 of the Code of Federal Regulations, as amended; 1505

(20) A police officer who is employed by an owner or operator 1506
of an amusement park that has an average yearly attendance in 1507
excess of six hundred thousand guests and that employs and 1508
maintains its own proprietary police department or security 1509
department, and who is appointed and commissioned by a judge of 1510
the appropriate municipal court or county court pursuant to 1511
section 4973.17 of the Revised Code; 1512

(21) A police officer who is employed by a bank, savings and 1513
loan association, savings bank, credit union, or association of 1514
banks, savings and loan associations, savings banks, or credit 1515
unions, who has been appointed and commissioned by the secretary 1516
of state pursuant to sections 4973.17 to 4973.22 of the Revised 1517
Code, and who has been awarded a certificate by the executive 1518
director of the Ohio peace officer training commission attesting 1519
to the person's satisfactory completion of a state, county, 1520
municipal, or department of natural resources peace officer basic 1521
training program; 1522

(22) An investigator, as defined in section 109.541 of the 1523
Revised Code, of the bureau of criminal identification and 1524
investigation who is commissioned by the superintendent of the 1525
bureau as a special agent for the purpose of assisting law 1526
enforcement officers or providing emergency assistance to peace 1527
officers pursuant to authority granted under that section; 1528

(23) A state fire marshal law enforcement officer appointed 1529
under section 3737.22 of the Revised Code or a person serving as a 1530
state fire marshal law enforcement officer on a permanent basis on 1531
or after July 1, 1982, who has been awarded a certificate by the 1532
executive director of the Ohio peace officer training commission 1533
attesting to the person's satisfactory completion of an approved 1534
state, county, municipal, or department of natural resources peace 1535
officer basic training program. 1536

(B) "Undercover drug agent" has the same meaning as in 1537

division (B)(2) of section 109.79 of the Revised Code. 1538

(C) "Crisis intervention training" means training in the use 1539
of interpersonal and communication skills to most effectively and 1540
sensitively interview victims of rape. 1541

(D) "Missing children" has the same meaning as in section 1542
2901.30 of the Revised Code. 1543

Sec. 109.77. (A) As used in this section, "felony" has the 1544
same meaning as in section 109.511 of the Revised Code. 1545

(B)(1) Notwithstanding any general, special, or local law or 1546
charter to the contrary, and except as otherwise provided in this 1547
section, no person shall receive an original appointment on a 1548
permanent basis as any of the following unless the person 1549
previously has been awarded a certificate by the executive 1550
director of the Ohio peace officer training commission attesting 1551
to the person's satisfactory completion of an approved state, 1552
county, municipal, or department of natural resources peace 1553
officer basic training program: 1554

(a) A peace officer of any county, township, municipal 1555
corporation, regional transit authority, or metropolitan housing 1556
authority; 1557

(b) A natural resources law enforcement staff officer, park 1558
officer, forest officer, preserve officer, wildlife officer, or 1559
state watercraft officer of the department of natural resources; 1560

(c) An employee of a park district under section 511.232 or 1561
1545.13 of the Revised Code; 1562

(d) An employee of a conservancy district who is designated 1563
pursuant to section 6101.75 of the Revised Code; 1564

(e) A state university law enforcement officer; 1565

(f) A special police officer employed by the department of 1566

mental health pursuant to section 5119.14 of the Revised Code or 1567
the department of ~~mental retardation~~ and developmental 1568
disabilities pursuant to section 5123.13 of the Revised Code; 1569

(g) An enforcement agent of the department of public safety 1570
whom the director of public safety designates under section 1571
5502.14 of the Revised Code; 1572

(h) A special police officer employed by a port authority 1573
under section 4582.04 or 4582.28 of the Revised Code; 1574

(i) A special police officer employed by a municipal 1575
corporation at a municipal airport, or other municipal air 1576
navigation facility, that has scheduled operations, as defined in 1577
section 119.3 of Title 14 of the Code of Federal Regulations, 14 1578
C.F.R. 119.3, as amended, and that is required to be under a 1579
security program and is governed by aviation security rules of the 1580
transportation security administration of the United States 1581
department of transportation as provided in Parts 1542. and 1544. 1582
of Title 49 of the Code of Federal Regulations, as amended. 1583

(2) Every person who is appointed on a temporary basis or for 1584
a probationary term or on other than a permanent basis as any of 1585
the following shall forfeit the appointed position unless the 1586
person previously has completed satisfactorily or, within the time 1587
prescribed by rules adopted by the attorney general pursuant to 1588
section 109.74 of the Revised Code, satisfactorily completes a 1589
state, county, municipal, or department of natural resources peace 1590
officer basic training program for temporary or probationary 1591
officers and is awarded a certificate by the director attesting to 1592
the satisfactory completion of the program: 1593

(a) A peace officer of any county, township, municipal 1594
corporation, regional transit authority, or metropolitan housing 1595
authority; 1596

(b) A natural resources law enforcement staff officer, park 1597

officer, forest officer, preserve officer, wildlife officer, or 1598
state watercraft officer of the department of natural resources; 1599

(c) An employee of a park district under section 511.232 or 1600
1545.13 of the Revised Code; 1601

(d) An employee of a conservancy district who is designated 1602
pursuant to section 6101.75 of the Revised Code; 1603

(e) A special police officer employed by the department of 1604
mental health pursuant to section 5119.14 of the Revised Code or 1605
the department of ~~mental retardation and~~ developmental 1606
disabilities pursuant to section 5123.13 of the Revised Code; 1607

(f) An enforcement agent of the department of public safety 1608
whom the director of public safety designates under section 1609
5502.14 of the Revised Code; 1610

(g) A special police officer employed by a port authority 1611
under section 4582.04 or 4582.28 of the Revised Code; 1612

(h) A special police officer employed by a municipal 1613
corporation at a municipal airport, or other municipal air 1614
navigation facility, that has scheduled operations, as defined in 1615
section 119.3 of Title 14 of the Code of Federal Regulations, 14 1616
C.F.R. 119.3, as amended, and that is required to be under a 1617
security program and is governed by aviation security rules of the 1618
transportation security administration of the United States 1619
department of transportation as provided in Parts 1542. and 1544. 1620
of Title 49 of the Code of Federal Regulations, as amended. 1621

(3) For purposes of division (B) of this section, a state, 1622
county, municipal, or department of natural resources peace 1623
officer basic training program, regardless of whether the program 1624
is to be completed by peace officers appointed on a permanent or 1625
temporary, probationary, or other nonpermanent basis, shall 1626
include at least fifteen hours of training in the handling of the 1627
offense of domestic violence, other types of domestic 1628

violence-related offenses and incidents, and protection orders and 1629
consent agreements issued or approved under section 2919.26 or 1630
3113.31 of the Revised Code and at least six hours of crisis 1631
intervention training. The requirement to complete fifteen hours 1632
of training in the handling of the offense of domestic violence, 1633
other types of domestic violence-related offenses and incidents, 1634
and protection orders and consent agreements issued or approved 1635
under section 2919.26 or 3113.31 of the Revised Code does not 1636
apply to any person serving as a peace officer on March 27, 1979, 1637
and the requirement to complete six hours of training in crisis 1638
intervention does not apply to any person serving as a peace 1639
officer on April 4, 1985. Any person who is serving as a peace 1640
officer on April 4, 1985, who terminates that employment after 1641
that date, and who subsequently is hired as a peace officer by the 1642
same or another law enforcement agency shall complete the six 1643
hours of training in crisis intervention within the time 1644
prescribed by rules adopted by the attorney general pursuant to 1645
section 109.742 of the Revised Code. No peace officer shall have 1646
employment as a peace officer terminated and then be reinstated 1647
with intent to circumvent this section. 1648

(4) Division (B) of this section does not apply to any person 1649
serving on a permanent basis on March 28, 1985, as a park officer, 1650
forest officer, preserve officer, wildlife officer, or state 1651
watercraft officer of the department of natural resources or as an 1652
employee of a park district under section 511.232 or 1545.13 of 1653
the Revised Code, to any person serving on a permanent basis on 1654
March 6, 1986, as an employee of a conservancy district designated 1655
pursuant to section 6101.75 of the Revised Code, to any person 1656
serving on a permanent basis on January 10, 1991, as a preserve 1657
officer of the department of natural resources, to any person 1658
employed on a permanent basis on July 2, 1992, as a special police 1659
officer by the department of mental health pursuant to section 1660
5119.14 of the Revised Code or by the department of ~~mental~~ 1661

~~retardation and~~ developmental disabilities pursuant to section 1662
5123.13 of the Revised Code, to any person serving on a permanent 1663
basis on May 17, 2000, as a special police officer employed by a 1664
port authority under section 4582.04 or 4582.28 of the Revised 1665
Code, to any person serving on a permanent basis on ~~the effective~~ 1666
~~date of this amendment~~ March 19, 2003, as a special police officer 1667
employed by a municipal corporation at a municipal airport or 1668
other municipal air navigation facility described in division 1669
(A)(19) of section 109.71 of the Revised Code, to any person 1670
serving on a permanent basis on June 19, 1978, as a state 1671
university law enforcement officer pursuant to section 3345.04 of 1672
the Revised Code and who, immediately prior to June 19, 1978, was 1673
serving as a special police officer designated under authority of 1674
that section, or to any person serving on a permanent basis on 1675
September 20, 1984, as a liquor control investigator, known after 1676
June 30, 1999, as an enforcement agent of the department of public 1677
safety, engaged in the enforcement of Chapters 4301. and 4303. of 1678
the Revised Code. 1679

(5) Division (B) of this section does not apply to any person 1680
who is appointed as a regional transit authority police officer 1681
pursuant to division (Y) of section 306.35 of the Revised Code if, 1682
on or before July 1, 1996, the person has completed satisfactorily 1683
an approved state, county, municipal, or department of natural 1684
resources peace officer basic training program and has been 1685
awarded a certificate by the executive director of the Ohio peace 1686
officer training commission attesting to the person's satisfactory 1687
completion of such an approved program and if, on July 1, 1996, 1688
the person is performing peace officer functions for a regional 1689
transit authority. 1690

(C) No person, after September 20, 1984, shall receive an 1691
original appointment on a permanent basis as a veterans' home 1692
police officer designated under section 5907.02 of the Revised 1693

Code unless the person previously has been awarded a certificate 1694
by the executive director of the Ohio peace officer training 1695
commission attesting to the person's satisfactory completion of an 1696
approved police officer basic training program. Every person who 1697
is appointed on a temporary basis or for a probationary term or on 1698
other than a permanent basis as a veterans' home police officer 1699
designated under section 5907.02 of the Revised Code shall forfeit 1700
that position unless the person previously has completed 1701
satisfactorily or, within one year from the time of appointment, 1702
satisfactorily completes an approved police officer basic training 1703
program. 1704

(D) No bailiff or deputy bailiff of a court of record of this 1705
state and no criminal investigator who is employed by the state 1706
public defender shall carry a firearm, as defined in section 1707
2923.11 of the Revised Code, while on duty unless the bailiff, 1708
deputy bailiff, or criminal investigator has done or received one 1709
of the following: 1710

(1) Has been awarded a certificate by the executive director 1711
of the Ohio peace officer training commission, which certificate 1712
attests to satisfactory completion of an approved state, county, 1713
or municipal basic training program for bailiffs and deputy 1714
bailiffs of courts of record and for criminal investigators 1715
employed by the state public defender that has been recommended by 1716
the Ohio peace officer training commission; 1717

(2) Has successfully completed a firearms training program 1718
approved by the Ohio peace officer training commission prior to 1719
employment as a bailiff, deputy bailiff, or criminal investigator; 1720

(3) Prior to June 6, 1986, was authorized to carry a firearm 1721
by the court that employed the bailiff or deputy bailiff or, in 1722
the case of a criminal investigator, by the state public defender 1723
and has received training in the use of firearms that the Ohio 1724
peace officer training commission determines is equivalent to the 1725

training that otherwise is required by division (D) of this 1726
section. 1727

(E)(1) Before a person seeking a certificate completes an 1728
approved peace officer basic training program, the executive 1729
director of the Ohio peace officer training commission shall 1730
request the person to disclose, and the person shall disclose, any 1731
previous criminal conviction of or plea of guilty of that person 1732
to a felony. 1733

(2) Before a person seeking a certificate completes an 1734
approved peace officer basic training program, the executive 1735
director shall request a criminal history records check on the 1736
person. The executive director shall submit the person's 1737
fingerprints to the bureau of criminal identification and 1738
investigation, which shall submit the fingerprints to the federal 1739
bureau of investigation for a national criminal history records 1740
check. 1741

Upon receipt of the executive director's request, the bureau 1742
of criminal identification and investigation and the federal 1743
bureau of investigation shall conduct a criminal history records 1744
check on the person and, upon completion of the check, shall 1745
provide a copy of the criminal history records check to the 1746
executive director. The executive director shall not award any 1747
certificate prescribed in this section unless the executive 1748
director has received a copy of the criminal history records check 1749
on the person to whom the certificate is to be awarded. 1750

(3) The executive director of the commission shall not award 1751
a certificate prescribed in this section to a person who has been 1752
convicted of or has pleaded guilty to a felony or who fails to 1753
disclose any previous criminal conviction of or plea of guilty to 1754
a felony as required under division (E)(1) of this section. 1755

(4) The executive director of the commission shall revoke the 1756

certificate awarded to a person as prescribed in this section, and 1757
that person shall forfeit all of the benefits derived from being 1758
certified as a peace officer under this section, if the person, 1759
before completion of an approved peace officer basic training 1760
program, failed to disclose any previous criminal conviction of or 1761
plea of guilty to a felony as required under division (E)(1) of 1762
this section. 1763

(F)(1) Regardless of whether the person has been awarded the 1764
certificate or has been classified as a peace officer prior to, 1765
on, or after October 16, 1996, the executive director of the Ohio 1766
peace officer training commission shall revoke any certificate 1767
that has been awarded to a person as prescribed in this section if 1768
the person does either of the following: 1769

(a) Pleads guilty to a felony committed on or after January 1770
1, 1997; 1771

(b) Pleads guilty to a misdemeanor committed on or after 1772
January 1, 1997, pursuant to a negotiated plea agreement as 1773
provided in division (D) of section 2929.43 of the Revised Code in 1774
which the person agrees to surrender the certificate awarded to 1775
the person under this section. 1776

(2) The executive director of the commission shall suspend 1777
any certificate that has been awarded to a person as prescribed in 1778
this section if the person is convicted, after trial, of a felony 1779
committed on or after January 1, 1997. The executive director 1780
shall suspend the certificate pursuant to division (F)(2) of this 1781
section pending the outcome of an appeal by the person from that 1782
conviction to the highest court to which the appeal is taken or 1783
until the expiration of the period in which an appeal is required 1784
to be filed. If the person files an appeal that results in that 1785
person's acquittal of the felony or conviction of a misdemeanor, 1786
or in the dismissal of the felony charge against that person, the 1787
executive director shall reinstate the certificate awarded to the 1788

person under this section. If the person files an appeal from that 1789
person's conviction of the felony and the conviction is upheld by 1790
the highest court to which the appeal is taken or if the person 1791
does not file a timely appeal, the executive director shall revoke 1792
the certificate awarded to the person under this section. 1793

(G)(1) If a person is awarded a certificate under this 1794
section and the certificate is revoked pursuant to division (E)(4) 1795
or (F) of this section, the person shall not be eligible to 1796
receive, at any time, a certificate attesting to the person's 1797
satisfactory completion of a peace officer basic training program. 1798

(2) The revocation or suspension of a certificate under 1799
division (E)(4) or (F) of this section shall be in accordance with 1800
Chapter 119. of the Revised Code. 1801

(H)(1) A person who was employed as a peace officer of a 1802
county, township, or municipal corporation of the state on January 1803
1, 1966, and who has completed at least sixteen years of full-time 1804
active service as such a peace officer may receive an original 1805
appointment on a permanent basis and serve as a peace officer of a 1806
county, township, or municipal corporation, or as a state 1807
university law enforcement officer, without complying with the 1808
requirements of division (B) of this section. 1809

(2) Any person who held an appointment as a state highway 1810
trooper on January 1, 1966, may receive an original appointment on 1811
a permanent basis and serve as a peace officer of a county, 1812
township, or municipal corporation, or as a state university law 1813
enforcement officer, without complying with the requirements of 1814
division (B) of this section. 1815

(I) No person who is appointed as a peace officer of a 1816
county, township, or municipal corporation on or after April 9, 1817
1985, shall serve as a peace officer of that county, township, or 1818
municipal corporation unless the person has received training in 1819

the handling of missing children and child abuse and neglect cases 1820
from an approved state, county, township, or municipal police 1821
officer basic training program or receives the training within the 1822
time prescribed by rules adopted by the attorney general pursuant 1823
to section 109.741 of the Revised Code. 1824

(J) No part of any approved state, county, or municipal basic 1825
training program for bailiffs and deputy bailiffs of courts of 1826
record and no part of any approved state, county, or municipal 1827
basic training program for criminal investigators employed by the 1828
state public defender shall be used as credit toward the 1829
completion by a peace officer of any part of the approved state, 1830
county, or municipal peace officer basic training program that the 1831
peace officer is required by this section to complete 1832
satisfactorily. 1833

(K) This section does not apply to any member of the police 1834
department of a municipal corporation in an adjoining state 1835
serving in this state under a contract pursuant to section 737.04 1836
of the Revised Code. 1837

Sec. 109.86. (A) The attorney general shall investigate any 1838
activity the attorney general has reasonable cause to believe is 1839
in violation of section 2903.34 of the Revised Code. Upon written 1840
request of the governor, the general assembly, the auditor of 1841
state, or the director of health, job and family services, aging, 1842
mental health, or ~~mental retardation and~~ developmental 1843
disabilities, the attorney general shall investigate any activity 1844
these persons believe is in violation of section 2903.34 of the 1845
Revised Code. If after an investigation the attorney general has 1846
probable cause to prosecute for the commission of a crime, the 1847
attorney general shall refer the evidence to the prosecuting 1848
attorney, director of law, or other similar chief legal officer 1849
having jurisdiction over the matter. If the prosecuting attorney 1850

decides to present the evidence to a grand jury, the prosecuting attorney shall notify the attorney general in writing of the decision within thirty days after referral of the matter and shall present the evidence prior to the discharge of the next regular grand jury. If the director of law or other chief legal officer decides to prosecute the case, the director or officer shall notify the attorney general in writing of the decision within thirty days and shall initiate prosecution within sixty days after the matter was referred to the director or officer.

(B) If the prosecuting attorney, director of law, or other chief legal officer fails to notify the attorney general or to present evidence or initiate prosecution in accordance with division (A) of this section, the attorney general may present the evidence to a regular grand jury drawn and impaneled pursuant to sections 2939.01 to 2939.24 of the Revised Code, or to a special grand jury drawn and impaneled pursuant to section 2939.17 of the Revised Code, or the attorney general may initiate and prosecute any action in any court or tribunal of competent jurisdiction in this state. The attorney general, and any assistant or special counsel designated by the attorney general, have all the powers of a prosecuting attorney, director of law, or other chief legal officer when proceeding under this section. Nothing in this section shall limit or prevent a prosecuting attorney, director of law, or other chief legal officer from investigating and prosecuting criminal activity committed against a resident or patient of a care facility.

Sec. 117.102. The auditor of state shall review the report of each school health and safety network inspection of a public school building and associated grounds submitted to the auditor of state under section 3701.932 of the Revised Code. The auditor of state may include references to any of the recommendations contained in the inspection report, as determined appropriate by

the auditor of state, in any audit report of the school district, 1883
educational service center, county board of ~~mental retardation and~~ 1884
developmental disabilities, or community school controlling the 1885
inspected building and grounds. 1886

As used in this section, "public school" has the same meaning 1887
as in section 3701.93 of the Revised Code. 1888

Sec. 121.02. The following administrative departments and 1889
their respective directors are hereby created: 1890

(A) The office of budget and management, which shall be 1891
administered by the director of budget and management; 1892

(B) The department of commerce, which shall be administered 1893
by the director of commerce; 1894

(C) The department of administrative services, which shall be 1895
administered by the director of administrative services; 1896

(D) The department of transportation, which shall be 1897
administered by the director of transportation; 1898

(E) The department of agriculture, which shall be 1899
administered by the director of agriculture; 1900

(F) The department of natural resources, which shall be 1901
administered by the director of natural resources; 1902

(G) The department of health, which shall be administered by 1903
the director of health; 1904

(H) The department of job and family services, which shall be 1905
administered by the director of job and family services; 1906

(I) Until July 1, 1997, the department of liquor control, 1907
which shall be administered by the director of liquor control; 1908

(J) The department of public safety, which shall be 1909
administered by the director of public safety; 1910

(K) The department of mental health, which shall be 1911
administered by the director of mental health; 1912

(L) The department of ~~mental retardation and~~ developmental 1913
disabilities, which shall be administered by the director of 1914
~~mental retardation and~~ developmental disabilities; 1915

(M) The department of insurance, which shall be administered 1916
by the superintendent of insurance as director thereof; 1917

(N) The department of development, which shall be 1918
administered by the director of development; 1919

(O) The department of youth services, which shall be 1920
administered by the director of youth services; 1921

(P) The department of rehabilitation and correction, which 1922
shall be administered by the director of rehabilitation and 1923
correction; 1924

(Q) The environmental protection agency, which shall be 1925
administered by the director of environmental protection; 1926

(R) The department of aging, which shall be administered by 1927
the director of aging; 1928

(S) The department of alcohol and drug addiction services, 1929
which shall be administered by the director of alcohol and drug 1930
addiction services; 1931

(T) The department of veterans services, which shall be 1932
administered by the director of veterans services. 1933

The director of each department shall exercise the powers and 1934
perform the duties vested by law in such department. 1935

Sec. 121.03. The following administrative department heads 1936
shall be appointed by the governor, with the advice and consent of 1937
the senate, and shall hold their offices during the term of the 1938
appointing governor, and are subject to removal at the pleasure of 1939

the governor.	1940
(A) The director of budget and management;	1941
(B) The director of commerce;	1942
(C) The director of transportation;	1943
(D) The director of agriculture;	1944
(E) The director of job and family services;	1945
(F) Until July 1, 1997, the director of liquor control;	1946
(G) The director of public safety;	1947
(H) The superintendent of insurance;	1948
(I) The director of development;	1949
(J) The tax commissioner;	1950
(K) The director of administrative services;	1951
(L) The director of natural resources;	1952
(M) The director of mental health;	1953
(N) The director of mental retardation and developmental disabilities;	1954 1955
(O) The director of health;	1956
(P) The director of youth services;	1957
(Q) The director of rehabilitation and correction;	1958
(R) The director of environmental protection;	1959
(S) The director of aging;	1960
(T) The director of alcohol and drug addiction services;	1961
(U) The administrator of workers' compensation who meets the qualifications required under division (A) of section 4121.121 of the Revised Code;	1962 1963 1964
(V) The director of veterans services who meets the	1965

qualifications required under section 5902.01 of the Revised Code. 1966

Sec. 121.32. The commission on Hispanic-Latino affairs shall: 1967
1968

(A) Gather and disseminate information and conduct hearings, 1969
conferences, investigations, and special studies on problems and 1970
programs concerning Spanish-speaking people; 1971

(B) Secure appropriate recognition of the accomplishments and 1972
contributions of Spanish-speaking people to this state; 1973

(C) Stimulate public awareness of the problems of 1974
Spanish-speaking people by conducting a program of public 1975
education; 1976

(D) Develop, coordinate, and assist other public and private 1977
organizations that serve Spanish-speaking people, including the 1978
conducting of training programs for community leadership and 1979
service project staff; 1980

(E) Advise the governor, general assembly, and state 1981
departments and agencies of the nature, magnitude, and priorities 1982
of the problems of Spanish-speaking people; 1983

(F) Advise the governor, general assembly, and state 1984
departments and agencies on, and assist in the development and 1985
implementation of, comprehensive and coordinated policies, 1986
programs, and procedures focusing on the special problems and 1987
needs of Spanish-speaking people, especially in the fields of 1988
education, employment, energy, health, housing, welfare, and 1989
recreation; 1990

(G) Propose new programs concerning Spanish-speaking people 1991
to public and private agencies and evaluate for such agencies 1992
existing programs or prospective legislation concerning 1993
Spanish-speaking people; 1994

(H) Review and approve grants to be made from federal, state, 1995

or private funds which are administered or subcontracted by the 1996
office of Spanish-speaking affairs; 1997

(I) Review and approve the annual report prepared by the 1998
office of Spanish-speaking affairs; 1999

(J) Create an interagency council consisting of the following 2000
persons or their authorized representatives: one member of the 2001
senate appointed by the president of the senate; one member of the 2002
house of representatives appointed by the speaker of the house of 2003
representatives; the directors of administrative services, 2004
agriculture, education, development, health, highway safety, job 2005
and family services, liquor control, mental health, ~~mental~~ 2006
~~retardation and~~ developmental disabilities, natural resources, 2007
rehabilitation and correction, youth services, transportation, 2008
environmental protection, and budget and management; the 2009
chairperson of the Ohio civil rights commission, the 2010
administrators of the bureau of workers' compensation and the 2011
rehabilitation services commission, and an additional member of 2012
the governor's cabinet appointed by the governor. The commission 2013
on Hispanic-Latino affairs, by rule, may designate other state 2014
officers or their representatives to be members of the council. 2015
The director of the commission shall be the chairperson of the 2016
council. 2017

The interagency council shall provide and coordinate the 2018
exchange of information relative to the needs of Spanish-speaking 2019
people and promote the delivery of state services to such people. 2020
The council shall meet at the call of the chairperson. 2021

Sec. 121.36. (A) As used in this section, "home care 2022
dependent adult" means an individual who resides in a private home 2023
or other noninstitutional and unlicensed living arrangement, 2024
without the presence of a parent or guardian, but has health and 2025
safety needs that require the provision of regularly scheduled 2026

home care services to remain in the home or other living 2027
arrangement because one of the following is the case: 2028

(1) The individual is at least twenty-one years of age but 2029
less than sixty years of age and has a physical disability or 2030
mental impairment. 2031

(2) The individual is sixty years of age or older, regardless 2032
of whether the individual has a physical disability or mental 2033
impairment. 2034

(B) Except as provided in division (D) of this section, the 2035
departments of ~~mental retardation and~~ developmental disabilities, 2036
aging, job and family services, and health shall each implement 2037
this section with respect to all contracts entered into by the 2038
department for the provision of home care services to home care 2039
dependent adults that are paid for in whole or in part with 2040
federal, state, or local funds. Except as provided in division (D) 2041
of this section, each department shall also require all public and 2042
private entities that receive money from or through the department 2043
to comply with this section when entering into contracts for the 2044
provision of home care services to home care dependent adults that 2045
are paid for in whole or in part with federal, state, or local 2046
funds. Such entities may include county boards of ~~mental~~ 2047
~~retardation and~~ developmental disabilities, area agencies on 2048
aging, county departments of job and family services, and boards 2049
of health of city and general health districts. 2050

(C) Beginning one year after ~~the effective date of this~~ 2051
~~section~~ September 26, 2003, each contract subject to this section 2052
shall include terms requiring that the provider of home care 2053
services to home care dependent adults have a system in place that 2054
effectively monitors the delivery of the services by its 2055
employees. To be considered an effective monitoring system for 2056
purposes of the contract, the system established by a provider 2057
must include at least the following components: 2058

(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 exempt providers of home care services who are self-employed providers with no other employees or are otherwise considered by the departments not to be agency providers. The departments shall

conduct a study on how the exempted providers may be made subject 2090
to the requirement of effectively monitoring whether home care 2091
services are being provided and have been provided at the proper 2092
location and time. Not later than two years after ~~the effective~~ 2093
~~date of this section~~ September 26, 2003, the departments shall 2094
prepare a report of their findings and recommendations. The report 2095
shall be submitted to the president of the senate and the speaker 2096
of the house of representatives. 2097

(E) The departments of ~~mental retardation and~~ developmental 2098
disabilities, aging, job and family services, and health shall 2099
each adopt rules as necessary to implement this section. The rules 2100
shall be adopted in accordance with Chapter 119. of the Revised 2101
Code. 2102

Sec. 121.37. (A)(1) There is hereby created the Ohio family 2103
and children first cabinet council. The council shall be composed 2104
of the superintendent of public instruction and the directors of 2105
youth services, job and family services, mental health, health, 2106
alcohol and drug addiction services, ~~mental retardation and~~ 2107
developmental disabilities, and budget and management. The 2108
chairperson of the council shall be the governor or the governor's 2109
designee and shall establish procedures for the council's internal 2110
control and management. 2111

The purpose of the cabinet council is to help families 2112
seeking government services. This section shall not be interpreted 2113
or applied to usurp the role of parents, but solely to streamline 2114
and coordinate existing government services for families seeking 2115
assistance for their children. 2116

(2) In seeking to fulfill its purpose, the council may do any 2117
of the following: 2118

(a) Advise and make recommendations to the governor and 2119
general assembly regarding the provision of services to children; 2120

(b) Advise and assess local governments on the coordination of service delivery to children; 2121
2122

(c) Hold meetings at such times and places as may be prescribed by the council's procedures and maintain records of the meetings, except that records identifying individual children are confidential and shall be disclosed only as provided by law; 2123
2124
2125
2126

(d) Develop programs and projects, including pilot projects, to encourage coordinated efforts at the state and local level to improve the state's social service delivery system; 2127
2128
2129

(e) Enter into contracts with and administer grants to county family and children first councils, as well as other county or multicounty organizations to plan and coordinate service delivery between state agencies and local service providers for families and children; 2130
2131
2132
2133
2134

(f) Enter into contracts with and apply for grants from federal agencies or private organizations; 2135
2136

(g) Enter into interagency agreements to encourage coordinated efforts at the state and local level to improve the state's social service delivery system. The agreements may include provisions regarding the receipt, transfer, and expenditure of funds; 2137
2138
2139
2140
2141

(h) Identify public and private funding sources for services provided to alleged or adjudicated unruly children and children who are at risk of being alleged or adjudicated unruly children, including regulations governing access to and use of the services; 2142
2143
2144
2145

(i) Collect information provided by local communities regarding successful programs for prevention, intervention, and treatment of unruly behavior, including evaluations of the programs; 2146
2147
2148
2149

(j) Identify and disseminate publications regarding alleged 2150

or adjudicated unruly children and children who are at risk of 2151
being alleged or adjudicated unruly children and regarding 2152
programs serving those types of children; 2153

(k) Maintain an inventory of strategic planning facilitators 2154
for use by government or nonprofit entities that serve alleged or 2155
adjudicated unruly children or children who are at risk of being 2156
alleged or adjudicated unruly children. 2157

(3) The cabinet council shall provide for the following: 2158

(a) Reviews of service and treatment plans for children for 2159
which such reviews are requested; 2160

(b) Assistance as the council determines to be necessary to 2161
meet the needs of children referred by county family and children 2162
first councils; 2163

(c) Monitoring and supervision of a statewide, comprehensive, 2164
coordinated, multi-disciplinary, interagency system for infants 2165
and toddlers with developmental disabilities or delays and their 2166
families, as established pursuant to federal grants received and 2167
administered by the department of health for early intervention 2168
services under the "Individuals with Disabilities Education Act of 2169
2004," 20 U.S.C.A. 1400, as amended. 2170

(4) The cabinet council shall develop and implement the 2171
following: 2172

(a) An interagency process to select the indicators that will 2173
be used to measure progress toward increasing child well-being in 2174
the state and to update the indicators on an annual basis. The 2175
indicators shall focus on expectant parents and newborns thriving; 2176
infants and toddlers thriving; children being ready for school; 2177
children and youth succeeding in school; youth choosing healthy 2178
behaviors; and youth successfully transitioning into adulthood. 2179

(b) An interagency system to offer guidance and monitor 2180

progress toward increasing child well-being in the state and in 2181
each county; 2182

(c) An annual plan that identifies state-level agency efforts 2183
taken to ensure progress towards increasing child well-being in 2184
the state. 2185

On an annual basis, the cabinet council shall submit to the 2186
governor and the general assembly a report on the status of 2187
efforts to increase child well-being in the state. This report 2188
shall be made available to any other person on request. 2189

(B)(1) Each board of county commissioners shall establish a 2190
county family and children first council. The board may invite any 2191
local public or private agency or group that funds, advocates, or 2192
provides services to children and families to have a 2193
representative become a permanent or temporary member of its 2194
county council. Each county council must include the following 2195
individuals: 2196

(a) At least three individuals who are not employed by an 2197
agency represented on the council and whose families are or have 2198
received services from an agency represented on the council or 2199
another county's council. Where possible, the number of members 2200
representing families shall be equal to twenty per cent of the 2201
council's membership. 2202

(b) The director of the board of alcohol, drug addiction, and 2203
mental health services that serves the county, or, in the case of 2204
a county that has a board of alcohol and drug addiction services 2205
and a community mental health board, the directors of both boards. 2206
If a board of alcohol, drug addiction, and mental health services 2207
covers more than one county, the director may designate a person 2208
to participate on the county's council. 2209

(c) The health commissioner, or the commissioner's designee, 2210
of the board of health of each city and general health district in 2211

the county. If the county has two or more health districts, the 2212
health commissioner membership may be limited to the commissioners 2213
of the two districts with the largest populations. 2214

(d) The director of the county department of job and family 2215
services; 2216

(e) The executive director of the public children services 2217
agency; 2218

(f) The superintendent of the county board of ~~mental~~ 2219
~~retardation and~~ developmental disabilities; 2220

(g) The superintendent of the city, exempted village, or 2221
local school district with the largest number of pupils residing 2222
in the county, as determined by the department of education, which 2223
shall notify each board of county commissioners of its 2224
determination at least biennially; 2225

(h) A school superintendent representing all other school 2226
districts with territory in the county, as designated at a 2227
biennial meeting of the superintendents of those districts; 2228

(i) A representative of the municipal corporation with the 2229
largest population in the county; 2230

(j) The president of the board of county commissioners or an 2231
individual designated by the board; 2232

(k) A representative of the regional office of the department 2233
of youth services; 2234

(l) A representative of the county's head start agencies, as 2235
defined in section 3301.32 of the Revised Code; 2236

(m) A representative of the county's early intervention 2237
collaborative established pursuant to the federal early 2238
intervention program operated under the "Individuals with 2239
Disabilities Education Act of 2004"; 2240

(n) A representative of a local nonprofit entity that funds, 2241

advocates, or provides services to children and families. 2242

Notwithstanding any other provision of law, the public 2243
members of a county council are not prohibited from serving on the 2244
council and making decisions regarding the duties of the council, 2245
including those involving the funding of joint projects and those 2246
outlined in the county's service coordination mechanism 2247
implemented pursuant to division (C) of this section. 2248

The cabinet council shall establish a state appeals process 2249
to resolve disputes among the members of a county council 2250
concerning whether reasonable responsibilities as members are 2251
being shared. The appeals process may be accessed only by a 2252
majority vote of the council members who are required to serve on 2253
the council. Upon appeal, the cabinet council may order that state 2254
funds for services to children and families be redirected to a 2255
county's board of county commissioners. 2256

The county's juvenile court judge senior in service or 2257
another judge of the juvenile court designated by the 2258
administrative judge or, where there is no administrative judge, 2259
by the judge senior in service shall serve as the judicial advisor 2260
to the county family and children first council. The judge may 2261
advise the county council on the court's utilization of resources, 2262
services, or programs provided by the entities represented by the 2263
members of the county council and how those resources, services, 2264
or programs assist the court in its administration of justice. 2265
Service of a judge as a judicial advisor pursuant to this section 2266
is a judicial function. 2267

(2) The purpose of the county council is to streamline and 2268
coordinate existing government services for families seeking 2269
services for their children. In seeking to fulfill its purpose, a 2270
county council shall provide for the following: 2271

(a) Referrals to the cabinet council of those children for 2272

whom the county council cannot provide adequate services; 2273

(b) Development and implementation of a process that annually 2274
evaluates and prioritizes services, fills service gaps where 2275
possible, and invents new approaches to achieve better results for 2276
families and children; 2277

(c) Participation in the development of a countywide, 2278
comprehensive, coordinated, multi-disciplinary, interagency system 2279
for infants and toddlers with developmental disabilities or delays 2280
and their families, as established pursuant to federal grants 2281
received and administered by the department of health for early 2282
intervention services under the "Individuals with Disabilities 2283
Education Act of 2004"; 2284

(d) Maintenance of an accountability system to monitor the 2285
county council's progress in achieving results for families and 2286
children; 2287

(e) Establishment of a mechanism to ensure ongoing input from 2288
a broad representation of families who are receiving services 2289
within the county system. 2290

(3) A county council shall develop and implement the 2291
following: 2292

(a) An interagency process to establish local indicators and 2293
monitor the county's progress toward increasing child well-being 2294
in the county; 2295

(b) An interagency process to identify local priorities to 2296
increase child well-being. The local priorities shall focus on 2297
expectant parents and newborns thriving; infants and toddlers 2298
thriving; children being ready for school; children and youth 2299
succeeding in school; youth choosing healthy behaviors; and youth 2300
successfully transitioning into adulthood and take into account 2301
the indicators established by the cabinet council under division 2302
(A)(4)(a) of this section. 2303

(c) An annual plan that identifies the county's interagency 2304
efforts to increase child well-being in the county. 2305

On an annual basis, the county council shall submit a report 2306
on the status of efforts by the county to increase child 2307
well-being in the county to the county's board of county 2308
commissioners and the cabinet council. This report shall be made 2309
available to any other person on request. 2310

(4)(a) Except as provided in division (B)(4)(b) of this 2311
section, a county council shall comply with the policies, 2312
procedures, and activities prescribed by the rules or interagency 2313
agreements of a state department participating on the cabinet 2314
council whenever the county council performs a function subject to 2315
those rules or agreements. 2316

(b) On application of a county council, the cabinet council 2317
may grant an exemption from any rules or interagency agreements of 2318
a state department participating on the council if an exemption is 2319
necessary for the council to implement an alternative program or 2320
approach for service delivery to families and children. The 2321
application shall describe the proposed program or approach and 2322
specify the rules or interagency agreements from which an 2323
exemption is necessary. The cabinet council shall approve or 2324
disapprove the application in accordance with standards and 2325
procedures it shall adopt. If an application is approved, the 2326
exemption is effective only while the program or approach is being 2327
implemented, including a reasonable period during which the 2328
program or approach is being evaluated for effectiveness. 2329

(5)(a) Each county council shall designate an administrative 2330
agent for the council from among the following public entities: 2331
the board of alcohol, drug addiction, and mental health services, 2332
including a board of alcohol and drug addiction or a community 2333
mental health board if the county is served by separate boards; 2334
the board of county commissioners; any board of health of the 2335

county's city and general health districts; the county department 2336
of job and family services; the county agency responsible for the 2337
administration of children services pursuant to section 5153.15 of 2338
the Revised Code; the county board of ~~mental retardation and~~ 2339
developmental disabilities; any of the county's boards of 2340
education or governing boards of educational service centers; or 2341
the county's juvenile court. Any of the foregoing public entities, 2342
other than the board of county commissioners, may decline to serve 2343
as the council's administrative agent. 2344

A county council's administrative agent shall serve as the 2345
council's appointing authority for any employees of the council. 2346
The council shall file an annual budget with its administrative 2347
agent, with copies filed with the county auditor and with the 2348
board of county commissioners, unless the board is serving as the 2349
council's administrative agent. The council's administrative agent 2350
shall ensure that all expenditures are handled in accordance with 2351
policies, procedures, and activities prescribed by state 2352
departments in rules or interagency agreements that are applicable 2353
to the council's functions. 2354

The administrative agent of a county council shall send 2355
notice of a member's absence if a member listed in division (B)(1) 2356
of this section has been absent from either three consecutive 2357
meetings of the county council or a county council subcommittee, 2358
or from one-quarter of such meetings in a calendar year, whichever 2359
is less. The notice shall be sent to the board of county 2360
commissioners that establishes the county council and, for the 2361
members listed in divisions (B)(1)(b), (c), (e), and (l) of this 2362
section, to the governing board overseeing the respective entity; 2363
for the member listed in division (B)(1)(f) of this section, to 2364
the county board of ~~mental retardation and~~ developmental 2365
disabilities that employs the superintendent; for a member listed 2366
in division (B)(1)(g) or (h) of this section, to the school board 2367

that employs the superintendent; for the member listed in division 2368
(B)(1)(i) of this section, to the mayor of the municipal 2369
corporation; for the member listed in division (B)(1)(k) of this 2370
section, to the director of youth services; and for the member 2371
listed in division (B)(1)(n), to that member's board of trustees. 2372

The administrative agent for a county council may do any of 2373
the following on behalf of the council: 2374

(i) Enter into agreements or administer contracts with public 2375
or private entities to fulfill specific council business. Such 2376
agreements and contracts are exempt from the competitive bidding 2377
requirements of section 307.86 of the Revised Code if they have 2378
been approved by the county council and they are for the purchase 2379
of family and child welfare or child protection services or other 2380
social or job and family services for families and children. The 2381
approval of the county council is not required to exempt 2382
agreements or contracts entered into under section 5139.34, 2383
5139.41, or 5139.43 of the Revised Code from the competitive 2384
bidding requirements of section 307.86 of the Revised Code. 2385

(ii) As determined by the council, provide financial 2386
stipends, reimbursements, or both, to family representatives for 2387
expenses related to council activity; 2388

(iii) Receive by gift, grant, devise, or bequest any moneys, 2389
lands, or other property for the purposes for which the council is 2390
established. The agent shall hold, apply, and dispose of the 2391
moneys, lands, or other property according to the terms of the 2392
gift, grant, devise, or bequest. Any interest or earnings shall be 2393
treated in the same manner and are subject to the same terms as 2394
the gift, grant, devise, or bequest from which it accrues. 2395

(b)(i) If the county council designates the board of county 2396
commissioners as its administrative agent, the board may, by 2397
resolution, delegate any of its powers and duties as 2398

administrative agent to an executive committee the board 2399
establishes from the membership of the county council. The board 2400
shall name to the executive committee at least the individuals 2401
described in divisions (B)(1)(b) to (h) of this section and may 2402
appoint the president of the board or another individual as the 2403
chair of the executive committee. The executive committee must 2404
include at least one family county council representative who does 2405
not have a family member employed by an agency represented on the 2406
council. 2407

(ii) The executive committee may, with the approval of the 2408
board, hire an executive director to assist the county council in 2409
administering its powers and duties. The executive director shall 2410
serve in the unclassified civil service at the pleasure of the 2411
executive committee. The executive director may, with the approval 2412
of the executive committee, hire other employees as necessary to 2413
properly conduct the county council's business. 2414

(iii) The board may require the executive committee to submit 2415
an annual budget to the board for approval and may amend or repeal 2416
the resolution that delegated to the executive committee its 2417
authority as the county council's administrative agent. 2418

(6) Two or more county councils may enter into an agreement 2419
to administer their county councils jointly by creating a regional 2420
family and children first council. A regional council possesses 2421
the same duties and authority possessed by a county council, 2422
except that the duties and authority apply regionally rather than 2423
to individual counties. Prior to entering into an agreement to 2424
create a regional council, the members of each county council to 2425
be part of the regional council shall meet to determine whether 2426
all or part of the members of each county council will serve as 2427
members of the regional council. 2428

(7) A board of county commissioners may approve a resolution 2429
by a majority vote of the board's members that requires the county 2430

council to submit a statement to the board each time the council 2431
proposes to enter into an agreement, adopt a plan, or make a 2432
decision, other than a decision pursuant to section 121.38 of the 2433
Revised Code, that requires the expenditure of funds for two or 2434
more families. The statement shall describe the proposed 2435
agreement, plan, or decision. 2436

Not later than fifteen days after the board receives the 2437
statement, it shall, by resolution approved by a majority of its 2438
members, approve or disapprove the agreement, plan, or decision. 2439
Failure of the board to pass a resolution during that time period 2440
shall be considered approval of the agreement, plan, or decision. 2441

An agreement, plan, or decision for which a statement is 2442
required to be submitted to the board shall be implemented only if 2443
it is approved by the board. 2444

(C) Each county shall develop a county service coordination 2445
mechanism. The county service coordination mechanism shall serve 2446
as the guiding document for coordination of services in the 2447
county. For children who also receive services under the help me 2448
grow program, the service coordination mechanism shall be 2449
consistent with rules adopted by the department of health under 2450
section 3701.61 of the Revised Code. All family service 2451
coordination plans shall be developed in accordance with the 2452
county service coordination mechanism. The mechanism shall be 2453
developed and approved with the participation of the county 2454
entities representing child welfare; mental retardation and 2455
developmental disabilities; alcohol, drug addiction, and mental 2456
health services; health; juvenile judges; education; the county 2457
family and children first council; and the county early 2458
intervention collaborative established pursuant to the federal 2459
early intervention program operated under the "Individuals with 2460
Disabilities Education Act of 2004." The county shall establish an 2461
implementation schedule for the mechanism. The cabinet council may 2462

monitor the implementation and administration of each county's 2463
service coordination mechanism. 2464

Each mechanism shall include all of the following: 2465

(1) A procedure for an agency, including a juvenile court, or 2466
a family voluntarily seeking service coordination, to refer the 2467
child and family to the county council for service coordination in 2468
accordance with the mechanism; 2469

(2) A procedure ensuring that a family and all appropriate 2470
staff from involved agencies, including a representative from the 2471
appropriate school district, are notified of and invited to 2472
participate in all family service coordination plan meetings; 2473

(3) A procedure that permits a family to initiate a meeting 2474
to develop or review the family's service coordination plan and 2475
allows the family to invite a family advocate, mentor, or support 2476
person of the family's choice to participate in any such meeting; 2477

(4) A procedure for ensuring that a family service 2478
coordination plan meeting is conducted for each child who receives 2479
service coordination under the mechanism and for whom an emergency 2480
out-of-home placement has been made or for whom a nonemergency 2481
out-of-home placement is being considered. The meeting shall be 2482
conducted within ten days of an emergency out-of-home placement. 2483
The meeting shall be conducted before a nonemergency out-of-home 2484
placement. The family service coordination plan shall outline how 2485
the county council members will jointly pay for services, where 2486
applicable, and provide services in the least restrictive 2487
environment. 2488

(5) A procedure for monitoring the progress and tracking the 2489
outcomes of each service coordination plan requested in the county 2490
including monitoring and tracking children in out-of-home 2491
placements to assure continued progress, appropriateness of 2492
placement, and continuity of care after discharge from placement 2493

with appropriate arrangements for housing, treatment, and 2494
education. 2495

(6) A procedure for protecting the confidentiality of all 2496
personal family information disclosed during service coordination 2497
meetings or contained in the comprehensive family service 2498
coordination plan. 2499

(7) A procedure for assessing the needs and strengths of any 2500
child or family that has been referred to the council for service 2501
coordination, including a child whose parent or custodian is 2502
voluntarily seeking services, and for ensuring that parents and 2503
custodians are afforded the opportunity to participate; 2504

(8) A procedure for development of a family service 2505
coordination plan described in division (D) of this section; 2506

(9) A local dispute resolution process to serve as the 2507
process that must be used first to resolve disputes among the 2508
agencies represented on the county council concerning the 2509
provision of services to children, including children who are 2510
abused, neglected, dependent, unruly, alleged unruly, or 2511
delinquent children and under the jurisdiction of the juvenile 2512
court and children whose parents or custodians are voluntarily 2513
seeking services. The local dispute resolution process shall 2514
comply with sections 121.38, 121.381, and 121.382 of the Revised 2515
Code. The local dispute resolution process shall be used to 2516
resolve disputes between a child's parents or custodians and the 2517
county council regarding service coordination. The county council 2518
shall inform the parents or custodians of their right to use the 2519
dispute resolution process. Parents or custodians shall use 2520
existing local agency grievance procedures to address disputes not 2521
involving service coordination. The dispute resolution process is 2522
in addition to and does not replace other rights or procedures 2523
that parents or custodians may have under other sections of the 2524
Revised Code. 2525

The cabinet council shall adopt rules in accordance with 2526
Chapter 119. of the Revised Code establishing an administrative 2527
review process to address problems that arise concerning the 2528
operation of a local dispute resolution process. 2529

Nothing in division (C)(4) of this section shall be 2530
interpreted as overriding or affecting decisions of a juvenile 2531
court regarding an out-of-home placement, long-term placement, or 2532
emergency out-of-home placement. 2533

(D) Each county shall develop a family service coordination 2534
plan that does all of the following: 2535

(1) Designates service responsibilities among the various 2536
state and local agencies that provide services to children and 2537
their families, including children who are abused, neglected, 2538
dependent, unruly, or delinquent children and under the 2539
jurisdiction of the juvenile court and children whose parents or 2540
custodians are voluntarily seeking services; 2541

(2) Designates an individual, approved by the family, to 2542
track the progress of the family service coordination plan, 2543
schedule reviews as necessary, and facilitate the family service 2544
coordination plan meeting process; 2545

(3) Ensures that assistance and services to be provided are 2546
responsive to the strengths and needs of the family, as well as 2547
the family's culture, race, and ethnic group, by allowing the 2548
family to offer information and suggestions and participate in 2549
decisions. Identified assistance and services shall be provided in 2550
the least restrictive environment possible. 2551

(4) Includes a process for dealing with a child who is 2552
alleged to be an unruly child. The process shall include methods 2553
to divert the child from the juvenile court system; 2554

(5) Includes timelines for completion of goals specified in 2555
the plan with regular reviews scheduled to monitor progress toward 2556

those goals; 2557

(6) Includes a plan for dealing with short-term crisis 2558
situations and safety concerns. 2559

(E)(1) The process provided for under division (D)(4) of this 2560
section may include, but is not limited to, the following: 2561

(a) Designation of the person or agency to conduct the 2562
assessment of the child and the child's family as described in 2563
division (C)(7) of this section and designation of the instrument 2564
or instruments to be used to conduct the assessment; 2565

(b) An emphasis on the personal responsibilities of the child 2566
and the parental responsibilities of the parents, guardian, or 2567
custodian of the child; 2568

(c) Involvement of local law enforcement agencies and 2569
officials. 2570

(2) The method to divert a child from the juvenile court 2571
system that must be included in the service coordination process 2572
may include, but is not limited to, the following: 2573

(a) The preparation of a complaint under section 2151.27 of 2574
the Revised Code alleging that the child is an unruly child and 2575
notifying the child and the parents, guardian, or custodian that 2576
the complaint has been prepared to encourage the child and the 2577
parents, guardian, or custodian to comply with other methods to 2578
divert the child from the juvenile court system; 2579

(b) Conducting a meeting with the child, the parents, 2580
guardian, or custodian, and other interested parties to determine 2581
the appropriate methods to divert the child from the juvenile 2582
court system; 2583

(c) A method to provide to the child and the child's family a 2584
short-term respite from a short-term crisis situation involving a 2585
confrontation between the child and the parents, guardian, or 2586

custodian; 2587

(d) A program to provide a mentor to the child or the 2588
parents, guardian, or custodian; 2589

(e) A program to provide parenting education to the parents, 2590
guardian, or custodian; 2591

(f) An alternative school program for children who are truant 2592
from school, repeatedly disruptive in school, or suspended or 2593
expelled from school; 2594

(g) Other appropriate measures, including, but not limited 2595
to, any alternative methods to divert a child from the juvenile 2596
court system that are identified by the Ohio family and children 2597
first cabinet council. 2598

(F) Each county may review and revise the service 2599
coordination process described in division (D) of this section 2600
based on the availability of funds under Title IV-A of the "Social 2601
Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, 2602
or to the extent resources are available from any other federal, 2603
state, or local funds. 2604

Sec. 123.01. (A) The department of administrative services, 2605
in addition to those powers enumerated in Chapters 124. and 125. 2606
of the Revised Code and provided elsewhere by law, shall exercise 2607
the following powers: 2608

(1) To prepare, or contract to be prepared, by licensed 2609
engineers or architects, surveys, general and detailed plans, 2610
specifications, bills of materials, and estimates of cost for any 2611
projects, improvements, or public buildings to be constructed by 2612
state agencies that may be authorized by legislative 2613
appropriations or any other funds made available therefor, 2614
provided that the construction of the projects, improvements, or 2615
public buildings is a statutory duty of the department. This 2616

section does not require the independent employment of an 2617
architect or engineer as provided by section 153.01 of the Revised 2618
Code in the cases to which that section applies nor affect or 2619
alter the existing powers of the director of transportation. 2620

(2) To have general supervision over the construction of any 2621
projects, improvements, or public buildings constructed for a 2622
state agency and over the inspection of materials previous to 2623
their incorporation into those projects, improvements, or 2624
buildings; 2625

(3) To make contracts for and supervise the construction of 2626
any projects and improvements or the construction and repair of 2627
buildings under the control of a state agency, except contracts 2628
for the repair of buildings under the management and control of 2629
the departments of public safety, job and family services, mental 2630
health, ~~mental retardation and~~ developmental disabilities, 2631
rehabilitation and correction, and youth services, the bureau of 2632
workers' compensation, the rehabilitation services commission, and 2633
boards of trustees of educational and benevolent institutions and 2634
except contracts for the construction of projects that do not 2635
require the issuance of a building permit or the issuance of a 2636
certificate of occupancy and that are necessary to remediate 2637
conditions at a hazardous waste facility, solid waste facility, or 2638
other location at which the director of environmental protection 2639
has reason to believe there is a substantial threat to public 2640
health or safety or the environment. These contracts shall be made 2641
and entered into by the directors of public safety, job and family 2642
services, mental health, ~~mental retardation and~~ developmental 2643
disabilities, rehabilitation and correction, and youth services, 2644
the administrator of workers' compensation, the rehabilitation 2645
services commission, the boards of trustees of such institutions, 2646
and the director of environmental protection, respectively. All 2647
such contracts may be in whole or in part on unit price basis of 2648

maximum estimated cost, with payment computed and made upon actual 2649
quantities or units. 2650

(4) To prepare and suggest comprehensive plans for the 2651
development of grounds and buildings under the control of a state 2652
agency; 2653

(5) To acquire, by purchase, gift, devise, lease, or grant, 2654
all real estate required by a state agency, in the exercise of 2655
which power the department may exercise the power of eminent 2656
domain, in the manner provided by sections 163.01 to 163.22 of the 2657
Revised Code; 2658

(6) To make and provide all plans, specifications, and models 2659
for the construction and perfection of all systems of sewerage, 2660
drainage, and plumbing for the state in connection with buildings 2661
and grounds under the control of a state agency; 2662

(7) To erect, supervise, and maintain all public monuments 2663
and memorials erected by the state, except where the supervision 2664
and maintenance is otherwise provided by law; 2665

(8) To procure, by lease, storage accommodations for a state 2666
agency; 2667

(9) To lease or grant easements or licenses for unproductive 2668
and unused lands or other property under the control of a state 2669
agency. Such leases, easements, or licenses shall be granted for a 2670
period not to exceed fifteen years and shall be executed for the 2671
state by the director of administrative services and the governor 2672
and shall be approved as to form by the attorney general, provided 2673
that leases, easements, or licenses may be granted to any county, 2674
township, municipal corporation, port authority, water or sewer 2675
district, school district, library district, health district, park 2676
district, soil and water conservation district, conservancy 2677
district, or other political subdivision or taxing district, or 2678
any agency of the United States government, for the exclusive use 2679

of that agency, political subdivision, or taxing district, without 2680
any right of sublease or assignment, for a period not to exceed 2681
fifteen years, and provided that the director shall grant leases, 2682
easements, or licenses of university land for periods not to 2683
exceed twenty-five years for purposes approved by the respective 2684
university's board of trustees wherein the uses are compatible 2685
with the uses and needs of the university and may grant leases of 2686
university land for periods not to exceed forty years for purposes 2687
approved by the respective university's board of trustees pursuant 2688
to section 123.77 of the Revised Code. 2689

(10) To lease office space in buildings for the use of a 2690
state agency; 2691

(11) To have general supervision and care of the storerooms, 2692
offices, and buildings leased for the use of a state agency; 2693

(12) To exercise general custodial care of all real property 2694
of the state; 2695

(13) To assign and group together state offices in any city 2696
in the state and to establish, in cooperation with the state 2697
agencies involved, rules governing space requirements for office 2698
or storage use; 2699

(14) To lease for a period not to exceed forty years, 2700
pursuant to a contract providing for the construction thereof 2701
under a lease-purchase plan, buildings, structures, and other 2702
improvements for any public purpose, and, in conjunction 2703
therewith, to grant leases, easements, or licenses for lands under 2704
the control of a state agency for a period not to exceed forty 2705
years. The lease-purchase plan shall provide that at the end of 2706
the lease period, the buildings, structures, and related 2707
improvements, together with the land on which they are situated, 2708
shall become the property of the state without cost. 2709

(a) Whenever any building, structure, or other improvement is 2710

to be so leased by a state agency, the department shall retain 2711
either basic plans, specifications, bills of materials, and 2712
estimates of cost with sufficient detail to afford bidders all 2713
needed information or, alternatively, all of the following plans, 2714
details, bills of materials, and specifications: 2715

(i) Full and accurate plans suitable for the use of mechanics 2716
and other builders in the improvement; 2717

(ii) Details to scale and full sized, so drawn and 2718
represented as to be easily understood; 2719

(iii) Accurate bills showing the exact quantity of different 2720
kinds of material necessary to the construction; 2721

(iv) Definite and complete specifications of the work to be 2722
performed, together with such directions as will enable a 2723
competent mechanic or other builder to carry them out and afford 2724
bidders all needed information; 2725

(v) A full and accurate estimate of each item of expense and 2726
of the aggregate cost thereof. 2727

(b) The department shall give public notice, in such 2728
newspaper, in such form, and with such phraseology as the director 2729
of administrative services prescribes, published once each week 2730
for four consecutive weeks, of the time when and place where bids 2731
will be received for entering into an agreement to lease to a 2732
state agency a building, structure, or other improvement. The last 2733
publication shall be at least eight days preceding the day for 2734
opening the bids. The bids shall contain the terms upon which the 2735
builder would propose to lease the building, structure, or other 2736
improvement to the state agency. The form of the bid approved by 2737
the department shall be used, and a bid is invalid and shall not 2738
be considered unless that form is used without change, alteration, 2739
or addition. Before submitting bids pursuant to this section, any 2740
builder shall comply with Chapter 153. of the Revised Code. 2741

(c) On the day and at the place named for receiving bids for 2742
entering into lease agreements with a state agency, the director 2743
of administrative services shall open the bids and shall publicly 2744
proceed immediately to tabulate the bids upon duplicate sheets. No 2745
lease agreement shall be entered into until the bureau of workers' 2746
compensation has certified that the person to be awarded the lease 2747
agreement has complied with Chapter 4123. of the Revised Code, 2748
until, if the builder submitting the lowest and best bid is a 2749
foreign corporation, the secretary of state has certified that the 2750
corporation is authorized to do business in this state, until, if 2751
the builder submitting the lowest and best bid is a person 2752
nonresident of this state, the person has filed with the secretary 2753
of state a power of attorney designating the secretary of state as 2754
its agent for the purpose of accepting service of summons in any 2755
action brought under Chapter 4123. of the Revised Code, and until 2756
the agreement is submitted to the attorney general and the 2757
attorney general's approval is certified thereon. Within thirty 2758
days after the day on which the bids are received, the department 2759
shall investigate the bids received and shall determine that the 2760
bureau and the secretary of state have made the certifications 2761
required by this section of the builder who has submitted the 2762
lowest and best bid. Within ten days of the completion of the 2763
investigation of the bids, the department shall award the lease 2764
agreement to the builder who has submitted the lowest and best bid 2765
and who has been certified by the bureau and secretary of state as 2766
required by this section. If bidding for the lease agreement has 2767
been conducted upon the basis of basic plans, specifications, 2768
bills of materials, and estimates of costs, upon the award to the 2769
builder the department, or the builder with the approval of the 2770
department, shall appoint an architect or engineer licensed in 2771
this state to prepare such further detailed plans, specifications, 2772
and bills of materials as are required to construct the building, 2773
structure, or improvement. The department shall adopt such rules 2774

as are necessary to give effect to this section. The department 2775
may reject any bid. Where there is reason to believe there is 2776
collusion or combination among bidders, the bids of those 2777
concerned therein shall be rejected. 2778

(15) To acquire by purchase, gift, devise, or grant and to 2779
transfer, lease, or otherwise dispose of all real property 2780
required to assist in the development of a conversion facility as 2781
defined in section 5709.30 of the Revised Code as that section 2782
existed before its repeal by Amended Substitute House Bill 95 of 2783
the 125th general assembly; 2784

(16) To lease for a period not to exceed forty years, 2785
notwithstanding any other division of this section, the 2786
state-owned property located at 408-450 East Town Street, 2787
Columbus, Ohio, formerly the state school for the deaf, to a 2788
developer in accordance with this section. "Developer," as used in 2789
this section, has the same meaning as in section 123.77 of the 2790
Revised Code. 2791

Such a lease shall be for the purpose of development of the 2792
land for use by senior citizens by constructing, altering, 2793
renovating, repairing, expanding, and improving the site as it 2794
existed on June 25, 1982. A developer desiring to lease the land 2795
shall prepare for submission to the department a plan for 2796
development. Plans shall include provisions for roads, sewers, 2797
water lines, waste disposal, water supply, and similar matters to 2798
meet the requirements of state and local laws. The plans shall 2799
also include provision for protection of the property by insurance 2800
or otherwise, and plans for financing the development, and shall 2801
set forth details of the developer's financial responsibility. 2802

The department may employ, as employees or consultants, 2803
persons needed to assist in reviewing the development plans. Those 2804
persons may include attorneys, financial experts, engineers, and 2805
other necessary experts. The department shall review the 2806

development plans and may enter into a lease if it finds all of 2807
the following: 2808

(a) The best interests of the state will be promoted by 2809
entering into a lease with the developer; 2810

(b) The development plans are satisfactory; 2811

(c) The developer has established the developer's financial 2812
responsibility and satisfactory plans for financing the 2813
development. 2814

The lease shall contain a provision that construction or 2815
renovation of the buildings, roads, structures, and other 2816
necessary facilities shall begin within one year after the date of 2817
the lease and shall proceed according to a schedule agreed to 2818
between the department and the developer or the lease will be 2819
terminated. The lease shall contain such conditions and 2820
stipulations as the director considers necessary to preserve the 2821
best interest of the state. Moneys received by the state pursuant 2822
to this lease shall be paid into the general revenue fund. The 2823
lease shall provide that at the end of the lease period the 2824
buildings, structures, and related improvements shall become the 2825
property of the state without cost. 2826

(17) To lease to any person any tract of land owned by the 2827
state and under the control of the department, or any part of such 2828
a tract, for the purpose of drilling for or the pooling of oil or 2829
gas. Such a lease shall be granted for a period not exceeding 2830
forty years, with the full power to contract for, determine the 2831
conditions governing, and specify the amount the state shall 2832
receive for the purposes specified in the lease, and shall be 2833
prepared as in other cases. 2834

(18) To manage the use of space owned and controlled by the 2835
department, including space in property under the jurisdiction of 2836
the Ohio building authority, by doing all of the following: 2837

(a) Biennially implementing, by state agency location, a	2838
census of agency employees assigned space;	2839
(b) Periodically in the discretion of the director of	2840
administrative services:	2841
(i) Requiring each state agency to categorize the use of	2842
space allotted to the agency between office space, common areas,	2843
storage space, and other uses, and to report its findings to the	2844
department;	2845
(ii) Creating and updating a master space utilization plan	2846
for all space allotted to state agencies. The plan shall	2847
incorporate space utilization metrics.	2848
(iii) Conducting a cost-benefit analysis to determine the	2849
effectiveness of state-owned buildings;	2850
(iv) Assessing the alternatives associated with consolidating	2851
the commercial leases for buildings located in Columbus.	2852
(c) Commissioning a comprehensive space utilization and	2853
capacity study in order to determine the feasibility of	2854
consolidating existing commercially leased space used by state	2855
agencies into a new state-owned facility.	2856
(B) This section and section 125.02 of the Revised Code shall	2857
not interfere with any of the following:	2858
(1) The power of the adjutant general to purchase military	2859
supplies, or with the custody of the adjutant general of property	2860
leased, purchased, or constructed by the state and used for	2861
military purposes, or with the functions of the adjutant general	2862
as director of state armories;	2863
(2) The power of the director of transportation in acquiring	2864
rights-of-way for the state highway system, or the leasing of	2865
lands for division or resident district offices, or the leasing of	2866
lands or buildings required in the maintenance operations of the	2867

department of transportation, or the purchase of real property for 2868
garage sites or division or resident district offices, or in 2869
preparing plans and specifications for and constructing such 2870
buildings as the director may require in the administration of the 2871
department; 2872

(3) The power of the director of public safety and the 2873
registrar of motor vehicles to purchase or lease real property and 2874
buildings to be used solely as locations to which a deputy 2875
registrar is assigned pursuant to division (B) of section 4507.011 2876
of the Revised Code and from which the deputy registrar is to 2877
conduct the deputy registrar's business, the power of the director 2878
of public safety to purchase or lease real property and buildings 2879
to be used as locations for division or district offices as 2880
required in the maintenance of operations of the department of 2881
public safety, and the power of the superintendent of the state 2882
highway patrol in the purchase or leasing of real property and 2883
buildings needed by the patrol, to negotiate the sale of real 2884
property owned by the patrol, to rent or lease real property owned 2885
or leased by the patrol, and to make or cause to be made repairs 2886
to all property owned or under the control of the patrol; 2887

(4) The power of the division of liquor control in the 2888
leasing or purchasing of retail outlets and warehouse facilities 2889
for the use of the division; 2890

(5) The power of the director of development to enter into 2891
leases of real property, buildings, and office space to be used 2892
solely as locations for the state's foreign offices to carry out 2893
the purposes of section 122.05 of the Revised Code; 2894

(6) The power of the director of environmental protection to 2895
enter into environmental covenants, to grant and accept easements, 2896
or to sell property pursuant to division (G) of section 3745.01 of 2897
the Revised Code. 2898

(C) Purchases for, and the custody and repair of, buildings 2899
under the management and control of the capitol square review and 2900
advisory board, the rehabilitation services commission, the bureau 2901
of workers' compensation, or the departments of public safety, job 2902
and family services, mental health, ~~mental retardation and~~ 2903
developmental disabilities, and rehabilitation and correction, and 2904
buildings of educational and benevolent institutions under the 2905
management and control of boards of trustees, are not subject to 2906
the control and jurisdiction of the department of administrative 2907
services. 2908

(D) Any instrument by which real property is acquired 2909
pursuant to this section shall identify the agency of the state 2910
that has the use and benefit of the real property as specified in 2911
section 5301.012 of the Revised Code. 2912

Sec. 124.11. The civil service of the state and the several 2913
counties, cities, civil service townships, city health districts, 2914
general health districts, and city school districts of the state 2915
shall be divided into the unclassified service and the classified 2916
service. 2917

(A) The unclassified service shall comprise the following 2918
positions, which shall not be included in the classified service, 2919
and which shall be exempt from all examinations required by this 2920
chapter: 2921

(1) All officers elected by popular vote or persons appointed 2922
to fill vacancies in those offices; 2923

(2) All election officers as defined in section 3501.01 of 2924
the Revised Code; 2925

(3)(a) The members of all boards and commissions, and heads 2926
of principal departments, boards, and commissions appointed by the 2927
governor or by and with the governor's consent; 2928

(b) The heads of all departments appointed by a board of 2929
county commissioners; 2930

(c) The members of all boards and commissions and all heads 2931
of departments appointed by the mayor, or, if there is no mayor, 2932
such other similar chief appointing authority of any city or city 2933
school district; 2934

Except as otherwise provided in division (A)(17) or (C) of 2935
this section, this chapter does not exempt the chiefs of police 2936
departments and chiefs of fire departments of cities or civil 2937
service townships from the competitive classified service. 2938

(4) The members of county or district licensing boards or 2939
commissions and boards of revision, and not more than five deputy 2940
county auditors; 2941

(5) All officers and employees elected or appointed by either 2942
or both branches of the general assembly, and employees of the 2943
city legislative authority engaged in legislative duties; 2944

(6) All commissioned, warrant, and noncommissioned officers 2945
and enlisted persons in the Ohio organized militia, including 2946
military appointees in the adjutant general's department; 2947

(7)(a) All presidents, business managers, administrative 2948
officers, superintendents, assistant superintendents, principals, 2949
deans, assistant deans, instructors, teachers, and such employees 2950
as are engaged in educational or research duties connected with 2951
the public school system, colleges, and universities, as 2952
determined by the governing body of the public school system, 2953
colleges, and universities; 2954

(b) The library staff of any library in the state supported 2955
wholly or in part at public expense. 2956

(8) Four clerical and administrative support employees for 2957
each of the elective state officers, four clerical and 2958

administrative support employees for each board of county 2959
commissioners and one such employee for each county commissioner, 2960
and four clerical and administrative support employees for other 2961
elective officers and each of the principal appointive executive 2962
officers, boards, or commissions, except for civil service 2963
commissions, that are authorized to appoint such clerical and 2964
administrative support employees; 2965

(9) The deputies and assistants of state agencies authorized 2966
to act for and on behalf of the agency, or holding a fiduciary or 2967
administrative relation to that agency and those persons employed 2968
by and directly responsible to elected county officials or a 2969
county administrator and holding a fiduciary or administrative 2970
relationship to such elected county officials or county 2971
administrator, and the employees of such county officials whose 2972
fitness would be impracticable to determine by competitive 2973
examination, provided that division (A)(9) of this section shall 2974
not affect those persons in county employment in the classified 2975
service as of September 19, 1961. Nothing in division (A)(9) of 2976
this section applies to any position in a county department of job 2977
and family services created pursuant to Chapter 329. of the 2978
Revised Code. 2979

(10) Bailiffs, constables, official stenographers, and 2980
commissioners of courts of record, deputies of clerks of the 2981
courts of common pleas who supervise or who handle public moneys 2982
or secured documents, and such officers and employees of courts of 2983
record and such deputies of clerks of the courts of common pleas 2984
as the director of administrative services finds it impracticable 2985
to determine their fitness by competitive examination; 2986

(11) Assistants to the attorney general, special counsel 2987
appointed or employed by the attorney general, assistants to 2988
county prosecuting attorneys, and assistants to city directors of 2989
law; 2990

(12) Such teachers and employees in the agricultural 2991
experiment stations; such students in normal schools, colleges, 2992
and universities of the state who are employed by the state or a 2993
political subdivision of the state in student or intern 2994
classifications; and such unskilled labor positions as the 2995
director of administrative services or any municipal civil service 2996
commission may find it impracticable to include in the competitive 2997
classified service; provided such exemptions shall be by order of 2998
the commission or the director, duly entered on the record of the 2999
commission or the director with the reasons for each such 3000
exemption; 3001

(13) Any physician or dentist who is a full-time employee of 3002
the department of mental health, the department of ~~mental~~ 3003
~~retardation and~~ developmental disabilities, or an institution 3004
under the jurisdiction of either department; and physicians who 3005
are in residency programs at the institutions; 3006

(14) Up to twenty positions at each institution under the 3007
jurisdiction of the department of mental health or the department 3008
of ~~mental retardation and~~ developmental disabilities that the 3009
department director determines to be primarily administrative or 3010
managerial; and up to fifteen positions in any division of either 3011
department, excluding administrative assistants to the director 3012
and division chiefs, which are within the immediate staff of a 3013
division chief and which the director determines to be primarily 3014
and distinctively administrative and managerial; 3015

(15) Noncitizens of the United States employed by the state, 3016
or its counties or cities, as physicians or nurses who are duly 3017
licensed to practice their respective professions under the laws 3018
of this state, or medical assistants, in mental or chronic disease 3019
hospitals, or institutions; 3020

(16) Employees of the governor's office; 3021

(17) Fire chiefs and chiefs of police in civil service	3022
townships appointed by boards of township trustees under section	3023
505.38 or 505.49 of the Revised Code;	3024
(18) Executive directors, deputy directors, and program	3025
directors employed by boards of alcohol, drug addiction, and	3026
mental health services under Chapter 340. of the Revised Code, and	3027
secretaries of the executive directors, deputy directors, and	3028
program directors;	3029
(19) Superintendents, and management employees as defined in	3030
section 5126.20 of the Revised Code, of county boards of mental	3031
retardation and developmental disabilities;	3032
(20) Physicians, nurses, and other employees of a county	3033
hospital who are appointed pursuant to sections 339.03 and 339.06	3034
of the Revised Code;	3035
(21) The executive director of the state medical board, who	3036
is appointed pursuant to division (B) of section 4731.05 of the	3037
Revised Code;	3038
(22) County directors of job and family services as provided	3039
in section 329.02 of the Revised Code and administrators appointed	3040
under section 329.021 of the Revised Code;	3041
(23) A director of economic development who is hired pursuant	3042
to division (A) of section 307.07 of the Revised Code;	3043
(24) Chiefs of construction and compliance, of operations and	3044
maintenance, and of licensing and certification in the division of	3045
industrial compliance in the department of commerce;	3046
(25) The executive director of a county transit system	3047
appointed under division (A) of section 306.04 of the Revised	3048
Code;	3049
(26) Up to five positions at each of the administrative	3050
departments listed in section 121.02 of the Revised Code and at	3051

the department of taxation, department of the adjutant general, 3052
department of education, Ohio board of regents, bureau of workers' 3053
compensation, industrial commission, state lottery commission, and 3054
public utilities commission of Ohio that the head of that 3055
administrative department or of that other state agency determines 3056
to be involved in policy development and implementation. The head 3057
of the administrative department or other state agency shall set 3058
the compensation for employees in these positions at a rate that 3059
is not less than the minimum compensation specified in pay range 3060
41 but not more than the maximum compensation specified in pay 3061
range 44 of salary schedule E-2 in section 124.152 of the Revised 3062
Code. The authority to establish positions in the unclassified 3063
service under division (A)(26) of this section is in addition to 3064
and does not limit any other authority that an administrative 3065
department or state agency has under the Revised Code to establish 3066
positions, appoint employees, or set compensation. 3067

(27) Employees of the department of agriculture employed 3068
under section 901.09 of the Revised Code; 3069

(28) For cities, counties, civil service townships, city 3070
health districts, general health districts, and city school 3071
districts, the deputies and assistants of elective or principal 3072
executive officers authorized to act for and in the place of their 3073
principals or holding a fiduciary relation to their principals; 3074

(29) Employees who receive intermittent or temporary 3075
appointments under division (B) of section 124.30 of the Revised 3076
Code; 3077

(30) Employees appointed to administrative staff positions 3078
for which an appointing authority is given specific statutory 3079
authority to set compensation; 3080

(31) Employees appointed to highway patrol cadet or highway 3081
patrol cadet candidate classifications; 3082

(32) Employees placed in the unclassified service by another 3083
section of the Revised Code. 3084

(B) The classified service shall comprise all persons in the 3085
employ of the state and the several counties, cities, city health 3086
districts, general health districts, and city school districts of 3087
the state, not specifically included in the unclassified service. 3088
Upon the creation by the board of trustees of a civil service 3089
township civil service commission, the classified service shall 3090
also comprise, except as otherwise provided in division (A)(17) or 3091
(C) of this section, all persons in the employ of a civil service 3092
township police or fire department having ten or more full-time 3093
paid employees. The classified service consists of two classes, 3094
which shall be designated as the competitive class and the 3095
unskilled labor class. 3096

(1) The competitive class shall include all positions and 3097
employments in the state and the counties, cities, city health 3098
districts, general health districts, and city school districts of 3099
the state, and, upon the creation by the board of trustees of a 3100
civil service township of a township civil service commission, all 3101
positions in a civil service township police or fire department 3102
having ten or more full-time paid employees, for which it is 3103
practicable to determine the merit and fitness of applicants by 3104
competitive examinations. Appointments shall be made to, or 3105
employment shall be given in, all positions in the competitive 3106
class that are not filled by promotion, reinstatement, transfer, 3107
or reduction, as provided in this chapter, and the rules of the 3108
director of administrative services, by appointment from those 3109
certified to the appointing officer in accordance with this 3110
chapter. 3111

(2) The unskilled labor class shall include ordinary 3112
unskilled laborers. Vacancies in the labor class for positions in 3113
service of the state shall be filled by appointment from lists of 3114

applicants registered by the director. Vacancies in the labor 3115
class for all other positions shall be filled by appointment from 3116
lists of applicants registered by a commission. The director or 3117
the commission, as applicable, by rule, shall require an applicant 3118
for registration in the labor class to furnish evidence or take 3119
tests as the director or commission considers proper with respect 3120
to age, residence, physical condition, ability to labor, honesty, 3121
sobriety, industry, capacity, and experience in the work or 3122
employment for which application is made. Laborers who fulfill the 3123
requirements shall be placed on the eligible list for the kind of 3124
labor or employment sought, and preference shall be given in 3125
employment in accordance with the rating received from that 3126
evidence or in those tests. Upon the request of an appointing 3127
officer, stating the kind of labor needed, the pay and probable 3128
length of employment, and the number to be employed, the director 3129
or commission, as applicable, shall certify from the highest on 3130
the list double the number to be employed; from this number, the 3131
appointing officer shall appoint the number actually needed for 3132
the particular work. If more than one applicant receives the same 3133
rating, priority in time of application shall determine the order 3134
in which their names shall be certified for appointment. 3135

(C) A municipal or civil service township civil service 3136
commission may place volunteer firefighters who are paid on a 3137
fee-for-service basis in either the classified or the unclassified 3138
civil service. 3139

(D) This division does not apply to persons in the 3140
unclassified service who have the right to resume positions in the 3141
classified service under sections 4121.121, 5119.071, 5120.38, 3142
5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised 3143
Code. 3144

An appointing authority whose employees are paid directly by 3145
warrant of the director of budget and management may appoint a 3146

person who holds a certified position in the classified service 3147
within the appointing authority's agency to a position in the 3148
unclassified service within that agency. A person appointed 3149
pursuant to this division to a position in the unclassified 3150
service shall retain the right to resume the position and status 3151
held by the person in the classified service immediately prior to 3152
the person's appointment to the position in the unclassified 3153
service, regardless of the number of positions the person held in 3154
the unclassified service. An employee's right to resume a position 3155
in the classified service may only be exercised when an appointing 3156
authority demotes the employee to a pay range lower than the 3157
employee's current pay range or revokes the employee's appointment 3158
to the unclassified service. An employee forfeits the right to 3159
resume a position in the classified service when the employee is 3160
removed from the position in the unclassified service due to 3161
incompetence, inefficiency, dishonesty, drunkenness, immoral 3162
conduct, insubordination, discourteous treatment of the public, 3163
neglect of duty, violation of this chapter or the rules of the 3164
director of administrative services, any other failure of good 3165
behavior, any other acts of misfeasance, malfeasance, or 3166
nonfeasance in office, or conviction of a felony. An employee also 3167
forfeits the right to resume a position in the classified service 3168
upon transfer to a different agency. 3169

Reinstatement to a position in the classified service shall 3170
be to a position substantially equal to that position in the 3171
classified service held previously, as certified by the director 3172
of administrative services. If the position the person previously 3173
held in the classified service has been placed in the unclassified 3174
service or is otherwise unavailable, the person shall be appointed 3175
to a position in the classified service within the appointing 3176
authority's agency that the director of administrative services 3177
certifies is comparable in compensation to the position the person 3178
previously held in the classified service. Service in the position 3179

in the unclassified service shall be counted as service in the 3180
position in the classified service held by the person immediately 3181
prior to the person's appointment to the position in the 3182
unclassified service. When a person is reinstated to a position in 3183
the classified service as provided in this division, the person is 3184
entitled to all rights, status, and benefits accruing to the 3185
position in the classified service during the person's time of 3186
service in the position in the unclassified service. 3187

Sec. 124.23. (A) All applicants for positions and places in 3188
the classified service shall be subject to examination, except for 3189
applicants for positions as professional or certified service and 3190
paraprofessional employees of county boards of ~~mental retardation~~ 3191
~~and~~ developmental disabilities, who shall be hired in the manner 3192
provided in section 124.241 of the Revised Code. 3193

(B) Any examination administered under this section shall be 3194
public and be open to all citizens of the United States and those 3195
persons who have legally declared their intentions of becoming 3196
United States citizens, within certain limitations to be 3197
determined by the director of administrative services as to 3198
citizenship, age, experience, education, health, habit, and moral 3199
character. Any person who has completed service in the uniformed 3200
services, who has been honorably discharged from the uniformed 3201
services or transferred to the reserve with evidence of 3202
satisfactory service, and who is a resident of this state and any 3203
member of the national guard or a reserve component of the armed 3204
forces of the United States who has completed more than one 3205
hundred eighty days of active duty service pursuant to an 3206
executive order of the president of the United States or an act of 3207
the congress of the United States may file with the director a 3208
certificate of service or honorable discharge, and, upon this 3209
filing, the person shall receive additional credit of twenty per 3210
cent of the person's total grade given in the regular examination 3211

in which the person receives a passing grade. 3212

As used in this division, "service in the uniformed services" 3213
and "uniformed services" have the same meanings as in the 3214
"Uniformed Services Employment and Reemployment Rights Act of 3215
1994," 108 Stat. 3149, 38 U.S.C.A. 4303. 3216

(C) An examination may include an evaluation of such factors 3217
as education, training, capacity, knowledge, manual dexterity, and 3218
physical or psychological fitness. An examination shall consist of 3219
one or more tests in any combination. Tests may be written, oral, 3220
physical, demonstration of skill, or an evaluation of training and 3221
experiences and shall be designed to fairly test the relative 3222
capacity of the persons examined to discharge the particular 3223
duties of the position for which appointment is sought. Tests may 3224
include structured interviews, assessment centers, work 3225
simulations, examinations of knowledge, skills, and abilities, and 3226
any other acceptable testing methods. If minimum or maximum 3227
requirements are established for any examination, they shall be 3228
specified in the examination announcement. 3229

(D) The director of administrative services shall have 3230
control of all examinations, except as otherwise provided in 3231
sections 124.01 to 124.64 of the Revised Code. No questions in any 3232
examination shall relate to political or religious opinions or 3233
affiliations. No credit for seniority, efficiency, or any other 3234
reason shall be added to an applicant's examination grade unless 3235
the applicant achieves at least the minimum passing grade on the 3236
examination without counting that extra credit. 3237

(E) Except as otherwise provided in sections 124.01 to 124.64 3238
of the Revised Code, the director of administrative services shall 3239
give reasonable notice of the time, place, and general scope of 3240
every competitive examination for appointment to a position in the 3241
civil service. The director shall send written, printed, or 3242
electronic notices of every examination to be conducted in the 3243

state classified service to each agency of the type the director 3244
of job and family services specifies and, in the case of a county 3245
in which no such agency is located, to the clerk of the court of 3246
common pleas of that county and to the clerk of each city located 3247
within that county. Those notices shall be posted in conspicuous 3248
public places in the designated agencies or the courthouse, and 3249
city hall of the cities, of the counties in which no designated 3250
agency is located for at least two weeks preceding any examination 3251
involved, and in a conspicuous place in the office of the director 3252
of administrative services for at least two weeks preceding any 3253
examination involved. In case of examinations limited by the 3254
director to a district, county, city, or department, the director 3255
shall provide by rule for adequate publicity of an examination in 3256
the district, county, city, or department within which competition 3257
is permitted. 3258

Sec. 124.241. As used in this section, "professional 3259
employee" has the same meaning as in section 5126.20 of the 3260
Revised Code and "registered service employee" means a service 3261
employee, as defined in section 5126.20 of the Revised Code, who 3262
is registered under section 5126.25 of the Revised Code. 3263

County boards of ~~mental retardation and~~ developmental 3264
disabilities may hire professional employees and registered 3265
service employees in the classified service on the basis of the 3266
candidates' qualifications rather than on the basis of the results 3267
of an examination administered by the director of administrative 3268
services pursuant to section 124.23 of the Revised Code. 3269

Sec. 124.27. (A) The head of a department, office, or 3270
institution, in which a position in the classified service is to 3271
be filled, shall notify the director of administrative services of 3272
the fact, and the director shall, except as otherwise provided in 3273
this section and sections 124.30 and 124.31 of the Revised Code, 3274

certify to the appointing authority the names and addresses of the 3275
ten candidates standing highest on the eligible list for the class 3276
or grade to which the position belongs, except that the director 3277
may certify less than ten names if ten names are not available. 3278
When less than ten names are certified to an appointing authority, 3279
appointment from that list shall not be mandatory. When a position 3280
in the classified service in the department of mental health or 3281
the department of ~~mental retardation and~~ developmental 3282
disabilities is to be filled, the director of administrative 3283
services shall make such certification to the appointing authority 3284
within seven working days of the date the eligible list is 3285
requested. 3286

(B) The appointing authority shall notify the director of a 3287
position in the classified service to be filled, and the 3288
appointing authority shall fill the vacant position by appointment 3289
of one of the ten persons certified by the director. If more than 3290
one position is to be filled, the director may certify a group of 3291
names from the eligible list, and the appointing authority shall 3292
appoint in the following manner: beginning at the top of the list, 3293
each time a selection is made, it must be from one of the first 3294
ten candidates remaining on the list who is willing to accept 3295
consideration for the position. If an eligible list becomes 3296
exhausted, and until a new list can be created, or when no 3297
eligible list for a position exists, names may be certified from 3298
eligible lists most appropriate for the group or class in which 3299
the position to be filled is classified. A person who is certified 3300
from an eligible list more than three times to the same appointing 3301
authority for the same or similar positions may be omitted from 3302
future certification to that appointing authority, provided that 3303
certification for a temporary appointment shall not be counted as 3304
one of those certifications. Every person who qualifies for 3305
veteran's preference under section 124.23 of the Revised Code, who 3306
is a resident of this state, and whose name is on the eligible 3307

list for a position shall be entitled to preference in original 3308
appointments to any such competitive position in the civil service 3309
of the state and its civil divisions over all other persons 3310
eligible for those appointments and standing on the relevant 3311
eligible list with a rating equal to that of the person qualifying 3312
for veteran's preference. Appointments to all positions in the 3313
classified service, that are not filled by promotion, transfer, or 3314
reduction, as provided in sections 124.01 to 124.64 of the Revised 3315
Code and the rules of the director prescribed under those 3316
sections, shall be made only from those persons whose names are 3317
certified to the appointing authority, and no employment, except 3318
as provided in those sections, shall be otherwise given in the 3319
classified service of this state or any political subdivision of 3320
the state. 3321

(C) All original and promotional appointments, including 3322
appointments made pursuant to section 124.30 of the Revised Code, 3323
shall be for a probationary period, not less than sixty days nor 3324
more than one year, to be fixed by the rules of the director, 3325
except as provided in section 124.231 of the Revised Code, and 3326
except for original appointments to a police department as a 3327
police officer or to a fire department as a firefighter which 3328
shall be for a probationary period of one year. No appointment or 3329
promotion is final until the appointee has satisfactorily served 3330
the probationary period. If the service of the probationary 3331
employee is unsatisfactory, the employee may be removed or reduced 3332
at any time during the probationary period. If the appointing 3333
authority decides to remove a probationary employee in the service 3334
of the state, the appointing authority shall communicate to the 3335
director the reason for that decision. A probationary employee 3336
duly removed or reduced in position for unsatisfactory service 3337
does not have the right to appeal the removal or reduction under 3338
section 124.34 of the Revised Code. 3339

Sec. 124.38. Each of the following shall be entitled for each 3340
completed eighty hours of service to sick leave of four and 3341
six-tenths hours with pay: 3342

(A) Employees in the various offices of the county, 3343
municipal, and civil service township service, other than 3344
superintendents and management employees, as defined in section 3345
5126.20 of the Revised Code, of county boards of ~~mental~~ 3346
~~retardation and~~ developmental disabilities; 3347

(B) Employees of any state college or university; 3348

(C) Employees of any board of education for whom sick leave 3349
is not provided by section 3319.141 of the Revised Code. 3350

Employees may use sick leave, upon approval of the 3351
responsible administrative officer of the employing unit, for 3352
absence due to personal illness, pregnancy, injury, exposure to 3353
contagious disease that could be communicated to other employees, 3354
and illness, injury, or death in the employee's immediate family. 3355
Unused sick leave shall be cumulative without limit. When sick 3356
leave is used, it shall be deducted from the employee's credit on 3357
the basis of one hour for every one hour of absence from 3358
previously scheduled work. 3359

The previously accumulated sick leave of an employee who has 3360
been separated from the public service shall be placed to the 3361
employee's credit upon the employee's re-employment in the public 3362
service, provided that the re-employment takes place within ten 3363
years of the date on which the employee was last terminated from 3364
public service. This ten-year period shall be tolled for any 3365
period during which the employee holds elective public office, 3366
whether by election or by appointment. 3367

An employee who transfers from one public agency to another 3368
shall be credited with the unused balance of the employee's 3369

accumulated sick leave up to the maximum of the sick leave 3370
accumulation permitted in the public agency to which the employee 3371
transfers. 3372

The appointing authorities of the various offices of the 3373
county service may permit all or any part of a person's accrued 3374
but unused sick leave acquired during service with any regional 3375
council of government established in accordance with Chapter 167. 3376
of the Revised Code to be credited to the employee upon a transfer 3377
as if the employee were transferring from one public agency to 3378
another under this section. 3379

The appointing authority of each employing unit shall require 3380
an employee to furnish a satisfactory written, signed statement to 3381
justify the use of sick leave. If medical attention is required, a 3382
certificate stating the nature of the illness from a licensed 3383
physician shall be required to justify the use of sick leave. 3384
Falsification of either a written, signed statement or a 3385
physician's certificate shall be grounds for disciplinary action, 3386
including dismissal. 3387

This section does not interfere with existing unused sick 3388
leave credit in any agency of government where attendance records 3389
are maintained and credit has been given employees for unused sick 3390
leave. 3391

Notwithstanding this section or any other section of the 3392
Revised Code, any appointing authority of a county office, 3393
department, commission, board, or body may, upon notification to 3394
the board of county commissioners, establish alternative schedules 3395
of sick leave for employees of the appointing authority for whom 3396
the state employment relations board has not established an 3397
appropriate bargaining unit pursuant to section 4117.06 of the 3398
Revised Code, as long as the alternative schedules are not 3399
inconsistent with the provisions of at least one collective 3400
bargaining agreement covering other employees of that appointing 3401

authority, if such a collective bargaining agreement exists. If no 3402
such collective bargaining agreement exists, an appointing 3403
authority may, upon notification to the board of county 3404
commissioners, establish an alternative schedule of sick leave for 3405
its employees that does not diminish the sick leave benefits 3406
granted by this section. 3407

Sec. 124.381. Each employee of the department of 3408
rehabilitation and correction, the department of mental health, 3409
the department of ~~mental retardation and~~ developmental 3410
disabilities, the Ohio veteran's home agency, or the Ohio schools 3411
for the deaf and blind, and each employee of the department of 3412
youth services as established in division (A) of section 124.14 of 3413
the Revised Code who suffers bodily injury inflicted by an inmate, 3414
patient, client, youth, or student in the facilities of these 3415
agencies during the time the employee is lawfully carrying out the 3416
assigned duties of the employee's position shall be paid the 3417
employee's total rate of pay during the period the employee is 3418
disabled as a result of that injury, but in no case to exceed one 3419
hundred twenty work days, in lieu of workers' compensation. Pay 3420
made according to this section shall not be charged to the 3421
employee's accumulation of sick leave credit. 3422

The director of administrative services shall adopt rules for 3423
the administration of the occupational injury leave program. The 3424
rules shall include, but not be limited to, provisions for 3425
determining a disability, for filing a claim for leave under this 3426
section, and for allowing or denying claims for the leave. 3427

During the time an employee is receiving injury compensation 3428
as provided in this section, the employee shall be exempt from the 3429
accumulation of vacation leave credit under section 124.134 of the 3430
Revised Code but shall continue to receive sick leave credit and 3431
personal leave credit under sections 124.382 and 124.386 of the 3432

Revised Code. 3433

In any case when an employee's disability, as covered by this 3434
section, extends beyond one hundred twenty work days, the employee 3435
shall immediately become subject to sections 124.382 and 124.385 3436
of the Revised Code regarding sick leave and disability leave 3437
benefits. 3438

An appointing authority may apply to the director of 3439
administrative services to grant injury leave in accordance with 3440
this section to law enforcement personnel employed by the agency. 3441

Sec. 125.602. (A) The department of ~~mental retardation and~~ 3442
developmental disabilities, the department of mental health, the 3443
department of job and family services, the rehabilitation services 3444
commission, and any other state or governmental agency or 3445
community rehabilitation program responsible for the provision of 3446
rehabilitation and vocational educational services to persons with 3447
work-limiting disabilities may, through written agreement, 3448
cooperate in providing resources to the department of 3449
administrative services for the operation of the office of 3450
procurement from community rehabilitation programs. These 3451
resources may include, but are not limited to, leadership and 3452
assistance in dealing with the societal aspects of meeting the 3453
needs of persons with work-limiting disabilities. 3454

(B) The office and all governmental entities that administer 3455
socioeconomic programs may enter into contractual agreements, 3456
cooperative working relationships, or other arrangements that are 3457
necessary for effective coordination and realization of the 3458
objectives of these entities. 3459

Sec. 125.603. (A) The office of procurement from community 3460
rehabilitation programs shall do the following in addition to 3461
other duties specified in sections 125.60 to 125.6012 of the 3462

Revised Code: 3463

(1) Establish, maintain, and periodically update a 3464
procurement list of approved supplies and services available from 3465
qualified nonprofit agencies; 3466

(2) Monitor the procurement practices of government ordering 3467
offices to ensure compliance with sections 125.60 to 125.6012 of 3468
the Revised Code; 3469

(3) In cooperation with qualified nonprofit agencies, 3470
government ordering offices, the department of ~~mental retardation~~ 3471
~~and~~ developmental disabilities, the department of mental health, 3472
the department of job and family services, and the rehabilitation 3473
services commission, develop and recommend to the director of 3474
administrative services rules the director shall adopt in 3475
accordance with Chapter 119. of the Revised Code for the effective 3476
and efficient administration of sections 125.60 to 125.6012 of the 3477
Revised Code; 3478

(4) Prepare a report of its activities by the last day of 3479
December of each year. The report shall be posted electronically 3480
on the office's web site. 3481

(B) The office of procurement from community rehabilitation 3482
programs may enter into contractual agreements and establish pilot 3483
programs to further the objectives of sections 125.60 to 125.6012 3484
of the Revised Code. 3485

Sec. 126.32. (A) Any officer of any state agency may 3486
authorize reimbursement for travel, including the costs of 3487
transportation, for lodging, and for meals to any person who is 3488
interviewing for a position that is classified in pay range 13 or 3489
above in schedule E-1 or schedule E-1 for step seven only, or is 3490
classified in schedule E-2, of section 124.152 of the Revised 3491
Code. 3492

(B) If a person is appointed to a position listed in section 3493
121.03 of the Revised Code, to the position of chairperson of the 3494
industrial commission, adjutant general, chancellor of the Ohio 3495
board of regents, superintendent of public instruction, 3496
chairperson of the public utilities commission of Ohio, or 3497
director of the state lottery commission, to a position holding a 3498
fiduciary relationship to the governor, to a position of an 3499
appointing authority of the department of mental health, ~~mental~~ 3500
~~retardation and~~ developmental disabilities, or rehabilitation and 3501
correction, to a position of superintendent in the department of 3502
youth services, or to a position under section 122.05 of the 3503
Revised Code, and if that appointment requires a permanent change 3504
of residence, the appropriate state agency may reimburse the 3505
person for the person's actual and necessary expenses, including 3506
the cost of in-transit storage of household goods and personal 3507
effects, of moving the person and members of the person's 3508
immediate family residing in the person's household, and of moving 3509
their household goods and personal effects, to the person's new 3510
location. 3511

Until that person moves the person's permanent residence to 3512
the new location, but not for a period that exceeds thirty 3513
consecutive days, the state agency may reimburse the person for 3514
the person's temporary living expenses at the new location that 3515
the person has incurred on behalf of the person and members of the 3516
person's immediate family residing in the person's household. In 3517
addition, the state agency may reimburse that person for the 3518
person's travel expenses between the new location and the person's 3519
former residence during this period for a maximum number of trips 3520
specified by rule of the director of budget and management, but 3521
the state agency shall not reimburse the person for travel 3522
expenses incurred for those trips by members of the person's 3523
immediate family. With the prior written approval of the director, 3524
the maximum thirty-day period for temporary living expenses may be 3525

extended for a person appointed to a position under section 122.05 3526
of the Revised Code. 3527

The director of development may reimburse a person appointed 3528
to a position under section 122.05 of the Revised Code for the 3529
person's actual and necessary expenses of moving the person and 3530
members of the person's immediate family residing in the person's 3531
household back to the United States and may reimburse a person 3532
appointed to such a position for the cost of storage of household 3533
goods and personal effects of the person and the person's 3534
immediate family while the person is serving outside the United 3535
States, if the person's office outside the United States is the 3536
person's primary job location. 3537

(C) All reimbursement under division (A) or (B) of this 3538
section shall be made in the manner, and at rates that do not 3539
exceed those, provided by rule of the director of budget and 3540
management in accordance with section 111.15 of the Revised Code. 3541
Reimbursements may be made under division (B) of this section 3542
directly to the persons who incurred the expenses or directly to 3543
the providers of goods or services the persons receive, as 3544
determined by the director of budget and management. 3545

Sec. 127.16. (A) Upon the request of either a state agency or 3546
the director of budget and management and after the controlling 3547
board determines that an emergency or a sufficient economic reason 3548
exists, the controlling board may approve the making of a purchase 3549
without competitive selection as provided in division (B) of this 3550
section. 3551

(B) Except as otherwise provided in this section, no state 3552
agency, using money that has been appropriated to it directly, 3553
shall: 3554

(1) Make any purchase from a particular supplier, that would 3555
amount to fifty thousand dollars or more when combined with both 3556

the amount of all disbursements to the supplier during the fiscal 3557
year for purchases made by the agency and the amount of all 3558
outstanding encumbrances for purchases made by the agency from the 3559
supplier, unless the purchase is made by competitive selection or 3560
with the approval of the controlling board; 3561

(2) Lease real estate from a particular supplier, if the 3562
lease would amount to seventy-five thousand dollars or more when 3563
combined with both the amount of all disbursements to the supplier 3564
during the fiscal year for real estate leases made by the agency 3565
and the amount of all outstanding encumbrances for real estate 3566
leases made by the agency from the supplier, unless the lease is 3567
made by competitive selection or with the approval of the 3568
controlling board. 3569

(C) Any person who authorizes a purchase in violation of 3570
division (B) of this section shall be liable to the state for any 3571
state funds spent on the purchase, and the attorney general shall 3572
collect the amount from the person. 3573

(D) Nothing in division (B) of this section shall be 3574
construed as: 3575

(1) A limitation upon the authority of the director of 3576
transportation as granted in sections 5501.17, 5517.02, and 3577
5525.14 of the Revised Code; 3578

(2) Applying to medicaid provider agreements under Chapter 3579
5111. of the Revised Code or payments or provider agreements under 3580
the disability medical assistance program established under 3581
Chapter 5115. of the Revised Code; 3582

(3) Applying to the purchase of examinations from a sole 3583
supplier by a state licensing board under Title XLVII of the 3584
Revised Code; 3585

(4) Applying to entertainment contracts for the Ohio state 3586
fair entered into by the Ohio expositions commission, provided 3587

that the controlling board has given its approval to the 3588
commission to enter into such contracts and has approved a total 3589
budget amount for such contracts as agreed upon by commission 3590
action, and that the commission causes to be kept itemized records 3591
of the amounts of money spent under each contract and annually 3592
files those records with the clerk of the house of representatives 3593
and the clerk of the senate following the close of the fair; 3594

(5) Limiting the authority of the chief of the division of 3595
mineral resources management to contract for reclamation work with 3596
an operator mining adjacent land as provided in section 1513.27 of 3597
the Revised Code; 3598

(6) Applying to investment transactions and procedures of any 3599
state agency, except that the agency shall file with the board the 3600
name of any person with whom the agency contracts to make, broker, 3601
service, or otherwise manage its investments, as well as the 3602
commission, rate, or schedule of charges of such person with 3603
respect to any investment transactions to be undertaken on behalf 3604
of the agency. The filing shall be in a form and at such times as 3605
the board considers appropriate. 3606

(7) Applying to purchases made with money for the per cent 3607
for arts program established by section 3379.10 of the Revised 3608
Code; 3609

(8) Applying to purchases made by the rehabilitation services 3610
commission of services, or supplies, that are provided to persons 3611
with disabilities, or to purchases made by the commission in 3612
connection with the eligibility determinations it makes for 3613
applicants of programs administered by the social security 3614
administration; 3615

(9) Applying to payments by the department of job and family 3616
services under section 5111.13 of the Revised Code for group 3617
health plan premiums, deductibles, coinsurance, and other 3618

cost-sharing expenses;	3619
(10) Applying to any agency of the legislative branch of the	3620
state government;	3621
(11) Applying to agreements or contracts entered into under	3622
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the	3623
Revised Code;	3624
(12) Applying to purchases of services by the adult parole	3625
authority under section 2967.14 of the Revised Code or by the	3626
department of youth services under section 5139.08 of the Revised	3627
Code;	3628
(13) Applying to dues or fees paid for membership in an	3629
organization or association;	3630
(14) Applying to purchases of utility services pursuant to	3631
section 9.30 of the Revised Code;	3632
(15) Applying to purchases made in accordance with rules	3633
adopted by the department of administrative services of motor	3634
vehicle, aviation, or watercraft fuel, or emergency repairs of	3635
such vehicles;	3636
(16) Applying to purchases of tickets for passenger air	3637
transportation;	3638
(17) Applying to purchases necessary to provide public	3639
notifications required by law or to provide notifications of job	3640
openings;	3641
(18) Applying to the judicial branch of state government;	3642
(19) Applying to purchases of liquor for resale by the	3643
division of liquor control;	3644
(20) Applying to purchases of motor courier and freight	3645
services made in accordance with department of administrative	3646
services rules;	3647

(21) Applying to purchases from the United States postal	3648
service and purchases of stamps and postal meter replenishment	3649
from vendors at rates established by the United States postal	3650
service;	3651
(22) Applying to purchases of books, periodicals, pamphlets,	3652
newspapers, maintenance subscriptions, and other published	3653
materials;	3654
(23) Applying to purchases from other state agencies,	3655
including state-assisted institutions of higher education;	3656
(24) Limiting the authority of the director of environmental	3657
protection to enter into contracts under division (D) of section	3658
3745.14 of the Revised Code to conduct compliance reviews, as	3659
defined in division (A) of that section;	3660
(25) Applying to purchases from a qualified nonprofit agency	3661
pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of	3662
the Revised Code;	3663
(26) Applying to payments by the department of job and family	3664
services to the United States department of health and human	3665
services for printing and mailing notices pertaining to the tax	3666
refund offset program of the internal revenue service of the	3667
United States department of the treasury;	3668
(27) Applying to contracts entered into by the department of	3669
mental retardation and developmental disabilities under section	3670
5123.18 of the Revised Code;	3671
(28) Applying to payments made by the department of mental	3672
health under a physician recruitment program authorized by section	3673
5119.101 of the Revised Code;	3674
(29) Applying to contracts entered into with persons by the	3675
director of commerce for unclaimed funds collection and remittance	3676
efforts as provided in division (F) of section 169.03 of the	3677

Revised Code. The director shall keep an itemized accounting of 3678
unclaimed funds collected by those persons and amounts paid to 3679
them for their services. 3680

(30) Applying to purchases made by a state institution of 3681
higher education in accordance with the terms of a contract 3682
between the vendor and an inter-university purchasing group 3683
comprised of purchasing officers of state institutions of higher 3684
education; 3685

(31) Applying to the department of job and family services' 3686
purchases of health assistance services under the children's 3687
health insurance program part I provided for under section 5101.50 3688
of the Revised Code, the children's health insurance program part 3689
II provided for under section 5101.51 of the Revised Code, or the 3690
children's health insurance program part III provided for under 3691
section 5101.52 of the Revised Code, or the children's buy-in 3692
program provided for under sections 5101.5211 to 5101.5216 of the 3693
Revised Code; 3694

(32) Applying to payments by the attorney general from the 3695
reparations fund to hospitals and other emergency medical 3696
facilities for performing medical examinations to collect physical 3697
evidence pursuant to section 2907.28 of the Revised Code; 3698

(33) Applying to contracts with a contracting authority or 3699
administrative receiver under division (B) of section 5126.056 of 3700
the Revised Code; 3701

(34) Applying to reimbursements paid to the United States 3702
department of veterans affairs for pharmaceutical and patient 3703
supply purchases made on behalf of the Ohio veterans' home agency; 3704

(35) Applying to agreements entered into with terminal 3705
distributors of dangerous drugs under section 173.79 of the 3706
Revised Code; 3707

(36) Applying to payments by the superintendent of the bureau 3708

of criminal identification and investigation to the federal bureau 3709
of investigation for criminal records checks pursuant to section 3710
109.572 of the Revised Code. 3711

(E) When determining whether a state agency has reached the 3712
cumulative purchase thresholds established in divisions (B)(1) and 3713
(2) of this section, all of the following purchases by such agency 3714
shall not be considered: 3715

(1) Purchases made through competitive selection or with 3716
controlling board approval; 3717

(2) Purchases listed in division (D) of this section; 3718

(3) For the purposes of the threshold of division (B)(1) of 3719
this section only, leases of real estate. 3720

(F) As used in this section, "competitive selection," 3721
"purchase," "supplies," and "services" have the same meanings as 3722
in section 125.01 of the Revised Code. 3723

Sec. 135.801. (A) As used in sections 135.801 to 135.803 of 3724
the Revised Code, "eligible lending institution," "eligible 3725
organization," "investing authority," "residential facility," and 3726
"residential facility linked deposit program" have the same 3727
meanings as in section 5126.51 of the Revised Code. 3728

(B) The board of county commissioners may adopt a resolution 3729
implementing a residential facility linked deposit program under 3730
sections 5126.51 to 5126.62 of the Revised Code if it finds each 3731
of the following: 3732

(1) The county board of ~~mental retardation and~~ developmental 3733
disabilities has adopted a resolution under section 5126.49 of the 3734
Revised Code. 3735

(2) There is a shortage of residential facilities in the 3736
county for individuals with mental retardation or developmental 3737
disabilities. 3738

(3) Eligible organizations, otherwise willing and able to 3739
develop residential facilities in the county, have been unable to 3740
do so because of high interest rates. 3741

(4) Placement of residential facility linked deposits will 3742
assist in financing the development of residential facilities in 3743
the county that otherwise would not be developed because of high 3744
interest rates. 3745

(5) Public moneys of the county are available for purposes of 3746
the residential facility linked deposit program. 3747

(6) At least one eligible lending institution has an office 3748
located within the territorial limits of the county into which the 3749
board may deposit the public moneys of the county. 3750

Sec. 135.802. The board of county commissioners shall include 3751
each of the following in a resolution implementing a residential 3752
facility linked deposit program under sections 5126.51 to 5126.62 3753
of the Revised Code: 3754

(A) Specific findings of fact justifying implementation of 3755
the residential facility linked deposit program in the county; 3756

(B) Guidelines to be followed by the county board of ~~mental~~ 3757
~~retardation and~~ developmental disabilities in establishing 3758
standards under section 5126.49 of the Revised Code for approving 3759
applications for linked deposit loans; 3760

(C) Instructions to the county's investing authority as 3761
necessary for the placement and monitoring of, and for reporting 3762
with regard to, residential facility linked deposits under 3763
sections 5126.59 to 5126.61 of the Revised Code; 3764

(D) Any information the board requires an applicant for a 3765
residential facility linked deposit loan to provide to the county 3766
board of ~~mental retardation and~~ developmental disabilities that 3767
would not otherwise be provided to that board by the applicant 3768

pursuant to sections 5126.51 to 5126.62 of the Revised Code. 3769

The board shall transmit a certified copy of the resolution 3770
to the county board of ~~mental retardation and~~ developmental 3771
disabilities and the county's investing authority, unless the 3772
board is itself that authority. 3773

Sec. 135.803. On receiving a resolution from the county board 3774
of ~~mental retardation and~~ developmental disabilities approving 3775
under section 5126.55 of the Revised Code development of a 3776
proposed residential facility, the board of county commissioners 3777
shall determine whether public moneys of the county are available 3778
for a residential facility linked deposit and shall certify to the 3779
county board of ~~mental retardation and~~ developmental disabilities 3780
either that public moneys are available or that public moneys are 3781
not available. If public moneys are not available the 3782
certification shall indicate the date, if any, on which the board 3783
of county commissioners anticipates that public moneys will be 3784
available. 3785

Sec. 140.01. As used in this chapter: 3786

(A) "Hospital agency" means any public hospital agency or any 3787
nonprofit hospital agency. 3788

(B) "Public hospital agency" means any county, board of 3789
county hospital trustees established pursuant to section 339.02 of 3790
the Revised Code, county hospital commission established pursuant 3791
to section 339.14 of the Revised Code, municipal corporation, new 3792
community authority organized under Chapter 349. of the Revised 3793
Code, joint township hospital district, state or municipal 3794
university or college operating or authorized to operate a 3795
hospital facility, or the state. 3796

(C) "Nonprofit hospital agency" means a corporation or 3797
association not for profit, no part of the net earnings of which 3798

inures or may lawfully inure to the benefit of any private 3799
shareholder or individual, that has authority to own or operate a 3800
hospital facility or provides or is to provide services to one or 3801
more other hospital agencies. 3802

(D) "Governing body" means, in the case of a county, the 3803
board of county commissioners or other legislative body; in the 3804
case of a board of county hospital trustees, the board; in the 3805
case of a county hospital commission, the commission; in the case 3806
of a municipal corporation, the council or other legislative 3807
authority; in the case of a new community authority, its board of 3808
trustees; in the case of a joint township hospital district, the 3809
joint township district hospital board; in the case of a state or 3810
municipal university or college, its board of trustees or board of 3811
directors; in the case of a nonprofit hospital agency, the board 3812
of trustees or other body having general management of the agency; 3813
and, in the case of the state, the director of development or the 3814
Ohio higher educational facility commission. 3815

(E) "Hospital facilities" means buildings, structures and 3816
other improvements, additions thereto and extensions thereof, 3817
furnishings, equipment, and real estate and interests in real 3818
estate, used or to be used for or in connection with one or more 3819
hospitals, emergency, intensive, intermediate, extended, 3820
long-term, or self-care facilities, diagnostic and treatment and 3821
out-patient facilities, facilities related to programs for home 3822
health services, clinics, laboratories, public health centers, 3823
research facilities, and rehabilitation facilities, for or 3824
pertaining to diagnosis, treatment, care, or rehabilitation of 3825
sick, ill, injured, infirm, impaired, disabled, or handicapped 3826
persons, or the prevention, detection, and control of disease, and 3827
also includes education, training, and food service facilities for 3828
health professions personnel, housing facilities for such 3829
personnel and their families, and parking and service facilities 3830

in connection with any of the foregoing; and includes any one, 3831
part of, or any combination of the foregoing; and further includes 3832
site improvements, utilities, machinery, facilities, furnishings, 3833
and any separate or connected buildings, structures, improvements, 3834
sites, utilities, facilities, or equipment to be used in, or in 3835
connection with the operation or maintenance of, or supplementing 3836
or otherwise related to the services or facilities to be provided 3837
by, any one or more of such hospital facilities. 3838

(F) "Costs of hospital facilities" means the costs of 3839
acquiring hospital facilities or interests in hospital facilities, 3840
including membership interests in nonprofit hospital agencies, 3841
costs of constructing hospital facilities, costs of improving one 3842
or more hospital facilities, including reconstructing, 3843
rehabilitating, remodeling, renovating, and enlarging, costs of 3844
equipping and furnishing such facilities, and all financing costs 3845
pertaining thereto, including, without limitation thereto, costs 3846
of engineering, architectural, and other professional services, 3847
designs, plans, specifications and surveys, and estimates of cost, 3848
costs of tests and inspections, the costs of any indemnity or 3849
surety bonds and premiums on insurance, all related direct or 3850
allocable administrative expenses pertaining thereto, fees and 3851
expenses of trustees, depositories, and paying agents for the 3852
obligations, cost of issuance of the obligations and financing 3853
charges and fees and expenses of financial advisors, attorneys, 3854
accountants, consultants and rating services in connection 3855
therewith, capitalized interest on the obligations, amounts 3856
necessary to establish reserves as required by the bond 3857
proceedings, the reimbursement of all moneys advanced or applied 3858
by the hospital agency or others or borrowed from others for the 3859
payment of any item or items of costs of such facilities, and all 3860
other expenses necessary or incident to planning or determining 3861
feasibility or practicability with respect to such facilities, and 3862
such other expenses as may be necessary or incident to the 3863

acquisition, construction, reconstruction, rehabilitation, 3864
remodeling, renovation, enlargement, improvement, equipment, and 3865
furnishing of such facilities, the financing thereof, and the 3866
placing of the same in use and operation, including any one, part 3867
of, or combination of such classes of costs and expenses, and 3868
means the costs of refinancing obligations issued by, or 3869
reimbursement of money advanced by, nonprofit hospital agencies or 3870
others the proceeds of which were used for the payment of costs of 3871
hospital facilities, if the governing body of the public hospital 3872
agency determines that the refinancing or reimbursement advances 3873
the purposes of this chapter, whether or not the refinancing or 3874
reimbursement is in conjunction with the acquisition or 3875
construction of additional hospital facilities. 3876

(G) "Hospital receipts" means all moneys received by or on 3877
behalf of a hospital agency from or in connection with the 3878
ownership, operation, acquisition, construction, improvement, 3879
equipping, or financing of any hospital facilities, including, 3880
without limitation thereto, any rentals and other moneys received 3881
from the lease, sale, or other disposition of hospital facilities, 3882
and any gifts, grants, interest subsidies, or other moneys 3883
received under any federal program for assistance in financing the 3884
costs of hospital facilities, and any other gifts, grants, and 3885
donations, and receipts therefrom, available for financing the 3886
costs of hospital facilities. 3887

(H) "Obligations" means bonds, notes, or other evidences of 3888
indebtedness or obligation, including interest coupons pertaining 3889
thereto, issued or issuable by a public hospital agency to pay 3890
costs of hospital facilities. 3891

(I) "Bond service charges" means principal, interest, and 3892
call premium, if any, required to be paid on obligations. 3893

(J) "Bond proceedings" means one or more ordinances, 3894
resolutions, trust agreements, indentures, and other agreements or 3895

documents, and amendments and supplements to the foregoing, or any 3896
combination thereof, authorizing or providing for the terms, 3897
including any variable interest rates, and conditions applicable 3898
to, or providing for the security of, obligations and the 3899
provisions contained in such obligations. 3900

(K) "Nursing home" has the same meaning as in division (A)(1) 3901
of section 5701.13 of the Revised Code. 3902

(L) "Residential care facility" has the same meaning as in 3903
division (A)(2) of section 5701.13 of the Revised Code. 3904

(M) "Adult care facility" has the same meaning as in division 3905
(A)(3) of section 5701.13 of the Revised Code. 3906

(N) "Independent living facility" means any self-care 3907
facility or other housing facility designed or used as a residence 3908
for elderly persons. An "independent living facility" does not 3909
include a residential facility, or that part of a residential 3910
facility, that is any of the following: 3911

(1) A hospital required to be certified by section 3727.02 of 3912
the Revised Code; 3913

(2) A nursing home or residential care facility; 3914

(3) An adult care facility; 3915

(4) A hospice licensed under section 3712.04 of the Revised 3916
Code; 3917

(5) A residential facility for the mentally ill licensed by 3918
the department of mental health under section 5119.22 of the 3919
Revised Code; 3920

(6) A facility licensed to provide methadone treatment under 3921
section 3793.11 of the Revised Code; 3922

(7) A facility certified as an alcohol and drug addiction 3923
program under section 3793.06 of the Revised Code; 3924

(8) A residential facility licensed under section 5123.19 of 3925
the Revised Code or a facility providing services under a contract 3926
with the department of ~~mental retardation and~~ developmental 3927
disabilities under section 5123.18 of the Revised Code; 3928

(9) A residential facility used as part of a hospital to 3929
provide housing for staff of the hospital or students pursuing a 3930
course of study at the hospital. 3931

Sec. 140.03. (A) Two or more hospital agencies may enter into 3932
agreements for the acquisition, construction, reconstruction, 3933
rehabilitation, remodeling, renovating, enlarging, equipping, and 3934
furnishing of hospital facilities, or the management, operation, 3935
occupancy, use, maintenance, and repair of hospital facilities, or 3936
for participation in programs, projects, activities, and services 3937
useful to, connected with, supplementing, or otherwise related to 3938
the services provided by, or the operation of, hospital facilities 3939
operated by one or more participating hospital agencies, including 3940
any combination of such purposes, all in such manner as to promote 3941
the public purpose stated in section 140.02 of the Revised Code. A 3942
city health district; general health district; board of alcohol, 3943
drug addiction, and mental health services; county board of ~~mental~~ 3944
~~retardation and~~ developmental disabilities; the department of 3945
mental health; the department of ~~mental retardation and~~ 3946
developmental disabilities; or any public body engaged in the 3947
education or training of health professions personnel may join in 3948
any such agreement for purposes related to its authority under 3949
laws applicable to it, and as such a participant shall be 3950
considered a public hospital agency or hospital agency for the 3951
purposes of this section. 3952

(B) An agreement entered into under authority of this section 3953
shall, where appropriate, provide for: 3954

(1) The manner in which the title to the hospital facilities, 3955

including the sites and interest in real estate pertaining 3956
thereto, is to be held, transferred, or disposed of; 3957

(2) Unless provided for by lease pursuant to section 140.05 3958
of the Revised Code, the method by which such hospital facilities 3959
are to be acquired, constructed, or otherwise improved and by 3960
which they shall be managed, occupied, maintained, and repaired, 3961
including the designation of one of the hospital agencies to have 3962
charge of the details of acquisition, construction, or improvement 3963
pursuant to the contracting procedures prescribed under the law 3964
applicable to one of the participating public hospital agencies; 3965

(3) The management or administration of any such programs, 3966
projects, activities, or services, which may include management or 3967
administration by one of said hospital agencies or a board or 3968
agency thereof; 3969

(4) Annual, or more frequent, reports to the participating 3970
hospital agencies as to the revenues and receipts pertaining to 3971
the subject of the agreement, the expenditures thereof, the status 3972
and application of other funds contributed under such agreement, 3973
and such other matters as may be specified by or pursuant to such 3974
agreement; 3975

(5) The manner of apportionment or sharing of costs of 3976
hospital facilities, any other applicable costs of management, 3977
operation, maintenance, and repair of hospital facilities, and 3978
costs for the programs, projects, activities, and services forming 3979
the subject of the agreement, which apportionment or sharing may 3980
be prescribed in fixed amounts, or determined by ratios, formulas, 3981
or otherwise, and paid as service charges, rentals, or in such 3982
other manner as provided in the agreement, and may include amounts 3983
sufficient to meet the bond service charges and other payments and 3984
deposits required under the bond proceedings for obligations 3985
issued to pay costs of hospital facilities. A hospital agency may 3986
commit itself to make such payments at least for so long as any 3987

such obligations are outstanding. In the apportionment, different 3988
classes of costs or expenses may be apportioned to one or more, 3989
all or less than all, of the participating hospital agencies as 3990
determined under such agreement. 3991

(C) An agreement entered into under authority of this section 3992
may provide for: 3993

(1) An orderly process for making determinations or advising 3994
as to planning, execution, implementation, and operation, which 3995
may include designating one of the hospital agencies, or a board 3996
thereof, for any of such purposes, provisions for a committee, 3997
board, or commission, and for representation thereon, or as may 3998
otherwise be provided; 3999

(2) Securing necessary personnel, including participation of 4000
personnel from the respective hospital agencies; 4001

(3) Standards or conditions for the admission or 4002
participation of patients and physicians; 4003

(4) Conditions for admittance of other hospital agencies to 4004
participation under the agreement; 4005

(5) Fixing or establishing the method of determining charges 4006
to be made for particular services; 4007

(6) The manner of amending, supplementing, terminating, or 4008
withdrawal or removal of any party from, the agreement, and the 4009
term of the agreement, or an indefinite term; 4010

(7) Designation of the applicants for or recipients of any 4011
federal, state, or other aid, assistance, or loans available by 4012
reason of any activities conducted under the agreement; 4013

(8) Designation of one or more of the participating hospital 4014
agencies to maintain, prepare, and submit, on behalf of all 4015
parties to the agreement, any or all records and reports with 4016
regard to the activities conducted under the agreement; 4017

(9) Any incidental use of the hospital facilities, or 4018
services thereof, by participating public hospital agencies for 4019
any of their lawful purposes, which incidental use does not impair 4020
the character of the facilities as hospital facilities for any 4021
purpose of this chapter; 4022

(10) Such other matters as the parties thereto may agree upon 4023
for the purposes of division (A) of this section. 4024

(D) For the purpose of paying or contributing its share under 4025
an agreement made under this section, a public hospital agency 4026
may: 4027

(1) Expend any moneys from its general fund, and from any 4028
other funds not otherwise restricted by law, but including funds 4029
for permanent improvements of hospital facilities of such public 4030
hospital agency where the contribution is to be made toward the 4031
costs of hospital facilities under the agreement, and including 4032
funds derived from levies for, or receipts available for, 4033
operating expenses of hospital facilities or services of such 4034
public hospital agency where the contribution or payment is to be 4035
made toward operating expenses of the hospital facilities or 4036
services under the agreement or for the services provided thereby; 4037

(2) Issue obligations under Chapter 133. or section 140.06, 4038
339.14, 339.15, 513.12, or 3345.12 of the Revised Code, or Section 4039
3 of Article XVIII, Ohio Constitution, if applicable to such 4040
public hospital agency, to pay costs of hospital facilities, or 4041
issue obligations under any other provision of law authorizing 4042
such public hospital agency to issue obligations for any costs of 4043
hospital facilities; 4044

(3) Levy taxes under Chapter 5705. or section 513.13 or 4045
3709.29 of the Revised Code, if applicable to such public hospital 4046
agency, provided that the purpose of such levy may include the 4047
provision of funds for either or both permanent improvements and 4048

current expenses if required for the contribution or payment of 4049
such hospital agency under such agreement, and each such public 4050
hospital agency may issue notes in anticipation of any such levy, 4051
pursuant to the procedures provided in section 5705.191 of the 4052
Revised Code if the levy is solely for current expenses, and in 4053
section 5705.193 of the Revised Code if the levy is all or in part 4054
for permanent improvements; 4055

(4) Contribute real and personal property or interest therein 4056
without necessity for competitive bidding or public auction on 4057
disposition of such property. 4058

(E) Any funds provided by public hospital agencies that are 4059
parties to an agreement entered into under this section shall be 4060
transferred to and placed in a separate fund or funds of such 4061
participating public hospital agency as is designated under the 4062
agreement. The funds shall be applied for the purposes provided in 4063
such agreement and are subject to audit. Pursuant to any 4064
determinations to be made under such agreement, the funds shall be 4065
deposited, invested, and disbursed under the provisions of law 4066
applicable to the public hospital agency in whose custody the 4067
funds are held. This division is subject to the provisions of any 4068
applicable bond proceedings under section 133.08, 140.06, 339.15, 4069
or 3345.12 of the Revised Code or Section 3 of Article XVIII, Ohio 4070
Constitution. The records and reports of such public hospital 4071
agency under Chapter 117. of the Revised Code and sections 3702.51 4072
to 3702.62 of the Revised Code, with respect to the funds shall be 4073
sufficient without necessity for reports thereon by the other 4074
public hospital agencies participating under such agreement. 4075

(F)(1) Prior to its entry into any such agreement, the public 4076
hospital agency must determine, and set forth in a resolution or 4077
ordinance, that the contribution to be made by it under such 4078
agreement will be fair consideration for value and benefit to be 4079
derived by it under such agreement and that the agreement will 4080

promote the public purpose stated in section 140.02 of the Revised
Code.

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

Sec. 140.05. (A)(1) A public hospital agency may lease any
hospital facility to one or more hospital agencies for use as a
hospital facility, or to one or more city or general health
districts; boards of alcohol, drug addiction, and mental health
services; county boards of ~~mental retardation and~~ developmental
disabilities; the department of mental health; or the department
of ~~mental retardation and~~ developmental disabilities, for uses
which they are authorized to make thereof under the laws
applicable to them, or any combination of them, and they may lease
such facilities to or from a hospital agency for such uses, upon
such terms and conditions as are agreed upon by the parties. Such
lease may be for a term of fifty years or less and may provide for
an option of the lessee to renew for a term of fifty years or
less, as therein set forth. Prior to entering into such lease, the
governing body of any public hospital agency granting such lease

must determine, and set forth in a resolution or ordinance, that 4113
such lease will promote the public purpose stated in section 4114
140.02 of the Revised Code and that the lessor public hospital 4115
agency will be duly benefited thereby. 4116

(2) If the lease is with a board of county commissioners, 4117
board of county hospital trustees, or county hospital commission 4118
and is an agreement for the initial lease of a county hospital 4119
operated by a board of county hospital trustees under section 4120
339.06 of the Revised Code, the governing body of the public 4121
hospital agency shall submit the agreement, accompanied by the 4122
resolution or ordinance, to the board of county commissioners for 4123
review pursuant to section 339.091 of the Revised Code. The 4124
agreement may be entered into only if the board of county 4125
commissioners adopts a resolution under that section. The 4126
requirements of division (A)(2) of this section do not apply to 4127
the lease if one or more hospitals classified as general hospitals 4128
by the public health council under section 3701.07 of the Revised 4129
Code are operating in the same county as the county hospital. 4130

(B) Any lease entered into pursuant to this section shall 4131
provide that in the event that the lessee fails faithfully and 4132
efficiently to administer, maintain, and operate such leased 4133
facilities as hospital facilities, or fails to provide the 4134
services thereof without regard to race, creed, color, or national 4135
origin, or fails to require that any hospital agency using such 4136
facilities or the services thereof shall not discriminate by 4137
reason of race, creed, color, or national origin, after an 4138
opportunity to be heard upon written charges, said lease may be 4139
terminated at the time, in the manner and with consequences 4140
therein provided. If any such lease does not contain terms to the 4141
effect provided in this division, it shall nevertheless be deemed 4142
to contain such terms which shall be implemented as determined by 4143
the governing body of the lessor. 4144

(C) Such lease may provide for rentals commencing at any time 4145
agreed upon, or advance rental, and continuing for such period 4146
therein provided, notwithstanding and without diminution, rebate, 4147
or setoff by reason of time of availability of the hospital 4148
facility for use, delays in construction, failure of completion, 4149
damage or destruction of the hospital facilities, or for any other 4150
reason. 4151

(D) Such lease may provide for the sale or transfer of title 4152
of the leased facilities pursuant to an option to purchase, 4153
lease-purchase, or installment purchase upon terms therein 4154
provided or to be determined as therein provided, which may 4155
include provision for the continued use thereof as a hospital 4156
facility for some reasonable period, taking into account efficient 4157
useful life and other factors, as is provided therein. 4158

(E) Such lease may be entered as part of or in connection 4159
with an agreement pursuant to section 140.03 of the Revised Code. 4160
Any hospital facilities which are the subject of an agreement 4161
entered into under section 140.03 of the Revised Code may be 4162
leased pursuant to this section. 4163

(F) If land acquired by a public hospital agency for a 4164
hospital facility is adjacent to an existing hospital facility 4165
owned by another hospital agency, the public hospital agency may, 4166
in connection with such acquisition or the leasing of such land 4167
and hospital facilities thereon to one or more hospital agencies, 4168
enter into an agreement with the hospital agency which owns such 4169
adjacent hospital facility for the use of common walls in the 4170
construction, operation, or maintenance of hospital facilities of 4171
the public hospital agency. For the purpose of construction, 4172
operation, or maintenance of hospital facilities, a public 4173
hospital agency may acquire by purchase, gift, lease, lease with 4174
option to purchase, lease-purchase, or installment purchase, 4175
easement deed, or other agreement, real estate and interests in 4176

real estate, including rights to use space over, under or upon 4177
real property owned by others, and support, access, common wall, 4178
and other rights in connection therewith. Any public hospital 4179
agency or other political subdivision or any public agency, board, 4180
commission, institution, body, or instrumentality may grant such 4181
real estate, interests, or rights to any hospital agency upon such 4182
terms as are agreed upon without necessity for competitive bidding 4183
or public auction. 4184

Sec. 145.012. (A) "Public employee," as defined in division 4185
(A) of section 145.01 of the Revised Code, does not include any 4186
person: 4187

(1) Who is employed by a private, temporary-help service and 4188
performs services under the direction of a public employer or is 4189
employed on a contractual basis as an independent contractor under 4190
a personal service contract with a public employer; 4191

(2) Who is an emergency employee serving on a temporary basis 4192
in case of fire, snow, earthquake, flood, or other similar 4193
emergency; 4194

(3) Who is employed in a program established pursuant to the 4195
"Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 4196
1501; 4197

(4) Who is an appointed member of either the motor vehicle 4198
salvage dealers board or the motor vehicle dealer's board whose 4199
rate and method of payment are determined pursuant to division (J) 4200
of section 124.15 of the Revised Code; 4201

(5) Who is employed as an election worker and paid less than 4202
five hundred dollars per calendar year for that service; 4203

(6) Who is employed as a firefighter in a position requiring 4204
satisfactory completion of a firefighter training course approved 4205
under former section 3303.07 or section 4765.55 of the Revised 4206

Code or conducted under section 3737.33 of the Revised Code except 4207
for the following: 4208

(a) Any firefighter who has elected under section 145.013 of 4209
the Revised Code to remain a contributing member of the public 4210
employees retirement system; 4211

(b) Any firefighter who was eligible to transfer from the 4212
public employees retirement system to the Ohio police and fire 4213
pension fund under section 742.51 or 742.515 of the Revised Code 4214
and did not elect to transfer; 4215

(c) Any firefighter who has elected under section 742.516 of 4216
the Revised Code to transfer from the Ohio police and fire pension 4217
fund to the public employees retirement system. 4218

(7) Who is a member of the board of health of a city or 4219
general health district, which pursuant to sections 3709.051 and 4220
3709.07 of the Revised Code includes a combined health district, 4221
and whose compensation for attendance at meetings of the board is 4222
set forth in division (B) of section 3709.02 or division (B) of 4223
section 3709.05 of the Revised Code, as appropriate; 4224

(8) Who participates in an alternative retirement plan 4225
established under Chapter 3305. of the Revised Code; 4226

(9) Who is a member of the board of directors of a sanitary 4227
district established under Chapter 6115. of the Revised Code. 4228

(B) No inmate of a correctional institution operated by the 4229
department of rehabilitation and correction, no patient in a 4230
hospital for the mentally ill or criminally insane operated by the 4231
department of mental health, no resident in an institution for the 4232
mentally retarded operated by the department of ~~mental retardation~~ 4233
~~and~~ developmental disabilities, no resident admitted as a patient 4234
of a veterans' home operated under Chapter 5907. of the Revised 4235
Code, and no resident of a county home shall be considered as a 4236
public employee for the purpose of establishing membership or 4237

calculating service credit or benefits under this chapter. Nothing 4238
in this division shall be construed to affect any service credit 4239
attained by any person who was a public employee before becoming 4240
an inmate, patient, or resident at any institution listed in this 4241
division, or the payment of any benefit for which such a person or 4242
such a person's beneficiaries otherwise would be eligible. 4243

4244

Sec. 145.297. (A) As used in this section, "employing unit" 4245
means: 4246

(1) A municipal corporation, agency of a municipal 4247
corporation designated by the legislative authority, park 4248
district, conservancy district, sanitary district, health 4249
district, township, department of a township designated by the 4250
board of township trustees, metropolitan housing authority, public 4251
library, county law library, union cemetery, joint hospital, or 4252
other political subdivision or unit of local government. 4253

(2) With respect to state employees, any entity of the state 4254
including any department, agency, institution of higher education, 4255
board, bureau, commission, council, office, or administrative body 4256
or any part of such entity that is designated by the entity as an 4257
employing unit. 4258

(3)(a) With respect to employees of a board of alcohol, drug 4259
addiction, and mental health services, that board. 4260

(b) With respect to employees of a county board of ~~mental~~ 4261
~~retardation and~~ developmental disabilities, that board. 4262

(c) With respect to other county employees, the county or any 4263
county agency designated by the board of county commissioners. 4264

(4) In the case of an employee whose employing unit is in 4265
question, the employing unit is the unit through whose payroll the 4266
employee is paid. 4267

(B) An employing unit may establish a retirement incentive 4268
plan for its eligible employees. In the case of a county or county 4269
agency, decisions on whether to establish a retirement incentive 4270
plan for any employees other than employees of a board of alcohol, 4271
drug addiction, and mental health services or county board of 4272
~~mental retardation and~~ developmental disabilities and on the terms 4273
of the plan shall be made by the board of county commissioners. In 4274
the case of a municipal corporation or an agency of a municipal 4275
corporation, decisions on whether to establish a retirement 4276
incentive plan and on the terms of the plan shall be made by the 4277
legislative authority. 4278

All terms of a retirement incentive plan shall be in writing. 4279

A retirement incentive plan shall provide for purchase by the 4280
employing unit of service credit for eligible employees who elect 4281
to participate in the plan and for payment by the employing unit 4282
of the entire cost of the service credit purchased. 4283

Every retirement incentive plan shall remain in effect for at 4284
least one year. The employing unit shall give employees at least 4285
thirty days' notice before terminating the plan. 4286

Every retirement incentive plan shall include provisions for 4287
the timely and impartial resolution of grievances and disputes 4288
arising under the plan. 4289

No employing unit shall have more than one retirement 4290
incentive plan in effect at any time. 4291

(C) Any classified or unclassified employee of the employing 4292
unit who is a member of the public employees retirement system 4293
shall be eligible to participate in the retirement incentive plan 4294
established by the employee's employing unit if the employee meets 4295
the following criteria: 4296

(1) The employee is not any of the following: 4297

(a) An elected official; 4298

(b) A member of a board or commission; 4299

(c) A person elected to serve a term of fixed length; 4300

(d) A person appointed to serve a term of fixed length, other 4301
than a person appointed and employed by the person's employing 4302
unit. 4303

(2) The employee is or will be eligible to retire under 4304
section 145.32, 145.34, 145.37, or division (A) of section 145.33 4305
of the Revised Code on or before the date of termination of the 4306
retirement incentive plan. Service credit to be purchased for the 4307
employee under the retirement incentive plan shall be included in 4308
making such determination. 4309

(3) The employee agrees to retire under section 145.32, 4310
145.34, 145.37, or division (A) of section 145.33 of the Revised 4311
Code within ninety days after receiving notice from the public 4312
employees retirement system that service credit has been purchased 4313
for the employee under this section. 4314

Participation in the plan shall be available to all eligible 4315
employees except that the employing unit may limit the number of 4316
participants in the plan to a specified percentage of its 4317
employees who are members of the public employees retirement 4318
system on the date the plan goes into effect. The percentage shall 4319
not be less than five per cent of such employees. If participation 4320
is limited, employees with more total service credit have the 4321
right to elect to participate before employees with less total 4322
service credit. In the case of employees with the same total 4323
service credit, employees with a greater length of service with 4324
the employing unit have the right to elect to participate before 4325
employees with less service with the employing unit. Employees 4326
with less than eighteen months of service with the employing unit 4327
have the right to elect to participate only after all other 4328

eligible employees have been given the opportunity to elect to 4329
participate. For the purpose of determining which employees may 4330
participate in a plan, total service credit includes service 4331
credit purchased by the employee under this chapter after the date 4332
on which the plan is established. 4333

A retirement incentive plan that limits participation may 4334
provide that an employee who does not notify the employing unit of 4335
the employee's decision to participate in the plan within a 4336
specified period of time will lose priority to participate in the 4337
plan ahead of other employees with less seniority. The time given 4338
to an employee to elect to participate ahead of other employees 4339
shall not be less than thirty days after the employee receives 4340
written notice that the employee may participate in the plan. 4341

(D) A retirement incentive plan shall provide for purchase of 4342
the same amount of service credit for each participating employee, 4343
except that the employer may not purchase more service credit for 4344
any employee than the lesser of the following: 4345

(1) Five years of service credit; 4346

(2) An amount of service credit equal to one-fifth of the 4347
total service credited to the participant under this chapter, 4348
exclusive of service credit purchased under this section. 4349

For each year of service credit purchased under this section, 4350
the employing unit shall pay an amount equal to the additional 4351
liability resulting from the purchase of that year of service 4352
credit, as determined by an actuary employed by the public 4353
employees retirement board. 4354

(E) Upon the election by an eligible employee to participate 4355
in the retirement incentive plan, the employee and the employing 4356
unit shall agree upon a date for payment or contracting for 4357
payment in installments to the public employees retirement system 4358
of the cost of the service credit to be purchased. The employing 4359

unit shall submit to the public employees retirement system a 4360
written request for a determination of the cost of the service 4361
credit, and within forty-five days after receiving the request, 4362
the board shall give the employing unit written notice of the 4363
cost. 4364

The employing unit shall pay or contract to pay in 4365
installments the cost of the service credit to be purchased to the 4366
public employees retirement system on the date agreed to by the 4367
employee and the employing unit. The payment shall be made in 4368
accordance with rules adopted by the public employees retirement 4369
board. The rules may provide for payment in installments and for 4370
crediting the purchased credit to the employee's account upon the 4371
employer's contracting to pay the cost in installments. The board 4372
shall notify the member when the member is credited with service 4373
purchased under this section. If the employee does not retire 4374
within ninety days after receiving notice that the employee has 4375
been credited with the purchased service credit, the system shall 4376
refund to the employing unit the amount paid for the service 4377
credit. 4378

No payment made to the public employees retirement system 4379
under this section shall affect any payment required by section 4380
145.48 of the Revised Code. 4381

(F) For the purpose of determining whether the cost of a 4382
retirement incentive plan established by a county or county agency 4383
under this section is an allowable cost for the purpose of federal 4384
funding for any year, the cost shall be considered abnormal or 4385
mass severance pay only if fifteen per cent or more of the county 4386
or county agency's employees participate in the plan in that year. 4387

Nothing in this division shall relieve a county or county 4388
agency from seeking federal approval for any early retirement 4389
incentive plan that uses federal dollars in accordance with 4390
federal law. 4391

Sec. 154.17. The departments of administrative services, 4392
mental health, ~~mental retardation and~~ developmental disabilities, 4393
rehabilitation and correction, and natural resources, the Ohio 4394
board of regents, institutions of higher education, and other 4395
state officers and state agencies shall cooperate with the 4396
commission in providing services and information requested by the 4397
commission for purposes of Chapter 154. of the Revised Code, and 4398
the commission may make mutually satisfactory arrangements 4399
therefor and may thereunder designate any governmental agency for 4400
the management or performance of particular functions of the 4401
commission, other than the authorization and issuance of 4402
obligations provided for in Chapter 154. of the Revised Code, 4403
pursuant to which designation, upon acceptance thereof by that 4404
governmental agency, that function may be carried out with the 4405
full force and effect as if performed by the commission. Any such 4406
designation shall be made only by formal action or written 4407
agreement of the commission. In the management of capital 4408
facilities or performance of other functions with respect thereto, 4409
a governmental agency may exercise all powers which it has under 4410
law with respect to other similar facilities under its 4411
jurisdiction. 4412

Contracts relating to capital facilities shall be made in 4413
accordance with the law pertaining to the governmental agency 4414
designated under authority of this section to perform such 4415
contracting function, and in any other case shall be made in 4416
accordance with Chapter 153. of the Revised Code, for which 4417
purpose the commission shall be considered the owner, provided 4418
that the commission may assign the function of owner to the 4419
department of administrative services or other governmental agency 4420
as it determines. The commission may acquire by assignment from 4421
any governmental agency contracts which are not completed and 4422
which involve acquiring, constructing, reconstructing, 4423

rehabilitating, remodeling, renovating, enlarging, improving, 4424
equipping, or furnishing capital facilities, provided that such 4425
governmental agency has complied with the procedures prescribed by 4426
laws for its letting of such contract. 4427

No contract shall be let or assignment thereof accepted under 4428
this section involving performance in accordance with plans and 4429
specifications until such plans and specifications have been 4430
submitted to and approved by the governmental agency to have 4431
responsibility for the management of the capital facilities 4432
provided for in such plans and specifications, which approval 4433
shall be considered to be given if no approval or disapproval is 4434
communicated in writing to the commission or its designee for such 4435
purpose within sixty days following such submission of plans and 4436
specifications. Approval by such governmental agency of changes in 4437
plans and specifications is not required if the director of 4438
administrative services or the designee of the commission for such 4439
purpose shall certify that such changes do not substantially 4440
change the location, character, or extent of such capital 4441
facilities. 4442

Sec. 154.20. (A) Subject to authorization by the general 4443
assembly under section 154.02 of the Revised Code, the issuing 4444
authority may issue obligations pursuant to this chapter to pay 4445
costs of capital facilities for mental hygiene and retardation, 4446
including housing for mental hygiene and retardation patients. 4447

(B) Any capital facilities for mental hygiene or retardation, 4448
including housing for mental hygiene and retardation patients, may 4449
be leased by the commission to the department of mental health, 4450
the department of ~~mental retardation and~~ developmental 4451
disabilities, or the department of alcohol and drug addiction 4452
services, and other agreements may be made by the commission and 4453
any one or more of these departments with respect to the use or 4454

purchase of such capital facilities or, subject to the approval of 4455
the director of the department, the commission may lease such 4456
capital facilities to, and make or provide for other agreements 4457
with respect to the use or purchase thereof with, any governmental 4458
agency having authority under law to operate such capital 4459
facilities, and the director of the department may sublease such 4460
capital facilities to, and make other agreements with respect to 4461
the use or purchase thereof with, any such governmental agency, 4462
which may include provisions for transmittal to the mental health 4463
bond service trust fund created under division (E) of this 4464
section, by such governmental agency or by a nonprofit corporation 4465
providing mental hygiene and retardation services for or under 4466
contract with or the supervision of that governmental agency, of 4467
receipts of that agency or nonprofit corporation from charges for 4468
the treatment or care of mental hygiene and retardation patients, 4469
all upon such terms and conditions as the parties may agree upon 4470
and pursuant to this chapter, notwithstanding any other provision 4471
of law affecting the leasing, acquisition, or disposition of 4472
capital facilities by the parties. 4473

(C) For purposes of this section, "available receipts" means 4474
all receipts of the state from charges for the treatment or care 4475
of mental hygiene and retardation patients, including support 4476
payments received under Chapter 5121. of the Revised Code and 4477
moneys required to be transmitted to the mental health bond 4478
service trust fund pursuant to subleases and other agreements 4479
between any of the departments and another governmental agency 4480
pursuant to division (B) of this section as the subleases and 4481
other agreements may be further implemented for internal planning, 4482
budgeting, and accounting purposes pursuant to rules adopted by 4483
the director of mental health, director of ~~mental retardation and~~ 4484
developmental disabilities, or director of alcohol and drug 4485
addiction services, any revenues or receipts derived by the 4486
commission from the operation, leasing, or other disposition of 4487

capital facilities financed under this section, the proceeds of 4488
obligations issued under this section and sections 154.11 and 4489
154.12 of the Revised Code, and also means any gifts, grants, 4490
donations, and pledges, and receipts therefrom, available for the 4491
payment of bond service charges on such obligations. The issuing 4492
authority may pledge all, or such portion as that authority 4493
determines, of the available receipts to the payment of bond 4494
service charges on obligations issued under this section and under 4495
sections 154.11 and 154.12 of the Revised Code and for the 4496
establishment and maintenance of any reserves, as provided in the 4497
bond proceedings, and make other provisions therein with respect 4498
to such available receipts as authorized by this chapter, which 4499
provisions shall be controlling notwithstanding any other 4500
provision of law pertaining thereto. 4501

(D) The issuing authority may covenant in the bond 4502
proceedings that the state and state agencies shall, so long as 4503
any obligations issued under this section are outstanding, cause 4504
to be charged and collected charges for the treatment or care of 4505
mental hygiene and retardation patients sufficient in amount to 4506
provide for the payment of bond service charges on such 4507
obligations and for the establishment and maintenance of any 4508
reserves, as provided in the bond proceedings, and such covenants 4509
shall be controlling notwithstanding any other provision of law 4510
pertaining to such charges. 4511

(E) There is hereby created the mental health bond service 4512
trust fund, which shall be in the custody of the treasurer of 4513
state but shall be separate and apart from and not a part of the 4514
state treasury. All moneys received by or on account of the 4515
commission or issuing authority or state agencies and required by 4516
the applicable bond proceedings to be deposited, transferred, or 4517
credited to the fund, and all other moneys transferred or 4518
allocated to or received for the purposes of the fund, shall be 4519

deposited with the treasurer of state and credited to such fund, 4520
subject to applicable provisions of the bond proceedings, but 4521
without necessity for any act of appropriation. The mental health 4522
bond service trust fund is a trust fund and is hereby pledged to 4523
the payment of bond service charges on the obligations issued 4524
pursuant to this section and sections 154.11 and 154.12 of the 4525
Revised Code to the extent provided in the applicable bond 4526
proceedings, and payment thereof from such fund shall be made or 4527
provided for by the treasurer of state in accordance with such 4528
bond proceedings without necessity for any act of appropriation. 4529

(F) There is hereby created in the state treasury the mental 4530
health facilities improvement fund. Subject to the bond 4531
proceedings therefor, all of the proceeds of the sale of 4532
obligations pursuant to this section shall be credited to the 4533
fund, except that any accrued interest shall be credited to the 4534
mental health bond service fund. The mental health facilities 4535
improvement fund may also be comprised of gifts, grants, 4536
appropriated moneys, and other sums and securities received to the 4537
credit of such fund. The fund shall be applied only to the 4538
following purposes: 4539

(1) Paying costs of capital facilities for mental hygiene and 4540
retardation, including housing for mental hygiene and retardation 4541
patients, under the jurisdiction of the department of mental 4542
health, department of ~~mental retardation and~~ developmental 4543
disabilities, or department of alcohol and drug addiction 4544
services; 4545

(2) Participating in capital facilities for mental hygiene 4546
and retardation, including housing for mental hygiene and 4547
retardation patients, with the federal government, municipal 4548
corporations, counties, or other governmental agencies, or a 4549
nonprofit corporation specifically chartered to provide a mental 4550
health or mental retardation service when such service fulfills a 4551

public purpose, which participation may be by grants or 4552
contributions to them for such capital facilities. Except as 4553
provided in division (G) of this section, the nonprofit 4554
corporation may act in concert with a limited partnership or a 4555
limited liability company eligible to participate in the nonprofit 4556
set-aside described in section 42(h)(5) of the "Internal Revenue 4557
Code of 1986," 100 Stat. 2198, 26 U.S.C. 42, and the Ohio housing 4558
finance agency's housing tax credit program for the purpose of 4559
making use of low-income housing tax credits in support of housing 4560
for mental hygiene and retardation patients. 4561

(G) A nonprofit corporation providing a mental retardation 4562
service must obtain written approval from the director of ~~mental~~ 4563
~~retardation and~~ developmental disabilities before acting in 4564
concert with a limited partnership or limited liability company as 4565
described in division (F)(2) of this section. However, the 4566
director may issue one blanket approval for all such nonprofit 4567
corporations. 4568

(H) This section is to be applied with other applicable 4569
provisions of this chapter. 4570

Sec. 173.03. (A) There is hereby created the Ohio advisory 4571
council for the aging, which shall consist of twelve members to be 4572
appointed by the governor with the advice and consent of the 4573
senate. Two ex officio members of the council shall be members of 4574
the house of representatives appointed by the speaker of the house 4575
of representatives and shall be members of two different political 4576
parties. Two ex officio members of the council shall be members of 4577
the senate appointed by the president of the senate and shall be 4578
members of two different political parties. The directors of 4579
mental health, ~~mental retardation and~~ developmental disabilities, 4580
health, and job and family services, or their designees, shall 4581
serve as ex officio members of the council. The council shall 4582

carry out its role as defined under the "Older Americans Act of 4583
1965," 79 Stat. 219, 42 U.S.C. 3001, as amended. 4584

At the first meeting of the council, and annually thereafter, 4585
the members shall select one of their members to serve as 4586
chairperson and one of their members to serve as vice-chairperson. 4587

(B) Members of the council shall be appointed for a term of 4588
three years, except that for the first appointment members of the 4589
Ohio commission on aging who were serving on the commission 4590
immediately prior to July 26, 1984, shall become members of the 4591
council for the remainder of their unexpired terms. Thereafter, 4592
appointment to the council shall be for a three-year term by the 4593
governor. Each member shall hold office from the date of 4594
appointment until the end of the term for which the member was 4595
appointed. Any member appointed to fill a vacancy occurring prior 4596
to the expiration of the term for which the member's predecessor 4597
was appointed shall hold office for the remainder of the term. Any 4598
member may continue in office subsequent to the expiration date of 4599
the member's term until a successor takes office and shall be 4600
compensated for the period served between the expiration of the 4601
member's term and the beginning of the successor's term. 4602

(C) Membership of the council shall represent all areas of 4603
Ohio and shall be as follows: 4604

(1) A majority of members of the council shall have attained 4605
the age of sixty and have a knowledge of and continuing interest 4606
in the affairs and welfare of the older citizens of Ohio. The 4607
fields of business, labor, health, law, and human services shall 4608
be represented in the membership. 4609

(2) No more than seven members shall be of the same political 4610
party. 4611

(D) Any member of the council may be removed from office by 4612
the governor for neglect of duty, misconduct, or malfeasance in 4613

office after being informed in writing of the charges and afforded 4614
an opportunity for a hearing. Two consecutive unexcused absences 4615
from regularly scheduled meetings constitute neglect of duty. 4616

(E) Members of the council shall be compensated at the rate 4617
of fifty dollars for each day actually employed in the discharge 4618
of official duties but not to exceed two thousand dollars per year 4619
and in addition shall be allowed actual and necessary expenses. 4620

(F) Council members are not limited as to the number of terms 4621
they may serve. 4622

(G) Council members shall not be interested directly or 4623
indirectly in any contract awarded by the department of aging. 4624

Sec. 305.14. (A) The court of common pleas, upon the 4625
application of the prosecuting attorney and the board of county 4626
commissioners, may authorize the board to employ legal counsel to 4627
assist the prosecuting attorney, the board, or any other county 4628
officer in any matter of public business coming before such board 4629
or officer, and in the prosecution or defense of any action or 4630
proceeding in which such board or officer is a party or has an 4631
interest, in its official capacity. 4632

(B) The board of county commissioners may also employ legal 4633
counsel, as provided in section 309.09 of the Revised Code, to 4634
represent it in any matter of public business coming before such 4635
board, and in the prosecution or defense of any action or 4636
proceeding in which such board is a party or has an interest, in 4637
its official capacity. 4638

(C) Notwithstanding division (A) of this section and except 4639
as provided in division (D) of this section, a county board of 4640
~~mental retardation and~~ developmental disabilities or a public 4641
children services agency may, without the authorization of the 4642
court of common pleas, employ legal counsel to advise it or to 4643

represent it or any of its members or employees in any matter of 4644
public business coming before the board or agency or in the 4645
prosecution or defense of any action or proceeding in which the 4646
board or agency in its official capacity, or a board or agency 4647
member or employee in the member's or employee's official 4648
capacity, is a party or has an interest. 4649

(D)(1) In any legal proceeding in which the prosecuting 4650
attorney is fully able to perform the prosecuting attorney's 4651
statutory duty to represent the county board of ~~mental retardation~~ 4652
~~and~~ developmental disabilities or public children services agency 4653
without conflict of interest, the board or agency shall employ 4654
other counsel only with the written consent of the prosecuting 4655
attorney. In any legal proceeding in which the prosecuting 4656
attorney is unable, for any reason, to represent the board or 4657
agency, the prosecuting attorney shall so notify the board or 4658
agency, and, except as provided in division (D)(2) of this 4659
section, the board or agency may then employ counsel for the 4660
proceeding without further permission from any authority. 4661

(2) A public children services agency that receives money 4662
from the county general revenue fund must obtain the permission of 4663
the board of county commissioners of the county served by the 4664
agency before employing counsel under division (C) of this 4665
section. 4666

Sec. 307.10. (A) No sale of real property, or lease of real 4667
property used or to be used for the purpose of airports, landing 4668
fields, or air navigational facilities, or parts thereof, as 4669
provided by section 307.09 of the Revised Code shall be made 4670
unless it is authorized by a resolution adopted by a majority of 4671
the board of county commissioners. When a sale of real property as 4672
provided by section 307.09 of the Revised Code is authorized, the 4673
board may either deed the property to the highest responsible 4674

bidder, after advertisement once a week for four consecutive weeks 4675
in a newspaper of general circulation in the county or offer the 4676
real property for sale at a public auction, after giving at least 4677
thirty days' notice of the auction by publication in a newspaper 4678
of general circulation in the county. The board may reject any and 4679
all bids. The board may, as it considers best, sell real property 4680
pursuant to this section as an entire tract or in parcels. The 4681
board, by resolution adopted by a majority of the board, may lease 4682
real property, in accordance with division (A) of section 307.09 4683
of the Revised Code, without advertising for bids. 4684

(B) The board, by resolution, may transfer real property in 4685
fee simple belonging to the county and not needed for public use 4686
to the United States government, to the state or any department or 4687
agency thereof, to municipal corporations or other political 4688
subdivisions of the state, to the county board of ~~mental~~ 4689
~~retardation and~~ developmental disabilities, or to a county land 4690
reutilization corporation organized under Chapter 1724. of the 4691
Revised Code for public purposes upon the terms and in the manner 4692
that it may determine to be in the best interests of the county, 4693
without advertising for bids. The board shall execute a deed or 4694
other proper instrument when such a transfer is approved. 4695

(C) The board, by resolution adopted by a majority of the 4696
board, may grant leases, rights, or easements to the United States 4697
government, to the state or any department or agency thereof, or 4698
to municipal corporations and other political subdivisions of the 4699
state, or to privately owned electric light and power companies, 4700
natural gas companies, or telephone or telegraph companies for 4701
purposes of rendering their several public utilities services, in 4702
accordance with division (B) of section 307.09 of the Revised 4703
Code, without advertising for bids. When such grant of lease, 4704
right, or easement is authorized, a deed or other proper 4705
instrument therefor shall be executed by the board. 4706

Sec. 307.86. Anything to be purchased, leased, leased with an
option or agreement to purchase, or constructed, including, but
not limited to, any product, structure, construction,
reconstruction, improvement, maintenance, repair, or service,
except the services of an accountant, architect, attorney at law,
physician, professional engineer, construction project manager,
consultant, surveyor, or appraiser, by or on behalf of the county
or contracting authority, as defined in section 307.92 of the
Revised Code, at a cost in excess of twenty-five thousand dollars,
except as otherwise provided in division (D) of section 713.23 and
in sections 9.48, 125.04, 125.60 to 125.6012, 307.022, 307.041,
307.861, 339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16,
5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall
be obtained through competitive bidding. However, competitive
bidding is not required when any of the following applies:

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

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

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

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

Whenever a contract of purchase, lease, or construction is
exempted from competitive bidding under division (A)(1) of this
section because the estimated cost is less than fifty thousand
dollars, but the estimated cost is twenty-five thousand dollars or

more, the county or contracting authority shall solicit informal 4738
estimates from no fewer than three persons who could perform the 4739
contract, before awarding the contract. With regard to each such 4740
contract, the county or contracting authority shall maintain a 4741
record of such estimates, including the name of each person from 4742
whom an estimate is solicited. The county or contracting authority 4743
shall maintain the record for the longer of at least one year 4744
after the contract is awarded or the amount of time the federal 4745
government requires. 4746

(B)(1) The purchase consists of supplies or a replacement or 4747
supplemental part or parts for a product or equipment owned or 4748
leased by the county, and the only source of supply for the 4749
supplies, part, or parts is limited to a single supplier. 4750

(2) The purchase consists of services related to information 4751
technology, such as programming services, that are proprietary or 4752
limited to a single source. 4753

(C) The purchase is from the federal government, the state, 4754
another county or contracting authority of another county, or a 4755
board of education, township, or municipal corporation. 4756

(D) The purchase is made by a county department of job and 4757
family services under section 329.04 of the Revised Code and 4758
consists of family services duties or workforce development 4759
activities or is made by a county board of ~~mental retardation and~~ 4760
developmental disabilities under section 5126.05 of the Revised 4761
Code and consists of program services, such as direct and 4762
ancillary client services, child care, case management services, 4763
residential services, and family resource services. 4764

(E) The purchase consists of criminal justice services, 4765
social services programs, family services, or workforce 4766
development activities by the board of county commissioners from 4767
nonprofit corporations or associations under programs funded by 4768

the federal government or by state grants. 4769

(F) The purchase consists of any form of an insurance policy 4770
or contract authorized to be issued under Title XXXIX of the 4771
Revised Code or any form of health care plan authorized to be 4772
issued under Chapter 1751. of the Revised Code, or any combination 4773
of such policies, contracts, plans, or services that the 4774
contracting authority is authorized to purchase, and the 4775
contracting authority does all of the following: 4776

(1) Determines that compliance with the requirements of this 4777
section would increase, rather than decrease, the cost of the 4778
purchase; 4779

(2) Requests issuers of the policies, contracts, plans, or 4780
services to submit proposals to the contracting authority, in a 4781
form prescribed by the contracting authority, setting forth the 4782
coverage and cost of the policies, contracts, plans, or services 4783
as the contracting authority desires to purchase; 4784

(3) Negotiates with the issuers for the purpose of purchasing 4785
the policies, contracts, plans, or services at the best and lowest 4786
price reasonably possible. 4787

(G) The purchase consists of computer hardware, software, or 4788
consulting services that are necessary to implement a computerized 4789
case management automation project administered by the Ohio 4790
prosecuting attorneys association and funded by a grant from the 4791
federal government. 4792

(H) Child care services are purchased for provision to county 4793
employees. 4794

(I)(1) Property, including land, buildings, and other real 4795
property, is leased for offices, storage, parking, or other 4796
purposes, and all of the following apply: 4797

(a) The contracting authority is authorized by the Revised 4798

Code to lease the property. 4799

(b) The contracting authority develops requests for proposals 4800
for leasing the property, specifying the criteria that will be 4801
considered prior to leasing the property, including the desired 4802
size and geographic location of the property. 4803

(c) The contracting authority receives responses from 4804
prospective lessors with property meeting the criteria specified 4805
in the requests for proposals by giving notice in a manner 4806
substantially similar to the procedures established for giving 4807
notice under section 307.87 of the Revised Code. 4808

(d) The contracting authority negotiates with the prospective 4809
lessors to obtain a lease at the best and lowest price reasonably 4810
possible considering the fair market value of the property and any 4811
relocation and operational costs that may be incurred during the 4812
period the lease is in effect. 4813

(2) The contracting authority may use the services of a real 4814
estate appraiser to obtain advice, consultations, or other 4815
recommendations regarding the lease of property under this 4816
division. 4817

(J) The purchase is made pursuant to section 5139.34 or 4818
sections 5139.41 to 5139.46 of the Revised Code and is of programs 4819
or services that provide case management, treatment, or prevention 4820
services to any felony or misdemeanor delinquent, unruly youth, 4821
or status offender under the supervision of the juvenile court, 4822
including, but not limited to, community residential care, day 4823
treatment, services to children in their home, or electronic 4824
monitoring. 4825

(K) The purchase is made by a public children services agency 4826
pursuant to section 307.92 or 5153.16 of the Revised Code and 4827
consists of family services, programs, or ancillary services that 4828
provide case management, prevention, or treatment services for 4829

children at risk of being or alleged to be abused, neglected, or 4830
dependent children. 4831

(L) The purchase is to obtain the services of emergency 4832
medical service organizations under a contract made by the board 4833
of county commissioners pursuant to section 307.05 of the Revised 4834
Code with a joint emergency medical services district. 4835

(M) The county contracting authority determines that the use 4836
of competitive sealed proposals would be advantageous to the 4837
county and the contracting authority complies with section 307.862 4838
of the Revised Code. 4839

Any issuer of policies, contracts, plans, or services listed 4840
in division (F) of this section and any prospective lessor under 4841
division (I) of this section may have the issuer's or prospective 4842
lessor's name and address, or the name and address of an agent, 4843
placed on a special notification list to be kept by the 4844
contracting authority, by sending the contracting authority that 4845
name and address. The contracting authority shall send notice to 4846
all persons listed on the special notification list. Notices shall 4847
state the deadline and place for submitting proposals. The 4848
contracting authority shall mail the notices at least six weeks 4849
prior to the deadline set by the contracting authority for 4850
submitting proposals. Every five years the contracting authority 4851
may review this list and remove any person from the list after 4852
mailing the person notification of that action. 4853

Any contracting authority that negotiates a contract under 4854
division (F) of this section shall request proposals and negotiate 4855
with issuers in accordance with that division at least every three 4856
years from the date of the signing of such a contract, unless the 4857
parties agree upon terms for extensions or renewals of the 4858
contract. Such extension or renewal periods shall not exceed six 4859
years from the date the initial contract is signed. 4860

Any real estate appraiser employed pursuant to division (I) 4861
of this section shall disclose any fees or compensation received 4862
from any source in connection with that employment. 4863

Sec. 309.10. Sections 309.08 and 309.09 of the Revised Code 4864
do not prevent a school board from employing counsel to represent 4865
it, but when counsel is employed, the counsel shall be paid by the 4866
school board from the school fund. Sections 309.08 and 309.09 of 4867
the Revised Code do not prevent a county board of ~~mental~~ 4868
~~retardation and~~ developmental disabilities from employing counsel 4869
to represent it, but that counsel shall be employed in accordance 4870
with division (C) of section 305.14 and paid in accordance with 4871
division (A)(7) of section 5126.05 of the Revised Code. 4872

Sections 309.08 and 309.09 of the Revised Code do not prevent 4873
a board of county hospital trustees from employing counsel with 4874
the approval of the county commissioners to bring legal action for 4875
the collection of delinquent accounts of the hospital, but when 4876
counsel is employed, the counsel shall be paid from the hospital's 4877
funds. Sections 309.08 and 309.09 of the Revised Code do not 4878
prevent a board of library trustees from employing counsel to 4879
represent it, but when counsel is employed, the counsel shall be 4880
paid from the library's funds. Sections 309.08 and 309.09 of the 4881
Revised Code do not prevent the appointment and employment of 4882
assistants, clerks, and stenographers to assist the prosecuting 4883
attorney as provided in sections 309.01 to 309.16 of the Revised 4884
Code, or the appointment by the court of common pleas or the court 4885
of appeals of an attorney to assist the prosecuting attorney in 4886
the trial of a criminal cause pending in that court, or the board 4887
of county commissioners from paying for those services. 4888

Sec. 319.16. The county auditor shall issue warrants, 4889
including electronic warrants authorizing direct deposit for 4890
payment of county obligations in accordance with division (F) of 4891

section 9.37 of the Revised Code, on the county treasurer for all 4892
moneys payable from the county treasury, upon presentation of the 4893
proper order or voucher and evidentiary matter for the moneys, and 4894
keep a record of all such warrants showing the number, date of 4895
issue, amount for which drawn, in whose favor, for what purpose, 4896
and on what fund. The auditor shall not issue a warrant for the 4897
payment of any claim against the county, unless it is allowed by 4898
the board of county commissioners, except where the amount due is 4899
fixed by law or is allowed by an officer or tribunal, including a 4900
county board of mental health or county board of ~~mental~~ 4901
~~retardation and~~ developmental disabilities, so authorized by law. 4902
If the auditor questions the validity of an expenditure that is 4903
within available appropriations and for which a proper order or 4904
voucher and evidentiary matter is presented, the auditor shall 4905
notify the board, officer, or tribunal who presented the voucher. 4906
If the board, officer, or tribunal determines that the expenditure 4907
is valid and the auditor continues to refuse to issue the 4908
appropriate warrant on the county treasury, a writ of mandamus may 4909
be sought. The court shall issue a writ of mandamus for issuance 4910
of the warrant if the court determines that the claim is valid. 4911

Evidentiary matter includes original invoices, receipts, 4912
bills and checks, and legible copies of contracts. 4913

Sec. 325.19. (A)(1) The granting of vacation leave under 4914
division (A)(1) of this section is subject to divisions (A)(2) and 4915
(3) of this section. Each full-time employee in the several 4916
offices and departments of the county service, including full-time 4917
hourly rate employees, after service of one year with the county 4918
or any political subdivision of the state, shall have earned and 4919
will be due upon the attainment of the first year of employment, 4920
and annually thereafter, eighty hours of vacation leave with full 4921
pay. One year of service shall be computed on the basis of 4922
twenty-six biweekly pay periods. A full-time county employee with 4923

eight or more years of service with the county or any political
subdivision of the state shall have earned and is entitled to one
hundred twenty hours of vacation leave with full pay. A full-time
county employee with fifteen or more years of service with the
county or any political subdivision of the state shall have earned
and is entitled to one hundred sixty hours of vacation leave with
full pay. A full-time county employee with twenty-five years of
service with the county or any political subdivision of the state
shall have earned and is entitled to two hundred hours of vacation
leave with full pay. Such vacation leave shall accrue to the
employee at the rate of three and one-tenth hours each biweekly
period for those entitled to eighty hours per year; four and
six-tenths hours each biweekly period for those entitled to one
hundred twenty hours per year; six and two-tenths hours each
biweekly period for those entitled to one hundred sixty hours per
year; and seven and seven-tenths hours each biweekly period for
those entitled to two hundred hours per year.

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

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

excluding overtime hours, bears to eighty hours. 4956

(3) Full-time employees granted vacation leave under division 4957
(A)(1) of this section who are in active pay status in a biweekly 4958
pay period for less than eighty hours or the number of hours of 4959
service otherwise accepted as full-time by their employing office 4960
or department shall accrue a number of hours of vacation leave 4961
during that pay period that bears the same ratio to the number of 4962
hours specified in division (A)(1) of this section as their number 4963
of hours in active pay status, excluding overtime hours, bears to 4964
eighty or the number of hours of service accepted as full-time, 4965
whichever is applicable. 4966

(B) A board of county commissioners, by resolution, may grant 4967
vacation leave with full pay to part-time county employees. A 4968
part-time county employee shall be eligible for vacation leave 4969
with full pay upon the attainment of the first year of employment, 4970
and annually thereafter. The ratio between the hours worked and 4971
the vacation hours awarded to a part-time employee shall be the 4972
same as the ratio between the hours worked and the vacation hours 4973
earned by a full-time employee as provided for in this section. 4974

(C) Days specified as holidays in section 124.19 of the 4975
Revised Code shall not be charged to an employee's vacation leave. 4976
Vacation leave shall be taken by the employee during the year in 4977
which it accrued and prior to the next recurrence of the 4978
anniversary date of the employee's employment, provided that the 4979
appointing authority may, in special and meritorious cases, permit 4980
such employee to accumulate and carry over the employee's vacation 4981
leave to the following year. No vacation leave shall be carried 4982
over for more than three years. An employee is entitled to 4983
compensation, at the employee's current rate of pay, for the 4984
prorated portion of any earned but unused vacation leave for the 4985
current year to the employee's credit at time of separation, and 4986
in addition shall be compensated for any unused vacation leave 4987

accrued to the employee's credit, with the permission of the 4988
appointing authority, for the three years immediately preceding 4989
the last anniversary date of employment. 4990

(D)(1) In addition to vacation leave, a full-time county 4991
employee is entitled to eight hours of holiday pay for New Year's 4992
day, Martin Luther King day, Washington-Lincoln day, Memorial day, 4993
Independence day, Labor day, Columbus day, Veterans' day, 4994
Thanksgiving day, and Christmas day, of each year. Except as 4995
provided in division (D)(2) of this section, holidays shall occur 4996
on the days specified in section 1.14 of the Revised Code. If any 4997
of those holidays fall on Saturday, the Friday immediately 4998
preceding shall be observed as the holiday. If any of those 4999
holidays fall on Sunday, the Monday immediately succeeding shall 5000
be observed as the holiday. If an employee's work schedule is 5001
other than Monday through Friday, the employee is entitled to 5002
holiday pay for holidays observed on the employee's day off 5003
regardless of the day of the week on which they are observed. 5004

(2)(a) When a classified employee of a county board of ~~mental~~ 5005
~~retardation and~~ developmental disabilities works at a site 5006
maintained by a government entity other than the board, such as a 5007
public school, the board may adjust the employee's holiday 5008
schedule to conform to the schedule adopted by the government 5009
entity. Under an adjusted holiday schedule, an employee shall 5010
receive the number of hours of holiday pay granted under division 5011
(D)(1) of this section. 5012

(b) Pursuant to division (J)(6) of section 339.06 of the 5013
Revised Code, a county hospital may observe Martin Luther King 5014
day, Washington-Lincoln day, Columbus day, and Veterans' day on 5015
days other than those specified in section 1.14 of the Revised 5016
Code. 5017

(E) In the case of the death of a county employee, the unused 5018
vacation leave and unpaid overtime to the credit of the employee 5019

shall be paid in accordance with section 2113.04 of the Revised 5020
Code, or to the employee's estate. 5021

(F) Notwithstanding this section or any other section of the 5022
Revised Code, any appointing authority of a county office, 5023
department, commission, board, or body may, upon notification to 5024
the board of county commissioners, establish alternative schedules 5025
of vacation leave and holidays for employees of the appointing 5026
authority for whom the state employment relations board has not 5027
established an appropriate bargaining unit pursuant to section 5028
4117.06 of the Revised Code, as long as the alternative schedules 5029
are not inconsistent with the provisions of at least one 5030
collective bargaining agreement covering other employees of that 5031
appointing authority, if such an agreement exists. If no such 5032
collective bargaining agreement exists, an appointing authority, 5033
upon notification to the board of county commissioners, may 5034
establish an alternative schedule of vacation leave and holidays 5035
for its employees that does not diminish the vacation leave and 5036
holiday benefits granted by this section. 5037

(G) The employees of a county children services board that 5038
establishes vacation benefits under section 5153.12 of the Revised 5039
Code are exempt from division (A) of this section. 5040

(H) The provisions of this section do not apply to 5041
superintendents and management employees of county boards of 5042
~~mental retardation and~~ developmental disabilities. 5043

(I) Division (A) of this section does not apply to an 5044
employee of a county board of ~~mental retardation and~~ developmental 5045
disabilities who works at, or provides transportation services to 5046
pupils of, a special education program provided by the county 5047
board pursuant to division (A)(4) of section 5126.05 of the 5048
Revised Code, if the employee's employment is based on a school 5049
year and the employee is not subject to a contract with the county 5050
board that provides for division (A) of this section to apply to 5051

the employee. 5052

(J) As used in this section: 5053

(1) "Full-time employee" means an employee whose regular 5054
hours of service for a county total forty hours per week, or who 5055
renders any other standard of service accepted as full-time by an 5056
office, department, or agency of county service. 5057

(2) "Part-time employee" means an employee whose regular 5058
hours of service for a county total less than forty hours per 5059
week, or who renders any other standard of service accepted as 5060
part-time by an office, department, or agency of county service, 5061
and whose hours of county service total at least five hundred 5062
twenty hours annually. 5063

(3) "Management employee" has the same meaning as in section 5064
5126.20 of the Revised Code. 5065

Sec. 329.06. (A) Except as provided in division (C) of this 5066
section and section 6301.08 of the Revised Code, the board of 5067
county commissioners shall establish a county family services 5068
planning committee. The board shall appoint a member to represent 5069
the county department of job and family services; an employee in 5070
the classified civil service of the county department of job and 5071
family services, if there are any such employees; and a member to 5072
represent the public. The board shall appoint other individuals to 5073
the committee in such a manner that the committee's membership is 5074
broadly representative of the groups of individuals and the public 5075
and private entities that have an interest in the family services 5076
provided in the county. The board shall make appointments in a 5077
manner that reflects the ethnic and racial composition of the 5078
county. The following groups and entities may be represented on 5079
the committee: 5080

(1) Consumers of family services; 5081

(2) The public children services agency;	5082
(3) The child support enforcement agency;	5083
(4) The county family and children first council;	5084
(5) Public and private colleges and universities;	5085
(6) Public entities that provide family services, including	5086
boards of health, boards of education, the county board of mental	5087
retardation and developmental disabilities, and the board of	5088
alcohol, drug addiction, and mental health services that serves	5089
the county;	5090
(7) Private nonprofit and for-profit entities that provide	5091
family services in the county or that advocate for consumers of	5092
family services in the county, including entities that provide	5093
services to or advocate for victims of domestic violence;	5094
(8) Labor organizations;	5095
(9) Any other group or entity that has an interest in the	5096
family services provided in the county, including groups or	5097
entities that represent any of the county's business, urban, and	5098
rural sectors.	5099
(B) The county family services planning committee shall do	5100
all of the following:	5101
(1) Serve as an advisory body to the board of county	5102
commissioners with regard to the family services provided in the	5103
county, including assistance under Chapters 5107. and 5108. of the	5104
Revised Code, publicly funded child care under Chapter 5104. of	5105
the Revised Code, and social services provided under section	5106
5101.46 of the Revised Code;	5107
(2) At least once a year, review and analyze the county	5108
department of job and family services' implementation of the	5109
programs established under Chapters 5107. and 5108. of the Revised	5110
Code. In its review, the committee shall use information available	5111

to it to examine all of the following: 5112

(a) Return of assistance groups to participation in either 5113
program after ceasing to participate; 5114

(b) Teen pregnancy rates among the programs' participants; 5115

(c) The other types of assistance the programs' participants 5116
receive, including medical assistance under Chapter 5111. of the 5117
Revised Code, publicly funded child care under Chapter 5104. of 5118
the Revised Code, food stamp benefits under section 5101.54 of the 5119
Revised Code, and energy assistance under Chapter 5117. of the 5120
Revised Code; 5121

(d) Other issues the committee considers appropriate. 5122

The committee shall make recommendations to the board of 5123
county commissioners and county department of job and family 5124
services regarding the committee's findings. 5125

(3) Conduct public hearings on proposed county profiles for 5126
the provision of social services under section 5101.46 of the 5127
Revised Code; 5128

(4) At the request of the board, make recommendations and 5129
provide assistance regarding the family services provided in the 5130
county; 5131

(5) At any other time the committee considers appropriate, 5132
consult with the board and make recommendations regarding the 5133
family services provided in the county. The committee's 5134
recommendations may address the following: 5135

(a) Implementation and administration of family service 5136
programs; 5137

(b) Use of federal, state, and local funds available for 5138
family service programs; 5139

(c) Establishment of goals to be achieved by family service 5140
programs; 5141

(d) Evaluation of the outcomes of family service programs;	5142
(e) Any other matter the board considers relevant to the provision of family services.	5143 5144
(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.	5145 5146 5147 5148 5149 5150
Sec. 1751.01. As used in this chapter:	5151
(A)(1) "Basic health care services" means the following services when medically necessary:	5152 5153
(a) Physician's services, except when such services are supplemental under division (B) of this section;	5154 5155
(b) Inpatient hospital services;	5156
(c) Outpatient medical services;	5157
(d) Emergency health services;	5158
(e) Urgent care services;	5159
(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;	5160 5161
(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental illnesses;	5162 5163 5164
(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;	5165 5166 5167 5168
(i) Routine patient care for patients enrolled in an eligible	5169

cancer clinical trial pursuant to section 3923.80 of the Revised 5170
Code. 5171

"Basic health care services" does not include experimental 5172
procedures. 5173

Except as provided by divisions (A)(2) and (3) of this 5174
section in connection with the offering of coverage for diagnostic 5175
and treatment services for biologically based mental illnesses, a 5176
health insuring corporation shall not offer coverage for a health 5177
care service, defined as a basic health care service by this 5178
division, unless it offers coverage for all listed basic health 5179
care services. However, this requirement does not apply to the 5180
coverage of beneficiaries enrolled in medicare pursuant to a 5181
medicare contract, or to the coverage of beneficiaries enrolled in 5182
the federal employee health benefits program pursuant to 5 5183
U.S.C.A. 8905, or to the coverage of medicaid recipients, or to 5184
the coverage of participants of the children's buy-in program, or 5185
to the coverage of beneficiaries under any federal health care 5186
program regulated by a federal regulatory body, or to the coverage 5187
of beneficiaries under any contract covering officers or employees 5188
of the state that has been entered into by the department of 5189
administrative services. 5190

(2) A health insuring corporation may offer coverage for 5191
diagnostic and treatment services for biologically based mental 5192
illnesses without offering coverage for all other basic health 5193
care services. A health insuring corporation may offer coverage 5194
for diagnostic and treatment services for biologically based 5195
mental illnesses alone or in combination with one or more 5196
supplemental health care services. However, a health insuring 5197
corporation that offers coverage for any other basic health care 5198
service shall offer coverage for diagnostic and treatment services 5199
for biologically based mental illnesses in combination with the 5200
offer of coverage for all other listed basic health care services. 5201

(3) A health insuring corporation that offers coverage for 5202
basic health care services is not required to offer coverage for 5203
diagnostic and treatment services for biologically based mental 5204
illnesses in combination with the offer of coverage for all other 5205
listed basic health care services if all of the following apply: 5206

(a) The health insuring corporation submits documentation 5207
certified by an independent member of the American academy of 5208
actuaries to the superintendent of insurance showing that incurred 5209
claims for diagnostic and treatment services for biologically 5210
based mental illnesses for a period of at least six months 5211
independently caused the health insuring corporation's costs for 5212
claims and administrative expenses for the coverage of basic 5213
health care services to increase by more than one per cent per 5214
year. 5215

(b) The health insuring corporation submits a signed letter 5216
from an independent member of the American academy of actuaries to 5217
the superintendent of insurance opining that the increase in costs 5218
described in division (A)(3)(a) of this section could reasonably 5219
justify an increase of more than one per cent in the annual 5220
premiums or rates charged by the health insuring corporation for 5221
the coverage of basic health care services. 5222

(c) The superintendent of insurance makes the following 5223
determinations from the documentation and opinion submitted 5224
pursuant to divisions (A)(3)(a) and (b) of this section: 5225

(i) Incurred claims for diagnostic and treatment services for 5226
biologically based mental illnesses for a period of at least six 5227
months independently caused the health insuring corporation's 5228
costs for claims and administrative expenses for the coverage of 5229
basic health care services to increase by more than one per cent 5230
per year. 5231

(ii) The increase in costs reasonably justifies an increase 5232

of more than one per cent in the annual premiums or rates charged 5233
by the health insuring corporation for the coverage of basic 5234
health care services. 5235

Any determination made by the superintendent under this 5236
division is subject to Chapter 119. of the Revised Code. 5237

(B)(1) "Supplemental health care services" means any health 5238
care services other than basic health care services that a health 5239
insuring corporation may offer, alone or in combination with 5240
either basic health care services or other supplemental health 5241
care services, and includes: 5242

(a) Services of facilities for intermediate or long-term 5243
care, or both; 5244

(b) Dental care services; 5245

(c) Vision care and optometric services including lenses and 5246
frames; 5247

(d) Podiatric care or foot care services; 5248

(e) Mental health services, excluding diagnostic and 5249
treatment services for biologically based mental illnesses; 5250

(f) Short-term outpatient evaluative and crisis-intervention 5251
mental health services; 5252

(g) Medical or psychological treatment and referral services 5253
for alcohol and drug abuse or addiction; 5254

(h) Home health services; 5255

(i) Prescription drug services; 5256

(j) Nursing services; 5257

(k) Services of a dietitian licensed under Chapter 4759. of 5258
the Revised Code; 5259

(l) Physical therapy services; 5260

(m) Chiropractic services; 5261

(n) Any other category of services approved by the 5262
superintendent of insurance. 5263

(2) If a health insuring corporation offers prescription drug 5264
services under this division, the coverage shall include 5265
prescription drug services for the treatment of biologically based 5266
mental illnesses on the same terms and conditions as other 5267
physical diseases and disorders. 5268

(C) "Specialty health care services" means one of the 5269
supplemental health care services listed in division (B) of this 5270
section, when provided by a health insuring corporation on an 5271
outpatient-only basis and not in combination with other 5272
supplemental health care services. 5273

(D) "Biologically based mental illnesses" means 5274
schizophrenia, schizoaffective disorder, major depressive 5275
disorder, bipolar disorder, paranoia and other psychotic 5276
disorders, obsessive-compulsive disorder, and panic disorder, as 5277
these terms are defined in the most recent edition of the 5278
diagnostic and statistical manual of mental disorders published by 5279
the American psychiatric association. 5280

(E) "Children's buy-in program" has the same meaning as in 5281
section 5101.5211 of the Revised Code. 5282

(F) "Closed panel plan" means a health care plan that 5283
requires enrollees to use participating providers. 5284

(G) "Compensation" means remuneration for the provision of 5285
health care services, determined on other than a fee-for-service 5286
or discounted-fee-for-service basis. 5287

(H) "Contractual periodic prepayment" means the formula for 5288
determining the premium rate for all subscribers of a health 5289
insuring corporation. 5290

(I) "Corporation" means a corporation formed under Chapter 5291
1701. or 1702. of the Revised Code or the similar laws of another 5292
state. 5293

(J) "Emergency health services" means those health care 5294
services that must be available on a seven-days-per-week, 5295
twenty-four-hours-per-day basis in order to prevent jeopardy to an 5296
enrollee's health status that would occur if such services were 5297
not received as soon as possible, and includes, where appropriate, 5298
provisions for transportation and indemnity payments or service 5299
agreements for out-of-area coverage. 5300

(K) "Enrollee" means any natural person who is entitled to 5301
receive health care benefits provided by a health insuring 5302
corporation. 5303

(L) "Evidence of coverage" means any certificate, agreement, 5304
policy, or contract issued to a subscriber that sets out the 5305
coverage and other rights to which such person is entitled under a 5306
health care plan. 5307

(M) "Health care facility" means any facility, except a 5308
health care practitioner's office, that provides preventive, 5309
diagnostic, therapeutic, acute convalescent, rehabilitation, 5310
mental health, mental retardation, intermediate care, or skilled 5311
nursing services. 5312

(N) "Health care services" means basic, supplemental, and 5313
specialty health care services. 5314

(O) "Health delivery network" means any group of providers or 5315
health care facilities, or both, or any representative thereof, 5316
that have entered into an agreement to offer health care services 5317
in a panel rather than on an individual basis. 5318

(P) "Health insuring corporation" means a corporation, as 5319
defined in division (I) of this section, that, pursuant to a 5320
policy, contract, certificate, or agreement, pays for, reimburses, 5321

or provides, delivers, arranges for, or otherwise makes available, 5322
basic health care services, supplemental health care services, or 5323
specialty health care services, or a combination of basic health 5324
care services and either supplemental health care services or 5325
specialty health care services, through either an open panel plan 5326
or a closed panel plan. 5327

"Health insuring corporation" does not include a limited 5328
liability company formed pursuant to Chapter 1705. of the Revised 5329
Code, an insurer licensed under Title XXXIX of the Revised Code if 5330
that insurer offers only open panel plans under which all 5331
providers and health care facilities participating receive their 5332
compensation directly from the insurer, a corporation formed by or 5333
on behalf of a political subdivision or a department, office, or 5334
institution of the state, or a public entity formed by or on 5335
behalf of a board of county commissioners, a county board of 5336
~~mental retardation and~~ developmental disabilities, an alcohol and 5337
drug addiction services board, a board of alcohol, drug addiction, 5338
and mental health services, or a community mental health board, as 5339
those terms are used in Chapters 340. and 5126. of the Revised 5340
Code. Except as provided by division (D) of section 1751.02 of the 5341
Revised Code, or as otherwise provided by law, no board, 5342
commission, agency, or other entity under the control of a 5343
political subdivision may accept insurance risk in providing for 5344
health care services. However, nothing in this division shall be 5345
construed as prohibiting such entities from purchasing the 5346
services of a health insuring corporation or a third-party 5347
administrator licensed under Chapter 3959. of the Revised Code. 5348

(Q) "Intermediary organization" means a health delivery 5349
network or other entity that contracts with licensed health 5350
insuring corporations or self-insured employers, or both, to 5351
provide health care services, and that enters into contractual 5352
arrangements with other entities for the provision of health care 5353

services for the purpose of fulfilling the terms of its contracts 5354
with the health insuring corporations and self-insured employers. 5355

(R) "Intermediate care" means residential care above the 5356
level of room and board for patients who require personal 5357
assistance and health-related services, but who do not require 5358
skilled nursing care. 5359

(S) "Medicaid" has the same meaning as in section 5111.01 of 5360
the Revised Code. 5361

(T) "Medical record" means the personal information that 5362
relates to an individual's physical or mental condition, medical 5363
history, or medical treatment. 5364

(U) "Medicare" means the program established under Title 5365
XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 5366
1395, as amended. 5367

(V)(1) "Open panel plan" means a health care plan that 5368
provides incentives for enrollees to use participating providers 5369
and that also allows enrollees to use providers that are not 5370
participating providers. 5371

(2) No health insuring corporation may offer an open panel 5372
plan, unless the health insuring corporation is also licensed as 5373
an insurer under Title XXXIX of the Revised Code, the health 5374
insuring corporation, on June 4, 1997, holds a certificate of 5375
authority or license to operate under Chapter 1736. or 1740. of 5376
the Revised Code, or an insurer licensed under Title XXXIX of the 5377
Revised Code is responsible for the out-of-network risk as 5378
evidenced by both an evidence of coverage filing under section 5379
1751.11 of the Revised Code and a policy and certificate filing 5380
under section 3923.02 of the Revised Code. 5381

(W) "Panel" means a group of providers or health care 5382
facilities that have joined together to deliver health care 5383
services through a contractual arrangement with a health insuring 5384

corporation, employer group, or other payor. 5385

(X) "Person" has the same meaning as in section 1.59 of the 5386
Revised Code, and, unless the context otherwise requires, includes 5387
any insurance company holding a certificate of authority under 5388
Title XXXIX of the Revised Code, any subsidiary and affiliate of 5389
an insurance company, and any government agency. 5390

(Y) "Premium rate" means any set fee regularly paid by a 5391
subscriber to a health insuring corporation. A "premium rate" does 5392
not include a one-time membership fee, an annual administrative 5393
fee, or a nominal access fee, paid to a managed health care system 5394
under which the recipient of health care services remains solely 5395
responsible for any charges assessed for those services by the 5396
provider or health care facility. 5397

(Z) "Primary care provider" means a provider that is 5398
designated by a health insuring corporation to supervise, 5399
coordinate, or provide initial care or continuing care to an 5400
enrollee, and that may be required by the health insuring 5401
corporation to initiate a referral for specialty care and to 5402
maintain supervision of the health care services rendered to the 5403
enrollee. 5404

(AA) "Provider" means any natural person or partnership of 5405
natural persons who are licensed, certified, accredited, or 5406
otherwise authorized in this state to furnish health care 5407
services, or any professional association organized under Chapter 5408
1785. of the Revised Code, provided that nothing in this chapter 5409
or other provisions of law shall be construed to preclude a health 5410
insuring corporation, health care practitioner, or organized 5411
health care group associated with a health insuring corporation 5412
from employing certified nurse practitioners, certified nurse 5413
anesthetists, clinical nurse specialists, certified nurse 5414
midwives, dietitians, physician assistants, dental assistants, 5415
dental hygienists, optometric technicians, or other allied health 5416

personnel who are licensed, certified, accredited, or otherwise 5417
authorized in this state to furnish health care services. 5418

(BB) "Provider sponsored organization" means a corporation, 5419
as defined in division (I) of this section, that is at least 5420
eighty per cent owned or controlled by one or more hospitals, as 5421
defined in section 3727.01 of the Revised Code, or one or more 5422
physicians licensed to practice medicine or surgery or osteopathic 5423
medicine and surgery under Chapter 4731. of the Revised Code, or 5424
any combination of such physicians and hospitals. Such control is 5425
presumed to exist if at least eighty per cent of the voting rights 5426
or governance rights of a provider sponsored organization are 5427
directly or indirectly owned, controlled, or otherwise held by any 5428
combination of the physicians and hospitals described in this 5429
division. 5430

(CC) "Solicitation document" means the written materials 5431
provided to prospective subscribers or enrollees, or both, and 5432
used for advertising and marketing to induce enrollment in the 5433
health care plans of a health insuring corporation. 5434

(DD) "Subscriber" means a person who is responsible for 5435
making payments to a health insuring corporation for participation 5436
in a health care plan, or an enrollee whose employment or other 5437
status is the basis of eligibility for enrollment in a health 5438
insuring corporation. 5439

(EE) "Urgent care services" means those health care services 5440
that are appropriately provided for an unforeseen condition of a 5441
kind that usually requires medical attention without delay but 5442
that does not pose a threat to the life, limb, or permanent health 5443
of the injured or ill person, and may include such health care 5444
services provided out of the health insuring corporation's 5445
approved service area pursuant to indemnity payments or service 5446
agreements. 5447

Sec. 1751.02. (A) Notwithstanding any law in this state to 5448
the contrary, any corporation, as defined in section 1751.01 of 5449
the Revised Code, may apply to the superintendent of insurance for 5450
a certificate of authority to establish and operate a health 5451
insuring corporation. If the corporation applying for a 5452
certificate of authority is a foreign corporation domiciled in a 5453
state without laws similar to those of this chapter, the 5454
corporation must form a domestic corporation to apply for, obtain, 5455
and maintain a certificate of authority under this chapter. 5456

(B) No person shall establish, operate, or perform the 5457
services of a health insuring corporation in this state without 5458
obtaining a certificate of authority under this chapter. 5459

(C) Except as provided by division (D) of this section, no 5460
political subdivision or department, office, or institution of 5461
this state, or corporation formed by or on behalf of any political 5462
subdivision or department, office, or institution of this state, 5463
shall establish, operate, or perform the services of a health 5464
insuring corporation. Nothing in this section shall be construed 5465
to preclude a board of county commissioners, a county board of 5466
~~mental retardation and~~ developmental disabilities, an alcohol and 5467
drug addiction services board, a board of alcohol, drug addiction, 5468
and mental health services, or a community mental health board, or 5469
a public entity formed by or on behalf of any of these boards, 5470
from using managed care techniques in carrying out the board's or 5471
public entity's duties pursuant to the requirements of Chapters 5472
307., 329., 340., and 5126. of the Revised Code. However, no such 5473
board or public entity may operate so as to compete in the private 5474
sector with health insuring corporations holding certificates of 5475
authority under this chapter. 5476

(D) A corporation formed by or on behalf of a publicly owned, 5477
operated, or funded hospital or health care facility may apply to 5478

the superintendent for a certificate of authority under division 5479
(A) of this section to establish and operate a health insuring 5480
corporation. 5481

(E) A health insuring corporation shall operate in this state 5482
in compliance with this chapter and Chapter 1753. of the Revised 5483
Code, and with sections 3702.51 to 3702.62 of the Revised Code, 5484
and shall operate in conformity with its filings with the 5485
superintendent under this chapter, including filings made pursuant 5486
to sections 1751.03, 1751.11, 1751.12, and 1751.31 of the Revised 5487
Code. 5488

(F) An insurer licensed under Title XXXIX of the Revised Code 5489
need not obtain a certificate of authority as a health insuring 5490
corporation to offer an open panel plan as long as the providers 5491
and health care facilities participating in the open panel plan 5492
receive their compensation directly from the insurer. If the 5493
providers and health care facilities participating in the open 5494
panel plan receive their compensation from any person other than 5495
the insurer, or if the insurer offers a closed panel plan, the 5496
insurer must obtain a certificate of authority as a health 5497
insuring corporation. 5498

(G) An intermediary organization need not obtain a 5499
certificate of authority as a health insuring corporation, 5500
regardless of the method of reimbursement to the intermediary 5501
organization, as long as a health insuring corporation or a 5502
self-insured employer maintains the ultimate responsibility to 5503
assure delivery of all health care services required by the 5504
contract between the health insuring corporation and the 5505
subscriber and the laws of this state or between the self-insured 5506
employer and its employees. 5507

Nothing in this section shall be construed to require any 5508
health care facility, provider, health delivery network, or 5509
intermediary organization that contracts with a health insuring 5510

corporation or self-insured employer, regardless of the method of 5511
reimbursement to the health care facility, provider, health 5512
delivery network, or intermediary organization, to obtain a 5513
certificate of authority as a health insuring corporation under 5514
this chapter, unless otherwise provided, in the case of contracts 5515
with a self-insured employer, by operation of the "Employee 5516
Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 5517
1001, as amended. 5518

(H) Any health delivery network doing business in this state, 5519
including any health delivery network that is functioning as an 5520
intermediary organization doing business in this state, that is 5521
not required to obtain a certificate of authority under this 5522
chapter shall certify to the superintendent annually, not later 5523
than the first day of July, and shall provide a statement signed 5524
by the highest ranking official which includes the following 5525
information: 5526

(1) The health delivery network's full name and the address 5527
of its principal place of business; 5528

(2) A statement that the health delivery network is not 5529
required to obtain a certificate of authority under this chapter 5530
to conduct its business. 5531

(I) The superintendent shall not issue a certificate of 5532
authority to a health insuring corporation that is a provider 5533
sponsored organization unless all health care plans to be offered 5534
by the health insuring corporation provide basic health care 5535
services. Substantially all of the physicians and hospitals with 5536
ownership or control of the provider sponsored organization, as 5537
defined in section 1751.01 of the Revised Code, shall also be 5538
participating providers for the provision of basic health care 5539
services for health care plans offered by the provider sponsored 5540
organization. If a health insuring corporation that is a provider 5541
sponsored organization offers health care plans that do not 5542

provide basic health care services, the health insuring 5543
corporation shall be deemed, for purposes of section 1751.35 of 5544
the Revised Code, to have failed to substantially comply with this 5545
chapter. 5546

Except as specifically provided in this division and in 5547
division (A) of section 1751.28 of the Revised Code, the 5548
provisions of this chapter shall apply to all health insuring 5549
corporations that are provider sponsored organizations in the same 5550
manner that these provisions apply to all health insuring 5551
corporations that are not provider sponsored organizations. 5552

(J) Nothing in this section shall be construed to apply to 5553
any multiple employer welfare arrangement operating pursuant to 5554
Chapter 1739. of the Revised Code. 5555

(K) Any person who violates division (B) of this section, and 5556
any health delivery network that fails to comply with division (H) 5557
of this section, is subject to the penalties set forth in section 5558
1751.45 of the Revised Code. 5559

Sec. 2108.521. (A) If a mentally retarded person or a 5560
developmentally disabled person dies, if the department of ~~mental~~ 5561
~~retardation and developmental disabilities~~ or a county board of 5562
~~mental retardation and developmental disabilities~~ has a good faith 5563
reason to believe that the deceased person's death occurred under 5564
suspicious circumstances, if the coroner was apprised of the 5565
circumstances of the death, and if the coroner after being so 5566
apprised of the circumstances declines to conduct an autopsy, the 5567
department or the board may file a petition in a court of common 5568
pleas seeking an order authorizing an autopsy or post-mortem 5569
examination under this section. 5570

(B) Upon the filing of a petition under division (A) of this 5571
section, the court may conduct, but is not required to conduct, a 5572
hearing on the petition. The court may determine whether to grant 5573

the petition without a hearing. The department or board, and all 5574
other interested parties, may submit information and statements to 5575
the court that are relevant to the petition, and, if the court 5576
conducts a hearing, may present evidence and testimony at the 5577
hearing. The court shall order the requested autopsy or 5578
post-mortem examination if it finds that, under the circumstances, 5579
the department or board has demonstrated a need for the autopsy or 5580
post-mortem examination. The court shall order an autopsy or 5581
post-mortem examination in the circumstances specified in this 5582
division regardless of whether any consent has been given, or has 5583
been given and withdrawn, under section 2108.50 of the Revised 5584
Code, and regardless of whether any information was presented to 5585
the coroner pursuant to section 313.131 of the Revised Code or to 5586
the court under this section regarding an autopsy being contrary 5587
to the deceased person's religious beliefs. 5588

(C) An autopsy or post-mortem examination ordered under this 5589
section may be performed upon the body of the deceased person by a 5590
licensed physician or surgeon. The court may identify in the order 5591
the person who is to perform the autopsy or post-mortem 5592
examination. If an autopsy or post-mortem examination is ordered 5593
under this section, the department or board that requested the 5594
autopsy or examination shall pay the physician or surgeon who 5595
performs the autopsy or examination for costs and expenses 5596
incurred in performing the autopsy or examination. 5597

Sec. 2109.01. "Fiduciary," as used in Chapters 2101. to 2131. 5598
of the Revised Code, means any person, other than an assignee or 5599
trustee for an insolvent debtor or a guardian under sections 5600
5905.01 to 5905.19 of the Revised Code, appointed by and 5601
accountable to the probate court and acting in a fiduciary 5602
capacity for any person, or charged with duties in relation to any 5603
property, interest, trust, or estate for the benefit of another; 5604
and includes an agency under contract with the department of 5605

~~mental retardation and~~ developmental disabilities for the 5606
provision of protective service under sections 5123.55 to 5123.59 5607
of the Revised Code, appointed by and accountable to the probate 5608
court as guardian or trustee with respect to mentally retarded or 5609
developmentally disabled persons. 5610

Sec. 2109.04. (A)(1) Unless otherwise provided by law, every 5611
fiduciary, prior to the issuance of ~~his~~ the fiduciary's letters as 5612
provided by section 2109.02 of the Revised Code, shall file in the 5613
probate court in which the letters are to be issued a bond with a 5614
penal sum in such amount as may be fixed by the court, but in no 5615
event less than double the probable value of the personal estate 5616
and of the annual real estate rentals which will come into such 5617
person's hands as a fiduciary. The bond of a fiduciary shall be in 5618
a form approved by the court and signed by two or more personal 5619
sureties or by one or more corporate sureties approved by the 5620
court. It shall be conditioned that the fiduciary faithfully and 5621
honestly will discharge the duties devolving upon ~~him~~ the person 5622
as fiduciary, and shall be conditioned further as may be provided 5623
by law. 5624

(2) Except as otherwise provided in this division, if the 5625
instrument creating the trust dispenses with the giving of a bond, 5626
the court shall appoint a fiduciary without bond, unless the court 5627
is of the opinion that the interest of the trust demands it. If 5628
the court is of that opinion, it may require bond to be given in 5629
any amount it fixes. If a parent nominates a guardian for ~~his~~ the 5630
parent's child in a will and provides in the will that the 5631
guardian may serve without giving bond, the court may appoint the 5632
guardian without bond or require the guardian to give bond in 5633
accordance with division (A)(1) of this section. 5634

(3) A guardian of the person only does not have to give bond 5635
unless, for good cause shown, the court considers a bond to be 5636

necessary. When a bond is required of a guardian of the person 5637
only, it shall be determined and filed in accordance with division 5638
(A)(1) of this section. This division does not apply to a guardian 5639
of the person only nominated in a parent's will if the will 5640
provides that the guardian may serve without giving bond. 5641

(4) When the probable value of the personal estate and of the 5642
annual real estate rentals that will come into the guardian's 5643
hands as a fiduciary is less than ten thousand dollars, the court 5644
may waive or reduce a bond required by division (A)(1) of this 5645
section. 5646

(B) When an executive director who is responsible for the 5647
administration of children services in the county is appointed as 5648
trustee of the estate of a ward pursuant to section 5153.18 of the 5649
Revised Code and has furnished bond under section 5153.13 of the 5650
Revised Code, or when an agency under contract with the department 5651
of ~~mental retardation and~~ developmental disabilities for the 5652
provision of protective service under sections 5123.55 to 5123.59 5653
of the Revised Code is appointed as trustee of the estate of a 5654
ward under such sections and any employees of the agency having 5655
custody or control of funds or property of such a ward have 5656
furnished bond under section 5123.59 of the Revised Code, the 5657
court may dispense with the giving of a bond. 5658

(C) When letters are granted without bond, at any later 5659
period on its own motion or upon the application of any party 5660
interested, the court may require bond to be given in such amount 5661
as may be fixed by the court. On failure to give such bond, the 5662
defaulting fiduciary shall be removed. 5663

No instrument authorizing a fiduciary whom it names to serve 5664
without bond shall be construed to relieve a successor fiduciary 5665
from the necessity of giving bond, unless the instrument clearly 5666
evidences such intention. 5667

The court by which a fiduciary is appointed may reduce the 5668
amount of the bond of such fiduciary at any time for good cause 5669
shown. 5670

When two or more persons are appointed as joint fiduciaries, 5671
the court may take a separate bond from each or a joint bond from 5672
all. 5673

Sec. 2111.01. As used in Chapters 2101. to 2131. of the 5674
Revised Code: 5675

(A) "Guardian," other than a guardian under sections 5905.01 5676
to 5905.19 of the Revised Code, means any person, association, or 5677
corporation appointed by the probate court to have the care and 5678
management of the person, the estate, or both of an incompetent or 5679
minor. When applicable, "guardian" includes, but is not limited 5680
to, a limited guardian, an interim guardian, a standby guardian, 5681
and an emergency guardian appointed pursuant to division (B) of 5682
section 2111.02 of the Revised Code. "Guardian" also includes an 5683
agency under contract with the department of ~~mental retardation~~ 5684
~~and~~ developmental disabilities for the provision of protective 5685
service under sections 5123.55 to 5123.59 of the Revised Code when 5686
appointed by the probate court to have the care and management of 5687
the person of an incompetent. 5688

(B) "Ward" means any person for whom a guardian is acting or 5689
for whom the probate court is acting pursuant to section 2111.50 5690
of the Revised Code. 5691

(C) "Resident guardian" means a guardian appointed by a 5692
probate court to have the care and management of property in this 5693
state that belongs to a nonresident ward. 5694

(D) "Incompetent" means any person who is so mentally 5695
impaired as a result of a mental or physical illness or 5696
disability, or mental retardation, or as a result of chronic 5697

substance abuse, that the person is incapable of taking proper 5698
care of the person's self or property or fails to provide for the 5699
person's family or other persons for whom the person is charged by 5700
law to provide, or any person confined to a correctional 5701
institution within this state. 5702

(E) "Next of kin" means any person who would be entitled to 5703
inherit from a ward under Chapter 2105. of the Revised Code if the 5704
ward dies intestate. 5705

(F) "Conservator" means a conservator appointed by the 5706
probate court in an order of conservatorship issued pursuant to 5707
section 2111.021 of the Revised Code. 5708

(G) "Parent" means a natural parent or adoptive parent of a 5709
minor child whose parental rights and responsibilities have not 5710
been terminated by a juvenile court or another court. 5711

Sec. 2111.02. (A) When found necessary, the probate court on 5712
its own motion or on application by any interested party shall 5713
appoint, subject to divisions (C) and (D) of this section and to 5714
section 2109.21 and division (B) of section 2111.121 of the 5715
Revised Code, a guardian of the person, the estate, or both, of a 5716
minor or incompetent, provided the person for whom the guardian is 5717
to be appointed is a resident of the county or has a legal 5718
settlement in the county and, except in the case of a minor, has 5719
had the opportunity to have the assistance of counsel in the 5720
proceeding for the appointment of such guardian. An interested 5721
party includes, but is not limited to, a person nominated in a 5722
durable power of attorney as described in division (D) of section 5723
1337.09 of the Revised Code or in a writing as described in 5724
division (A) of section 2111.121 of the Revised Code. 5725

Except when the guardian of an incompetent is an agency under 5726
contract with the department of ~~mental retardation and~~ 5727
developmental disabilities for the provision of protective 5728

services under sections 5123.55 to 5123.59 of the Revised Code, 5729
the guardian of an incompetent, by virtue of such appointment, 5730
shall be the guardian of the minor children of the guardian's 5731
ward, unless the court appoints some other person as their 5732
guardian. 5733

When the primary purpose of the appointment of a guardian is, 5734
or was, the collection, disbursement, or administration of moneys 5735
awarded by the veterans administration to the ward, or assets 5736
derived from such moneys, no court costs shall be charged in the 5737
proceeding for the appointment or in any subsequent proceedings 5738
made in pursuance of the appointment, unless the value of the 5739
estate, including the moneys then due under the veterans 5740
administration award, exceeds one thousand five hundred dollars. 5741

(B)(1) If the probate court finds it to be in the best 5742
interest of an incompetent or minor, it may appoint pursuant to 5743
divisions (A) and (C) of this section, on its own motion or on 5744
application by an interested party, a limited guardian with 5745
specific limited powers. The sections of the Revised Code, rules, 5746
and procedures governing guardianships apply to a limited 5747
guardian, except that the order of appointment and letters of 5748
authority of a limited guardian shall state the reasons for, and 5749
specify the limited powers of, the guardian. The court may appoint 5750
a limited guardian for a definite or indefinite period. An 5751
incompetent or minor for whom a limited guardian has been 5752
appointed retains all of the incompetent's or minor's rights in 5753
all areas not affected by the court order appointing the limited 5754
guardian. 5755

(2) If a guardian appointed pursuant to division (A) of this 5756
section is temporarily or permanently removed or resigns, and if 5757
the welfare of the ward requires immediate action, at any time 5758
after the removal or resignation, the probate court may appoint, 5759
ex parte and with or without notice to the ward or interested 5760

parties, an interim guardian for a maximum period of fifteen days. 5761
If the court appoints the interim guardian ex parte or without 5762
notice to the ward, the court, at its first opportunity, shall 5763
enter upon its journal with specificity the reason for acting ex 5764
parte or without notice, and, as soon as possible, shall serve 5765
upon the ward a copy of the order appointing the interim guardian. 5766
For good cause shown, after notice to the ward and interested 5767
parties and after hearing, the court may extend an interim 5768
guardianship for a specified period, but not to exceed an 5769
additional thirty days. 5770

(3) If a minor or incompetent has not been placed under a 5771
guardianship pursuant to division (A) of this section and if an 5772
emergency exists, and if it is reasonably certain that immediate 5773
action is required to prevent significant injury to the person or 5774
estate of the minor or incompetent, at any time after it receives 5775
notice of the emergency, the court, ex parte, may issue any order 5776
that it considers necessary to prevent injury to the person or 5777
estate of the minor or incompetent, or may appoint an emergency 5778
guardian for a maximum period of seventy-two hours. A written copy 5779
of any order issued by a court under this division shall be served 5780
upon the incompetent or minor as soon as possible after its 5781
issuance. Failure to serve such an order after its issuance or 5782
prior to the taking of any action under its authority does not 5783
invalidate the order or the actions taken. The powers of an 5784
emergency guardian shall be specified in the letters of 5785
appointment, and shall be limited to those powers that are 5786
necessary to prevent injury to the person or estate of the minor 5787
or incompetent. If the court acts ex parte or without notice to 5788
the minor or incompetent, the court, at its first opportunity, 5789
shall enter upon its journal a record of the case and, with 5790
specificity, the reason for acting ex parte or without notice. For 5791
good cause shown, after notice to the minor or incompetent and 5792
interested parties, and after hearing, the court may extend an 5793

emergency guardianship for a specified period, but not to exceed 5794
an additional thirty days. 5795

(C) Prior to the appointment of a guardian or limited 5796
guardian under division (A) or (B)(1) of this section, the court 5797
shall conduct a hearing on the matter of the appointment. The 5798
hearing shall be conducted in accordance with all of the 5799
following: 5800

(1) The proposed guardian or limited guardian shall appear at 5801
the hearing and, if appointed, shall swear under oath that the 5802
proposed guardian or limited guardian has made and will continue 5803
to make diligent efforts to file a true inventory in accordance 5804
with section 2111.14 of the Revised Code and find and report all 5805
assets belonging to the estate of the ward and that the proposed 5806
guardian or limited guardian faithfully and completely will 5807
fulfill the other duties of guardian, including the filing of 5808
timely and accurate reports and accountings; 5809

(2) If the hearing is conducted by a referee, the procedures 5810
set forth in Civil Rule 53 shall be followed; 5811

(3) If the hearing concerns the appointment of a guardian or 5812
limited guardian for an alleged incompetent, the burden of proving 5813
incompetency shall be by clear and convincing evidence; 5814

(4) Upon request of the applicant, the alleged incompetent 5815
for whom the appointment is sought or the alleged incompetent's 5816
counsel, or any interested party, a recording or record of the 5817
hearing shall be made; 5818

(5) Evidence of a less restrictive alternative to 5819
guardianship may be introduced, and when introduced, shall be 5820
considered by the court; 5821

(6) The court may deny a guardianship based upon a finding 5822
that a less restrictive alternative to guardianship exists; 5823

(7) If the hearing concerns the appointment of a guardian or 5824
limited guardian for an alleged incompetent, the alleged 5825
incompetent has all of the following rights: 5826

(a) The right to be represented by independent counsel of ~~his~~ 5827
the alleged incompetent's choice; 5828

(b) The right to have a friend or family member of ~~his~~ the 5829
alleged incompetent's choice present; 5830

(c) The right to have evidence of an independent expert 5831
evaluation introduced; 5832

(d) If the alleged incompetent is indigent, upon ~~his~~ the 5833
alleged incompetent's request: 5834

(i) The right to have counsel and an independent expert 5835
evaluator appointed at court expense; 5836

(ii) If the guardianship, limited guardianship, or standby 5837
guardianship decision is appealed, the right to have counsel 5838
appointed and necessary transcripts for appeal prepared at court 5839
expense. 5840

(D)(1) When a person has been nominated to be a guardian of 5841
the estate of a minor in or pursuant to a durable power of 5842
attorney as described in division (D) of section 1337.09 of the 5843
Revised Code or a writing as described in division (A) of section 5844
2111.121 of the Revised Code, the person nominated has preference 5845
in appointment over a person selected by the minor. A person who 5846
has been nominated to be a guardian of the person of a minor in or 5847
pursuant to a durable power of attorney or writing of that nature 5848
does not have preference in appointment over a person selected by 5849
the minor, but the probate court may appoint the person named in 5850
the durable power of attorney or the writing, the person selected 5851
by the minor, or another person as guardian of the person of the 5852
minor. 5853

(2) A person nominated as a guardian of an incompetent adult 5854
child pursuant to section 1337.09 or 2111.121 of the Revised Code 5855
shall have preference in appointment over a person applying to be 5856
guardian if the person nominated is competent, suitable, and 5857
willing to accept the appointment, and if the incompetent adult 5858
child does not have a spouse or an adult child and has not 5859
designated a guardian prior to the court finding the adult child 5860
incompetent. 5861

Sec. 2111.10. As used in this section, "mentally retarded 5862
person" and "developmentally disabled person" have the same 5863
meanings as in section 5123.01 of the Revised Code. 5864

Any appointment of a corporation as guardian shall apply to 5865
the estate only and not to the person, except that a nonprofit 5866
corporation organized under the laws of this state and entitled to 5867
tax exempt status under section 501(a) of the "Internal Revenue 5868
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, that 5869
has a contract with the department of ~~mental retardation and~~ 5870
developmental disabilities to provide protective services may be 5871
appointed as a guardian of the person of a mentally retarded or 5872
developmentally disabled person and may serve as guardian pursuant 5873
to sections 5123.55 to 5123.59 of the Revised Code. 5874

Sec. 2133.25. (A) The department of health, by rule adopted 5875
pursuant to Chapter 119. of the Revised Code, shall adopt a 5876
standardized method of procedure for the withholding of CPR by 5877
physicians, emergency medical services personnel, and health care 5878
facilities in accordance with sections 2133.21 to 2133.26 of the 5879
Revised Code. The standardized method shall specify criteria for 5880
determining when a do-not-resuscitate order issued by a physician 5881
is current. The standardized method so adopted shall be the 5882
"do-not-resuscitate protocol" for purposes of sections 2133.21 to 5883
2133.26 of the Revised Code. The department also shall approve one 5884

or more standard forms of DNR identification to be used throughout 5885
this state. 5886

(B) The department of health shall adopt rules in accordance 5887
with Chapter 119. of the Revised Code for the administration of 5888
sections 2133.21 to 2133.26 of the Revised Code. 5889

(C) The department of health shall appoint an advisory 5890
committee to advise the department in the development of rules 5891
under this section. The advisory committee shall include, but 5892
shall not be limited to, representatives of each of the following 5893
organizations: 5894

(1) The association for hospitals and health systems (OHA); 5895

(2) The Ohio state medical association; 5896

(3) The Ohio chapter of the American college of emergency 5897
physicians; 5898

(4) The Ohio hospice organization; 5899

(5) The Ohio council for home care; 5900

(6) The Ohio health care association; 5901

(7) The Ohio ambulance association; 5902

(8) The Ohio medical directors association; 5903

(9) The Ohio association of emergency medical services; 5904

(10) The bioethics network of Ohio; 5905

(11) The Ohio nurses association; 5906

(12) The Ohio academy of nursing homes; 5907

(13) The Ohio association of professional firefighters; 5908

(14) The department of ~~mental-retardation-and~~ developmental 5909
disabilities; 5910

(15) The Ohio osteopathic association; 5911

(16) The association of Ohio philanthropic homes, housing and services for the aging;	5912 5913
(17) The catholic conference of Ohio;	5914
(18) The department of aging;	5915
(19) The department of mental health;	5916
(20) The Ohio private residential association;	5917
(21) The northern Ohio fire fighters association.	5918
 Sec. 2151.011. (A) As used in the Revised Code:	 5919
(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:	5920 5921 5922
(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;	5923 5924 5925 5926 5927
(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;	5928 5929 5930 5931
(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.	5932 5933
(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.	5934 5935
(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.	5936 5937 5938 5939 5940

(4) "Private noncustodial agency" means any person, 5941
organization, association, or society certified by the department 5942
of job and family services that does not accept temporary or 5943
permanent legal custody of children, that is privately operated in 5944
this state, and that does one or more of the following: 5945

(a) Receives and cares for children for two or more 5946
consecutive weeks; 5947

(b) Participates in the placement of children in certified 5948
foster homes; 5949

(c) Provides adoption services in conjunction with a public 5950
children services agency or private child placing agency. 5951

(B) As used in this chapter: 5952

(1) "Adequate parental care" means the provision by a child's 5953
parent or parents, guardian, or custodian of adequate food, 5954
clothing, and shelter to ensure the child's health and physical 5955
safety and the provision by a child's parent or parents of 5956
specialized services warranted by the child's physical or mental 5957
needs. 5958

(2) "Adult" means an individual who is eighteen years of age 5959
or older. 5960

(3) "Agreement for temporary custody" means a voluntary 5961
agreement authorized by section 5103.15 of the Revised Code that 5962
transfers the temporary custody of a child to a public children 5963
services agency or a private child placing agency. 5964

(4) "Certified foster home" means a foster home, as defined 5965
in section 5103.02 of the Revised Code, certified under section 5966
5103.03 of the Revised Code. 5967

(5) "Child" means a person who is under eighteen years of 5968
age, except that the juvenile court has jurisdiction over any 5969
person who is adjudicated an unruly child prior to attaining 5970

eighteen years of age until the person attains twenty-one years of 5971
age, and, for purposes of that jurisdiction related to that 5972
adjudication, a person who is so adjudicated an unruly child shall 5973
be deemed a "child" until the person attains twenty-one years of 5974
age. 5975

(6) "Child day camp," "child care," "child day-care center," 5976
"part-time child day-care center," "type A family day-care home," 5977
"certified type B family day-care home," "type B home," 5978
"administrator of a child day-care center," "administrator of a 5979
type A family day-care home," "in-home aide," and "authorized 5980
provider" have the same meanings as in section 5104.01 of the 5981
Revised Code. 5982

(7) "Child care provider" means an individual who is a 5983
child-care staff member or administrator of a child day-care 5984
center, a type A family day-care home, or a type B family day-care 5985
home, or an in-home aide or an individual who is licensed, is 5986
regulated, is approved, operates under the direction of, or 5987
otherwise is certified by the department of job and family 5988
services, department of ~~mental retardation and~~ developmental 5989
disabilities, or the early childhood programs of the department of 5990
education. 5991

(8) "Chronic truant" has the same meaning as in section 5992
2152.02 of the Revised Code. 5993

(9) "Commit" means to vest custody as ordered by the court. 5994

(10) "Counseling" includes both of the following: 5995

(a) General counseling services performed by a public 5996
children services agency or shelter for victims of domestic 5997
violence to assist a child, a child's parents, and a child's 5998
siblings in alleviating identified problems that may cause or have 5999
caused the child to be an abused, neglected, or dependent child. 6000

(b) Psychiatric or psychological therapeutic counseling 6001

services provided to correct or alleviate any mental or emotional 6002
illness or disorder and performed by a licensed psychiatrist, 6003
licensed psychologist, or a person licensed under Chapter 4757. of 6004
the Revised Code to engage in social work or professional 6005
counseling. 6006

(11) "Custodian" means a person who has legal custody of a 6007
child or a public children services agency or private child 6008
placing agency that has permanent, temporary, or legal custody of 6009
a child. 6010

(12) "Delinquent child" has the same meaning as in section 6011
2152.02 of the Revised Code. 6012

(13) "Detention" means the temporary care of children pending 6013
court adjudication or disposition, or execution of a court order, 6014
in a public or private facility designed to physically restrict 6015
the movement and activities of children. 6016

(14) "Developmental disability" has the same meaning as in 6017
section 5123.01 of the Revised Code. 6018

(15) "Foster caregiver" has the same meaning as in section 6019
5103.02 of the Revised Code. 6020

(16) "Guardian" means a person, association, or corporation 6021
that is granted authority by a probate court pursuant to Chapter 6022
2111. of the Revised Code to exercise parental rights over a child 6023
to the extent provided in the court's order and subject to the 6024
residual parental rights of the child's parents. 6025

(17) "Habitual truant" means any child of compulsory school 6026
age who is absent without legitimate excuse for absence from the 6027
public school the child is supposed to attend for five or more 6028
consecutive school days, seven or more school days in one school 6029
month, or twelve or more school days in a school year. 6030

(18) "Juvenile traffic offender" has the same meaning as in 6031

section 2152.02 of the Revised Code. 6032

(19) "Legal custody" means a legal status that vests in the 6033
custodian the right to have physical care and control of the child 6034
and to determine where and with whom the child shall live, and the 6035
right and duty to protect, train, and discipline the child and to 6036
provide the child with food, shelter, education, and medical care, 6037
all subject to any residual parental rights, privileges, and 6038
responsibilities. An individual granted legal custody shall 6039
exercise the rights and responsibilities personally unless 6040
otherwise authorized by any section of the Revised Code or by the 6041
court. 6042

(20) A "legitimate excuse for absence from the public school 6043
the child is supposed to attend" includes, but is not limited to, 6044
any of the following: 6045

(a) The fact that the child in question has enrolled in and 6046
is attending another public or nonpublic school in this or another 6047
state; 6048

(b) The fact that the child in question is excused from 6049
attendance at school for any of the reasons specified in section 6050
3321.04 of the Revised Code; 6051

(c) The fact that the child in question has received an age 6052
and schooling certificate in accordance with section 3331.01 of 6053
the Revised Code. 6054

(21) "Mental illness" and "mentally ill person subject to 6055
hospitalization by court order" have the same meanings as in 6056
section 5122.01 of the Revised Code. 6057

(22) "Mental injury" means any behavioral, cognitive, 6058
emotional, or mental disorder in a child caused by an act or 6059
omission that is described in section 2919.22 of the Revised Code 6060
and is committed by the parent or other person responsible for the 6061
child's care. 6062

(23) "Mentally retarded person" has the same meaning as in 6063
section 5123.01 of the Revised Code. 6064

(24) "Nonsecure care, supervision, or training" means care, 6065
supervision, or training of a child in a facility that does not 6066
confine or prevent movement of the child within the facility or 6067
from the facility. 6068

(25) "Of compulsory school age" has the same meaning as in 6069
section 3321.01 of the Revised Code. 6070

(26) "Organization" means any institution, public, 6071
semipublic, or private, and any private association, society, or 6072
agency located or operating in the state, incorporated or 6073
unincorporated, having among its functions the furnishing of 6074
protective services or care for children, or the placement of 6075
children in certified foster homes or elsewhere. 6076

(27) "Out-of-home care" means detention facilities, shelter 6077
facilities, certified children's crisis care facilities, certified 6078
foster homes, placement in a prospective adoptive home prior to 6079
the issuance of a final decree of adoption, organizations, 6080
certified organizations, child day-care centers, type A family 6081
day-care homes, child care provided by type B family day-care home 6082
providers and by in-home aides, group home providers, group homes, 6083
institutions, state institutions, residential facilities, 6084
residential care facilities, residential camps, day camps, public 6085
schools, chartered nonpublic schools, educational service centers, 6086
hospitals, and medical clinics that are responsible for the care, 6087
physical custody, or control of children. 6088

(28) "Out-of-home care child abuse" means any of the 6089
following when committed by a person responsible for the care of a 6090
child in out-of-home care: 6091

(a) Engaging in sexual activity with a child in the person's 6092
care; 6093

(b) Denial to a child, as a means of punishment, of proper or 6094
necessary subsistence, education, medical care, or other care 6095
necessary for a child's health; 6096

(c) Use of restraint procedures on a child that cause injury 6097
or pain; 6098

(d) Administration of prescription drugs or psychotropic 6099
medication to the child without the written approval and ongoing 6100
supervision of a licensed physician; 6101

(e) Commission of any act, other than by accidental means, 6102
that results in any injury to or death of the child in out-of-home 6103
care or commission of any act by accidental means that results in 6104
an injury to or death of a child in out-of-home care and that is 6105
at variance with the history given of the injury or death. 6106

(29) "Out-of-home care child neglect" means any of the 6107
following when committed by a person responsible for the care of a 6108
child in out-of-home care: 6109

(a) Failure to provide reasonable supervision according to 6110
the standards of care appropriate to the age, mental and physical 6111
condition, or other special needs of the child; 6112

(b) Failure to provide reasonable supervision according to 6113
the standards of care appropriate to the age, mental and physical 6114
condition, or other special needs of the child, that results in 6115
sexual or physical abuse of the child by any person; 6116

(c) Failure to develop a process for all of the following: 6117

(i) Administration of prescription drugs or psychotropic 6118
drugs for the child; 6119

(ii) Assuring that the instructions of the licensed physician 6120
who prescribed a drug for the child are followed; 6121

(iii) Reporting to the licensed physician who prescribed the 6122
drug all unfavorable or dangerous side effects from the use of the 6123

drug. 6124

(d) Failure to provide proper or necessary subsistence, 6125
education, medical care, or other individualized care necessary 6126
for the health or well-being of the child; 6127

(e) Confinement of the child to a locked room without 6128
monitoring by staff; 6129

(f) Failure to provide ongoing security for all prescription 6130
and nonprescription medication; 6131

(g) Isolation of a child for a period of time when there is 6132
substantial risk that the isolation, if continued, will impair or 6133
retard the mental health or physical well-being of the child. 6134

(30) "Permanent custody" means a legal status that vests in a 6135
public children services agency or a private child placing agency, 6136
all parental rights, duties, and obligations, including the right 6137
to consent to adoption, and divests the natural parents or 6138
adoptive parents of all parental rights, privileges, and 6139
obligations, including all residual rights and obligations. 6140

(31) "Permanent surrender" means the act of the parents or, 6141
if a child has only one parent, of the parent of a child, by a 6142
voluntary agreement authorized by section 5103.15 of the Revised 6143
Code, to transfer the permanent custody of the child to a public 6144
children services agency or a private child placing agency. 6145

(32) "Person" means an individual, association, corporation, 6146
or partnership and the state or any of its political subdivisions, 6147
departments, or agencies. 6148

(33) "Person responsible for a child's care in out-of-home 6149
care" means any of the following: 6150

(a) Any foster caregiver, in-home aide, or provider; 6151

(b) Any administrator, employee, or agent of any of the 6152
following: a public or private detention facility; shelter 6153

facility; certified children's crisis care facility; organization; 6154
certified organization; child day-care center; type A family 6155
day-care home; certified type B family day-care home; group home; 6156
institution; state institution; residential facility; residential 6157
care facility; residential camp; day camp; school district; 6158
community school; chartered nonpublic school; educational service 6159
center; hospital; or medical clinic; 6160

(c) Any person who supervises or coaches children as part of 6161
an extracurricular activity sponsored by a school district, public 6162
school, or chartered nonpublic school; 6163

(d) Any other person who performs a similar function with 6164
respect to, or has a similar relationship to, children. 6165

(34) "Physically impaired" means having one or more of the 6166
following conditions that substantially limit one or more of an 6167
individual's major life activities, including self-care, receptive 6168
and expressive language, learning, mobility, and self-direction: 6169

(a) A substantial impairment of vision, speech, or hearing; 6170

(b) A congenital orthopedic impairment; 6171

(c) An orthopedic impairment caused by disease, rheumatic 6172
fever or any other similar chronic or acute health problem, or 6173
amputation or another similar cause. 6174

(35) "Placement for adoption" means the arrangement by a 6175
public children services agency or a private child placing agency 6176
with a person for the care and adoption by that person of a child 6177
of whom the agency has permanent custody. 6178

(36) "Placement in foster care" means the arrangement by a 6179
public children services agency or a private child placing agency 6180
for the out-of-home care of a child of whom the agency has 6181
temporary custody or permanent custody. 6182

(37) "Planned permanent living arrangement" means an order of 6183

a juvenile court pursuant to which both of the following apply: 6184

(a) The court gives legal custody of a child to a public 6185
children services agency or a private child placing agency without 6186
the termination of parental rights. 6187

(b) The order permits the agency to make an appropriate 6188
placement of the child and to enter into a written agreement with 6189
a foster care provider or with another person or agency with whom 6190
the child is placed. 6191

(38) "Practice of social work" and "practice of professional 6192
counseling" have the same meanings as in section 4757.01 of the 6193
Revised Code. 6194

(39) "Sanction, service, or condition" means a sanction, 6195
service, or condition created by court order following an 6196
adjudication that a child is an unruly child that is described in 6197
division (A)(4) of section 2152.19 of the Revised Code. 6198

(40) "Protective supervision" means an order of disposition 6199
pursuant to which the court permits an abused, neglected, 6200
dependent, or unruly child to remain in the custody of the child's 6201
parents, guardian, or custodian and stay in the child's home, 6202
subject to any conditions and limitations upon the child, the 6203
child's parents, guardian, or custodian, or any other person that 6204
the court prescribes, including supervision as directed by the 6205
court for the protection of the child. 6206

(41) "Psychiatrist" has the same meaning as in section 6207
5122.01 of the Revised Code. 6208

(42) "Psychologist" has the same meaning as in section 6209
4732.01 of the Revised Code. 6210

(43) "Residential camp" means a program in which the care, 6211
physical custody, or control of children is accepted overnight for 6212
recreational or recreational and educational purposes. 6213

(44) "Residential care facility" means an institution, 6214
residence, or facility that is licensed by the department of 6215
mental health under section 5119.22 of the Revised Code and that 6216
provides care for a child. 6217

(45) "Residential facility" means a home or facility that is 6218
licensed by the department of ~~mental retardation and~~ developmental 6219
disabilities under section 5123.19 of the Revised Code and in 6220
which a child with a developmental disability resides. 6221

(46) "Residual parental rights, privileges, and 6222
responsibilities" means those rights, privileges, and 6223
responsibilities remaining with the natural parent after the 6224
transfer of legal custody of the child, including, but not 6225
necessarily limited to, the privilege of reasonable visitation, 6226
consent to adoption, the privilege to determine the child's 6227
religious affiliation, and the responsibility for support. 6228

(47) "School day" means the school day established by the 6229
state board of education pursuant to section 3313.48 of the 6230
Revised Code. 6231

(48) "School month" and "school year" have the same meanings 6232
as in section 3313.62 of the Revised Code. 6233

(49) "Secure correctional facility" means a facility under 6234
the direction of the department of youth services that is designed 6235
to physically restrict the movement and activities of children and 6236
used for the placement of children after adjudication and 6237
disposition. 6238

(50) "Sexual activity" has the same meaning as in section 6239
2907.01 of the Revised Code. 6240

(51) "Shelter" means the temporary care of children in 6241
physically unrestricted facilities pending court adjudication or 6242
disposition. 6243

(52) "Shelter for victims of domestic violence" has the same 6244
meaning as in section 3113.33 of the Revised Code. 6245

(53) "Temporary custody" means legal custody of a child who 6246
is removed from the child's home, which custody may be terminated 6247
at any time at the discretion of the court or, if the legal 6248
custody is granted in an agreement for temporary custody, by the 6249
person who executed the agreement. 6250

(C) For the purposes of this chapter, a child shall be 6251
presumed abandoned when the parents of the child have failed to 6252
visit or maintain contact with the child for more than ninety 6253
days, regardless of whether the parents resume contact with the 6254
child after that period of ninety days. 6255

Sec. 2151.421. (A)(1)(a) No person described in division 6256
(A)(1)(b) of this section who is acting in an official or 6257
professional capacity and knows, or has reasonable cause to 6258
suspect based on facts that would cause a reasonable person in a 6259
similar position to suspect, that a child under eighteen years of 6260
age or a mentally retarded, developmentally disabled, or 6261
physically impaired child under twenty-one years of age has 6262
suffered or faces a threat of suffering any physical or mental 6263
wound, injury, disability, or condition of a nature that 6264
reasonably indicates abuse or neglect of the child shall fail to 6265
immediately report that knowledge or reasonable cause to suspect 6266
to the entity or persons specified in this division. Except as 6267
provided in section 5120.173 of the Revised Code, the person 6268
making the report shall make it to the public children services 6269
agency or a municipal or county peace officer in the county in 6270
which the child resides or in which the abuse or neglect is 6271
occurring or has occurred. In the circumstances described in 6272
section 5120.173 of the Revised Code, the person making the report 6273
shall make it to the entity specified in that section. 6274

(b) Division (A)(1)(a) of this section applies to any person 6275
who is an attorney; physician, including a hospital intern or 6276
resident; dentist; podiatrist; practitioner of a limited branch of 6277
medicine as specified in section 4731.15 of the Revised Code; 6278
registered nurse; licensed practical nurse; visiting nurse; other 6279
health care professional; licensed psychologist; licensed school 6280
psychologist; independent marriage and family therapist or 6281
marriage and family therapist; speech pathologist or audiologist; 6282
coroner; administrator or employee of a child day-care center; 6283
administrator or employee of a residential camp or child day camp; 6284
administrator or employee of a certified child care agency or 6285
other public or private children services agency; school teacher; 6286
school employee; school authority; person engaged in social work 6287
or the practice of professional counseling; agent of a county 6288
humane society; person, other than a cleric, rendering spiritual 6289
treatment through prayer in accordance with the tenets of a 6290
well-recognized religion; employee of a county department of job 6291
and family services who is a professional and who works with 6292
children and families; superintendent, board member, or employee 6293
of a county board of ~~mental-retardation~~ developmental 6294
disabilities; investigative agent contracted with by a county 6295
board of ~~mental-retardation~~ developmental disabilities; employee 6296
of the department of ~~mental-retardation~~ and developmental 6297
disabilities; employee of a facility or home that provides respite 6298
care in accordance with section 5123.171 of the Revised Code; 6299
employee of a home health agency; employee of an entity that 6300
provides homemaker services; a person performing the duties of an 6301
assessor pursuant to Chapter 3107. or 5103. of the Revised Code; 6302
or third party employed by a public children services agency to 6303
assist in providing child or family related services. 6304

(2) Except as provided in division (A)(3) of this section, an 6305
attorney or a physician is not required to make a report pursuant 6306
to division (A)(1) of this section concerning any communication 6307

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

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

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

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

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

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

designated by any church, religious society, or faith acting as a 6339
leader, official, or delegate on behalf of the church, religious 6340
society, or faith who is acting in an official or professional 6341
capacity, who knows, or has reasonable cause to believe based on 6342
facts that would cause a reasonable person in a similar position 6343
to believe, that a child under eighteen years of age or a mentally 6344
retarded, developmentally disabled, or physically impaired child 6345
under twenty-one years of age has suffered or faces a threat of 6346
suffering any physical or mental wound, injury, disability, or 6347
condition of a nature that reasonably indicates abuse or neglect 6348
of the child, and who knows, or has reasonable cause to believe 6349
based on facts that would cause a reasonable person in a similar 6350
position to believe, that another cleric or another person, other 6351
than a volunteer, designated by a church, religious society, or 6352
faith acting as a leader, official, or delegate on behalf of the 6353
church, religious society, or faith caused, or poses the threat of 6354
causing, the wound, injury, disability, or condition that 6355
reasonably indicates abuse or neglect shall fail to immediately 6356
report that knowledge or reasonable cause to believe to the entity 6357
or persons specified in this division. Except as provided in 6358
section 5120.173 of the Revised Code, the person making the report 6359
shall make it to the public children services agency or a 6360
municipal or county peace officer in the county in which the child 6361
resides or in which the abuse or neglect is occurring or has 6362
occurred. In the circumstances described in section 5120.173 of 6363
the Revised Code, the person making the report shall make it to 6364
the entity specified in that section. 6365

(b) Except as provided in division (A)(4)(c) of this section, 6366
a cleric is not required to make a report pursuant to division 6367
(A)(4)(a) of this section concerning any communication the cleric 6368
receives from a penitent in a cleric-penitent relationship, if, in 6369
accordance with division (C) of section 2317.02 of the Revised 6370
Code, the cleric could not testify with respect to that 6371

communication in a civil or criminal proceeding. 6372

(c) The penitent in a cleric-penitent relationship described 6373
in division (A)(4)(b) of this section is deemed to have waived any 6374
testimonial privilege under division (C) of section 2317.02 of the 6375
Revised Code with respect to any communication the cleric receives 6376
from the penitent in that cleric-penitent relationship, and the 6377
cleric shall make a report pursuant to division (A)(4)(a) of this 6378
section with respect to that communication, if all of the 6379
following apply: 6380

(i) The penitent, at the time of the communication, is either 6381
a child under eighteen years of age or a mentally retarded, 6382
developmentally disabled, or physically impaired person under 6383
twenty-one years of age. 6384

(ii) The cleric knows, or has reasonable cause to believe 6385
based on facts that would cause a reasonable person in a similar 6386
position to believe, as a result of the communication or any 6387
observations made during that communication, the penitent has 6388
suffered or faces a threat of suffering any physical or mental 6389
wound, injury, disability, or condition of a nature that 6390
reasonably indicates abuse or neglect of the penitent. 6391

(iii) The abuse or neglect does not arise out of the 6392
penitent's attempt to have an abortion performed upon a child 6393
under eighteen years of age or upon a mentally retarded, 6394
developmentally disabled, or physically impaired person under 6395
twenty-one years of age without the notification of her parents, 6396
guardian, or custodian in accordance with section 2151.85 of the 6397
Revised Code. 6398

(d) Divisions (A)(4)(a) and (c) of this section do not apply 6399
in a cleric-penitent relationship when the disclosure of any 6400
communication the cleric receives from the penitent is in 6401
violation of the sacred trust. 6402

(e) As used in divisions (A)(1) and (4) of this section, 6403
"cleric" and "sacred trust" have the same meanings as in section 6404
2317.02 of the Revised Code. 6405

(B) Anyone who knows, or has reasonable cause to suspect 6406
based on facts that would cause a reasonable person in similar 6407
circumstances to suspect, that a child under eighteen years of age 6408
or a mentally retarded, developmentally disabled, or physically 6409
impaired person under twenty-one years of age has suffered or 6410
faces a threat of suffering any physical or mental wound, injury, 6411
disability, or other condition of a nature that reasonably 6412
indicates abuse or neglect of the child may report or cause 6413
reports to be made of that knowledge or reasonable cause to 6414
suspect to the entity or persons specified in this division. 6415
Except as provided in section 5120.173 of the Revised Code, a 6416
person making a report or causing a report to be made under this 6417
division shall make it or cause it to be made to the public 6418
children services agency or to a municipal or county peace 6419
officer. In the circumstances described in section 5120.173 of the 6420
Revised Code, a person making a report or causing a report to be 6421
made under this division shall make it or cause it to be made to 6422
the entity specified in that section. 6423

(C) Any report made pursuant to division (A) or (B) of this 6424
section shall be made forthwith either by telephone or in person 6425
and shall be followed by a written report, if requested by the 6426
receiving agency or officer. The written report shall contain: 6427

(1) The names and addresses of the child and the child's 6428
parents or the person or persons having custody of the child, if 6429
known; 6430

(2) The child's age and the nature and extent of the child's 6431
injuries, abuse, or neglect that is known or reasonably suspected 6432
or believed, as applicable, to have occurred or of the threat of 6433
injury, abuse, or neglect that is known or reasonably suspected or 6434

believed, as applicable, to exist, including any evidence of 6435
previous injuries, abuse, or neglect; 6436

(3) Any other information that might be helpful in 6437
establishing the cause of the injury, abuse, or neglect that is 6438
known or reasonably suspected or believed, as applicable, to have 6439
occurred or of the threat of injury, abuse, or neglect that is 6440
known or reasonably suspected or believed, as applicable, to 6441
exist. 6442

Any person, who is required by division (A) of this section 6443
to report child abuse or child neglect that is known or reasonably 6444
suspected or believed to have occurred, may take or cause to be 6445
taken color photographs of areas of trauma visible on a child and, 6446
if medically indicated, cause to be performed radiological 6447
examinations of the child. 6448

(D) As used in this division, "children's advocacy center" 6449
and "sexual abuse of a child" have the same meanings as in section 6450
2151.425 of the Revised Code. 6451

(1) When a municipal or county peace officer receives a 6452
report concerning the possible abuse or neglect of a child or the 6453
possible threat of abuse or neglect of a child, upon receipt of 6454
the report, the municipal or county peace officer who receives the 6455
report shall refer the report to the appropriate public children 6456
services agency. 6457

(2) When a public children services agency receives a report 6458
pursuant to this division or division (A) or (B) of this section, 6459
upon receipt of the report, the public children services agency 6460
shall do both of the following: 6461

(a) Comply with section 2151.422 of the Revised Code; 6462

(b) If the county served by the agency is also served by a 6463
children's advocacy center and the report alleges sexual abuse of 6464
a child or another type of abuse of a child that is specified in 6465

the memorandum of understanding that creates the center as being 6466
within the center's jurisdiction, comply regarding the report with 6467
the protocol and procedures for referrals and investigations, with 6468
the coordinating activities, and with the authority or 6469
responsibility for performing or providing functions, activities, 6470
and services stipulated in the interagency agreement entered into 6471
under section 2151.428 of the Revised Code relative to that 6472
center. 6473

(E) No township, municipal, or county peace officer shall 6474
remove a child about whom a report is made pursuant to this 6475
section from the child's parents, stepparents, or guardian or any 6476
other persons having custody of the child without consultation 6477
with the public children services agency, unless, in the judgment 6478
of the officer, and, if the report was made by physician, the 6479
physician, immediate removal is considered essential to protect 6480
the child from further abuse or neglect. The agency that must be 6481
consulted shall be the agency conducting the investigation of the 6482
report as determined pursuant to section 2151.422 of the Revised 6483
Code. 6484

(F)(1) Except as provided in section 2151.422 of the Revised 6485
Code or in an interagency agreement entered into under section 6486
2151.428 of the Revised Code that applies to the particular 6487
report, the public children services agency shall investigate, 6488
within twenty-four hours, each report of child abuse or child 6489
neglect that is known or reasonably suspected or believed to have 6490
occurred and of a threat of child abuse or child neglect that is 6491
known or reasonably suspected or believed to exist that is 6492
referred to it under this section to determine the circumstances 6493
surrounding the injuries, abuse, or neglect or the threat of 6494
injury, abuse, or neglect, the cause of the injuries, abuse, 6495
neglect, or threat, and the person or persons responsible. The 6496
investigation shall be made in cooperation with the law 6497

enforcement agency and in accordance with the memorandum of 6498
understanding prepared under division (J) of this section. A 6499
representative of the public children services agency shall, at 6500
the time of initial contact with the person subject to the 6501
investigation, inform the person of the specific complaints or 6502
allegations made against the person. The information shall be 6503
given in a manner that is consistent with division (H)(1) of this 6504
section and protects the rights of the person making the report 6505
under this section. 6506

A failure to make the investigation in accordance with the 6507
memorandum is not grounds for, and shall not result in, the 6508
dismissal of any charges or complaint arising from the report or 6509
the suppression of any evidence obtained as a result of the report 6510
and does not give, and shall not be construed as giving, any 6511
rights or any grounds for appeal or post-conviction relief to any 6512
person. The public children services agency shall report each case 6513
to the uniform statewide automated child welfare information 6514
system that the department of job and family services shall 6515
maintain in accordance with section 5101.13 of the Revised Code. 6516
The public children services agency shall submit a report of its 6517
investigation, in writing, to the law enforcement agency. 6518

(2) The public children services agency shall make any 6519
recommendations to the county prosecuting attorney or city 6520
director of law that it considers necessary to protect any 6521
children that are brought to its attention. 6522

(G)(1)(a) Except as provided in division (H)(3) of this 6523
section, anyone or any hospital, institution, school, health 6524
department, or agency participating in the making of reports under 6525
division (A) of this section, anyone or any hospital, institution, 6526
school, health department, or agency participating in good faith 6527
in the making of reports under division (B) of this section, and 6528
anyone participating in good faith in a judicial proceeding 6529

resulting from the reports, shall be immune from any civil or 6530
criminal liability for injury, death, or loss to person or 6531
property that otherwise might be incurred or imposed as a result 6532
of the making of the reports or the participation in the judicial 6533
proceeding. 6534

(b) Notwithstanding section 4731.22 of the Revised Code, the 6535
physician-patient privilege shall not be a ground for excluding 6536
evidence regarding a child's injuries, abuse, or neglect, or the 6537
cause of the injuries, abuse, or neglect in any judicial 6538
proceeding resulting from a report submitted pursuant to this 6539
section. 6540

(2) In any civil or criminal action or proceeding in which it 6541
is alleged and proved that participation in the making of a report 6542
under this section was not in good faith or participation in a 6543
judicial proceeding resulting from a report made under this 6544
section was not in good faith, the court shall award the 6545
prevailing party reasonable attorney's fees and costs and, if a 6546
civil action or proceeding is voluntarily dismissed, may award 6547
reasonable attorney's fees and costs to the party against whom the 6548
civil action or proceeding is brought. 6549

(H)(1) Except as provided in divisions (H)(4) and (N) of this 6550
section, a report made under this section is confidential. The 6551
information provided in a report made pursuant to this section and 6552
the name of the person who made the report shall not be released 6553
for use, and shall not be used, as evidence in any civil action or 6554
proceeding brought against the person who made the report. Nothing 6555
in this division shall preclude the use of reports of other 6556
incidents of known or suspected abuse or neglect in a civil action 6557
or proceeding brought pursuant to division (M) of this section 6558
against a person who is alleged to have violated division (A)(1) 6559
of this section, provided that any information in a report that 6560
would identify the child who is the subject of the report or the 6561

maker of the report, if the maker of the report is not the 6562
defendant or an agent or employee of the defendant, has been 6563
redacted. In a criminal proceeding, the report is admissible in 6564
evidence in accordance with the Rules of Evidence and is subject 6565
to discovery in accordance with the Rules of Criminal Procedure. 6566
6567

(2) No person shall permit or encourage the unauthorized 6568
dissemination of the contents of any report made under this 6569
section. 6570

(3) A person who knowingly makes or causes another person to 6571
make a false report under division (B) of this section that 6572
alleges that any person has committed an act or omission that 6573
resulted in a child being an abused child or a neglected child is 6574
guilty of a violation of section 2921.14 of the Revised Code. 6575

(4) If a report is made pursuant to division (A) or (B) of 6576
this section and the child who is the subject of the report dies 6577
for any reason at any time after the report is made, but before 6578
the child attains eighteen years of age, the public children 6579
services agency or municipal or county peace officer to which the 6580
report was made or referred, on the request of the child fatality 6581
review board, shall submit a summary sheet of information 6582
providing a summary of the report to the review board of the 6583
county in which the deceased child resided at the time of death. 6584
On the request of the review board, the agency or peace officer 6585
may, at its discretion, make the report available to the review 6586
board. If the county served by the public children services agency 6587
is also served by a children's advocacy center and the report of 6588
alleged sexual abuse of a child or another type of abuse of a 6589
child is specified in the memorandum of understanding that creates 6590
the center as being within the center's jurisdiction, the agency 6591
or center shall perform the duties and functions specified in this 6592
division in accordance with the interagency agreement entered into 6593

under section 2151.428 of the Revised Code relative to that 6594
advocacy center. 6595

(5) A public children services agency shall advise a person 6596
alleged to have inflicted abuse or neglect on a child who is the 6597
subject of a report made pursuant to this section, including a 6598
report alleging sexual abuse of a child or another type of abuse 6599
of a child referred to a children's advocacy center pursuant to an 6600
interagency agreement entered into under section 2151.428 of the 6601
Revised Code, in writing of the disposition of the investigation. 6602
The agency shall not provide to the person any information that 6603
identifies the person who made the report, statements of 6604
witnesses, or police or other investigative reports. 6605

(I) Any report that is required by this section, other than a 6606
report that is made to the state highway patrol as described in 6607
section 5120.173 of the Revised Code, shall result in protective 6608
services and emergency supportive services being made available by 6609
the public children services agency on behalf of the children 6610
about whom the report is made, in an effort to prevent further 6611
neglect or abuse, to enhance their welfare, and, whenever 6612
possible, to preserve the family unit intact. The agency required 6613
to provide the services shall be the agency conducting the 6614
investigation of the report pursuant to section 2151.422 of the 6615
Revised Code. 6616

(J)(1) Each public children services agency shall prepare a 6617
memorandum of understanding that is signed by all of the 6618
following: 6619

(a) If there is only one juvenile judge in the county, the 6620
juvenile judge of the county or the juvenile judge's 6621
representative; 6622

(b) If there is more than one juvenile judge in the county, a 6623
juvenile judge or the juvenile judges' representative selected by 6624

the juvenile judges or, if they are unable to do so for any 6625
reason, the juvenile judge who is senior in point of service or 6626
the senior juvenile judge's representative; 6627

(c) The county peace officer; 6628

(d) All chief municipal peace officers within the county; 6629

(e) Other law enforcement officers handling child abuse and 6630
neglect cases in the county; 6631

(f) The prosecuting attorney of the county; 6632

(g) If the public children services agency is not the county 6633
department of job and family services, the county department of 6634
job and family services; 6635

(h) The county humane society; 6636

(i) If the public children services agency participated in 6637
the execution of a memorandum of understanding under section 6638
2151.426 of the Revised Code establishing a children's advocacy 6639
center, each participating member of the children's advocacy 6640
center established by the memorandum. 6641

(2) A memorandum of understanding shall set forth the normal 6642
operating procedure to be employed by all concerned officials in 6643
the execution of their respective responsibilities under this 6644
section and division (C) of section 2919.21, division (B)(1) of 6645
section 2919.22, division (B) of section 2919.23, and section 6646
2919.24 of the Revised Code and shall have as two of its primary 6647
goals the elimination of all unnecessary interviews of children 6648
who are the subject of reports made pursuant to division (A) or 6649
(B) of this section and, when feasible, providing for only one 6650
interview of a child who is the subject of any report made 6651
pursuant to division (A) or (B) of this section. A failure to 6652
follow the procedure set forth in the memorandum by the concerned 6653
officials is not grounds for, and shall not result in, the 6654

dismissal of any charges or complaint arising from any reported 6655
case of abuse or neglect or the suppression of any evidence 6656
obtained as a result of any reported child abuse or child neglect 6657
and does not give, and shall not be construed as giving, any 6658
rights or any grounds for appeal or post-conviction relief to any 6659
person. 6660

(3) A memorandum of understanding shall include all of the 6661
following: 6662

(a) The roles and responsibilities for handling emergency and 6663
nonemergency cases of abuse and neglect; 6664

(b) Standards and procedures to be used in handling and 6665
coordinating investigations of reported cases of child abuse and 6666
reported cases of child neglect, methods to be used in 6667
interviewing the child who is the subject of the report and who 6668
allegedly was abused or neglected, and standards and procedures 6669
addressing the categories of persons who may interview the child 6670
who is the subject of the report and who allegedly was abused or 6671
neglected. 6672

(4) If a public children services agency participated in the 6673
execution of a memorandum of understanding under section 2151.426 6674
of the Revised Code establishing a children's advocacy center, the 6675
agency shall incorporate the contents of that memorandum in the 6676
memorandum prepared pursuant to this section. 6677

(5) The clerk of the court of common pleas in the county may 6678
sign the memorandum of understanding prepared under division 6679
(J)(1) of this section. If the clerk signs the memorandum of 6680
understanding, the clerk shall execute all relevant 6681
responsibilities as required of officials specified in the 6682
memorandum. 6683

(K)(1) Except as provided in division (K)(4) of this section, 6684
a person who is required to make a report pursuant to division (A) 6685

of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report, or of the children's advocacy center that is referred the report if the report is referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, to be provided with the following information:

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

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

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

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

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

(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.

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.

Each request is subject to verification of the identity of 6717
the person making the report. If that person's identity is 6718
verified, the agency shall provide the person with the information 6719
described in division (K)(1) of this section a reasonable number 6720
of times, except that the agency shall not disclose any 6721
confidential information regarding the child who is the subject of 6722
the report other than the information described in those 6723
divisions. 6724

(3) A request made pursuant to division (K)(1) of this 6725
section is not a substitute for any report required to be made 6726
pursuant to division (A) of this section. 6727

(4) If an agency other than the agency that received or was 6728
referred the report is conducting the investigation of the report 6729
pursuant to section 2151.422 of the Revised Code, the agency 6730
conducting the investigation shall comply with the requirements of 6731
division (K) of this section. 6732

(L) The director of job and family services shall adopt rules 6733
in accordance with Chapter 119. of the Revised Code to implement 6734
this section. The department of job and family services may enter 6735
into a plan of cooperation with any other governmental entity to 6736
aid in ensuring that children are protected from abuse and 6737
neglect. The department shall make recommendations to the attorney 6738
general that the department determines are necessary to protect 6739
children from child abuse and child neglect. 6740

(M) Whoever violates division (A) of this section is liable 6741
for compensatory and exemplary damages to the child who would have 6742
been the subject of the report that was not made. A person who 6743
brings a civil action or proceeding pursuant to this division 6744
against a person who is alleged to have violated division (A)(1) 6745
of this section may use in the action or proceeding reports of 6746
other incidents of known or suspected abuse or neglect, provided 6747
that any information in a report that would identify the child who 6748

is the subject of the report or the maker of the report, if the 6749
maker is not the defendant or an agent or employee of the 6750
defendant, has been redacted. 6751

(N)(1) As used in this division: 6752

(a) "Out-of-home care" includes a nonchartered nonpublic 6753
school if the alleged child abuse or child neglect, or alleged 6754
threat of child abuse or child neglect, described in a report 6755
received by a public children services agency allegedly occurred 6756
in or involved the nonchartered nonpublic school and the alleged 6757
perpetrator named in the report holds a certificate, permit, or 6758
license issued by the state board of education under section 6759
3301.071 or Chapter 3319. of the Revised Code. 6760

(b) "Administrator, director, or other chief administrative 6761
officer" means the superintendent of the school district if the 6762
out-of-home care entity subject to a report made pursuant to this 6763
section is a school operated by the district. 6764

(2) No later than the end of the day following the day on 6765
which a public children services agency receives a report of 6766
alleged child abuse or child neglect, or a report of an alleged 6767
threat of child abuse or child neglect, that allegedly occurred in 6768
or involved an out-of-home care entity, the agency shall provide 6769
written notice of the allegations contained in and the person 6770
named as the alleged perpetrator in the report to the 6771
administrator, director, or other chief administrative officer of 6772
the out-of-home care entity that is the subject of the report 6773
unless the administrator, director, or other chief administrative 6774
officer is named as an alleged perpetrator in the report. If the 6775
administrator, director, or other chief administrative officer of 6776
an out-of-home care entity is named as an alleged perpetrator in a 6777
report of alleged child abuse or child neglect, or a report of an 6778
alleged threat of child abuse or child neglect, that allegedly 6779
occurred in or involved the out-of-home care entity, the agency 6780

shall provide the written notice to the owner or governing board 6781
of the out-of-home care entity that is the subject of the report. 6782
The agency shall not provide witness statements or police or other 6783
investigative reports. 6784

(3) No later than three days after the day on which a public 6785
children services agency that conducted the investigation as 6786
determined pursuant to section 2151.422 of the Revised Code makes 6787
a disposition of an investigation involving a report of alleged 6788
child abuse or child neglect, or a report of an alleged threat of 6789
child abuse or child neglect, that allegedly occurred in or 6790
involved an out-of-home care entity, the agency shall send written 6791
notice of the disposition of the investigation to the 6792
administrator, director, or other chief administrative officer and 6793
the owner or governing board of the out-of-home care entity. The 6794
agency shall not provide witness statements or police or other 6795
investigative reports. 6796

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the 6797
Revised Code: 6798

(A) "Care facility" means any of the following: 6799

(1) Any "home" as defined in section 3721.10 or 5111.20 of 6800
the Revised Code; 6801

(2) Any "residential facility" as defined in section 5123.19 6802
of the Revised Code; 6803

(3) Any institution or facility operated or provided by the 6804
department of mental health or by the department of ~~mental~~ 6805
~~retardation and~~ developmental disabilities pursuant to sections 6806
5119.02 and 5123.03 of the Revised Code; 6807

(4) Any "residential facility" as defined in section 5119.22 6808
of the Revised Code; 6809

(5) Any unit of any hospital, as defined in section 3701.01 6810

of the Revised Code, that provides the same services as a nursing 6811
home, as defined in section 3721.01 of the Revised Code; 6812

(6) Any institution, residence, or facility that provides, 6813
for a period of more than twenty-four hours, whether for a 6814
consideration or not, accommodations to one individual or two 6815
unrelated individuals who are dependent upon the services of 6816
others; 6817

(7) Any "adult care facility" as defined in section 3722.01 6818
of the Revised Code; 6819

(8) Any adult foster home certified by the department of 6820
aging or its designee under section 173.36 of the Revised Code; 6821

(9) Any "community alternative home" as defined in section 6822
3724.01 of the Revised Code. 6823

(B) "Abuse" means knowingly causing physical harm or 6824
recklessly causing serious physical harm to a person by physical 6825
contact with the person or by the inappropriate use of a physical 6826
or chemical restraint, medication, or isolation on the person. 6827

(C)(1) "Gross neglect" means knowingly failing to provide a 6828
person with any treatment, care, goods, or service that is 6829
necessary to maintain the health or safety of the person when the 6830
failure results in physical harm or serious physical harm to the 6831
person. 6832

(2) "Neglect" means recklessly failing to provide a person 6833
with any treatment, care, goods, or service that is necessary to 6834
maintain the health or safety of the person when the failure 6835
results in serious physical harm to the person. 6836

(D) "Inappropriate use of a physical or chemical restraint, 6837
medication, or isolation" means the use of physical or chemical 6838
restraint, medication, or isolation as punishment, for staff 6839
convenience, excessively, as a substitute for treatment, or in 6840

quantities that preclude habilitation and treatment. 6841

Sec. 2919.271. (A)(1)(a) If a defendant is charged with a 6842
violation of section 2919.27 of the Revised Code or of a municipal 6843
ordinance that is substantially similar to that section, the court 6844
may order an evaluation of the mental condition of the defendant 6845
if the court determines that either of the following criteria 6846
apply: 6847

(i) If the alleged violation is a violation of a protection 6848
order issued or consent agreement approved pursuant to section 6849
2919.26 or 3113.31 of the Revised Code, that the violation 6850
allegedly involves conduct by the defendant that caused physical 6851
harm to the person or property of a family or household member 6852
covered by the order or agreement, or conduct by the defendant 6853
that caused a family or household member to believe that the 6854
defendant would cause physical harm to that member or that 6855
member's property. 6856

(ii) If the alleged violation is a violation of a protection 6857
order issued pursuant to section 2903.213 or 2903.214 of the 6858
Revised Code or a protection order issued by a court of another 6859
state, that the violation allegedly involves conduct by the 6860
defendant that caused physical harm to the person or property of 6861
the person covered by the order, or conduct by the defendant that 6862
caused the person covered by the order to believe that the 6863
defendant would cause physical harm to that person or that 6864
person's property. 6865

(b) If a defendant is charged with a violation of section 6866
2903.211 of the Revised Code or of a municipal ordinance that is 6867
substantially similar to that section, the court may order an 6868
evaluation of the mental condition of the defendant. 6869

(2) An evaluation ordered under division (A)(1) of this 6870
section shall be completed no later than thirty days from the date 6871

the order is entered pursuant to that division. In that order, the 6872
court shall do either of the following: 6873

(a) Order that the evaluation of the mental condition of the 6874
defendant be preceded by an examination conducted either by a 6875
forensic center that is designated by the department of mental 6876
health to conduct examinations and make evaluations of defendants 6877
charged with violations of section 2903.211 or 2919.27 of the 6878
Revised Code or of substantially similar municipal ordinances in 6879
the area in which the court is located, or by any other program or 6880
facility that is designated by the department of mental health or 6881
the department of ~~mental retardation and~~ developmental 6882
disabilities to conduct examinations and make evaluations of 6883
defendants charged with violations of section 2903.211 or 2919.27 6884
of the Revised Code or of substantially similar municipal 6885
ordinances, and that is operated by either department or is 6886
certified by either department as being in compliance with the 6887
standards established under division (I) of section 5119.01 of the 6888
Revised Code or division (C) of section 5123.04 of the Revised 6889
Code. 6890

(b) Designate a center, program, or facility other than one 6891
designated by the department of mental health or the department of 6892
~~mental retardation and~~ developmental disabilities, as described in 6893
division (A)(2)(a) of this section, to conduct the evaluation and 6894
preceding examination of the mental condition of the defendant. 6895

Whether the court acts pursuant to division (A)(2)(a) or (b) 6896
of this section, the court may designate examiners other than the 6897
personnel of the center, program, facility, or department involved 6898
to make the evaluation and preceding examination of the mental 6899
condition of the defendant. 6900

(B) If the court considers that additional evaluations of the 6901
mental condition of a defendant are necessary following the 6902
evaluation authorized by division (A) of this section, the court 6903

may order up to two additional similar evaluations. These 6904
evaluations shall be completed no later than thirty days from the 6905
date the applicable court order is entered. If more than one 6906
evaluation of the mental condition of the defendant is ordered 6907
under this division, the prosecutor and the defendant may 6908
recommend to the court an examiner whom each prefers to perform 6909
one of the evaluations and preceding examinations. 6910

(C)(1) The court may order a defendant who has been released 6911
on bail to submit to an examination under division (A) or (B) of 6912
this section. The examination shall be conducted either at the 6913
detention facility in which the defendant would have been confined 6914
if the defendant had not been released on bail, or, if so 6915
specified by the center, program, facility, or examiners involved, 6916
at the premises of the center, program, or facility. Additionally, 6917
the examination shall be conducted at the times established by the 6918
examiners involved. If such a defendant refuses to submit to an 6919
examination or a complete examination as required by the court or 6920
the center, program, facility, or examiners involved, the court 6921
may amend the conditions of the bail of the defendant and order 6922
the sheriff to take the defendant into custody and deliver the 6923
defendant to the detention facility in which the defendant would 6924
have been confined if the defendant had not been released on bail, 6925
or, if so specified by the center, program, facility, or examiners 6926
involved, to the premises of the center, program, or facility, for 6927
purposes of the examination. 6928

(2) A defendant who has not been released on bail shall be 6929
examined at the detention facility in which the defendant is 6930
confined or, if so specified by the center, program, facility, or 6931
examiners involved, at the premises of the center, program, or 6932
facility. 6933

(D) The examiner of the mental condition of a defendant under 6934
division (A) or (B) of this section shall file a written report 6935

with the court within thirty days after the entry of an order for 6936
the evaluation of the mental condition of the defendant. The 6937
report shall contain the findings of the examiner; the facts in 6938
reasonable detail on which the findings are based; the opinion of 6939
the examiner as to the mental condition of the defendant; the 6940
opinion of the examiner as to whether the defendant represents a 6941
substantial risk of physical harm to other persons as manifested 6942
by evidence of recent homicidal or other violent behavior, 6943
evidence of recent threats that placed other persons in reasonable 6944
fear of violent behavior and serious physical harm, or evidence of 6945
present dangerousness; and the opinion of the examiner as to the 6946
types of treatment or counseling that the defendant needs. The 6947
court shall provide copies of the report to the prosecutor and 6948
defense counsel. 6949

(E) The costs of any evaluation and preceding examination of 6950
a defendant that is ordered pursuant to division (A) or (B) of 6951
this section shall be taxed as court costs in the criminal case. 6952

(F) If the examiner considers it necessary in order to make 6953
an accurate evaluation of the mental condition of a defendant, an 6954
examiner under division (A) or (B) of this section may request any 6955
family or household member of the defendant to provide the 6956
examiner with information. A family or household member may, but 6957
is not required to, provide information to the examiner upon 6958
receipt of the request. 6959

(G) As used in this section: 6960

(1) "Bail" includes a recognizance. 6961

(2) "Examiner" means a psychiatrist, a licensed independent 6962
social worker who is employed by a forensic center that is 6963
certified as being in compliance with the standards established 6964
under division (I) of section 5119.01 or division (C) of section 6965
5123.04 of the Revised Code, a licensed professional clinical 6966

counselor who is employed at a forensic center that is certified 6967
as being in compliance with such standards, or a licensed clinical 6968
psychologist, except that in order to be an examiner, a licensed 6969
clinical psychologist shall meet the criteria of division (I)(1) 6970
of section 5122.01 of the Revised Code or be employed to conduct 6971
examinations by the department of mental health or by a forensic 6972
center certified as being in compliance with the standards 6973
established under division (I) of section 5119.01 or division (C) 6974
of section 5123.04 of the Revised Code that is designated by the 6975
department of mental health. 6976

(3) "Family or household member" has the same meaning as in 6977
section 2919.25 of the Revised Code. 6978

(4) "Prosecutor" has the same meaning as in section 2935.01 6979
of the Revised Code. 6980

(5) "Psychiatrist" and "licensed clinical psychologist" have 6981
the same meanings as in section 5122.01 of the Revised Code. 6982

(6) "Protection order issued by a court of another state" has 6983
the same meaning as in section 2919.27 of the Revised Code. 6984

Sec. 2921.36. (A) No person shall knowingly convey, or 6985
attempt to convey, onto the grounds of a detention facility or of 6986
an institution, office building, or other place that is under the 6987
control of the department of mental health, the department of 6988
~~mental retardation and~~ developmental disabilities, the department 6989
of youth services, or the department of rehabilitation and 6990
correction any of the following items: 6991

(1) Any deadly weapon or dangerous ordnance, as defined in 6992
section 2923.11 of the Revised Code, or any part of or ammunition 6993
for use in such a deadly weapon or dangerous ordnance; 6994

(2) Any drug of abuse, as defined in section 3719.011 of the 6995
Revised Code; 6996

(3) Any intoxicating liquor, as defined in section 4301.01 of the Revised Code. 6997
6998

(B) Division (A) of this section does not apply to any person who conveys or attempts to convey an item onto the grounds of a detention facility or of an institution, office building, or other place under the control of the department of mental health, the department of ~~mental retardation and~~ developmental disabilities, the department of youth services, or the department of rehabilitation and correction pursuant to the written authorization of the person in charge of the detention facility or the institution, office building, or other place and in accordance with the written rules of the detention facility or the institution, office building, or other place. 6999
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(C) No person shall knowingly deliver, or attempt to deliver, to any person who is confined in a detention facility, to a child confined in a youth services facility, to a prisoner who is temporarily released from confinement for a work assignment, or to any patient in an institution under the control of the department of mental health or the department of ~~mental retardation and~~ developmental disabilities any item listed in division (A)(1), (2), or (3) of this section. 7010
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(D) No person shall knowingly deliver, or attempt to deliver, cash to any person who is confined in a detention facility, to a child confined in a youth services facility, or to a prisoner who is temporarily released from confinement for a work assignment. 7018
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(E) No person shall knowingly deliver, or attempt to deliver, to any person who is confined in a detention facility, to a child confined in a youth services facility, or to a prisoner who is temporarily released from confinement for a work assignment a cellular telephone, two-way radio, or other electronic communications device. 7022
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(F)(1) It is an affirmative defense to a charge under 7028
division (A)(1) of this section that the weapon or dangerous 7029
ordnance in question was being transported in a motor vehicle for 7030
any lawful purpose, that it was not on the actor's person, and, if 7031
the weapon or dangerous ordnance in question was a firearm, that 7032
it was unloaded and was being carried in a closed package, box, or 7033
case or in a compartment that can be reached only by leaving the 7034
vehicle. 7035

(2) It is an affirmative defense to a charge under division 7036
(C) of this section that the actor was not otherwise prohibited by 7037
law from delivering the item to the confined person, the child, 7038
the prisoner, or the patient and that either of the following 7039
applies: 7040

(a) The actor was permitted by the written rules of the 7041
detention facility or the institution, office building, or other 7042
place to deliver the item to the confined person or the patient. 7043

(b) The actor was given written authorization by the person 7044
in charge of the detention facility or the institution, office 7045
building, or other place to deliver the item to the confined 7046
person or the patient. 7047

(G)(1) Whoever violates division (A)(1) of this section or 7048
commits a violation of division (C) of this section involving an 7049
item listed in division (A)(1) of this section is guilty of 7050
illegal conveyance of weapons onto the grounds of a specified 7051
governmental facility, a felony of the third degree. If the 7052
offender is an officer or employee of the department of 7053
rehabilitation and correction, the court shall impose a mandatory 7054
prison term. 7055

(2) Whoever violates division (A)(2) of this section or 7056
commits a violation of division (C) of this section involving any 7057
drug of abuse is guilty of illegal conveyance of drugs of abuse 7058

onto the grounds of a specified governmental facility, a felony of 7059
the third degree. If the offender is an officer or employee of the 7060
department of rehabilitation and correction or of the department 7061
of youth services, the court shall impose a mandatory prison term. 7062
7063

(3) Whoever violates division (A)(3) of this section or 7064
commits a violation of division (C) of this section involving any 7065
intoxicating liquor is guilty of illegal conveyance of 7066
intoxicating liquor onto the grounds of a specified governmental 7067
facility, a misdemeanor of the second degree. 7068

(4) Whoever violates division (D) of this section is guilty 7069
of illegal conveyance of cash onto the grounds of a detention 7070
facility, a misdemeanor of the first degree. If the offender 7071
previously has been convicted of or pleaded guilty to a violation 7072
of division (D) of this section, illegal conveyance of cash onto 7073
the grounds of a detention facility is a felony of the fifth 7074
degree. 7075

(5) Whoever violates division (E) of this section is guilty 7076
of illegal conveyance of a communications device onto the grounds 7077
of a specified governmental facility, a misdemeanor of the first 7078
degree, or if the offender previously has been convicted of or 7079
pleaded guilty to a violation of division (E) of this section, a 7080
felony of the fifth degree. 7081

Sec. 2921.38. (A) No person who is confined in a detention 7082
facility, with intent to harass, annoy, threaten, or alarm another 7083
person, shall cause or attempt to cause the other person to come 7084
into contact with blood, semen, urine, feces, or another bodily 7085
substance by throwing the bodily substance at the other person, by 7086
expelling the bodily substance upon the other person, or in any 7087
other manner. 7088

(B) No person, with intent to harass, annoy, threaten, or 7089

alarm a law enforcement officer, shall cause or attempt to cause 7090
the law enforcement officer to come into contact with blood, 7091
semen, urine, feces, or another bodily substance by throwing the 7092
bodily substance at the law enforcement officer, by expelling the 7093
bodily substance upon the law enforcement officer, or in any other 7094
manner. 7095

(C) No person, with knowledge that the person is a carrier of 7096
the virus that causes acquired immunodeficiency syndrome, is a 7097
carrier of a hepatitis virus, or is infected with tuberculosis and 7098
with intent to harass, annoy, threaten, or alarm another person, 7099
shall cause or attempt to cause the other person to come into 7100
contact with blood, semen, urine, feces, or another bodily 7101
substance by throwing the bodily substance at the other person, by 7102
expelling the bodily substance upon the other person, or in any 7103
other manner. 7104

(D) Whoever violates this section is guilty of harassment 7105
with a bodily substance. A violation of division (A) or (B) of 7106
this section is a felony of the fifth degree. A violation of 7107
division (C) of this section is a felony of the third degree. 7108

(E)(1) The court, on request of the prosecutor, or the law 7109
enforcement authority responsible for the investigation of the 7110
violation, shall cause a person who allegedly has committed a 7111
violation of this section to submit to one or more appropriate 7112
tests to determine if the person is a carrier of the virus that 7113
causes acquired immunodeficiency syndrome, is a carrier of a 7114
hepatitis virus, or is infected with tuberculosis. 7115

(2) The court shall charge the offender with the costs of the 7116
test or tests ordered under division (E)(1) of this section unless 7117
the court determines that the accused is unable to pay, in which 7118
case the costs shall be charged to the entity that operates the 7119
detention facility in which the alleged offense occurred. 7120

(F) This section does not apply to a person who is 7121
hospitalized, institutionalized, or confined in a facility 7122
operated by the department of mental health or the department of 7123
~~mental retardation and~~ developmental disabilities. 7124

Sec. 2930.061. (A) If a person is charged in a complaint, 7125
indictment, or information with any crime or specified delinquent 7126
act or with any other violation of law, and if the case involves a 7127
victim that the prosecutor in the case knows is a mentally 7128
retarded person or a developmentally disabled person, in addition 7129
to any other notices required under this chapter or under any 7130
other provision of law, the prosecutor in the case shall send 7131
written notice of the charges to the department of ~~mental~~ 7132
~~retardation and~~ developmental disabilities. The written notice 7133
shall specifically identify the person so charged. 7134

(B) As used in this section, "mentally retarded person" and 7135
"developmentally disabled person" have the same meanings as in 7136
section 5123.01 of the Revised Code. 7137

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, 7138
deputy marshal, municipal police officer, township constable, 7139
police officer of a township or joint township police district, 7140
member of a police force employed by a metropolitan housing 7141
authority under division (D) of section 3735.31 of the Revised 7142
Code, member of a police force employed by a regional transit 7143
authority under division (Y) of section 306.35 of the Revised 7144
Code, state university law enforcement officer appointed under 7145
section 3345.04 of the Revised Code, veterans' home police officer 7146
appointed under section 5907.02 of the Revised Code, special 7147
police officer employed by a port authority under section 4582.04 7148
or 4582.28 of the Revised Code, or a special police officer 7149
employed by a municipal corporation at a municipal airport, or 7150
other municipal air navigation facility, that has scheduled 7151

operations, as defined in section 119.3 of Title 14 of the Code of 7152
Federal Regulations, 14 C.F.R. 119.3, as amended, and that is 7153
required to be under a security program and is governed by 7154
aviation security rules of the transportation security 7155
administration of the United States department of transportation 7156
as provided in Parts 1542. and 1544. of Title 49 of the Code of 7157
Federal Regulations, as amended, shall arrest and detain, until a 7158
warrant can be obtained, a person found violating, within the 7159
limits of the political subdivision, metropolitan housing 7160
authority housing project, regional transit authority facilities 7161
or areas of a municipal corporation that have been agreed to by a 7162
regional transit authority and a municipal corporation located 7163
within its territorial jurisdiction, college, university, 7164
veterans' home operated under Chapter 5907. of the Revised Code, 7165
port authority, or municipal airport or other municipal air 7166
navigation facility, in which the peace officer is appointed, 7167
employed, or elected, a law of this state, an ordinance of a 7168
municipal corporation, or a resolution of a township. 7169

(2) A peace officer of the department of natural resources, a 7170
state fire marshal law enforcement officer described in division 7171
(A)(23) of section 109.71 of the Revised Code, or an individual 7172
designated to perform law enforcement duties under section 7173
511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and 7174
detain, until a warrant can be obtained, a person found violating, 7175
within the limits of the peace officer's, state fire marshal law 7176
enforcement officer's, or individual's territorial jurisdiction, a 7177
law of this state. 7178

(3) The house sergeant at arms if the house sergeant at arms 7179
has arrest authority pursuant to division (E)(1) of section 7180
101.311 of the Revised Code and an assistant house sergeant at 7181
arms shall arrest and detain, until a warrant can be obtained, a 7182
person found violating, within the limits of the sergeant at 7183

arms's or assistant sergeant at arms's territorial jurisdiction 7184
specified in division (D)(1)(a) of section 101.311 of the Revised 7185
Code or while providing security pursuant to division (D)(1)(f) of 7186
section 101.311 of the Revised Code, a law of this state, an 7187
ordinance of a municipal corporation, or a resolution of a 7188
township. 7189

(B)(1) When there is reasonable ground to believe that an 7190
offense of violence, the offense of criminal child enticement as 7191
defined in section 2905.05 of the Revised Code, the offense of 7192
public indecency as defined in section 2907.09 of the Revised 7193
Code, the offense of domestic violence as defined in section 7194
2919.25 of the Revised Code, the offense of violating a protection 7195
order as defined in section 2919.27 of the Revised Code, the 7196
offense of menacing by stalking as defined in section 2903.211 of 7197
the Revised Code, the offense of aggravated trespass as defined in 7198
section 2911.211 of the Revised Code, a theft offense as defined 7199
in section 2913.01 of the Revised Code, or a felony drug abuse 7200
offense as defined in section 2925.01 of the Revised Code, has 7201
been committed within the limits of the political subdivision, 7202
metropolitan housing authority housing project, regional transit 7203
authority facilities or those areas of a municipal corporation 7204
that have been agreed to by a regional transit authority and a 7205
municipal corporation located within its territorial jurisdiction, 7206
college, university, veterans' home operated under Chapter 5907. 7207
of the Revised Code, port authority, or municipal airport or other 7208
municipal air navigation facility, in which the peace officer is 7209
appointed, employed, or elected or within the limits of the 7210
territorial jurisdiction of the peace officer, a peace officer 7211
described in division (A) of this section may arrest and detain 7212
until a warrant can be obtained any person who the peace officer 7213
has reasonable cause to believe is guilty of the violation. 7214

(2) For purposes of division (B)(1) of this section, the 7215

execution of any of the following constitutes reasonable ground to 7216
believe that the offense alleged in the statement was committed 7217
and reasonable cause to believe that the person alleged in the 7218
statement to have committed the offense is guilty of the 7219
violation: 7220

(a) A written statement by a person alleging that an alleged 7221
offender has committed the offense of menacing by stalking or 7222
aggravated trespass; 7223

(b) A written statement by the administrator of the 7224
interstate compact on mental health appointed under section 7225
5119.51 of the Revised Code alleging that a person who had been 7226
hospitalized, institutionalized, or confined in any facility under 7227
an order made pursuant to or under authority of section 2945.37, 7228
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 7229
Revised Code has escaped from the facility, from confinement in a 7230
vehicle for transportation to or from the facility, or from 7231
supervision by an employee of the facility that is incidental to 7232
hospitalization, institutionalization, or confinement in the 7233
facility and that occurs outside of the facility, in violation of 7234
section 2921.34 of the Revised Code; 7235

(c) A written statement by the administrator of any facility 7236
in which a person has been hospitalized, institutionalized, or 7237
confined under an order made pursuant to or under authority of 7238
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 7239
2945.402 of the Revised Code alleging that the person has escaped 7240
from the facility, from confinement in a vehicle for 7241
transportation to or from the facility, or from supervision by an 7242
employee of the facility that is incidental to hospitalization, 7243
institutionalization, or confinement in the facility and that 7244
occurs outside of the facility, in violation of section 2921.34 of 7245
the Revised Code. 7246

(3)(a) For purposes of division (B)(1) of this section, a 7247

peace officer described in division (A) of this section has 7248
reasonable grounds to believe that the offense of domestic 7249
violence or the offense of violating a protection order has been 7250
committed and reasonable cause to believe that a particular person 7251
is guilty of committing the offense if any of the following 7252
occurs: 7253

(i) A person executes a written statement alleging that the 7254
person in question has committed the offense of domestic violence 7255
or the offense of violating a protection order against the person 7256
who executes the statement or against a child of the person who 7257
executes the statement. 7258

(ii) No written statement of the type described in division 7259
(B)(3)(a)(i) of this section is executed, but the peace officer, 7260
based upon the peace officer's own knowledge and observation of 7261
the facts and circumstances of the alleged incident of the offense 7262
of domestic violence or the alleged incident of the offense of 7263
violating a protection order or based upon any other information, 7264
including, but not limited to, any reasonably trustworthy 7265
information given to the peace officer by the alleged victim of 7266
the alleged incident of the offense or any witness of the alleged 7267
incident of the offense, concludes that there are reasonable 7268
grounds to believe that the offense of domestic violence or the 7269
offense of violating a protection order has been committed and 7270
reasonable cause to believe that the person in question is guilty 7271
of committing the offense. 7272

(iii) No written statement of the type described in division 7273
(B)(3)(a)(i) of this section is executed, but the peace officer 7274
witnessed the person in question commit the offense of domestic 7275
violence or the offense of violating a protection order. 7276

(b) If pursuant to division (B)(3)(a) of this section a peace 7277
officer has reasonable grounds to believe that the offense of 7278
domestic violence or the offense of violating a protection order 7279

has been committed and reasonable cause to believe that a 7280
particular person is guilty of committing the offense, it is the 7281
preferred course of action in this state that the officer arrest 7282
and detain that person pursuant to division (B)(1) of this section 7283
until a warrant can be obtained. 7284

If pursuant to division (B)(3)(a) of this section a peace 7285
officer has reasonable grounds to believe that the offense of 7286
domestic violence or the offense of violating a protection order 7287
has been committed and reasonable cause to believe that family or 7288
household members have committed the offense against each other, 7289
it is the preferred course of action in this state that the 7290
officer, pursuant to division (B)(1) of this section, arrest and 7291
detain until a warrant can be obtained the family or household 7292
member who committed the offense and whom the officer has 7293
reasonable cause to believe is the primary physical aggressor. 7294
There is no preferred course of action in this state regarding any 7295
other family or household member who committed the offense and 7296
whom the officer does not have reasonable cause to believe is the 7297
primary physical aggressor, but, pursuant to division (B)(1) of 7298
this section, the peace officer may arrest and detain until a 7299
warrant can be obtained any other family or household member who 7300
committed the offense and whom the officer does not have 7301
reasonable cause to believe is the primary physical aggressor. 7302

(c) If a peace officer described in division (A) of this 7303
section does not arrest and detain a person whom the officer has 7304
reasonable cause to believe committed the offense of domestic 7305
violence or the offense of violating a protection order when it is 7306
the preferred course of action in this state pursuant to division 7307
(B)(3)(b) of this section that the officer arrest that person, the 7308
officer shall articulate in the written report of the incident 7309
required by section 2935.032 of the Revised Code a clear statement 7310
of the officer's reasons for not arresting and detaining that 7311

person until a warrant can be obtained. 7312

(d) In determining for purposes of division (B)(3)(b) of this 7313
section which family or household member is the primary physical 7314
aggressor in a situation in which family or household members have 7315
committed the offense of domestic violence or the offense of 7316
violating a protection order against each other, a peace officer 7317
described in division (A) of this section, in addition to any 7318
other relevant circumstances, should consider all of the 7319
following: 7320

(i) Any history of domestic violence or of any other violent 7321
acts by either person involved in the alleged offense that the 7322
officer reasonably can ascertain; 7323

(ii) If violence is alleged, whether the alleged violence was 7324
caused by a person acting in self-defense; 7325

(iii) Each person's fear of physical harm, if any, resulting 7326
from the other person's threatened use of force against any person 7327
or resulting from the other person's use or history of the use of 7328
force against any person, and the reasonableness of that fear; 7329

(iv) The comparative severity of any injuries suffered by the 7330
persons involved in the alleged offense. 7331

(e)(i) A peace officer described in division (A) of this 7332
section shall not require, as a prerequisite to arresting or 7333
charging a person who has committed the offense of domestic 7334
violence or the offense of violating a protection order, that the 7335
victim of the offense specifically consent to the filing of 7336
charges against the person who has committed the offense or sign a 7337
complaint against the person who has committed the offense. 7338

(ii) If a person is arrested for or charged with committing 7339
the offense of domestic violence or the offense of violating a 7340
protection order and if the victim of the offense does not 7341
cooperate with the involved law enforcement or prosecuting 7342

authorities in the prosecution of the offense or, subsequent to 7343
the arrest or the filing of the charges, informs the involved law 7344
enforcement or prosecuting authorities that the victim does not 7345
wish the prosecution of the offense to continue or wishes to drop 7346
charges against the alleged offender relative to the offense, the 7347
involved prosecuting authorities, in determining whether to 7348
continue with the prosecution of the offense or whether to dismiss 7349
charges against the alleged offender relative to the offense and 7350
notwithstanding the victim's failure to cooperate or the victim's 7351
wishes, shall consider all facts and circumstances that are 7352
relevant to the offense, including, but not limited to, the 7353
statements and observations of the peace officers who responded to 7354
the incident that resulted in the arrest or filing of the charges 7355
and of all witnesses to that incident. 7356

(f) In determining pursuant to divisions (B)(3)(a) to (g) of 7357
this section whether to arrest a person pursuant to division 7358
(B)(1) of this section, a peace officer described in division (A) 7359
of this section shall not consider as a factor any possible 7360
shortage of cell space at the detention facility to which the 7361
person will be taken subsequent to the person's arrest or any 7362
possibility that the person's arrest might cause, contribute to, 7363
or exacerbate overcrowding at that detention facility or at any 7364
other detention facility. 7365

(g) If a peace officer described in division (A) of this 7366
section intends pursuant to divisions (B)(3)(a) to (g) of this 7367
section to arrest a person pursuant to division (B)(1) of this 7368
section and if the officer is unable to do so because the person 7369
is not present, the officer promptly shall seek a warrant for the 7370
arrest of the person. 7371

(h) If a peace officer described in division (A) of this 7372
section responds to a report of an alleged incident of the offense 7373
of domestic violence or an alleged incident of the offense of 7374

violating a protection order and if the circumstances of the 7375
incident involved the use or threatened use of a deadly weapon or 7376
any person involved in the incident brandished a deadly weapon 7377
during or in relation to the incident, the deadly weapon that was 7378
used, threatened to be used, or brandished constitutes contraband, 7379
and, to the extent possible, the officer shall seize the deadly 7380
weapon as contraband pursuant to Chapter 2981. of the Revised 7381
Code. Upon the seizure of a deadly weapon pursuant to division 7382
(B)(3)(h) of this section, section 2981.12 of the Revised Code 7383
shall apply regarding the treatment and disposition of the deadly 7384
weapon. For purposes of that section, the "underlying criminal 7385
offense" that was the basis of the seizure of a deadly weapon 7386
under division (B)(3)(h) of this section and to which the deadly 7387
weapon had a relationship is any of the following that is 7388
applicable: 7389

(i) The alleged incident of the offense of domestic violence 7390
or the alleged incident of the offense of violating a protection 7391
order to which the officer who seized the deadly weapon responded; 7392

(ii) Any offense that arose out of the same facts and 7393
circumstances as the report of the alleged incident of the offense 7394
of domestic violence or the alleged incident of the offense of 7395
violating a protection order to which the officer who seized the 7396
deadly weapon responded. 7397

(4) If, in the circumstances described in divisions (B)(3)(a) 7398
to (g) of this section, a peace officer described in division (A) 7399
of this section arrests and detains a person pursuant to division 7400
(B)(1) of this section, or if, pursuant to division (B)(3)(h) of 7401
this section, a peace officer described in division (A) of this 7402
section seizes a deadly weapon, the officer, to the extent 7403
described in and in accordance with section 9.86 or 2744.03 of the 7404
Revised Code, is immune in any civil action for damages for 7405
injury, death, or loss to person or property that arises from or 7406

is related to the arrest and detention or the seizure. 7407

(C) When there is reasonable ground to believe that a 7408
violation of division (A)(1), (2), (3), (4), or (5) of section 7409
4506.15 or a violation of section 4511.19 of the Revised Code has 7410
been committed by a person operating a motor vehicle subject to 7411
regulation by the public utilities commission of Ohio under Title 7412
XLIX of the Revised Code, a peace officer with authority to 7413
enforce that provision of law may stop or detain the person whom 7414
the officer has reasonable cause to believe was operating the 7415
motor vehicle in violation of the division or section and, after 7416
investigating the circumstances surrounding the operation of the 7417
vehicle, may arrest and detain the person. 7418

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 7419
municipal police officer, member of a police force employed by a 7420
metropolitan housing authority under division (D) of section 7421
3735.31 of the Revised Code, member of a police force employed by 7422
a regional transit authority under division (Y) of section 306.35 7423
of the Revised Code, special police officer employed by a port 7424
authority under section 4582.04 or 4582.28 of the Revised Code, 7425
special police officer employed by a municipal corporation at a 7426
municipal airport or other municipal air navigation facility 7427
described in division (A) of this section, township constable, 7428
police officer of a township or joint township police district, 7429
state university law enforcement officer appointed under section 7430
3345.04 of the Revised Code, peace officer of the department of 7431
natural resources, individual designated to perform law 7432
enforcement duties under section 511.232, 1545.13, or 6101.75 of 7433
the Revised Code, the house sergeant at arms if the house sergeant 7434
at arms has arrest authority pursuant to division (E)(1) of 7435
section 101.311 of the Revised Code, or an assistant house 7436
sergeant at arms is authorized by division (A) or (B) of this 7437
section to arrest and detain, within the limits of the political 7438

subdivision, metropolitan housing authority housing project, 7439
regional transit authority facilities or those areas of a 7440
municipal corporation that have been agreed to by a regional 7441
transit authority and a municipal corporation located within its 7442
territorial jurisdiction, port authority, municipal airport or 7443
other municipal air navigation facility, college, or university in 7444
which the officer is appointed, employed, or elected or within the 7445
limits of the territorial jurisdiction of the peace officer, a 7446
person until a warrant can be obtained, the peace officer, outside 7447
the limits of that territory, may pursue, arrest, and detain that 7448
person until a warrant can be obtained if all of the following 7449
apply: 7450

(1) The pursuit takes place without unreasonable delay after 7451
the offense is committed; 7452

(2) The pursuit is initiated within the limits of the 7453
political subdivision, metropolitan housing authority housing 7454
project, regional transit authority facilities or those areas of a 7455
municipal corporation that have been agreed to by a regional 7456
transit authority and a municipal corporation located within its 7457
territorial jurisdiction, port authority, municipal airport or 7458
other municipal air navigation facility, college, or university in 7459
which the peace officer is appointed, employed, or elected or 7460
within the limits of the territorial jurisdiction of the peace 7461
officer; 7462

(3) The offense involved is a felony, a misdemeanor of the 7463
first degree or a substantially equivalent municipal ordinance, a 7464
misdemeanor of the second degree or a substantially equivalent 7465
municipal ordinance, or any offense for which points are 7466
chargeable pursuant to section 4510.036 of the Revised Code. 7467

(E) In addition to the authority granted under division (A) 7468
or (B) of this section: 7469

(1) A sheriff or deputy sheriff may arrest and detain, until 7470
a warrant can be obtained, any person found violating section 7471
4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 7472
4549.62, or Chapter 4511. or 4513. of the Revised Code on the 7473
portion of any street or highway that is located immediately 7474
adjacent to the boundaries of the county in which the sheriff or 7475
deputy sheriff is elected or appointed. 7476

(2) A member of the police force of a township police 7477
district created under section 505.48 of the Revised Code, a 7478
member of the police force of a joint township police district 7479
created under section 505.481 of the Revised Code, or a township 7480
constable appointed in accordance with section 509.01 of the 7481
Revised Code, who has received a certificate from the Ohio peace 7482
officer training commission under section 109.75 of the Revised 7483
Code, may arrest and detain, until a warrant can be obtained, any 7484
person found violating any section or chapter of the Revised Code 7485
listed in division (E)(1) of this section, other than sections 7486
4513.33 and 4513.34 of the Revised Code, on the portion of any 7487
street or highway that is located immediately adjacent to the 7488
boundaries of the township police district or joint township 7489
police district, in the case of a member of a township police 7490
district or joint township police district police force, or the 7491
unincorporated territory of the township, in the case of a 7492
township constable. However, if the population of the township 7493
that created the township police district served by the member's 7494
police force, or the townships that created the joint township 7495
police district served by the member's police force, or the 7496
township that is served by the township constable, is sixty 7497
thousand or less, the member of the township police district or 7498
joint police district police force or the township constable may 7499
not make an arrest under division (E)(2) of this section on a 7500
state highway that is included as part of the interstate system. 7501

(3) A police officer or village marshal appointed, elected, 7502
or employed by a municipal corporation may arrest and detain, 7503
until a warrant can be obtained, any person found violating any 7504
section or chapter of the Revised Code listed in division (E)(1) 7505
of this section on the portion of any street or highway that is 7506
located immediately adjacent to the boundaries of the municipal 7507
corporation in which the police officer or village marshal is 7508
appointed, elected, or employed. 7509

(4) A peace officer of the department of natural resources, a 7510
state fire marshal law enforcement officer described in division 7511
(A)(23) of section 109.71 of the Revised Code, or an individual 7512
designated to perform law enforcement duties under section 7513
511.232, 1545.13, or 6101.75 of the Revised Code may arrest and 7514
detain, until a warrant can be obtained, any person found 7515
violating any section or chapter of the Revised Code listed in 7516
division (E)(1) of this section, other than sections 4513.33 and 7517
4513.34 of the Revised Code, on the portion of any street or 7518
highway that is located immediately adjacent to the boundaries of 7519
the lands and waters that constitute the territorial jurisdiction 7520
of the peace officer or state fire marshal law enforcement 7521
officer. 7522

(F)(1) A department of mental health special police officer 7523
or a department of ~~mental retardation and~~ developmental 7524
disabilities special police officer may arrest without a warrant 7525
and detain until a warrant can be obtained any person found 7526
committing on the premises of any institution under the 7527
jurisdiction of the particular department a misdemeanor under a 7528
law of the state. 7529

A department of mental health special police officer or a 7530
department of ~~mental retardation and~~ developmental disabilities 7531
special police officer may arrest without a warrant and detain 7532
until a warrant can be obtained any person who has been 7533

hospitalized, institutionalized, or confined in an institution 7534
under the jurisdiction of the particular department pursuant to or 7535
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 7536
2945.40, 2945.401, or 2945.402 of the Revised Code and who is 7537
found committing on the premises of any institution under the 7538
jurisdiction of the particular department a violation of section 7539
2921.34 of the Revised Code that involves an escape from the 7540
premises of the institution. 7541

(2)(a) If a department of mental health special police 7542
officer or a department of ~~mental retardation and~~ developmental 7543
disabilities special police officer finds any person who has been 7544
hospitalized, institutionalized, or confined in an institution 7545
under the jurisdiction of the particular department pursuant to or 7546
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 7547
2945.40, 2945.401, or 2945.402 of the Revised Code committing a 7548
violation of section 2921.34 of the Revised Code that involves an 7549
escape from the premises of the institution, or if there is 7550
reasonable ground to believe that a violation of section 2921.34 7551
of the Revised Code has been committed that involves an escape 7552
from the premises of an institution under the jurisdiction of the 7553
department of mental health or the department of ~~mental~~ 7554
~~retardation and~~ developmental disabilities and if a department of 7555
mental health special police officer or a department of ~~mental~~ 7556
~~retardation and~~ developmental disabilities special police officer 7557
has reasonable cause to believe that a particular person who has 7558
been hospitalized, institutionalized, or confined in the 7559
institution pursuant to or under authority of section 2945.37, 7560
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 7561
Revised Code is guilty of the violation, the special police 7562
officer, outside of the premises of the institution, may pursue, 7563
arrest, and detain that person for that violation of section 7564
2921.34 of the Revised Code, until a warrant can be obtained, if 7565
both of the following apply: 7566

(i) The pursuit takes place without unreasonable delay after 7567
the offense is committed; 7568

(ii) The pursuit is initiated within the premises of the 7569
institution from which the violation of section 2921.34 of the 7570
Revised Code occurred. 7571

(b) For purposes of division (F)(2)(a) of this section, the 7572
execution of a written statement by the administrator of the 7573
institution in which a person had been hospitalized, 7574
institutionalized, or confined pursuant to or under authority of 7575
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 7576
2945.402 of the Revised Code alleging that the person has escaped 7577
from the premises of the institution in violation of section 7578
2921.34 of the Revised Code constitutes reasonable ground to 7579
believe that the violation was committed and reasonable cause to 7580
believe that the person alleged in the statement to have committed 7581
the offense is guilty of the violation. 7582

(G) As used in this section: 7583

(1) A "department of mental health special police officer" 7584
means a special police officer of the department of mental health 7585
designated under section 5119.14 of the Revised Code who is 7586
certified by the Ohio peace officer training commission under 7587
section 109.77 of the Revised Code as having successfully 7588
completed an approved peace officer basic training program. 7589

(2) A "department of ~~mental retardation and~~ developmental 7590
disabilities special police officer" means a special police 7591
officer of the department of ~~mental retardation and~~ developmental 7592
disabilities designated under section 5123.13 of the Revised Code 7593
who is certified by the Ohio peace officer training council under 7594
section 109.77 of the Revised Code as having successfully 7595
completed an approved peace officer basic training program. 7596

(3) "Deadly weapon" has the same meaning as in section 7597

2923.11 of the Revised Code. 7598

(4) "Family or household member" has the same meaning as in 7599
section 2919.25 of the Revised Code. 7600

(5) "Street" or "highway" has the same meaning as in section 7601
4511.01 of the Revised Code. 7602

(6) "Interstate system" has the same meaning as in section 7603
5516.01 of the Revised Code. 7604

(7) "Peace officer of the department of natural resources" 7605
means an employee of the department of natural resources who is a 7606
natural resources law enforcement staff officer designated 7607
pursuant to section 1501.013 of the Revised Code, a forest officer 7608
designated pursuant to section 1503.29 of the Revised Code, a 7609
preserve officer designated pursuant to section 1517.10 of the 7610
Revised Code, a wildlife officer designated pursuant to section 7611
1531.13 of the Revised Code, a park officer designated pursuant to 7612
section 1541.10 of the Revised Code, or a state watercraft officer 7613
designated pursuant to section 1547.521 of the Revised Code. 7614

(8) "Portion of any street or highway" means all lanes of the 7615
street or highway irrespective of direction of travel, including 7616
designated turn lanes, and any berm, median, or shoulder. 7617

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 of 7618
the Revised Code: 7619

(1) "Prosecutor" means a prosecuting attorney or a city 7620
director of law, village solicitor, or similar chief legal officer 7621
of a municipal corporation who has authority to prosecute a 7622
criminal case that is before the court or the criminal case in 7623
which a defendant in a criminal case has been found incompetent to 7624
stand trial or not guilty by reason of insanity. 7625

(2) "Examiner" means either of the following: 7626

(a) A psychiatrist or a licensed clinical psychologist who 7627

satisfies the criteria of division (I)(1) of section 5122.01 of 7628
the Revised Code or is employed by a certified forensic center 7629
designated by the department of mental health to conduct 7630
examinations or evaluations. 7631

(b) For purposes of a separate mental retardation evaluation 7632
that is ordered by a court pursuant to division (H) of section 7633
2945.371 of the Revised Code, a psychologist designated by the 7634
director of ~~mental retardation and~~ developmental disabilities 7635
pursuant to that section to conduct that separate mental 7636
retardation evaluation. 7637

(3) "Nonsecured status" means any unsupervised, off-grounds 7638
movement or trial visit from a hospital or institution, or any 7639
conditional release, that is granted to a person who is found 7640
incompetent to stand trial and is committed pursuant to section 7641
2945.39 of the Revised Code or to a person who is found not guilty 7642
by reason of insanity and is committed pursuant to section 2945.40 7643
of the Revised Code. 7644

(4) "Unsupervised, off-grounds movement" includes only 7645
off-grounds privileges that are unsupervised and that have an 7646
expectation of return to the hospital or institution on a daily 7647
basis. 7648

(5) "Trial visit" means a patient privilege of a longer 7649
stated duration of unsupervised community contact with an 7650
expectation of return to the hospital or institution at designated 7651
times. 7652

(6) "Conditional release" means a commitment status under 7653
which the trial court at any time may revoke a person's 7654
conditional release and order the rehospitalization or 7655
reinstitutionalization of the person as described in division (A) 7656
of section 2945.402 of the Revised Code and pursuant to which a 7657
person who is found incompetent to stand trial or a person who is 7658

found not guilty by reason of insanity lives and receives 7659
treatment in the community for a period of time that does not 7660
exceed the maximum prison term or term of imprisonment that the 7661
person could have received for the offense in question had the 7662
person been convicted of the offense instead of being found 7663
incompetent to stand trial on the charge of the offense or being 7664
found not guilty by reason of insanity relative to the offense. 7665

(7) "Licensed clinical psychologist," "mentally ill person 7666
subject to hospitalization by court order," and "psychiatrist" 7667
have the same meanings as in section 5122.01 of the Revised Code. 7668

(8) "Mentally retarded person subject to institutionalization 7669
by court order" has the same meaning as in section 5123.01 of the 7670
Revised Code. 7671

(B) In a criminal action in a court of common pleas, a county 7672
court, or a municipal court, the court, prosecutor, or defense may 7673
raise the issue of the defendant's competence to stand trial. If 7674
the issue is raised before the trial has commenced, the court 7675
shall hold a hearing on the issue as provided in this section. If 7676
the issue is raised after the trial has commenced, the court shall 7677
hold a hearing on the issue only for good cause shown or on the 7678
court's own motion. 7679

(C) The court shall conduct the hearing required or 7680
authorized under division (B) of this section within thirty days 7681
after the issue is raised, unless the defendant has been referred 7682
for evaluation in which case the court shall conduct the hearing 7683
within ten days after the filing of the report of the evaluation 7684
or, in the case of a defendant who is ordered by the court 7685
pursuant to division (H) of section 2945.371 of the Revised Code 7686
to undergo a separate mental retardation evaluation conducted by a 7687
psychologist designated by the director of ~~mental retardation and~~ 7688
developmental disabilities, within ten days after the filing of 7689
the report of the separate mental retardation evaluation under 7690

that division. A hearing may be continued for good cause. 7691

(D) The defendant shall be represented by counsel at the 7692
hearing conducted under division (C) of this section. If the 7693
defendant is unable to obtain counsel, the court shall appoint 7694
counsel under Chapter 120. of the Revised Code or under the 7695
authority recognized in division (C) of section 120.06, division 7696
(E) of section 120.16, division (E) of section 120.26, or section 7697
2941.51 of the Revised Code before proceeding with the hearing. 7698

(E) The prosecutor and defense counsel may submit evidence on 7699
the issue of the defendant's competence to stand trial. A written 7700
report of the evaluation of the defendant may be admitted into 7701
evidence at the hearing by stipulation, but, if either the 7702
prosecution or defense objects to its admission, the report may be 7703
admitted under sections 2317.36 to 2317.38 of the Revised Code or 7704
any other applicable statute or rule. 7705

(F) The court shall not find a defendant incompetent to stand 7706
trial solely because the defendant is receiving or has received 7707
treatment as a voluntary or involuntary mentally ill patient under 7708
Chapter 5122. or a voluntary or involuntary mentally retarded 7709
resident under Chapter 5123. of the Revised Code or because the 7710
defendant is receiving or has received psychotropic drugs or other 7711
medication, even if the defendant might become incompetent to 7712
stand trial without the drugs or medication. 7713

(G) A defendant is presumed to be competent to stand trial. 7714
If, after a hearing, the court finds by a preponderance of the 7715
evidence that, because of the defendant's present mental 7716
condition, the defendant is incapable of understanding the nature 7717
and objective of the proceedings against the defendant or of 7718
assisting in the defendant's defense, the court shall find the 7719
defendant incompetent to stand trial and shall enter an order 7720
authorized by section 2945.38 of the Revised Code. 7721

(H) Municipal courts shall follow the procedures set forth in 7722
sections 2945.37 to 2945.402 of the Revised Code. Except as 7723
provided in section 2945.371 of the Revised Code, a municipal 7724
court shall not order an evaluation of the defendant's competence 7725
to stand trial or the defendant's mental condition at the time of 7726
the commission of the offense to be conducted at any hospital 7727
operated by the department of mental health. Those evaluations 7728
shall be performed through community resources including, but not 7729
limited to, certified forensic centers, court probation 7730
departments, and community mental health agencies. All expenses of 7731
the evaluations shall be borne by the legislative authority of the 7732
municipal court, as defined in section 1901.03 of the Revised 7733
Code, and shall be taxed as costs in the case. If a defendant is 7734
found incompetent to stand trial or not guilty by reason of 7735
insanity, a municipal court may commit the defendant as provided 7736
in sections 2945.38 to 2945.402 of the Revised Code. 7737

Sec. 2945.371. (A) If the issue of a defendant's competence 7738
to stand trial is raised or if a defendant enters a plea of not 7739
guilty by reason of insanity, the court may order one or more 7740
evaluations of the defendant's present mental condition or, in the 7741
case of a plea of not guilty by reason of insanity, of the 7742
defendant's mental condition at the time of the offense charged. 7743
An examiner shall conduct the evaluation. 7744

(B) If the court orders more than one evaluation under 7745
division (A) of this section, the prosecutor and the defendant may 7746
recommend to the court an examiner whom each prefers to perform 7747
one of the evaluations. If a defendant enters a plea of not guilty 7748
by reason of insanity and if the court does not designate an 7749
examiner recommended by the defendant, the court shall inform the 7750
defendant that the defendant may have independent expert 7751
evaluation and that, if the defendant is unable to obtain 7752
independent expert evaluation, it will be obtained for the 7753

defendant at public expense if the defendant is indigent. 7754

(C) If the court orders an evaluation under division (A) of 7755
this section, the defendant shall be available at the times and 7756
places established by the examiners who are to conduct the 7757
evaluation. The court may order a defendant who has been released 7758
on bail or recognizance to submit to an evaluation under this 7759
section. If a defendant who has been released on bail or 7760
recognizance refuses to submit to a complete evaluation, the court 7761
may amend the conditions of bail or recognizance and order the 7762
sheriff to take the defendant into custody and deliver the 7763
defendant to a center, program, or facility operated or certified 7764
by the department of mental health or the department of ~~mental~~ 7765
~~retardation and~~ developmental disabilities where the defendant may 7766
be held for evaluation for a reasonable period of time not to 7767
exceed twenty days. 7768

(D) A defendant who has not been released on bail or 7769
recognizance may be evaluated at the defendant's place of 7770
detention. Upon the request of the examiner, the court may order 7771
the sheriff to transport the defendant to a program or facility 7772
operated by the department of mental health or the department of 7773
~~mental retardation and~~ developmental disabilities, where the 7774
defendant may be held for evaluation for a reasonable period of 7775
time not to exceed twenty days, and to return the defendant to the 7776
place of detention after the evaluation. A municipal court may 7777
make an order under this division only upon the request of a 7778
certified forensic center examiner. 7779

(E) If a court orders the evaluation to determine a 7780
defendant's mental condition at the time of the offense charged, 7781
the court shall inform the examiner of the offense with which the 7782
defendant is charged. 7783

(F) In conducting an evaluation of a defendant's mental 7784
condition at the time of the offense charged, the examiner shall 7785

consider all relevant evidence. If the offense charged involves 7786
the use of force against another person, the relevant evidence to 7787
be considered includes, but is not limited to, any evidence that 7788
the defendant suffered, at the time of the commission of the 7789
offense, from the "battered woman syndrome." 7790

(G) The examiner shall file a written report with the court 7791
within thirty days after entry of a court order for evaluation, 7792
and the court shall provide copies of the report to the prosecutor 7793
and defense counsel. The report shall include all of the 7794
following: 7795

(1) The examiner's findings; 7796

(2) The facts in reasonable detail on which the findings are 7797
based; 7798

(3) If the evaluation was ordered to determine the 7799
defendant's competence to stand trial, all of the following 7800
findings or recommendations that are applicable: 7801

(a) Whether the defendant is capable of understanding the 7802
nature and objective of the proceedings against the defendant or 7803
of assisting in the defendant's defense; 7804

(b) If the examiner's opinion is that the defendant is 7805
incapable of understanding the nature and objective of the 7806
proceedings against the defendant or of assisting in the 7807
defendant's defense, whether the defendant presently is mentally 7808
ill or mentally retarded and, if the examiner's opinion is that 7809
the defendant presently is mentally retarded, whether the 7810
defendant appears to be a mentally retarded person subject to 7811
institutionalization by court order; 7812

(c) If the examiner's opinion is that the defendant is 7813
incapable of understanding the nature and objective of the 7814
proceedings against the defendant or of assisting in the 7815
defendant's defense, the examiner's opinion as to the likelihood 7816

of the defendant becoming capable of understanding the nature and 7817
objective of the proceedings against the defendant and of 7818
assisting in the defendant's defense within one year if the 7819
defendant is provided with a course of treatment; 7820

(d) If the examiner's opinion is that the defendant is 7821
incapable of understanding the nature and objective of the 7822
proceedings against the defendant or of assisting in the 7823
defendant's defense and that the defendant presently is mentally 7824
ill or mentally retarded, the examiner's recommendation as to the 7825
least restrictive treatment alternative, consistent with the 7826
defendant's treatment needs for restoration to competency and with 7827
the safety of the community. 7828

(4) If the evaluation was ordered to determine the 7829
defendant's mental condition at the time of the offense charged, 7830
the examiner's findings as to whether the defendant, at the time 7831
of the offense charged, did not know, as a result of a severe 7832
mental disease or defect, the wrongfulness of the defendant's acts 7833
charged. 7834

(H) If the examiner's report filed under division (G) of this 7835
section indicates that in the examiner's opinion the defendant is 7836
incapable of understanding the nature and objective of the 7837
proceedings against the defendant or of assisting in the 7838
defendant's defense and that in the examiner's opinion the 7839
defendant appears to be a mentally retarded person subject to 7840
institutionalization by court order, the court shall order the 7841
defendant to undergo a separate mental retardation evaluation 7842
conducted by a psychologist designated by the director of ~~mental~~ 7843
~~retardation~~ and developmental disabilities. Divisions (C) to (F) 7844
of this section apply in relation to a separate mental retardation 7845
evaluation conducted under this division. The psychologist 7846
appointed under this division to conduct the separate mental 7847
retardation evaluation shall file a written report with the court 7848

within thirty days after the entry of the court order requiring 7849
the separate mental retardation evaluation, and the court shall 7850
provide copies of the report to the prosecutor and defense 7851
counsel. The report shall include all of the information described 7852
in divisions (G)(1) to (4) of this section. If the court orders a 7853
separate mental retardation evaluation of a defendant under this 7854
division, the court shall not conduct a hearing under divisions 7855
(B) to (H) of section 2945.37 of the Revised Code regarding that 7856
defendant until a report of the separate mental retardation 7857
evaluation conducted under this division has been filed. Upon the 7858
filing of that report, the court shall conduct the hearing within 7859
the period of time specified in division (C) of section 2945.37 of 7860
the Revised Code. 7861

(I) An examiner appointed under divisions (A) and (B) of this 7862
section or under division (H) of this section to evaluate a 7863
defendant to determine the defendant's competence to stand trial 7864
also may be appointed to evaluate a defendant who has entered a 7865
plea of not guilty by reason of insanity, but an examiner of that 7866
nature shall prepare separate reports on the issue of competence 7867
to stand trial and the defense of not guilty by reason of 7868
insanity. 7869

(J) No statement that a defendant makes in an evaluation or 7870
hearing under divisions (A) to (H) of this section relating to the 7871
defendant's competence to stand trial or to the defendant's mental 7872
condition at the time of the offense charged shall be used against 7873
the defendant on the issue of guilt in any criminal action or 7874
proceeding, but, in a criminal action or proceeding, the 7875
prosecutor or defense counsel may call as a witness any person who 7876
evaluated the defendant or prepared a report pursuant to a 7877
referral under this section. Neither the appointment nor the 7878
testimony of an examiner appointed under this section precludes 7879
the prosecutor or defense counsel from calling other witnesses or 7880

presenting other evidence on competency or insanity issues. 7881

(K) Persons appointed as examiners under divisions (A) and 7882
(B) of this section or under division (H) of this section shall be 7883
paid a reasonable amount for their services and expenses, as 7884
certified by the court. The certified amount shall be paid by the 7885
county in the case of county courts and courts of common pleas and 7886
by the legislative authority, as defined in section 1901.03 of the 7887
Revised Code, in the case of municipal courts. 7888

Sec. 2945.38. (A) If the issue of a defendant's competence to 7889
stand trial is raised and if the court, upon conducting the 7890
hearing provided for in section 2945.37 of the Revised Code, finds 7891
that the defendant is competent to stand trial, the defendant 7892
shall be proceeded against as provided by law. If the court finds 7893
the defendant competent to stand trial and the defendant is 7894
receiving psychotropic drugs or other medication, the court may 7895
authorize the continued administration of the drugs or medication 7896
or other appropriate treatment in order to maintain the 7897
defendant's competence to stand trial, unless the defendant's 7898
attending physician advises the court against continuation of the 7899
drugs, other medication, or treatment. 7900

(B)(1)(a) If, after taking into consideration all relevant 7901
reports, information, and other evidence, the court finds that the 7902
defendant is incompetent to stand trial and that there is a 7903
substantial probability that the defendant will become competent 7904
to stand trial within one year if the defendant is provided with a 7905
course of treatment, the court shall order the defendant to 7906
undergo treatment. If the defendant has been charged with a felony 7907
offense and if, after taking into consideration all relevant 7908
reports, information, and other evidence, the court finds that the 7909
defendant is incompetent to stand trial, but the court is unable 7910
at that time to determine whether there is a substantial 7911

probability that the defendant will become competent to stand 7912
trial within one year if the defendant is provided with a course 7913
of treatment, the court shall order continuing evaluation and 7914
treatment of the defendant for a period not to exceed four months 7915
to determine whether there is a substantial probability that the 7916
defendant will become competent to stand trial within one year if 7917
the defendant is provided with a course of treatment. 7918

(b) The court order for the defendant to undergo treatment or 7919
continuing evaluation and treatment under division (B)(1)(a) of 7920
this section shall specify that the treatment or continuing 7921
evaluation and treatment shall occur at a facility operated by the 7922
department of mental health or the department of ~~mental~~ 7923
~~retardation~~ and developmental disabilities, at a facility 7924
certified by either of those departments as being qualified to 7925
treat mental illness or mental retardation, at a public or private 7926
community mental health or mental retardation facility, or by a 7927
psychiatrist or another mental health or mental retardation 7928
professional. The order may restrict the defendant's freedom of 7929
movement as the court considers necessary. The prosecutor in the 7930
defendant's case shall send to the chief clinical officer of the 7931
hospital or facility, the managing officer of the institution, the 7932
director of the program, or the person to which the defendant is 7933
committed copies of relevant police reports and other background 7934
information that pertains to the defendant and is available to the 7935
prosecutor unless the prosecutor determines that the release of 7936
any of the information in the police reports or any of the other 7937
background information to unauthorized persons would interfere 7938
with the effective prosecution of any person or would create a 7939
substantial risk of harm to any person. 7940

In determining placement alternatives, the court shall 7941
consider the extent to which the person is a danger to the person 7942
and to others, the need for security, and the type of crime 7943

involved and shall order the least restrictive alternative 7944
available that is consistent with public safety and treatment 7945
goals. In weighing these factors, the court shall give preference 7946
to protecting public safety. 7947

(c) If the defendant is found incompetent to stand trial, if 7948
the chief clinical officer of the hospital or facility, the 7949
managing officer of the institution, the director of the program, 7950
or the person to which the defendant is committed for treatment or 7951
continuing evaluation and treatment under division (B)(1)(b) of 7952
this section determines that medication is necessary to restore 7953
the defendant's competency to stand trial, and if the defendant 7954
lacks the capacity to give informed consent or refuses medication, 7955
the chief clinical officer, managing officer, director, or person 7956
to which the defendant is committed for treatment or continuing 7957
evaluation and treatment may petition the court for authorization 7958
for the involuntary administration of medication. The court shall 7959
hold a hearing on the petition within five days of the filing of 7960
the petition if the petition was filed in a municipal court or a 7961
county court regarding an incompetent defendant charged with a 7962
misdemeanor or within ten days of the filing of the petition if 7963
the petition was filed in a court of common pleas regarding an 7964
incompetent defendant charged with a felony offense. Following the 7965
hearing, the court may authorize the involuntary administration of 7966
medication or may dismiss the petition. 7967

(2) If the court finds that the defendant is incompetent to 7968
stand trial and that, even if the defendant is provided with a 7969
course of treatment, there is not a substantial probability that 7970
the defendant will become competent to stand trial within one 7971
year, the court shall order the discharge of the defendant, unless 7972
upon motion of the prosecutor or on its own motion, the court 7973
either seeks to retain jurisdiction over the defendant pursuant to 7974
section 2945.39 of the Revised Code or files an affidavit in the 7975

probate court for the civil commitment of the defendant pursuant 7976
to Chapter 5122. or 5123. of the Revised Code alleging that the 7977
defendant is a mentally ill person subject to hospitalization by 7978
court order or a mentally retarded person subject to 7979
institutionalization by court order. If an affidavit is filed in 7980
the probate court, the trial court shall send to the probate court 7981
copies of all written reports of the defendant's mental condition 7982
that were prepared pursuant to section 2945.371 of the Revised 7983
Code. 7984

The trial court may issue the temporary order of detention 7985
that a probate court may issue under section 5122.11 or 5123.71 of 7986
the Revised Code, to remain in effect until the probable cause or 7987
initial hearing in the probate court. Further proceedings in the 7988
probate court are civil proceedings governed by Chapter 5122. or 7989
5123. of the Revised Code. 7990

(C) No defendant shall be required to undergo treatment, 7991
including any continuing evaluation and treatment, under division 7992
(B)(1) of this section for longer than whichever of the following 7993
periods is applicable: 7994

(1) One year, if the most serious offense with which the 7995
defendant is charged is one of the following offenses: 7996

(a) Aggravated murder, murder, or an offense of violence for 7997
which a sentence of death or life imprisonment may be imposed; 7998

(b) An offense of violence that is a felony of the first or 7999
second degree; 8000

(c) A conspiracy to commit, an attempt to commit, or 8001
complicity in the commission of an offense described in division 8002
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 8003
complicity is a felony of the first or second degree. 8004

(2) Six months, if the most serious offense with which the 8005
defendant is charged is a felony other than a felony described in 8006

division (C)(1) of this section; 8007

(3) Sixty days, if the most serious offense with which the 8008
defendant is charged is a misdemeanor of the first or second 8009
degree; 8010

(4) Thirty days, if the most serious offense with which the 8011
defendant is charged is a misdemeanor of the third or fourth 8012
degree, a minor misdemeanor, or an unclassified misdemeanor. 8013

(D) Any defendant who is committed pursuant to this section 8014
shall not voluntarily admit the defendant or be voluntarily 8015
admitted to a hospital or institution pursuant to section 5122.02, 8016
5122.15, 5123.69, or 5123.76 of the Revised Code. 8017

(E) Except as otherwise provided in this division, a 8018
defendant who is charged with an offense and is committed to a 8019
hospital or other institution by the court under this section 8020
shall not be granted unsupervised on-grounds movement, supervised 8021
off-grounds movement, or nonsecured status. The court may grant a 8022
defendant supervised off-grounds movement to obtain medical 8023
treatment or specialized habilitation treatment services if the 8024
person who supervises the treatment or the continuing evaluation 8025
and treatment of the defendant ordered under division (B)(1)(a) of 8026
this section informs the court that the treatment or continuing 8027
evaluation and treatment cannot be provided at the hospital or the 8028
institution to which the defendant is committed. The chief 8029
clinical officer of the hospital or the managing officer of the 8030
institution to which the defendant is committed or a designee of 8031
either of those persons may grant a defendant movement to a 8032
medical facility for an emergency medical situation with 8033
appropriate supervision to ensure the safety of the defendant, 8034
staff, and community during that emergency medical situation. The 8035
chief clinical officer of the hospital or the managing officer of 8036
the institution shall notify the court within twenty-four hours of 8037
the defendant's movement to the medical facility for an emergency 8038

medical situation under this division. 8039

(F) The person who supervises the treatment or continuing 8040
evaluation and treatment of a defendant ordered to undergo 8041
treatment or continuing evaluation and treatment under division 8042
(B)(1)(a) of this section shall file a written report with the 8043
court at the following times: 8044

(1) Whenever the person believes the defendant is capable of 8045
understanding the nature and objective of the proceedings against 8046
the defendant and of assisting in the defendant's defense; 8047

(2) For a felony offense, fourteen days before expiration of 8048
the maximum time for treatment as specified in division (C) of 8049
this section and fourteen days before the expiration of the 8050
maximum time for continuing evaluation and treatment as specified 8051
in division (B)(1)(a) of this section, and, for a misdemeanor 8052
offense, ten days before the expiration of the maximum time for 8053
treatment, as specified in division (C) of this section; 8054

(3) At a minimum, after each six months of treatment; 8055

(4) Whenever the person who supervises the treatment or 8056
continuing evaluation and treatment of a defendant ordered under 8057
division (B)(1)(a) of this section believes that there is not a 8058
substantial probability that the defendant will become capable of 8059
understanding the nature and objective of the proceedings against 8060
the defendant or of assisting in the defendant's defense even if 8061
the defendant is provided with a course of treatment. 8062

(G) A report under division (F) of this section shall contain 8063
the examiner's findings, the facts in reasonable detail on which 8064
the findings are based, and the examiner's opinion as to the 8065
defendant's capability of understanding the nature and objective 8066
of the proceedings against the defendant and of assisting in the 8067
defendant's defense. If, in the examiner's opinion, the defendant 8068
remains incapable of understanding the nature and objective of the 8069

proceedings against the defendant and of assisting in the 8070
defendant's defense and there is a substantial probability that 8071
the defendant will become capable of understanding the nature and 8072
objective of the proceedings against the defendant and of 8073
assisting in the defendant's defense if the defendant is provided 8074
with a course of treatment, if in the examiner's opinion the 8075
defendant remains mentally ill or mentally retarded, and if the 8076
maximum time for treatment as specified in division (C) of this 8077
section has not expired, the report also shall contain the 8078
examiner's recommendation as to the least restrictive treatment 8079
alternative that is consistent with the defendant's treatment 8080
needs for restoration to competency and with the safety of the 8081
community. The court shall provide copies of the report to the 8082
prosecutor and defense counsel. 8083

(H) If a defendant is committed pursuant to division (B)(1) 8084
of this section, within ten days after the treating physician of 8085
the defendant or the examiner of the defendant who is employed or 8086
retained by the treating facility advises that there is not a 8087
substantial probability that the defendant will become capable of 8088
understanding the nature and objective of the proceedings against 8089
the defendant or of assisting in the defendant's defense even if 8090
the defendant is provided with a course of treatment, within ten 8091
days after the expiration of the maximum time for treatment as 8092
specified in division (C) of this section, within ten days after 8093
the expiration of the maximum time for continuing evaluation and 8094
treatment as specified in division (B)(1)(a) of this section, 8095
within thirty days after a defendant's request for a hearing that 8096
is made after six months of treatment, or within thirty days after 8097
being advised by the treating physician or examiner that the 8098
defendant is competent to stand trial, whichever is the earliest, 8099
the court shall conduct another hearing to determine if the 8100
defendant is competent to stand trial and shall do whichever of 8101
the following is applicable: 8102

(1) If the court finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law.

(2) If the court finds that the defendant is incompetent to stand trial, but that there is a substantial probability that the defendant will become competent to stand trial if the defendant is provided with a course of treatment, and the maximum time for treatment as specified in division (C) of this section has not expired, the court, after consideration of the examiner's recommendation, shall order that treatment be continued, may change the facility or program at which the treatment is to be continued, and shall specify whether the treatment is to be continued at the same or a different facility or program.

(3) If the court finds that the defendant is incompetent to stand trial, if the defendant is charged with an offense listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, further proceedings shall be as provided in sections 2945.39, 2945.401, and 2945.402 of the Revised Code.

(4) If the court finds that the defendant is incompetent to stand trial, if the most serious offense with which the defendant is charged is a misdemeanor or a felony other than a felony listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, the court shall dismiss the indictment, information, or complaint against the defendant. A dismissal under

this division is not a bar to further prosecution based on the 8135
same conduct. The court shall discharge the defendant unless the 8136
court or prosecutor files an affidavit in probate court for civil 8137
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 8138
If an affidavit for civil commitment is filed, the court may 8139
detain the defendant for ten days pending civil commitment. All of 8140
the following provisions apply to persons charged with a 8141
misdemeanor or a felony other than a felony listed in division 8142
(C)(1) of this section who are committed by the probate court 8143
subsequent to the court's or prosecutor's filing of an affidavit 8144
for civil commitment under authority of this division: 8145

(a) The chief clinical officer of the hospital or facility, 8146
the managing officer of the institution, the director of the 8147
program, or the person to which the defendant is committed or 8148
admitted shall do all of the following: 8149

(i) Notify the prosecutor, in writing, of the discharge of 8150
the defendant, send the notice at least ten days prior to the 8151
discharge unless the discharge is by the probate court, and state 8152
in the notice the date on which the defendant will be discharged; 8153

(ii) Notify the prosecutor, in writing, when the defendant is 8154
absent without leave or is granted unsupervised, off-grounds 8155
movement, and send this notice promptly after the discovery of the 8156
absence without leave or prior to the granting of the 8157
unsupervised, off-grounds movement, whichever is applicable; 8158

(iii) Notify the prosecutor, in writing, of the change of the 8159
defendant's commitment or admission to voluntary status, send the 8160
notice promptly upon learning of the change to voluntary status, 8161
and state in the notice the date on which the defendant was 8162
committed or admitted on a voluntary status. 8163

(b) Upon receiving notice that the defendant will be granted 8164
unsupervised, off-grounds movement, the prosecutor either shall 8165

re-indict the defendant or promptly notify the court that the 8166
prosecutor does not intend to prosecute the charges against the 8167
defendant. 8168

(I) If a defendant is convicted of a crime and sentenced to a 8169
jail or workhouse, the defendant's sentence shall be reduced by 8170
the total number of days the defendant is confined for evaluation 8171
to determine the defendant's competence to stand trial or 8172
treatment under this section and sections 2945.37 and 2945.371 of 8173
the Revised Code or by the total number of days the defendant is 8174
confined for evaluation to determine the defendant's mental 8175
condition at the time of the offense charged. 8176

Sec. 2945.39. (A) If a defendant who is charged with an 8177
offense described in division (C)(1) of section 2945.38 of the 8178
Revised Code is found incompetent to stand trial, after the 8179
expiration of the maximum time for treatment as specified in 8180
division (C) of that section or after the court finds that there 8181
is not a substantial probability that the defendant will become 8182
competent to stand trial even if the defendant is provided with a 8183
course of treatment, one of the following applies: 8184

(1) The court or the prosecutor may file an affidavit in 8185
probate court for civil commitment of the defendant in the manner 8186
provided in Chapter 5122. or 5123. of the Revised Code. If the 8187
court or prosecutor files an affidavit for civil commitment, the 8188
court may detain the defendant for ten days pending civil 8189
commitment. If the probate court commits the defendant subsequent 8190
to the court's or prosecutor's filing of an affidavit for civil 8191
commitment, the chief clinical officer of the hospital or 8192
facility, the managing officer of the institution, the director of 8193
the program, or the person to which the defendant is committed or 8194
admitted shall send to the prosecutor the notices described in 8195
divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised 8196

Code within the periods of time and under the circumstances 8197
specified in those divisions. 8198

(2) On the motion of the prosecutor or on its own motion, the 8199
court may retain jurisdiction over the defendant if, at a hearing, 8200
the court finds both of the following by clear and convincing 8201
evidence: 8202

(a) The defendant committed the offense with which the 8203
defendant is charged. 8204

(b) The defendant is a mentally ill person subject to 8205
hospitalization by court order or a mentally retarded person 8206
subject to institutionalization by court order. 8207

(B) In making its determination under division (A)(2) of this 8208
section as to whether to retain jurisdiction over the defendant, 8209
the court may consider all relevant evidence, including, but not 8210
limited to, any relevant psychiatric, psychological, or medical 8211
testimony or reports, the acts constituting the offense charged, 8212
and any history of the defendant that is relevant to the 8213
defendant's ability to conform to the law. 8214

(C) If the court conducts a hearing as described in division 8215
(A)(2) of this section and if the court does not make both 8216
findings described in divisions (A)(2)(a) and (b) of this section 8217
by clear and convincing evidence, the court shall dismiss the 8218
indictment, information, or complaint against the defendant. Upon 8219
the dismissal, the court shall discharge the defendant unless the 8220
court or prosecutor files an affidavit in probate court for civil 8221
commitment of the defendant pursuant to Chapter 5122. or 5123. of 8222
the Revised Code. If the court or prosecutor files an affidavit 8223
for civil commitment, the court may order that the defendant be 8224
detained for up to ten days pending the civil commitment. If the 8225
probate court commits the defendant subsequent to the court's or 8226
prosecutor's filing of an affidavit for civil commitment, the 8227

chief clinical officer of the hospital or facility, the managing 8228
officer of the institution, the director of the program, or the 8229
person to which the defendant is committed or admitted shall send 8230
to the prosecutor the notices described in divisions (H)(4)(a)(i) 8231
to (iii) of section 2945.38 of the Revised Code within the periods 8232
of time and under the circumstances specified in those divisions. 8233
A dismissal of charges under this division is not a bar to further 8234
criminal proceedings based on the same conduct. 8235

(D)(1) If the court conducts a hearing as described in 8236
division (A)(2) of this section and if the court makes the 8237
findings described in divisions (A)(2)(a) and (b) of this section 8238
by clear and convincing evidence, the court shall commit the 8239
defendant to a hospital operated by the department of mental 8240
health, a facility operated by the department of ~~mental~~ 8241
~~retardation and~~ developmental disabilities, or another medical or 8242
psychiatric facility, as appropriate. In determining the place and 8243
nature of the commitment, the court shall order the least 8244
restrictive commitment alternative available that is consistent 8245
with public safety and the welfare of the defendant. In weighing 8246
these factors, the court shall give preference to protecting 8247
public safety. 8248

(2) If a court makes a commitment of a defendant under 8249
division (D)(1) of this section, the prosecutor shall send to the 8250
place of commitment all reports of the defendant's current mental 8251
condition and, except as otherwise provided in this division, any 8252
other relevant information, including, but not limited to, a 8253
transcript of the hearing held pursuant to division (A)(2) of this 8254
section, copies of relevant police reports, and copies of any 8255
prior arrest and conviction records that pertain to the defendant 8256
and that the prosecutor possesses. The prosecutor shall send the 8257
reports of the defendant's current mental condition in every case 8258
of commitment, and, unless the prosecutor determines that the 8259

release of any of the other relevant information to unauthorized 8260
persons would interfere with the effective prosecution of any 8261
person or would create a substantial risk of harm to any person, 8262
the prosecutor also shall send the other relevant information. 8263
Upon admission of a defendant committed under division (D)(1) of 8264
this section, the place of commitment shall send to the board of 8265
alcohol, drug addiction, and mental health services or the 8266
community mental health board serving the county in which the 8267
charges against the defendant were filed a copy of all reports of 8268
the defendant's current mental condition and a copy of the other 8269
relevant information provided by the prosecutor under this 8270
division, including, if provided, a transcript of the hearing held 8271
pursuant to division (A)(2) of this section, the relevant police 8272
reports, and the prior arrest and conviction records that pertain 8273
to the defendant and that the prosecutor possesses. 8274

(3) If a court makes a commitment under division (D)(1) of 8275
this section, all further proceedings shall be in accordance with 8276
sections 2945.401 and 2945.402 of the Revised Code. 8277

Sec. 2945.40. (A) If a person is found not guilty by reason 8278
of insanity, the verdict shall state that finding, and the trial 8279
court shall conduct a full hearing to determine whether the person 8280
is a mentally ill person subject to hospitalization by court order 8281
or a mentally retarded person subject to institutionalization by 8282
court order. Prior to the hearing, if the trial judge believes 8283
that there is probable cause that the person found not guilty by 8284
reason of insanity is a mentally ill person subject to 8285
hospitalization by court order or mentally retarded person subject 8286
to institutionalization by court order, the trial judge may issue 8287
a temporary order of detention for that person to remain in effect 8288
for ten court days or until the hearing, whichever occurs first. 8289

Any person detained pursuant to a temporary order of 8290

detention issued under this division shall be held in a suitable 8291
facility, taking into consideration the place and type of 8292
confinement prior to and during trial. 8293

(B) The court shall hold the hearing under division (A) of 8294
this section to determine whether the person found not guilty by 8295
reason of insanity is a mentally ill person subject to 8296
hospitalization by court order or a mentally retarded person 8297
subject to institutionalization by court order within ten court 8298
days after the finding of not guilty by reason of insanity. 8299
Failure to conduct the hearing within the ten-day period shall 8300
cause the immediate discharge of the respondent, unless the judge 8301
grants a continuance for not longer than ten court days for good 8302
cause shown or for any period of time upon motion of the 8303
respondent. 8304

(C) If a person is found not guilty by reason of insanity, 8305
the person has the right to attend all hearings conducted pursuant 8306
to sections 2945.37 to 2945.402 of the Revised Code. At any 8307
hearing conducted pursuant to one of those sections, the court 8308
shall inform the person that the person has all of the following 8309
rights: 8310

(1) The right to be represented by counsel and to have that 8311
counsel provided at public expense if the person is indigent, with 8312
the counsel to be appointed by the court under Chapter 120. of the 8313
Revised Code or under the authority recognized in division (C) of 8314
section 120.06, division (E) of section 120.16, division (E) of 8315
section 120.26, or section 2941.51 of the Revised Code; 8316

(2) The right to have independent expert evaluation and to 8317
have that independent expert evaluation provided at public expense 8318
if the person is indigent; 8319

(3) The right to subpoena witnesses and documents, to present 8320
evidence on the person's behalf, and to cross-examine witnesses 8321

against the person; 8322

(4) The right to testify in the person's own behalf and to 8323
not be compelled to testify; 8324

(5) The right to have copies of any relevant medical or 8325
mental health document in the custody of the state or of any place 8326
of commitment other than a document for which the court finds that 8327
the release to the person of information contained in the document 8328
would create a substantial risk of harm to any person. 8329

(D) The hearing under division (A) of this section shall be 8330
open to the public, and the court shall conduct the hearing in 8331
accordance with the Rules of Civil Procedure. The court shall make 8332
and maintain a full transcript and record of the hearing 8333
proceedings. The court may consider all relevant evidence, 8334
including, but not limited to, any relevant psychiatric, 8335
psychological, or medical testimony or reports, the acts 8336
constituting the offense in relation to which the person was found 8337
not guilty by reason of insanity, and any history of the person 8338
that is relevant to the person's ability to conform to the law. 8339

(E) Upon completion of the hearing under division (A) of this 8340
section, if the court finds there is not clear and convincing 8341
evidence that the person is a mentally ill person subject to 8342
hospitalization by court order or a mentally retarded person 8343
subject to institutionalization by court order, the court shall 8344
discharge the person, unless a detainer has been placed upon the 8345
person by the department of rehabilitation and correction, in 8346
which case the person shall be returned to that department. 8347

(F) If, at the hearing under division (A) of this section, 8348
the court finds by clear and convincing evidence that the person 8349
is a mentally ill person subject to hospitalization by court order 8350
or a mentally retarded person subject to institutionalization by 8351
court order, it shall commit the person to a hospital operated by 8352

the department of mental health, a facility operated by the 8353
department of ~~mental retardation and~~ developmental disabilities, 8354
or another medical or psychiatric facility, as appropriate, and 8355
further proceedings shall be in accordance with sections 2945.401 8356
and 2945.402 of the Revised Code. In determining the place and 8357
nature of the commitment, the court shall order the least 8358
restrictive commitment alternative available that is consistent 8359
with public safety and the welfare of the person. In weighing 8360
these factors, the court shall give preference to protecting 8361
public safety. 8362

(G) If a court makes a commitment of a person under division 8363
(F) of this section, the prosecutor shall send to the place of 8364
commitment all reports of the person's current mental condition, 8365
and, except as otherwise provided in this division, any other 8366
relevant information, including, but not limited to, a transcript 8367
of the hearing held pursuant to division (A) of this section, 8368
copies of relevant police reports, and copies of any prior arrest 8369
and conviction records that pertain to the person and that the 8370
prosecutor possesses. The prosecutor shall send the reports of the 8371
person's current mental condition in every case of commitment, 8372
and, unless the prosecutor determines that the release of any of 8373
the other relevant information to unauthorized persons would 8374
interfere with the effective prosecution of any person or would 8375
create a substantial risk of harm to any person, the prosecutor 8376
also shall send the other relevant information. Upon admission of 8377
a person committed under division (F) of this section, the place 8378
of commitment shall send to the board of alcohol, drug addiction, 8379
and mental health services or the community mental health board 8380
serving the county in which the charges against the person were 8381
filed a copy of all reports of the person's current mental 8382
condition and a copy of the other relevant information provided by 8383
the prosecutor under this division, including, if provided, a 8384
transcript of the hearing held pursuant to division (A) of this 8385

section, the relevant police reports, and the prior arrest and 8386
conviction records that pertain to the person and that the 8387
prosecutor possesses. 8388

(H) A person who is committed pursuant to this section shall 8389
not voluntarily admit the person or be voluntarily admitted to a 8390
hospital or institution pursuant to ~~sections~~ section 5122.02, 8391
5122.15, 5123.69, or 5123.76 of the Revised Code. 8392

Sec. 2945.401. (A) A defendant found incompetent to stand 8393
trial and committed pursuant to section 2945.39 of the Revised 8394
Code or a person found not guilty by reason of insanity and 8395
committed pursuant to section 2945.40 of the Revised Code shall 8396
remain subject to the jurisdiction of the trial court pursuant to 8397
that commitment, and to the provisions of this section, until the 8398
final termination of the commitment as described in division 8399
(J)(1) of this section. If the jurisdiction is terminated under 8400
this division because of the final termination of the commitment 8401
resulting from the expiration of the maximum prison term or term 8402
of imprisonment described in division (J)(1)(b) of this section, 8403
the court or prosecutor may file an affidavit for the civil 8404
commitment of the defendant or person pursuant to Chapter 5122. or 8405
5123. of the Revised Code. 8406

(B) A hearing conducted under any provision of sections 8407
2945.37 to 2945.402 of the Revised Code shall not be conducted in 8408
accordance with Chapters 5122. and 5123. of the Revised Code. Any 8409
person who is committed pursuant to section 2945.39 or 2945.40 of 8410
the Revised Code shall not voluntarily admit the person or be 8411
voluntarily admitted to a hospital or institution pursuant to 8412
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 8413
All other provisions of Chapters 5122. and 5123. of the Revised 8414
Code regarding hospitalization or institutionalization shall apply 8415
to the extent they are not in conflict with this chapter. A 8416

commitment under section 2945.39 or 2945.40 of the Revised Code 8417
shall not be terminated and the conditions of the commitment shall 8418
not be changed except as otherwise provided in division (D)(2) of 8419
this section with respect to a mentally retarded person subject to 8420
institutionalization by court order or except by order of the 8421
trial court. 8422

(C) The hospital, facility, or program to which a defendant 8423
or person has been committed under section 2945.39 or 2945.40 of 8424
the Revised Code shall report in writing to the trial court, at 8425
the times specified in this division, as to whether the defendant 8426
or person remains a mentally ill person subject to hospitalization 8427
by court order or a mentally retarded person subject to 8428
institutionalization by court order and, in the case of a 8429
defendant committed under section 2945.39 of the Revised Code, as 8430
to whether the defendant remains incompetent to stand trial. The 8431
hospital, facility, or program shall make the reports after the 8432
initial six months of treatment and every two years after the 8433
initial report is made. The trial court shall provide copies of 8434
the reports to the prosecutor and to the counsel for the defendant 8435
or person. Within thirty days after its receipt pursuant to this 8436
division of a report from a hospital, facility, or program, the 8437
trial court shall hold a hearing on the continued commitment of 8438
the defendant or person or on any changes in the conditions of the 8439
commitment of the defendant or person. The defendant or person may 8440
request a change in the conditions of confinement, and the trial 8441
court shall conduct a hearing on that request if six months or 8442
more have elapsed since the most recent hearing was conducted 8443
under this section. 8444

(D)(1) Except as otherwise provided in division (D)(2) of 8445
this section, when a defendant or person has been committed under 8446
section 2945.39 or 2945.40 of the Revised Code, at any time after 8447
evaluating the risks to public safety and the welfare of the 8448

defendant or person, the chief clinical officer of the hospital, 8449
facility, or program to which the defendant or person is committed 8450
may recommend a termination of the defendant's or person's 8451
commitment or a change in the conditions of the defendant's or 8452
person's commitment. 8453

Except as otherwise provided in division (D)(2) of this 8454
section, if the chief clinical officer recommends on-grounds 8455
unsupervised movement, off-grounds supervised movement, or 8456
nonsecured status for the defendant or person or termination of 8457
the defendant's or person's commitment, the following provisions 8458
apply: 8459

(a) If the chief clinical officer recommends on-grounds 8460
unsupervised movement or off-grounds supervised movement, the 8461
chief clinical officer shall file with the trial court an 8462
application for approval of the movement and shall send a copy of 8463
the application to the prosecutor. Within fifteen days after 8464
receiving the application, the prosecutor may request a hearing on 8465
the application and, if a hearing is requested, shall so inform 8466
the chief clinical officer. If the prosecutor does not request a 8467
hearing within the fifteen-day period, the trial court shall 8468
approve the application by entering its order approving the 8469
requested movement or, within five days after the expiration of 8470
the fifteen-day period, shall set a date for a hearing on the 8471
application. If the prosecutor requests a hearing on the 8472
application within the fifteen-day period, the trial court shall 8473
hold a hearing on the application within thirty days after the 8474
hearing is requested. If the trial court, within five days after 8475
the expiration of the fifteen-day period, sets a date for a 8476
hearing on the application, the trial court shall hold the hearing 8477
within thirty days after setting the hearing date. At least 8478
fifteen days before any hearing is held under this division, the 8479
trial court shall give the prosecutor written notice of the date, 8480

time, and place of the hearing. At the conclusion of each hearing 8481
conducted under this division, the trial court either shall 8482
approve or disapprove the application and shall enter its order 8483
accordingly. 8484

(b) If the chief clinical officer recommends termination of 8485
the defendant's or person's commitment at any time or if the chief 8486
clinical officer recommends the first of any nonsecured status for 8487
the defendant or person, the chief clinical officer shall send 8488
written notice of this recommendation to the trial court and to 8489
the local forensic center. The local forensic center shall 8490
evaluate the committed defendant or person and, within thirty days 8491
after its receipt of the written notice, shall submit to the trial 8492
court and the chief clinical officer a written report of the 8493
evaluation. The trial court shall provide a copy of the chief 8494
clinical officer's written notice and of the local forensic 8495
center's written report to the prosecutor and to the counsel for 8496
the defendant or person. Upon the local forensic center's 8497
submission of the report to the trial court and the chief clinical 8498
officer, all of the following apply: 8499

(i) If the forensic center disagrees with the recommendation 8500
of the chief clinical officer, it shall inform the chief clinical 8501
officer and the trial court of its decision and the reasons for 8502
the decision. The chief clinical officer, after consideration of 8503
the forensic center's decision, shall either withdraw, proceed 8504
with, or modify and proceed with the recommendation. If the chief 8505
clinical officer proceeds with, or modifies and proceeds with, the 8506
recommendation, the chief clinical officer shall proceed in 8507
accordance with division (D)(1)(b)(iii) of this section. 8508

(ii) If the forensic center agrees with the recommendation of 8509
the chief clinical officer, it shall inform the chief clinical 8510
officer and the trial court of its decision and the reasons for 8511
the decision, and the chief clinical officer shall proceed in 8512

accordance with division (D)(1)(b)(iii) of this section. 8513

(iii) If the forensic center disagrees with the 8514
recommendation of the chief clinical officer and the chief 8515
clinical officer proceeds with, or modifies and proceeds with, the 8516
recommendation or if the forensic center agrees with the 8517
recommendation of the chief clinical officer, the chief clinical 8518
officer shall work with the board of alcohol, drug addiction, and 8519
mental health services or community mental health board serving 8520
the area, as appropriate, to develop a plan to implement the 8521
recommendation. If the defendant or person is on medication, the 8522
plan shall include, but shall not be limited to, a system to 8523
monitor the defendant's or person's compliance with the prescribed 8524
medication treatment plan. The system shall include a schedule 8525
that clearly states when the defendant or person shall report for 8526
a medication compliance check. The medication compliance checks 8527
shall be based upon the effective duration of the prescribed 8528
medication, taking into account the route by which it is taken, 8529
and shall be scheduled at intervals sufficiently close together to 8530
detect a potential increase in mental illness symptoms that the 8531
medication is intended to prevent. 8532

The chief clinical officer, after consultation with the board 8533
of alcohol, drug addiction, and mental health services or the 8534
community mental health board serving the area, shall send the 8535
recommendation and plan developed under division (D)(1)(b)(iii) of 8536
this section, in writing, to the trial court, the prosecutor and 8537
the counsel for the committed defendant or person. The trial court 8538
shall conduct a hearing on the recommendation and plan developed 8539
under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) 8540
and (d) and (E) to (J) of this section apply regarding the 8541
hearing. 8542

(c) If the chief clinical officer's recommendation is for 8543
nonsecured status or termination of commitment, the prosecutor may 8544

obtain an independent expert evaluation of the defendant's or 8545
person's mental condition, and the trial court may continue the 8546
hearing on the recommendation for a period of not more than thirty 8547
days to permit time for the evaluation. 8548

The prosecutor may introduce the evaluation report or present 8549
other evidence at the hearing in accordance with the Rules of 8550
Evidence. 8551

(d) The trial court shall schedule the hearing on a chief 8552
clinical officer's recommendation for nonsecured status or 8553
termination of commitment and shall give reasonable notice to the 8554
prosecutor and the counsel for the defendant or person. Unless 8555
continued for independent evaluation at the prosecutor's request 8556
or for other good cause, the hearing shall be held within thirty 8557
days after the trial court's receipt of the recommendation and 8558
plan. 8559

(2)(a) Division (D)(1) of this section does not apply to 8560
on-grounds unsupervised movement of a defendant or person who has 8561
been committed under section 2945.39 or 2945.40 of the Revised 8562
Code, who is a mentally retarded person subject to 8563
institutionalization by court order, and who is being provided 8564
residential habilitation, care, and treatment in a facility 8565
operated by the department of ~~mental retardation and~~ developmental 8566
disabilities. 8567

(b) If, pursuant to section 2945.39 of the Revised Code, the 8568
trial court commits a defendant who is found incompetent to stand 8569
trial and who is a mentally retarded person subject to 8570
institutionalization by court order, if the defendant is being 8571
provided residential habilitation, care, and treatment in a 8572
facility operated by the department of ~~mental retardation and~~ 8573
developmental disabilities, if an individual who is conducting a 8574
survey for the department of health to determine the facility's 8575
compliance with the certification requirements of the medicaid 8576

program under ~~chapter~~ Chapter 5111. of the Revised Code and Title 8577
XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 8578
301, as amended, cites the defendant's receipt of the residential 8579
habilitation, care, and treatment in the facility as being 8580
inappropriate under the certification requirements, if the 8581
defendant's receipt of the residential habilitation, care, and 8582
treatment in the facility potentially jeopardizes the facility's 8583
continued receipt of federal medicaid moneys, and if as a result 8584
of the citation the chief clinical officer of the facility 8585
determines that the conditions of the defendant's commitment 8586
should be changed, the department of ~~mental-retardation-and~~ 8587
developmental disabilities may cause the defendant to be removed 8588
from the particular facility and, after evaluating the risks to 8589
public safety and the welfare of the defendant and after 8590
determining whether another type of placement is consistent with 8591
the certification requirements, may place the defendant in another 8592
facility that the department selects as an appropriate facility 8593
for the defendant's continued receipt of residential habilitation, 8594
care, and treatment and that is a no less secure setting than the 8595
facility in which the defendant had been placed at the time of the 8596
citation. Within three days after the defendant's removal and 8597
alternative placement under the circumstances described in 8598
division (D)(2)(b) of this section, the department of ~~mental~~ 8599
~~retardation-and~~ developmental disabilities shall notify the trial 8600
court and the prosecutor in writing of the removal and alternative 8601
placement. 8602

The trial court shall set a date for a hearing on the removal 8603
and alternative placement, and the hearing shall be held within 8604
twenty-one days after the trial court's receipt of the notice from 8605
the department of ~~mental-retardation-and~~ developmental 8606
disabilities. At least ~~ten-days~~ ten days before the hearing is 8607
held, the trial court shall give the prosecutor, the department of 8608
~~mental-retardation-and~~ developmental disabilities, and the counsel 8609

for the defendant written notice of the date, time, and place of 8610
the hearing. At the hearing, the trial court shall consider the 8611
citation issued by the individual who conducted the survey for the 8612
department of health to be prima-facie evidence of the fact that 8613
the defendant's commitment to the particular facility was 8614
inappropriate under the certification requirements of the medicaid 8615
program under Chapter 5111. of the Revised Code and Title XIX of 8616
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 8617
as amended, and potentially jeopardizes the particular facility's 8618
continued receipt of federal medicaid moneys. At the conclusion of 8619
the hearing, the trial court may approve or disapprove the 8620
defendant's removal and alternative placement. If the trial court 8621
approves the defendant's removal and alternative placement, the 8622
department of ~~mental-retardation-and~~ developmental disabilities 8623
may continue the defendant's alternative placement. If the trial 8624
court disapproves the defendant's removal and alternative 8625
placement, it shall enter an order modifying the defendant's 8626
removal and alternative placement, but that order shall not 8627
require the department of ~~mental-retardation-and~~ developmental 8628
disabilities to replace the defendant for purposes of continued 8629
residential habilitation, care, and treatment in the facility 8630
associated with the citation issued by the individual who 8631
conducted the survey for the department of health. 8632

(E) In making a determination under this section regarding 8633
nonsecured status or termination of commitment, the trial court 8634
shall consider all relevant factors, including, but not limited 8635
to, all of the following: 8636

(1) Whether, in the trial court's view, the defendant or 8637
person currently represents a substantial risk of physical harm to 8638
the defendant or person or others; 8639

(2) Psychiatric and medical testimony as to the current 8640
mental and physical condition of the defendant or person; 8641

(3) Whether the defendant or person has insight into the 8642
defendant's or person's condition so that the defendant or person 8643
will continue treatment as prescribed or seek professional 8644
assistance as needed; 8645

(4) The grounds upon which the state relies for the proposed 8646
commitment; 8647

(5) Any past history that is relevant to establish the 8648
defendant's or person's degree of conformity to the laws, rules, 8649
regulations, and values of society; 8650

(6) If there is evidence that the defendant's or person's 8651
mental illness is in a state of remission, the medically suggested 8652
cause and degree of the remission and the probability that the 8653
defendant or person will continue treatment to maintain the 8654
remissive state of the defendant's or person's illness should the 8655
defendant's or person's commitment conditions be altered. 8656

(F) At any hearing held pursuant to division (C) or (D)(1) or 8657
(2) of this section, the defendant or the person shall have all 8658
the rights of a defendant or person at a commitment hearing as 8659
described in section 2945.40 of the Revised Code. 8660

(G) In a hearing held pursuant to division (C) or (D)(1) of 8661
this section, the prosecutor has the burden of proof as follows: 8662

(1) For a recommendation of termination of commitment, to 8663
show by clear and convincing evidence that the defendant or person 8664
remains a mentally ill person subject to hospitalization by court 8665
order or a mentally retarded person subject to 8666
institutionalization by court order; 8667

(2) For a recommendation for a change in the conditions of 8668
the commitment to a less restrictive status, to show by clear and 8669
convincing evidence that the proposed change represents a threat 8670
to public safety or a threat to the safety of any person. 8671

(H) In a hearing held pursuant to division (C) or (D)(1) or 8672
(2) of this section, the prosecutor shall represent the state or 8673
the public interest. 8674

(I) At the conclusion of a hearing conducted under division 8675
(D)(1) of this section regarding a recommendation from the chief 8676
clinical officer of a hospital, program, or facility, the trial 8677
court may approve, disapprove, or modify the recommendation and 8678
shall enter an order accordingly. 8679

(J)(1) A defendant or person who has been committed pursuant 8680
to section 2945.39 or 2945.40 of the Revised Code continues to be 8681
under the jurisdiction of the trial court until the final 8682
termination of the commitment. For purposes of division (J) of 8683
this section, the final termination of a commitment occurs upon 8684
the earlier of one of the following: 8685

(a) The defendant or person no longer is a mentally ill 8686
person subject to hospitalization by court order or a mentally 8687
retarded person subject to institutionalization by court order, as 8688
determined by the trial court; 8689

(b) The expiration of the maximum prison term or term of 8690
imprisonment that the defendant or person could have received if 8691
the defendant or person had been convicted of the most serious 8692
offense with which the defendant or person is charged or in 8693
relation to which the defendant or person was found not guilty by 8694
reason of insanity; 8695

(c) The trial court enters an order terminating the 8696
commitment under the circumstances described in division 8697
(J)(2)(a)(ii) of this section. 8698

(2)(a) If a defendant is found incompetent to stand trial and 8699
committed pursuant to section 2945.39 of the Revised Code, if 8700
neither of the circumstances described in divisions (J)(1)(a) and 8701
(b) of this section applies to that defendant, and if a report 8702

filed with the trial court pursuant to division (C) of this 8703
section indicates that the defendant presently is competent to 8704
stand trial or if, at any other time during the period of the 8705
defendant's commitment, the prosecutor, the counsel for the 8706
defendant, or the chief clinical officer of the hospital, 8707
facility, or program to which the defendant is committed files an 8708
application with the trial court alleging that the defendant 8709
presently is competent to stand trial and requesting a hearing on 8710
the competency issue or the trial court otherwise has reasonable 8711
cause to believe that the defendant presently is competent to 8712
stand trial and determines on its own motion to hold a hearing on 8713
the competency issue, the trial court shall schedule a hearing on 8714
the competency of the defendant to stand trial, shall give the 8715
prosecutor, the counsel for the defendant, and the chief clinical 8716
officer notice of the date, time, and place of the hearing at 8717
least fifteen days before the hearing, and shall conduct the 8718
hearing within thirty days of the filing of the application or of 8719
its own motion. If, at the conclusion of the hearing, the trial 8720
court determines that the defendant presently is capable of 8721
understanding the nature and objective of the proceedings against 8722
the defendant and of assisting in the defendant's defense, the 8723
trial court shall order that the defendant is competent to stand 8724
trial and shall be proceeded against as provided by law with 8725
respect to the applicable offenses described in division (C)(1) of 8726
section 2945.38 of the Revised Code and shall enter whichever of 8727
the following additional orders is appropriate: 8728

(i) If the trial court determines that the defendant remains 8729
a mentally ill person subject to hospitalization by court order or 8730
a mentally retarded person subject to institutionalization by 8731
court order, the trial court shall order that the defendant's 8732
commitment to the hospital, facility, or program be continued 8733
during the pendency of the trial on the applicable offenses 8734
described in division (C)(1) of section 2945.38 of the Revised 8735

Code. 8736

(ii) If the trial court determines that the defendant no 8737
longer is a mentally ill person subject to hospitalization by 8738
court order or a mentally retarded person subject to 8739
institutionalization by court order, the trial court shall order 8740
that the defendant's commitment to the hospital, facility, or 8741
program shall not be continued during the pendency of the trial on 8742
the applicable offenses described in division (C)(1) of section 8743
2945.38 of the Revised Code. This order shall be a final 8744
termination of the commitment for purposes of division (J)(1)(c) 8745
of this section. 8746

(b) If, at the conclusion of the hearing described in 8747
division (J)(2)(a) of this section, the trial court determines 8748
that the defendant remains incapable of understanding the nature 8749
and objective of the proceedings against the defendant or of 8750
assisting in the defendant's defense, the trial court shall order 8751
that the defendant continues to be incompetent to stand trial, 8752
that the defendant's commitment to the hospital, facility, or 8753
program shall be continued, and that the defendant remains subject 8754
to the jurisdiction of the trial court pursuant to that 8755
commitment, and to the provisions of this section, until the final 8756
termination of the commitment as described in division (J)(1) of 8757
this section. 8758

Sec. 2967.22. Whenever it is brought to the attention of the 8759
adult parole authority or a department of probation that a 8760
parolee, person under a community control sanction, person under 8761
transitional control, or releasee appears to be a mentally ill 8762
person subject to hospitalization by court order, as defined in 8763
section 5122.01 of the Revised Code, or a mentally retarded person 8764
subject to institutionalization by court order, as defined in 8765
section 5123.01 of the Revised Code, the parole or probation 8766

officer, subject to the approval of the chief of the adult parole 8767
authority, the designee of the chief of the adult parole 8768
authority, or the chief probation officer, may file an affidavit 8769
under section 5122.11 or 5123.71 of the Revised Code. A parolee, 8770
person under a community control sanction, or releasee who is 8771
involuntarily detained under Chapter 5122. or 5123. of the Revised 8772
Code shall receive credit against the period of parole or 8773
community control or the term of post-release control for the 8774
period of involuntary detention. 8775

If a parolee, person under a community control sanction, 8776
person under transitional control, or releasee escapes from an 8777
institution or facility within the department of mental health or 8778
the department of ~~mental retardation and~~ developmental 8779
disabilities, the superintendent of the institution immediately 8780
shall notify the chief of the adult parole authority or the chief 8781
probation officer. Notwithstanding the provisions of section 8782
5122.26 of the Revised Code, the procedure for the apprehension, 8783
detention, and return of the parolee, person under a community 8784
control sanction, person under transitional control, or releasee 8785
is the same as that provided for the apprehension, detention, and 8786
return of persons who escape from institutions operated by the 8787
department of rehabilitation and correction. If the escaped 8788
parolee, person under transitional control, or releasee is not 8789
apprehended and returned to the custody of the department of 8790
mental health or the department of ~~mental retardation and~~ 8791
developmental disabilities within ninety days after the escape, 8792
the parolee, person under transitional control, or releasee shall 8793
be discharged from the custody of the department of mental health 8794
or the department of ~~mental retardation and~~ developmental 8795
disabilities and returned to the custody of the department of 8796
rehabilitation and correction. If the escaped person under a 8797
community control sanction is not apprehended and returned to the 8798

custody of the department of mental health or the department of 8799
~~mental retardation and~~ developmental disabilities within ninety 8800
days after the escape, the person under a community control 8801
sanction shall be discharged from the custody of the department of 8802
mental health or the department of ~~mental retardation and~~ 8803
developmental disabilities and returned to the custody of the 8804
court that sentenced that person. 8805

Sec. 3109.18. (A)(1) A board of county commissioners may 8806
establish a child abuse and child neglect prevention advisory 8807
board or may designate the county family and children first 8808
council to serve as the child abuse and child neglect prevention 8809
advisory board. The boards of county commissioners of two or more 8810
contiguous counties may instead form a multicounty district to be 8811
served by a child abuse and child neglect prevention advisory 8812
board or may designate a regional family and children first 8813
council to serve as the district child abuse and child neglect 8814
prevention advisory board. Each advisory board shall meet at least 8815
twice a year. 8816

(2) The county auditor is hereby designated as the auditor 8817
and fiscal officer of the advisory board. In the case of a 8818
multicounty district, the boards of county commissioners that 8819
formed the district shall designate the auditor of one of the 8820
counties as the auditor and fiscal officer of the advisory board. 8821

(B) Each county that establishes an advisory board or, in a 8822
multicounty district, the auditor who has been designated as the 8823
auditor and fiscal officer of the advisory board, shall establish 8824
a fund in the county treasury known as the county or district 8825
children's trust fund. The auditor shall deposit all funds 8826
received from the children's trust fund board into that fund, and 8827
the auditor shall distribute money from the fund at the request of 8828
the advisory board. 8829

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

(D)(1) Except in the case of a county or regional family and children first council that is designated to serve as a child abuse and child neglect prevention advisory board, each advisory 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 8860
representatives of the medical community; 8861

(d) School personnel; 8862

(e) Counselors and social workers; 8863

(f) Head start agencies; 8864

(g) Child care providers; 8865

(h) Other persons with demonstrated knowledge in programs for 8866
children. 8867

(3) Of the members first appointed, at least one shall serve 8868
for a term of three years, at least one for a term of two years, 8869
and at least one for a term of one year. Thereafter, each member 8870
shall serve a term of three years. Each member shall serve until 8871
the member's successor is appointed. All vacancies on the board 8872
shall be filled for the balance of the unexpired term in the same 8873
manner as the original appointment. 8874

(E) Each child abuse and child neglect prevention advisory 8875
board may incur reasonable costs not to exceed five per cent of 8876
the funds allocated to the county or district under section 8877
3109.17 of the Revised Code, for the purpose of carrying out the 8878
functions of the advisory board. 8879

(F) Each child abuse and child neglect prevention advisory 8880
board shall do all of the following: 8881

(1) For each fiscal biennium, develop a local allocation plan 8882
for the purpose of preventing child abuse and child neglect and 8883
submit the plan to the children's trust fund board on or before 8884
the first day of April preceding the fiscal year for which the 8885
plan is developed; 8886

(2) Provide effective public notice, as defined by the 8887
children's trust fund board in the state plan or, if the board 8888
does not define the term in the state plan, as defined in rules 8889

adopted by the department of job and family services, to potential 8890
applicants about the availability of funds from the children's 8891
trust fund, including an estimate of the amount of money available 8892
for grants within each county or district, the date of at least 8893
one public hearing, information on obtaining a copy of the grant 8894
application form, and the deadline for submitting grant 8895
applications; 8896

(3) Review all applications received using criteria specified 8897
in the state plan adopted by the board under section 3109.17 of 8898
the Revised Code; 8899

(4) Consistent with the local allocation plan developed 8900
pursuant to division (F)(1) of this section, make grants to child 8901
abuse and child neglect prevention programs. 8902

(5) Establish any reporting requirements for grant 8903
recipients, in addition to those specified by the children's trust 8904
fund board, and for children's advocacy centers for which funds 8905
are used in accordance with section 3109.172 of the Revised Code. 8906

(G) A member of a child abuse and child neglect prevention 8907
advisory board shall not participate in the development of a local 8908
allocation plan under division (F)(1) of this section if it is 8909
reasonable to expect that the member's judgment could be affected 8910
by the member's own financial, business, property, or personal 8911
interest or other conflict of interest. For purposes of this 8912
division, "conflict of interest" means the taking of any action 8913
that violates any applicable provision of Chapter 102. or 2921. of 8914
the Revised Code. Questions relating to the existence of a 8915
conflict of interest pertaining to Chapter 2921. of the Revised 8916
Code shall be submitted by the advisory board to the local 8917
prosecuting attorney for resolution. Questions relating to the 8918
existence of a conflict of interest pertaining to Chapter 102. of 8919
the Revised Code shall be submitted by the advisory board to the 8920
Ohio ethics commission for resolution. 8921

(H) Each advisory board shall assist the children's trust 8922
fund board in monitoring programs that receive money from the 8923
children's trust fund and shall perform such other duties for the 8924
local administration of the children's trust fund as the 8925
children's trust fund board requires. 8926

(I) A children's advocacy center for which a child abuse and 8927
child neglect prevention advisory board uses any amount out of the 8928
funds allocated to the advisory board under section 3109.172 of 8929
the Revised Code, as start-up costs for the establishment and 8930
operation of the center, shall use the moneys so received only for 8931
establishment and operation of the center in accordance with 8932
sections 2151.425 to 2151.428 of the Revised Code. Any other 8933
person or entity that is a recipient of a grant from the 8934
children's trust fund shall use the grant funds only to fund 8935
primary and secondary child abuse and child neglect prevention 8936
programs. Any grant funds that are not spent by the recipient of 8937
the funds within the time specified by the terms of the grant 8938
shall be returned to the county treasurer. Any grant funds 8939
returned that are not redistributed by the advisory board within 8940
the state fiscal year in which they are received shall be returned 8941
to the treasurer of state. The treasurer of state shall deposit 8942
such unspent moneys into the children's trust fund to be spent for 8943
purposes consistent with the state plan adopted under section 8944
3109.17 of the Revised Code. 8945

(J) Applications for grants from the children's trust fund 8946
shall be made to the advisory board on forms prescribed by the 8947
children's trust fund board. 8948

(K)(1) Each children's advocacy center for which a child 8949
abuse and child neglect prevention advisory board uses any amount 8950
out of the funds allocated to the advisory board under section 8951
3109.172 of the Revised Code, as start-up costs for the 8952
establishment and operation of the center, and each other person 8953

or entity that is a recipient of a children's trust fund grant 8954
from an advisory board shall file with the advisory board a copy 8955
of a semi-annual and an annual report that includes the 8956
information required by the children's trust fund board. 8957

(2) Each advisory board shall file with the children's trust 8958
fund board, not later than the fifteenth day of August following 8959
the year for which the report is written, a copy of an annual 8960
report regarding the county or district local allocation plan that 8961
contains the information required by the children's trust fund 8962
board, and regarding the advisory board's use of any amount out of 8963
the funds allocated to the advisory board under section 3109.172 8964
of the Revised Code as start-up costs for the establishment and 8965
operation of a children's advocacy center. 8966

Sec. 3301.07. The state board of education shall exercise 8967
under the acts of the general assembly general supervision of the 8968
system of public education in the state. In addition to the powers 8969
otherwise imposed on the state board under the provisions of law, 8970
the board shall have the following powers: 8971

(A) Exercise policy forming, planning, and evaluative 8972
functions for the public schools of the state, and for adult 8973
education, except as otherwise provided by law; 8974

(B) Exercise leadership in the improvement of public 8975
education in this state, and administer the educational policies 8976
of this state relating to public schools, and relating to 8977
instruction and instructional material, building and equipment, 8978
transportation of pupils, administrative responsibilities of 8979
school officials and personnel, and finance and organization of 8980
school districts, educational service centers, and territory. 8981
Consultative and advisory services in such matters shall be 8982
provided by the board to school districts and educational service 8983
centers of this state. The board also shall develop a standard of 8984

financial reporting which shall be used by all school districts 8985
and educational service centers to make their financial 8986
information available to the public in a format understandable by 8987
the average citizen and provide year-to-year comparisons for at 8988
least five years. The format shall show, among other things, 8989
district and educational service center revenue by source; 8990
expenditures for salaries, wages, and benefits of employees, 8991
showing such amounts separately for classroom teachers, other 8992
employees required to hold licenses issued pursuant to sections 8993
3319.22 to 3319.31 of the Revised Code, and all other employees; 8994
expenditures other than for personnel, by category, including 8995
utilities, textbooks and other educational materials, equipment, 8996
permanent improvements, pupil transportation, extracurricular 8997
athletics, and other extracurricular activities; and per pupil 8998
expenditures. 8999

(C) Administer and supervise the allocation and distribution 9000
of all state and federal funds for public school education under 9001
the provisions of law, and may prescribe such systems of 9002
accounting as are necessary and proper to this function. It may 9003
require county auditors and treasurers, boards of education, 9004
educational service center governing boards, treasurers of such 9005
boards, teachers, and other school officers and employees, or 9006
other public officers or employees, to file with it such reports 9007
as it may prescribe relating to such funds, or to the management 9008
and condition of such funds. 9009

(D) Formulate and prescribe minimum standards to be applied 9010
to all elementary and secondary schools in this state for the 9011
purpose of requiring a general education of high quality. Such 9012
standards shall provide adequately for: the licensing of teachers, 9013
administrators, and other professional personnel and their 9014
assignment according to training and qualifications; efficient and 9015
effective instructional materials and equipment, including library 9016

facilities; the proper organization, administration, and 9017
supervision of each school, including regulations for preparing 9018
all necessary records and reports and the preparation of a 9019
statement of policies and objectives for each school; buildings, 9020
grounds, health and sanitary facilities and services; admission of 9021
pupils, and such requirements for their promotion from grade to 9022
grade as will assure that they are capable and prepared for the 9023
level of study to which they are certified; requirements for 9024
graduation; and such other factors as the board finds necessary. 9025

In the formulation and administration of such standards for 9026
nonpublic schools the board shall also consider the particular 9027
needs, methods and objectives of those schools, provided they do 9028
not conflict with the provision of a general education of a high 9029
quality and provided that regular procedures shall be followed for 9030
promotion from grade to grade of pupils who have met the 9031
educational requirements prescribed. 9032

(E) May require as part of the health curriculum information 9033
developed under section 2108.34 of the Revised Code promoting the 9034
donation of anatomical gifts pursuant to Chapter 2108. of the 9035
Revised Code and may provide the information to high schools, 9036
educational service centers, and joint vocational school district 9037
boards of education; 9038

(F) Prepare and submit annually to the governor and the 9039
general assembly a report on the status, needs, and major problems 9040
of the public schools of the state, with recommendations for 9041
necessary legislative action and a ten-year projection of the 9042
state's public and nonpublic school enrollment, by year and by 9043
grade level; 9044

(G) Prepare and submit to the director of budget and 9045
management the biennial budgetary requests of the state board of 9046
education, for its agencies and for the public schools of the 9047
state; 9048

(H) Cooperate with federal, state, and local agencies 9049
concerned with the health and welfare of children and youth of the 9050
state; 9051

(I) Require such reports from school districts and 9052
educational service centers, school officers, and employees as are 9053
necessary and desirable. The superintendents and treasurers of 9054
school districts and educational service centers shall certify as 9055
to the accuracy of all reports required by law or state board or 9056
state department of education rules to be submitted by the 9057
district or educational service center and which contain 9058
information necessary for calculation of state funding. Any 9059
superintendent who knowingly falsifies such report shall be 9060
subject to license revocation pursuant to section 3319.31 of the 9061
Revised Code. 9062

(J) In accordance with Chapter 119. of the Revised Code, 9063
adopt procedures, standards, and guidelines for the education of 9064
children with disabilities pursuant to Chapter 3323. of the 9065
Revised Code, including procedures, standards, and guidelines 9066
governing programs and services operated by county boards of 9067
~~mental retardation and~~ developmental disabilities pursuant to 9068
section 3323.09 of the Revised Code; 9069

(K) For the purpose of encouraging the development of special 9070
programs of education for academically gifted children, employ 9071
competent persons to analyze and publish data, promote research, 9072
advise and counsel with boards of education, and encourage the 9073
training of teachers in the special instruction of gifted 9074
children. The board may provide financial assistance out of any 9075
funds appropriated for this purpose to boards of education and 9076
educational service center governing boards for developing and 9077
conducting programs of education for academically gifted children. 9078

(L) Require that all public schools emphasize and encourage, 9079
within existing units of study, the teaching of energy and 9080

resource conservation as recommended to each district board of 9081
education by leading business persons involved in energy 9082
production and conservation, beginning in the primary grades; 9083

(M) Formulate and prescribe minimum standards requiring the 9084
use of phonics as a technique in the teaching of reading in grades 9085
kindergarten through three. In addition, the state board shall 9086
provide in-service training programs for teachers on the use of 9087
phonics as a technique in the teaching of reading in grades 9088
kindergarten through three. 9089

(N) Develop and modify as necessary a state plan for 9090
technology to encourage and promote the use of technological 9091
advancements in educational settings. 9092

The board may adopt rules necessary for carrying out any 9093
function imposed on it by law, and may provide rules as are 9094
necessary for its government and the government of its employees, 9095
and may delegate to the superintendent of public instruction the 9096
management and administration of any function imposed on it by 9097
law. It may provide for the appointment of board members to serve 9098
on temporary committees established by the board for such purposes 9099
as are necessary. Permanent or standing committees shall not be 9100
created. 9101

Sec. 3301.15. The state board of education or its authorized 9102
representatives may inspect all institutions under the control of 9103
the department of job and family services, the department of 9104
mental health, the department of ~~mental retardation and~~ 9105
developmental disabilities, and the department of rehabilitation 9106
and correction which employ teachers, and may make a report on the 9107
teaching, discipline, and school equipment in these institutions 9108
to the director of job and family services, the director of mental 9109
health, the director of ~~mental retardation and~~ developmental 9110
disabilities, the director of rehabilitation and correction, and 9111

the governor. 9112

Sec. 3301.52. As used in sections 3301.52 to 3301.59 of the 9113
Revised Code: 9114

(A) "Preschool program" means either of the following: 9115

(1) A child care program for preschool children that is 9116
operated by a school district board of education or an eligible 9117
nonpublic school. 9118

(2) A child care program for preschool children age three or 9119
older that is operated by a county ~~MR/DD~~ DD board. 9120

(B) "Preschool child" or "child" means a child who has not 9121
entered kindergarten and is not of compulsory school age. 9122

(C) "Parent, guardian, or custodian" means the person or 9123
government agency that is or will be responsible for a child's 9124
school attendance under section 3321.01 of the Revised Code. 9125

(D) "Superintendent" means the superintendent of a school 9126
district or the chief administrative officer of an eligible 9127
nonpublic school. 9128

(E) "Director" means the director, head teacher, elementary 9129
principal, or site administrator who is the individual on site and 9130
responsible for supervision of a preschool program. 9131

(F) "Preschool staff member" means a preschool employee whose 9132
primary responsibility is care, teaching, or supervision of 9133
preschool children. 9134

(G) "Nonteaching employee" means a preschool program or 9135
school child program employee whose primary responsibilities are 9136
duties other than care, teaching, and supervision of preschool 9137
children or school children. 9138

(H) "Eligible nonpublic school" means a nonpublic school 9139
chartered as described in division (B)(8) of section 5104.02 of 9140

the Revised Code or chartered by the state board of education for 9141
any combination of grades one through twelve, regardless of 9142
whether it also offers kindergarten. 9143

(I) "County ~~MR/DD~~ DD board" means a county board of ~~mental~~ 9144
~~retardation and~~ developmental disabilities. 9145

(J) "School child program" means a child care program for 9146
only school children that is operated by a school district board 9147
of education, county ~~MR/DD~~ DD board, or eligible nonpublic school. 9148

(K) "School child" and "child care" have the same meanings as 9149
in section 5104.01 of the Revised Code. 9150

(L) "School child program staff member" means an employee 9151
whose primary responsibility is the care, teaching, or supervision 9152
of children in a school child program. 9153

Sec. 3301.53. (A) The state board of education, in 9154
consultation with the director of job and family services, shall 9155
formulate and prescribe by rule adopted under Chapter 119. of the 9156
Revised Code minimum standards to be applied to preschool programs 9157
operated by school district boards of education, county ~~MR/DD~~ DD 9158
boards, or eligible nonpublic schools. The rules shall include the 9159
following: 9160

(1) Standards ensuring that the preschool program is located 9161
in a safe and convenient facility that accommodates the enrollment 9162
of the program, is of the quality to support the growth and 9163
development of the children according to the program objectives, 9164
and meets the requirements of section 3301.55 of the Revised Code; 9165

(2) Standards ensuring that supervision, discipline, and 9166
programs will be administered according to established objectives 9167
and procedures; 9168

(3) Standards ensuring that preschool staff members and 9169
nonteaching employees are recruited, employed, assigned, 9170

evaluated, and provided inservice education without discrimination 9171
on the basis of age, color, national origin, race, or sex; and 9172
that preschool staff members and nonteaching employees are 9173
assigned responsibilities in accordance with written position 9174
descriptions commensurate with their training and experience; 9175

(4) A requirement that boards of education intending to 9176
establish a preschool program demonstrate a need for a preschool 9177
program prior to establishing the program; 9178

(5) Requirements that children participating in preschool 9179
programs have been immunized to the extent considered appropriate 9180
by the state board to prevent the spread of communicable disease; 9181

(6) Requirements that the parents of preschool children 9182
complete the emergency medical authorization form specified in 9183
section 3313.712 of the Revised Code. 9184

(B) The state board of education in consultation with the 9185
director of job and family services shall ensure that the rules 9186
adopted by the state board under sections 3301.52 to 3301.58 of 9187
the Revised Code are consistent with and meet or exceed the 9188
requirements of Chapter 5104. of the Revised Code with regard to 9189
child day-care centers. The state board and the director of job 9190
and family services shall review all such rules at least once 9191
every five years. 9192

(C) The state board of education, in consultation with the 9193
director of job and family services, shall adopt rules for school 9194
child programs that are consistent with and meet or exceed the 9195
requirements of the rules adopted for school child day-care 9196
centers under Chapter 5104. of the Revised Code. 9197

Sec. 3301.55. (A) A school district, county ~~MR/DD~~ DD board, 9198
or eligible nonpublic school operating a preschool program shall 9199
house the program in buildings that meet the following 9200

requirements: 9201

(1) The building is operated by the district, county ~~MR/DD~~ DD 9202
board, or eligible nonpublic school and has been approved by the 9203
division of industrial compliance in the department of commerce or 9204
a certified municipal, township, or county building department for 9205
the purpose of operating a program for preschool children. Any 9206
such structure shall be constructed, equipped, repaired, altered, 9207
and maintained in accordance with applicable provisions of 9208
Chapters 3781. and 3791. and with rules adopted by the board of 9209
building standards under Chapter 3781. of the Revised Code for the 9210
safety and sanitation of structures erected for this purpose. 9211

(2) The building is in compliance with fire and safety laws 9212
and regulations as evidenced by reports of annual school fire and 9213
safety inspections as conducted by appropriate local authorities. 9214

(3) The school is in compliance with rules established by the 9215
state board of education regarding school food services. 9216

(4) The facility includes not less than thirty-five square 9217
feet of indoor space for each child in the program. Safe play 9218
space, including both indoor and outdoor play space, totaling not 9219
less than sixty square feet for each child using the space at any 9220
one time, shall be regularly available and scheduled for use. 9221

(5) First aid facilities and space for temporary placement or 9222
isolation of injured or ill children are provided. 9223

(B) Each school district, county ~~MR/DD~~ DD board, or eligible 9224
nonpublic school that operates, or proposes to operate, a 9225
preschool program shall submit a building plan including all 9226
information specified by the state board of education to the board 9227
not later than the first day of September of the school year in 9228
which the program is to be initiated. The board shall determine 9229
whether the buildings meet the requirements of this section and 9230
section 3301.53 of the Revised Code, and notify the superintendent 9231

of its determination. If the board determines, on the basis of the
building plan or any other information, that the buildings do not
meet those requirements, it shall cause the buildings to be
inspected by the department of education. The department shall
make a report to the superintendent specifying any aspects of the
building that are not in compliance with the requirements of this
section and section 3301.53 of the Revised Code and the time
period that will be allowed the district, county ~~MR/DD~~ DD board,
or school to meet the requirements.

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

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

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

(C) The department of education, at least twice during every
twelve-month period of operation of a preschool program or a
licensed school child program, shall inspect the program and
provide a written inspection report to the superintendent of the
school district, county ~~MR/DD~~ DD board, or eligible nonpublic

school. At least one inspection shall be unannounced, and all 9263
inspections may be unannounced. No person shall interfere with any 9264
inspection conducted pursuant to this division or to the rules 9265
adopted pursuant to sections 3301.52 to 3301.59 of the Revised 9266
Code. 9267

Upon receipt of any complaint that a preschool program or a 9268
licensed school child program is out of compliance with the 9269
requirements in sections 3301.52 to 3301.59 of the Revised Code or 9270
the rules adopted under those sections, the department shall 9271
investigate and may inspect the program. 9272

(D) If a preschool program or a licensed school child program 9273
is determined to be out of compliance with the requirements of 9274
sections 3301.52 to 3301.59 of the Revised Code or the rules 9275
adopted under those sections, the department of education shall 9276
notify the appropriate superintendent, county ~~MR/DD~~ DD board, or 9277
eligible nonpublic school in writing regarding the nature of the 9278
violation, what must be done to correct the violation, and by what 9279
date the correction must be made. If the correction is not made by 9280
the date established by the department, it may commence action 9281
under Chapter 119. of the Revised Code to close the program or to 9282
revoke the license of the program. If a program does not comply 9283
with an order to cease operation issued in accordance with Chapter 9284
119. of the Revised Code, the department shall notify the attorney 9285
general, the prosecuting attorney of the county in which the 9286
program is located, or the city attorney, village solicitor, or 9287
other chief legal officer of the municipal corporation in which 9288
the program is located that the program is operating in violation 9289
of sections 3301.52 to 3301.59 of the Revised Code or the rules 9290
adopted under those sections and in violation of an order to cease 9291
operation issued in accordance with Chapter 119. of the Revised 9292
Code. Upon receipt of the notification, the attorney general, 9293
prosecuting attorney, city attorney, village solicitor, or other 9294

chief legal officer shall file a complaint in the court of common 9295
pleas of the county in which the program is located requesting the 9296
court to issue an order enjoining the program from operating. The 9297
court shall grant the requested injunctive relief upon a showing 9298
that the program named in the complaint is operating in violation 9299
of sections 3301.52 to 3301.59 of the Revised Code or the rules 9300
adopted under those sections and in violation of an order to cease 9301
operation issued in accordance with Chapter 119. of the Revised 9302
Code. 9303

(E) The department of education shall prepare an annual 9304
report on inspections conducted under this section. The report 9305
shall include the number of inspections conducted, the number and 9306
types of violations found, and the steps taken to address the 9307
violations. The department shall file the report with the 9308
governor, the president and minority leader of the senate, and the 9309
speaker and minority leader of the house of representatives on or 9310
before the first day of January of each year, beginning in 1999. 9311

Sec. 3301.58. (A) The department of education is responsible 9312
for the licensing of preschool programs and school child programs 9313
and for the enforcement of sections 3301.52 to 3301.59 of the 9314
Revised Code and of any rules adopted under those sections. No 9315
school district board of education, county ~~MR/DD~~ DD board, or 9316
eligible nonpublic school shall operate, establish, manage, 9317
conduct, or maintain a preschool program without a license issued 9318
under this section. A school district board of education, county 9319
~~MR/DD~~ DD board, or eligible nonpublic school may obtain a license 9320
under this section for a school child program. The school district 9321
board of education, county ~~MR/DD~~ DD board, or eligible nonpublic 9322
school shall post the current license for each preschool program 9323
and licensed school child program it operates, establishes, 9324
manages, conducts, or maintains in a conspicuous place in the 9325
preschool program or licensed school child program that is 9326

accessible to parents, custodians, or guardians and employees and 9327
staff members of the program at all times when the program is in 9328
operation. 9329

(B) Any school district board of education, county ~~MR/DD~~ DD 9330
board, or eligible nonpublic school that desires to operate, 9331
establish, manage, conduct, or maintain a preschool program shall 9332
apply to the department of education for a license on a form that 9333
the department shall prescribe by rule. Any school district board 9334
of education, county ~~MR/DD~~ DD board, or eligible nonpublic school 9335
that desires to obtain a license for a school child program shall 9336
apply to the department for a license on a form that the 9337
department shall prescribe by rule. The department shall provide 9338
at no charge to each applicant for a license under this section a 9339
copy of the requirements under sections 3301.52 to 3301.59 of the 9340
Revised Code and any rules adopted under those sections. The 9341
department shall mail application forms for the renewal of a 9342
license at least one hundred twenty days prior to the date of the 9343
expiration of the license, and the application for renewal of a 9344
license shall be filed with the department at least sixty days 9345
before the date of the expiration of the existing license. The 9346
department may establish application fees by rule adopted under 9347
Chapter 119. of the Revised Code, and all applicants for a license 9348
shall pay any fee established by the department at the time of 9349
making an application for a license. All fees collected pursuant 9350
to this section shall be paid into the state treasury to the 9351
credit of the general revenue fund. 9352

(C) Upon the filing of an application for a license, the 9353
department of education shall investigate and inspect the 9354
preschool program or school child program to determine the license 9355
capacity for each age category of children of the program and to 9356
determine whether the program complies with sections 3301.52 to 9357
3301.59 of the Revised Code and any rules adopted under those 9358

sections. When, after investigation and inspection, the department 9359
of education is satisfied that sections 3301.52 to 3301.59 of the 9360
Revised Code and any rules adopted under those sections are 9361
complied with by the applicant, the department of education shall 9362
issue the program a provisional license as soon as practicable in 9363
the form and manner prescribed by the rules of the department. The 9364
provisional license shall be valid for six months from the date of 9365
issuance unless revoked. 9366

(D) The department of education shall investigate and inspect 9367
a preschool program or school child program that has been issued a 9368
provisional license at least once during operation under the 9369
provisional license. If, after the investigation and inspection, 9370
the department of education determines that the requirements of 9371
sections 3301.52 to 3301.59 of the Revised Code and any rules 9372
adopted under those sections are met by the provisional licensee, 9373
the department of education shall issue a license that is 9374
effective for two years from the date of the issuance of the 9375
provisional license. 9376

(E) Upon the filing of an application for the renewal of a 9377
license by a preschool program or school child program, the 9378
department of education shall investigate and inspect the 9379
preschool program or school child program. If the department of 9380
education determines that the requirements of sections 3301.52 to 9381
3301.59 of the Revised Code and any rules adopted under those 9382
sections are met by the applicant, the department of education 9383
shall renew the license for two years from the date of the 9384
expiration date of the previous license. 9385

(F) The license or provisional license shall state the name 9386
of the school district board of education, county ~~MR/DD~~ DD board, 9387
or eligible nonpublic school that operates the preschool program 9388
or school child program and the license capacity of the program. 9389
The license shall include any other information required by 9390

section 5104.03 of the Revised Code for the license of a child 9391
day-care center. 9392

(G) The department of education may revoke the license of any 9393
preschool program or school child program that is not in 9394
compliance with the requirements of sections 3301.52 to 3301.59 of 9395
the Revised Code and any rules adopted under those sections. 9396

(H) If the department of education revokes a license or 9397
refuses to renew a license to a program, the department shall not 9398
issue a license to the program within two years from the date of 9399
the revocation or refusal. All actions of the department with 9400
respect to licensing preschool programs and school child programs 9401
shall be in accordance with Chapter 119. of the Revised Code. 9402

Sec. 3304.231. There is hereby created a brain injury 9403
advisory committee, which shall advise the administrator of the 9404
rehabilitation services commission and the brain injury program 9405
with regard to unmet needs of survivors of brain injury, 9406
development of programs for survivors and their families, 9407
establishment of training programs for health care professionals, 9408
and any other matter within the province of the brain injury 9409
program. The committee shall consist of not less than eighteen and 9410
not more than twenty-one members as follows: 9411

(A) Not less than ten and not more than twelve members 9412
appointed by the administrator of the rehabilitation services 9413
commission, including all of the following: a survivor of brain 9414
injury, a relative of a survivor of brain injury, a licensed 9415
physician recommended by the Ohio chapter of the American college 9416
of emergency physicians, a licensed physician recommended by the 9417
Ohio state medical association, one other health care 9418
professional, a rehabilitation professional, an individual who 9419
represents the brain injury association of Ohio, and not less than 9420
three nor more than five individuals who shall represent the 9421

public; 9422

(B) The directors of the departments of health, alcohol and 9423
drug addiction services, ~~mental retardation and~~ developmental 9424
disabilities, mental health, job and family services, and highway 9425
safety; the administrator of workers' compensation; the 9426
superintendent of public instruction; and the administrator of the 9427
rehabilitation services commission. Any of the officials specified 9428
in this division may designate an individual to serve in the 9429
official's place as a member of the committee. 9430

The director of health shall make initial appointments to the 9431
committee by November 1, 1990. Appointments made after July 26, 9432
1991, shall be made by the administrator of the rehabilitation 9433
services commission. Terms of office shall be two years. Members 9434
may be reappointed. Vacancies shall be filled in the manner 9435
provided for original appointments. Any member appointed to fill a 9436
vacancy occurring prior to the expiration date of the term for 9437
which the member's predecessor was appointed shall hold office as 9438
a member for the remainder of that term. 9439

Members of the committee shall serve without compensation, 9440
but shall be reimbursed for actual and necessary expenses incurred 9441
in the performance of their duties. 9442

Sec. 3313.65. (A) As used in this section and section 3313.64 9443
of the Revised Code: 9444

(1) A person is "in a residential facility" if the person is 9445
a resident or a resident patient of an institution, home, or other 9446
residential facility that is: 9447

(a) Licensed as a nursing home, residential care facility, or 9448
home for the aging by the director of health under section 3721.02 9449
of the Revised Code or licensed as a community alternative home by 9450
the director of health under section 3724.03 of the Revised Code; 9451

(b) Licensed as an adult care facility by the director of health under Chapter 3722. of the Revised Code; 9452
9453

(c) Maintained as a county home or district home by the board of county commissioners or a joint board of county commissioners under Chapter 5155. of the Revised Code; 9454
9455
9456

(d) Operated or administered by a board of alcohol, drug addiction, and mental health services under section 340.03 or 340.06 of the Revised Code, or provides residential care pursuant to contracts made under section 340.03 or 340.033 of the Revised Code; 9457
9458
9459
9460
9461

(e) Maintained as a state institution for the mentally ill under Chapter 5119. of the Revised Code; 9462
9463

(f) Licensed by the department of mental health under section 5119.20 or 5119.22 of the Revised Code; 9464
9465

(g) Licensed as a residential facility by the department of ~~mental retardation and~~ developmental disabilities under section 5123.19 of the Revised Code; 9466
9467
9468

(h) Operated by the veteran's administration or another agency of the United States government; 9469
9470

(i) The Ohio soldiers' and sailors' home. 9471

(2) A person is "in a correctional facility" if any of the following apply: 9472
9473

(a) The person is an Ohio resident and is: 9474

(i) Imprisoned, as defined in section 1.05 of the Revised Code; 9475
9476

(ii) Serving a term in a community-based correctional facility or a district community-based correctional facility; 9477
9478

(iii) Required, as a condition of parole, a post-release control sanction, a community control sanction, transitional 9479
9480

control, or early release from imprisonment, as a condition of 9481
shock parole or shock probation granted under the law in effect 9482
prior to July 1, 1996, or as a condition of a furlough granted 9483
under the version of section 2967.26 of the Revised Code in effect 9484
prior to March 17, 1998, to reside in a halfway house or other 9485
community residential center licensed under section 2967.14 of the 9486
Revised Code or a similar facility designated by the court of 9487
common pleas that established the condition or by the adult parole 9488
authority. 9489

(b) The person is imprisoned in a state correctional 9490
institution of another state or a federal correctional institution 9491
but was an Ohio resident at the time the sentence was imposed for 9492
the crime for which the person is imprisoned. 9493

(3) A person is "in a juvenile residential placement" if the 9494
person is an Ohio resident who is under twenty-one years of age 9495
and has been removed, by the order of a juvenile court, from the 9496
place the person resided at the time the person became subject to 9497
the court's jurisdiction in the matter that resulted in the 9498
person's removal. 9499

(4) "Community control sanction" has the same meaning as in 9500
section 2929.01 of the Revised Code. 9501

(5) "Post-release control sanction" has the same meaning as 9502
in section 2967.01 of the Revised Code. 9503

(B) If the circumstances described in division (C) of this 9504
section apply, the determination of what school district must 9505
admit a child to its schools and what district, if any, is liable 9506
for tuition shall be made in accordance with this section, rather 9507
than section 3313.64 of the Revised Code. 9508

(C) A child who does not reside in the school district in 9509
which the child's parent resides and for whom a tuition obligation 9510
previously has not been established under division (C)(2) of 9511

section 3313.64 of the Revised Code shall be admitted to the 9512
schools of the district in which the child resides if at least one 9513
of the child's parents is in a residential or correctional 9514
facility or a juvenile residential placement and the other parent, 9515
if living and not in such a facility or placement, is not known to 9516
reside in this state. 9517

(D) Regardless of who has custody or care of the child, 9518
whether the child resides in a home, or whether the child receives 9519
special education, if a district admits a child under division (C) 9520
of this section, tuition shall be paid to that district as 9521
follows: 9522

(1) If the child's parent is in a juvenile residential 9523
placement, by the district in which the child's parent resided at 9524
the time the parent became subject to the jurisdiction of the 9525
juvenile court; 9526

(2) If the child's parent is in a correctional facility, by 9527
the district in which the child's parent resided at the time the 9528
sentence was imposed; 9529

(3) If the child's parent is in a residential facility, by 9530
the district in which the parent resided at the time the parent 9531
was admitted to the residential facility, except that if the 9532
parent was transferred from another residential facility, tuition 9533
shall be paid by the district in which the parent resided at the 9534
time the parent was admitted to the facility from which the parent 9535
first was transferred; 9536

(4) In the event of a disagreement as to which school 9537
district is liable for tuition under division (C)(1), (2), or (3) 9538
of this section, the superintendent of public instruction shall 9539
determine which district shall pay tuition. 9540

(E) If a child covered by division (D) of this section 9541
receives special education in accordance with Chapter 3323. of the 9542

Revised Code, the tuition shall be paid in accordance with section 9543
3323.13 or 3323.14 of the Revised Code. Tuition for children who 9544
do not receive special education shall be paid in accordance with 9545
division (J) of section 3313.64 of the Revised Code. 9546

Sec. 3313.715. The board of education of a school district 9547
may request from the director of ~~mental retardation and~~ 9548
developmental disabilities the appropriate identification numbers 9549
for all students residing in the district who are medical 9550
assistance recipients under Chapter 5111. of the Revised Code. The 9551
director shall furnish such numbers upon receipt of lists of 9552
student names furnished by the district board, in such form as the 9553
director may require. 9554

The director of job and family services shall provide the 9555
director of ~~mental retardation and~~ developmental disabilities with 9556
the data necessary for compliance with this section. 9557

Section 3319.321 of the Revised Code does not apply to the 9558
release of student names or other data to the director of ~~mental~~ 9559
~~retardation and~~ developmental disabilities for the purposes of 9560
this section. Chapter 1347. of the Revised Code does not apply to 9561
information required to be kept by a school board or the 9562
departments of job and family services or ~~mental retardation and~~ 9563
developmental disabilities to the extent necessary to comply with 9564
this section and section 3313.714 of the Revised Code. However, 9565
any such information or data shall be used only for the specific 9566
legal purposes of such boards and departments and shall not be 9567
released to any unauthorized person. 9568

Sec. 3314.022. The governing authority of any community 9569
school established under this chapter may contract with the 9570
governing authority of another community school, the board of 9571
education of a school district, the governing board of an 9572

educational service center, a county ~~MR/DD~~ DD board, or the 9573
administrative authority of a nonpublic school for provision of 9574
services for any disabled student enrolled at the school. Any 9575
school district board of education or educational service center 9576
governing board shall negotiate with a community school governing 9577
authority that seeks to contract for the provision of services for 9578
a disabled student under this section in the same manner as it 9579
would with the board of education of a school district that seeks 9580
to contract for such services. 9581

Sec. 3314.99. (A) Whoever violates division (F) of section 9582
3314.40 of the Revised Code shall be punished as follows: 9583

(1) Except as otherwise provided in division (A)(2) of this 9584
section, the person is guilty of a misdemeanor of the fourth 9585
degree. 9586

(2) The person is guilty of a misdemeanor of the first degree 9587
if both of the following conditions apply: 9588

(a) The employee who is the subject of the report that the 9589
person fails to submit was required to be reported for the 9590
commission or alleged commission of an act or offense involving 9591
the infliction on a child of any physical or mental wound, injury, 9592
disability, or condition of a nature that constitutes abuse or 9593
neglect of the child; 9594

(b) During the period between the violation of division (F) 9595
of section 3314.40 of the Revised Code and the conviction of or 9596
plea of guilty by the person for that violation, the employee who 9597
is the subject of the report that the person fails to submit 9598
inflicts on any child attending a school district, educational 9599
service center, public or nonpublic school, or county board of 9600
~~mental retardation and~~ developmental disabilities where the 9601
employee works any physical or mental wound, injury, disability, 9602
or condition of a nature that constitutes abuse or neglect of the 9603

child. 9604

(B) Whoever violates division (B) of section 3314.403 of the 9605
Revised Code is guilty of a misdemeanor of the first degree. 9606

Sec. 3317.01. As used in this section and section 3317.011 of 9607
the Revised Code, "school district," unless otherwise specified, 9608
means any city, local, exempted village, joint vocational, or 9609
cooperative education school district and any educational service 9610
center. 9611

This chapter shall be administered by the state board of 9612
education. The superintendent of public instruction shall 9613
calculate the amounts payable to each school district and shall 9614
certify the amounts payable to each eligible district to the 9615
treasurer of the district as provided by this chapter. As soon as 9616
possible after such amounts are calculated, the superintendent 9617
shall certify to the treasurer of each school district the 9618
district's adjusted charge-off increase, as defined in section 9619
5705.211 of the Revised Code. No moneys shall be distributed 9620
pursuant to this chapter without the approval of the controlling 9621
board. 9622

The state board of education shall, in accordance with 9623
appropriations made by the general assembly, meet the financial 9624
obligations of this chapter. 9625

Annually, the department of education shall calculate and 9626
report to each school district the district's total state and 9627
local funds for providing an adequate basic education to the 9628
district's nondisabled students, utilizing the determination in 9629
section 3317.012 of the Revised Code. In addition, the department 9630
shall calculate and report separately for each school district the 9631
district's total state and local funds for providing an adequate 9632
education for its students with disabilities, utilizing the 9633
determinations in both sections 3317.012 and 3317.013 of the 9634

Revised Code. 9635

Not later than the thirty-first day of August of each fiscal 9636
year, the department of education shall provide to each school 9637
district and county ~~MR/DD~~ DD board a preliminary estimate of the 9638
amount of funding that the department calculates the district will 9639
receive under each of divisions (C)(1) and (4) of section 3317.022 9640
of the Revised Code. No later than the first day of December of 9641
each fiscal year, the department shall update that preliminary 9642
estimate. 9643

Moneys distributed pursuant to this chapter shall be 9644
calculated and paid on a fiscal year basis, beginning with the 9645
first day of July and extending through the thirtieth day of June. 9646
The moneys appropriated for each fiscal year shall be distributed 9647
at least monthly to each school district unless otherwise provided 9648
for. The state board shall submit a yearly distribution plan to 9649
the controlling board at its first meeting in July. The state 9650
board shall submit any proposed midyear revision of the plan to 9651
the controlling board in January. Any year-end revision of the 9652
plan shall be submitted to the controlling board in June. If 9653
moneys appropriated for each fiscal year are distributed other 9654
than monthly, such distribution shall be on the same basis for 9655
each school district. 9656

The total amounts paid each month shall constitute, as nearly 9657
as possible, one-twelfth of the total amount payable for the 9658
entire year. 9659

Until fiscal year 2007, payments made during the first six 9660
months of the fiscal year may be based on an estimate of the 9661
amounts payable for the entire year. Payments made in the last six 9662
months shall be based on the final calculation of the amounts 9663
payable to each school district for that fiscal year. Payments 9664
made in the last six months may be adjusted, if necessary, to 9665
correct the amounts distributed in the first six months, and to 9666

reflect enrollment increases when such are at least three per 9667
cent. 9668

Beginning in fiscal year 2007, payments shall be calculated 9669
to reflect the biannual reporting of average daily membership. In 9670
fiscal year 2007 and in each fiscal year thereafter, annualized 9671
periodic payments for each school district shall be based on the 9672
district's final student counts verified by the superintendent of 9673
public instruction based on reports under section 3317.03 of the 9674
Revised Code, as adjusted, if so ordered, under division (K) of 9675
that section, as follows: 9676

the sum of one-half of the number of students verified 9677
and adjusted for the first full week in October 9678
plus one-half of the average of the numbers 9679
verified and adjusted for the first full week 9680
in October and for the first full week in February 9681

Except as otherwise provided, payments under this chapter 9682
shall be made only to those school districts in which: 9683

(A) The school district, except for any educational service 9684
center and any joint vocational or cooperative education school 9685
district, levies for current operating expenses at least twenty 9686
mills. Levies for joint vocational or cooperative education school 9687
districts or county school financing districts, limited to or to 9688
the extent apportioned to current expenses, shall be included in 9689
this qualification requirement. School district income tax levies 9690
under Chapter 5748. of the Revised Code, limited to or to the 9691
extent apportioned to current operating expenses, shall be 9692
included in this qualification requirement to the extent 9693
determined by the tax commissioner under division (D) of section 9694
3317.021 of the Revised Code. 9695

(B) The school year next preceding the fiscal year for which 9696
such payments are authorized meets the requirement of section 9697
3313.48 or 3313.481 of the Revised Code, with regard to the 9698

minimum number of days or hours school must be open for 9699
instruction with pupils in attendance, for individualized 9700
parent-teacher conference and reporting periods, and for 9701
professional meetings of teachers. This requirement shall be 9702
waived by the superintendent of public instruction if it had been 9703
necessary for a school to be closed because of disease epidemic, 9704
hazardous weather conditions, inoperability of school buses or 9705
other equipment necessary to the school's operation, damage to a 9706
school building, or other temporary circumstances due to utility 9707
failure rendering the school building unfit for school use, 9708
provided that for those school districts operating pursuant to 9709
section 3313.48 of the Revised Code the number of days the school 9710
was actually open for instruction with pupils in attendance and 9711
for individualized parent-teacher conference and reporting periods 9712
is not less than one hundred seventy-five, or for those school 9713
districts operating on a trimester plan the number of days the 9714
school was actually open for instruction with pupils in attendance 9715
not less than seventy-nine days in any trimester, for those school 9716
districts operating on a quarterly plan the number of days the 9717
school was actually open for instruction with pupils in attendance 9718
not less than fifty-nine days in any quarter, or for those school 9719
districts operating on a pentamester plan the number of days the 9720
school was actually open for instruction with pupils in attendance 9721
not less than forty-four days in any pentamester. 9722

A school district shall not be considered to have failed to 9723
comply with this division or section 3313.481 of the Revised Code 9724
because schools were open for instruction but either twelfth grade 9725
students were excused from attendance for up to three days or only 9726
a portion of the kindergarten students were in attendance for up 9727
to three days in order to allow for the gradual orientation to 9728
school of such students. 9729

The superintendent of public instruction shall waive the 9730

requirements of this section with reference to the minimum number 9731
of days or hours school must be in session with pupils in 9732
attendance for the school year succeeding the school year in which 9733
a board of education initiates a plan of operation pursuant to 9734
section 3313.481 of the Revised Code. The minimum requirements of 9735
this section shall again be applicable to such a district 9736
beginning with the school year commencing the second July 9737
succeeding the initiation of one such plan, and for each school 9738
year thereafter. 9739

A school district shall not be considered to have failed to 9740
comply with this division or section 3313.48 or 3313.481 of the 9741
Revised Code because schools were open for instruction but the 9742
length of the regularly scheduled school day, for any number of 9743
days during the school year, was reduced by not more than two 9744
hours due to hazardous weather conditions. 9745

(C) The school district has on file, and is paying in 9746
accordance with, a teachers' salary schedule which complies with 9747
section 3317.13 of the Revised Code. 9748

A board of education or governing board of an educational 9749
service center which has not conformed with other law and the 9750
rules pursuant thereto, shall not participate in the distribution 9751
of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 9752
3317.16, 3317.17, and 3317.19 of the Revised Code, except for good 9753
and sufficient reason established to the satisfaction of the state 9754
board of education and the state controlling board. 9755

All funds allocated to school districts under this chapter, 9756
except those specifically allocated for other purposes, shall be 9757
used to pay current operating expenses only. 9758

Sec. 3317.02. As used in this chapter: 9759

(A) Unless otherwise specified, "school district" means city, 9760

local, and exempted village school districts. 9761

(B) "Formula amount" means the base cost for the fiscal year 9762
specified in division (B)(4) of section 3317.012 of the Revised 9763
Code. 9764

(C) "FTE basis" means a count of students based on full-time 9765
equivalency, in accordance with rules adopted by the department of 9766
education pursuant to section 3317.03 of the Revised Code. In 9767
adopting its rules under this division, the department shall 9768
provide for counting any student in category one, two, three, 9769
four, five, or six special education ADM or in category one or two 9770
vocational education ADM in the same proportion the student is 9771
counted in formula ADM. 9772

(D) "Formula ADM" means, for a city, local, or exempted 9773
village school district, the final number verified by the 9774
superintendent of public instruction, based on the number reported 9775
pursuant to division (A) of section 3317.03 of the Revised Code, 9776
as adjusted, if so ordered, under division (K) of that section. 9777
"Formula ADM" means, for a joint vocational school district, the 9778
final number verified by the superintendent of public instruction, 9779
based on the number reported pursuant to division (D) of section 9780
3317.03 of the Revised Code, as adjusted, if so ordered, under 9781
division (K) of that section. Beginning in fiscal year 2007, for 9782
payments in which formula ADM is a factor, the formula ADM for 9783
each school district for the fiscal year is the sum of one-half of 9784
the number verified and adjusted for October of that fiscal year 9785
plus one-half of the average of the numbers verified and adjusted 9786
for October and February of that fiscal year. 9787

9788

(E) "Three-year average formula ADM" means the average of 9789
formula ADMs for the preceding three fiscal years. 9790

(F)(1) "Category one special education ADM" means the average 9791

daily membership of children with disabilities receiving special 9792
education services for the disability specified in division (A) of 9793
section 3317.013 of the Revised Code and reported under division 9794
(B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code. 9795
Beginning in fiscal year 2007, the district's category one special 9796
education ADM for a fiscal year is the sum of one-half of the 9797
number reported for October of that fiscal year plus one-half of 9798
the average of the numbers reported for October and February of 9799
that fiscal year. 9800

(2) "Category two special education ADM" means the average 9801
daily membership of children with disabilities receiving special 9802
education services for those disabilities specified in division 9803
(B) of section 3317.013 of the Revised Code and reported under 9804
division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised 9805
Code. Beginning in fiscal year 2007, the district's category two 9806
special education ADM for a fiscal year is the sum of one-half of 9807
the number reported for October of that fiscal year plus one-half 9808
of the average of the numbers reported for October and February of 9809
that fiscal year. 9810

(3) "Category three special education ADM" means the average 9811
daily membership of students receiving special education services 9812
for those disabilities specified in division (C) of section 9813
3317.013 of the Revised Code, and reported under division (B)(7) 9814
or (D)(2)(d) of section 3317.03 of the Revised Code. Beginning in 9815
fiscal year 2007, the district's category three special education 9816
ADM for a fiscal year is the sum of one-half of the number 9817
reported for October of that fiscal year plus one-half of the 9818
average of the numbers reported for October and February of that 9819
fiscal year. 9820

(4) "Category four special education ADM" means the average 9821
daily membership of students receiving special education services 9822
for those disabilities specified in division (D) of section 9823

3317.013 of the Revised Code and reported under division (B)(8) or 9824
(D)(2)(e) of section 3317.03 of the Revised Code. Beginning in 9825
fiscal year 2007, the district's category four special education 9826
ADM for a fiscal year is the sum of one-half of the number 9827
reported for October of that fiscal year plus one-half of the 9828
average of the numbers reported for October and February of that 9829
fiscal year. 9830

(5) "Category five special education ADM" means the average 9831
daily membership of students receiving special education services 9832
for the disabilities specified in division (E) of section 3317.013 9833
of the Revised Code and reported under division (B)(9) or 9834
(D)(2)(f) of section 3317.03 of the Revised Code. Beginning in 9835
fiscal year 2007, the district's category five special education 9836
ADM for a fiscal year is the sum of one-half of the number 9837
reported for October of that fiscal year plus one-half of the 9838
average of the numbers reported for October and February of that 9839
fiscal year. 9840

(6) "Category six special education ADM" means the average 9841
daily membership of students receiving special education services 9842
for the disabilities specified in division (F) of section 3317.013 9843
of the Revised Code and reported under division (B)(10) or 9844
(D)(2)(g) of section 3317.03 of the Revised Code. Beginning in 9845
fiscal year 2007, the district's category six special education 9846
ADM for a fiscal year is the sum of one-half of the number 9847
reported for October of that fiscal year plus one-half of the 9848
average of the numbers reported for October and February of that 9849
fiscal year. 9850

(7) "Category one vocational education ADM" means the average 9851
daily membership of students receiving vocational education 9852
services described in division (A) of section 3317.014 of the 9853
Revised Code and reported under division (B)(11) or (D)(2)(h) of 9854
section 3317.03 of the Revised Code. Beginning in fiscal year 9855

2007, the district's category one vocational education ADM for a 9856
fiscal year is the sum of one-half of the number reported for 9857
October of that fiscal year plus one-half of the average of the 9858
numbers reported for October and February of that fiscal year. 9859

(8) "Category two vocational education ADM" means the average 9860
daily membership of students receiving vocational education 9861
services described in division (B) of section 3317.014 of the 9862
Revised Code and reported under division (B)(12) or (D)(2)(i) of 9863
section 3317.03 of the Revised Code. Beginning in fiscal year 9864
2007, the district's category two vocational education ADM for a 9865
fiscal year is the sum of one-half of the number reported for 9866
October of that fiscal year plus one-half of the average of the 9867
numbers reported for October and February of that fiscal year. 9868

(G) "Preschool child with a disability" means a child with a 9869
disability, as defined in section 3323.01 of the Revised Code, who 9870
is at least age three but is not of compulsory school age, as 9871
defined in section 3321.01 of the Revised Code, and who is not 9872
currently enrolled in kindergarten. 9873

(H) "County ~~MR/DD~~ DD board" means a county board of ~~mental~~ 9874
~~retardation and~~ developmental disabilities. 9875

(I) "Recognized valuation" means the amount calculated for a 9876
school district pursuant to section 3317.015 of the Revised Code. 9877

(J) "Transportation ADM" means the number of children 9878
reported under division (B)(13) of section 3317.03 of the Revised 9879
Code. 9880

(K) "Average efficient transportation use cost per student" 9881
means a statistical representation of transportation costs as 9882
calculated under division (D)(2) of section 3317.022 of the 9883
Revised Code. 9884

(L) "Taxes charged and payable" means the taxes charged and 9885
payable against real and public utility property after making the 9886

reduction required by section 319.301 of the Revised Code, plus 9887
the taxes levied against tangible personal property. 9888

(M) "Total taxable value" means the sum of the amounts 9889
certified for a city, local, exempted village, or joint vocational 9890
school district under divisions (A)(1) and (2) of section 3317.021 9891
of the Revised Code. 9892

(N) "Tax exempt value" of a school district means the amount 9893
certified for a school district under division (A)(4) of section 9894
3317.021 of the Revised Code. 9895

(O) "Potential value" of a school district means the 9896
recognized valuation of a school district plus the tax exempt 9897
value of the district. 9898

(P) "District median income" means the median Ohio adjusted 9899
gross income certified for a school district. On or before the 9900
first day of July of each year, the tax commissioner shall certify 9901
to the department of education and the office of budget and 9902
management for each city, exempted village, and local school 9903
district the median Ohio adjusted gross income of the residents of 9904
the school district determined on the basis of tax returns filed 9905
for the second preceding tax year by the residents of the 9906
district. 9907

(Q) "Statewide median income" means the median district 9908
median income of all city, exempted village, and local school 9909
districts in the state. 9910

(R) "Income factor" for a city, exempted village, or local 9911
school district means the quotient obtained by dividing that 9912
district's median income by the statewide median income. 9913

(S) "Medically fragile child" means a child to whom all of 9914
the following apply: 9915

(1) The child requires the services of a doctor of medicine 9916

or osteopathic medicine at least once a week due to the 9917
instability of the child's medical condition. 9918

(2) The child requires the services of a registered nurse on 9919
a daily basis. 9920

(3) The child is at risk of institutionalization in a 9921
hospital, skilled nursing facility, or intermediate care facility 9922
for the mentally retarded. 9923

(T) A child may be identified as having an "other health 9924
impairment-major" if the child's condition meets the definition of 9925
"other health impaired" established in rules adopted by the state 9926
board of education prior to July 1, 2001, and if either of the 9927
following apply: 9928

(1) The child is identified as having a medical condition 9929
that is among those listed by the superintendent of public 9930
instruction as conditions where a substantial majority of cases 9931
fall within the definition of "medically fragile child." The 9932
superintendent of public instruction shall issue an initial list 9933
no later than September 1, 2001. 9934

(2) The child is determined by the superintendent of public 9935
instruction to be a medically fragile child. A school district 9936
superintendent may petition the superintendent of public 9937
instruction for a determination that a child is a medically 9938
fragile child. 9939

(U) A child may be identified as having an "other health 9940
impairment-minor" if the child's condition meets the definition of 9941
"other health impaired" established in rules adopted by the state 9942
board of education prior to July 1, 2001, but the child's 9943
condition does not meet either of the conditions specified in 9944
division (T)(1) or (2) of this section. 9945

(V) "State education aid" has the same meaning as in section 9946
5751.20 of the Revised Code. 9947

(W) "Property exemption value" means zero in fiscal year 9948
2006, and in fiscal year 2007 and each fiscal year thereafter, the 9949
amount certified for a school district under divisions (A)(6) and 9950
(7) of section 3317.021 of the Revised Code. 9951

(X) "Internet- or computer-based community school" has the 9952
same meaning as in section 3314.02 of the Revised Code. 9953

Sec. 3317.024. In addition to the moneys paid to eligible 9954
school districts pursuant to section 3317.022 of the Revised Code, 9955
moneys appropriated for the education programs in divisions (A) to 9956
(I), (K), (L), and (N) of this section shall be distributed to 9957
school districts meeting the requirements of section 3317.01 of 9958
the Revised Code; in the case of divisions (G) and (L) of this 9959
section, to educational service centers as provided in section 9960
3317.11 of the Revised Code; in the case of divisions (D) and (J) 9961
of this section, to county ~~MR/DD~~ DD boards; in the case of 9962
division (N) of this section, to joint vocational school 9963
districts; in the case of division (H) of this section, to 9964
cooperative education school districts; and in the case of 9965
division (M) of this section, to the institutions defined under 9966
section 3317.082 of the Revised Code providing elementary or 9967
secondary education programs to children other than children 9968
receiving special education under section 3323.091 of the Revised 9969
Code. The following shall be distributed monthly, quarterly, or 9970
annually as may be determined by the state board of education: 9971

(A) An amount for each island school district and each joint 9972
state school district for the operation of each high school and 9973
each elementary school maintained within such district and for 9974
capital improvements for such schools. Such amounts shall be 9975
determined on the basis of standards adopted by the state board of 9976
education. 9977

(B) An amount for each school district operating classes for 9978

children of migrant workers who are unable to be in attendance in 9979
an Ohio school during the entire regular school year. The amounts 9980
shall be determined on the basis of standards adopted by the state 9981
board of education, except that payment shall be made only for 9982
subjects regularly offered by the school district providing the 9983
classes. 9984

(C) An amount for each school district with guidance, 9985
testing, and counseling programs approved by the state board of 9986
education. The amount shall be determined on the basis of 9987
standards adopted by the state board of education. 9988

(D) An amount for the emergency purchase of school buses as 9989
provided for in section 3317.07 of the Revised Code; 9990

(E) An amount for each school district required to pay 9991
tuition for a child in an institution maintained by the department 9992
of youth services pursuant to section 3317.082 of the Revised 9993
Code, provided the child was not included in the calculation of 9994
the district's average daily membership for the preceding school 9995
year. 9996

(F) An amount for adult basic literacy education for each 9997
district participating in programs approved by the state board of 9998
education. The amount shall be determined on the basis of 9999
standards adopted by the state board of education. 10000

(G) An amount for the approved cost of transporting eligible 10001
pupils with disabilities attending a special education program 10002
approved by the department of education whom it is impossible or 10003
impractical to transport by regular school bus in the course of 10004
regular route transportation provided by the district or service 10005
center. No district or service center is eligible to receive a 10006
payment under this division for the cost of transporting any pupil 10007
whom it transports by regular school bus and who is included in 10008
the district's transportation ADM. The state board of education 10009

shall establish standards and guidelines for use by the department 10010
of education in determining the approved cost of such 10011
transportation for each district or service center. 10012

(H) An amount to each school district, including each 10013
cooperative education school district, pursuant to section 3313.81 10014
of the Revised Code to assist in providing free lunches to needy 10015
children and an amount to assist needy school districts in 10016
purchasing necessary equipment for food preparation. The amounts 10017
shall be determined on the basis of rules adopted by the state 10018
board of education. 10019

(I) An amount to each school district, for each pupil 10020
attending a chartered nonpublic elementary or high school within 10021
the district. The amount shall equal the amount appropriated for 10022
the implementation of section 3317.06 of the Revised Code divided 10023
by the average daily membership in grades kindergarten through 10024
twelve in nonpublic elementary and high schools within the state 10025
as determined during the first full week in October of each school 10026
year. 10027

(J) An amount for each county ~~MR/DD~~ DD board, distributed on 10028
the basis of standards adopted by the state board of education, 10029
for the approved cost of transportation required for children 10030
attending special education programs operated by the county ~~MR/DD~~ 10031
DD board under section 3323.09 of the Revised Code; 10032

(K) An amount for each school district that establishes a 10033
mentor teacher program that complies with rules of the state board 10034
of education. No school district shall be required to establish or 10035
maintain such a program in any year unless sufficient funds are 10036
appropriated to cover the district's total costs for the program. 10037

(L) An amount to each school district or educational service 10038
center for the total number of gifted units approved pursuant to 10039
section 3317.05 of the Revised Code. The amount for each such unit 10040

shall be the sum of the minimum salary for the teacher of the 10041
unit, calculated on the basis of the teacher's training level and 10042
years of experience pursuant to the salary schedule prescribed in 10043
the version of section 3317.13 of the Revised Code in effect prior 10044
to July 1, 2001, plus fifteen per cent of that minimum salary 10045
amount, plus two thousand six hundred seventy-eight dollars. 10046

(M) An amount to each institution defined under section 10047
3317.082 of the Revised Code providing elementary or secondary 10048
education to children other than children receiving special 10049
education under section 3323.091 of the Revised Code. This amount 10050
for any institution in any fiscal year shall equal the total of 10051
all tuition amounts required to be paid to the institution under 10052
division (A)(1) of section 3317.082 of the Revised Code. 10053

(N) A grant to each school district and joint vocational 10054
school district that operates a "graduation, reality, and 10055
dual-role skills" (GRADS) program for pregnant and parenting 10056
students that is approved by the department. The amount of the 10057
payment shall be the district's state share percentage, as defined 10058
in section 3317.022 or 3317.16 of the Revised Code, times the 10059
GRADS personnel allowance times the full-time-equivalent number of 10060
GRADS teachers approved by the department. The GRADS personnel 10061
allowance is \$47,555 in fiscal years 2008 and 2009. The GRADS 10062
program shall include instruction on adoption as an option for 10063
unintended pregnancies. 10064

The state board of education or any other board of education 10065
or governing board may provide for any resident of a district or 10066
educational service center territory any educational service for 10067
which funds are made available to the board by the United States 10068
under the authority of public law, whether such funds come 10069
directly or indirectly from the United States or any agency or 10070
department thereof or through the state or any agency, department, 10071
or political subdivision thereof. 10072

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and 10073
(C) of this section, except as provided in division (A)(2)(h) of 10074
this section, any student enrolled in kindergarten more than half 10075
time shall be reported as one-half student under this section. 10076

(A) The superintendent of each city and exempted village 10077
school district and of each educational service center shall, for 10078
the schools under the superintendent's supervision, certify to the 10079
state board of education on or before the fifteenth day of October 10080
in each year for the first full school week in October the formula 10081
ADM. Beginning in fiscal year 2007, each superintendent also shall 10082
certify to the state board, for the schools under the 10083
superintendent's supervision, the formula ADM for the first full 10084
week in February. If a school under the superintendent's 10085
supervision is closed for one or more days during that week due to 10086
hazardous weather conditions or other circumstances described in 10087
the first paragraph of division (B) of section 3317.01 of the 10088
Revised Code, the superintendent may apply to the superintendent 10089
of public instruction for a waiver, under which the superintendent 10090
of public instruction may exempt the district superintendent from 10091
certifying the formula ADM for that school for that week and 10092
specify an alternate week for certifying the formula ADM of that 10093
school. 10094

The formula ADM shall consist of the average daily membership 10095
during such week of the sum of the following: 10096

(1) On an FTE basis, the number of students in grades 10097
kindergarten through twelve receiving any educational services 10098
from the district, except that the following categories of 10099
students shall not be included in the determination: 10100

(a) Students enrolled in adult education classes; 10101

(b) Adjacent or other district students enrolled in the 10102
district under an open enrollment policy pursuant to section 10103

3313.98 of the Revised Code; 10104

(c) Students receiving services in the district pursuant to a 10105
compact, cooperative education agreement, or a contract, but who 10106
are entitled to attend school in another district pursuant to 10107
section 3313.64 or 3313.65 of the Revised Code; 10108

(d) Students for whom tuition is payable pursuant to sections 10109
3317.081 and 3323.141 of the Revised Code; 10110

(e) Students receiving services in the district through a 10111
scholarship awarded under section 3310.41 of the Revised Code. 10112

(2) On an FTE basis, except as provided in division (A)(2)(h) 10113
of this section, the number of students entitled to attend school 10114
in the district pursuant to section 3313.64 or 3313.65 of the 10115
Revised Code, but receiving educational services in grades 10116
kindergarten through twelve from one or more of the following 10117
entities: 10118

(a) A community school pursuant to Chapter 3314. of the 10119
Revised Code, including any participation in a college pursuant to 10120
Chapter 3365. of the Revised Code while enrolled in such community 10121
school; 10122

(b) An alternative school pursuant to sections 3313.974 to 10123
3313.979 of the Revised Code as described in division (I)(2)(a) or 10124
(b) of this section; 10125

(c) A college pursuant to Chapter 3365. of the Revised Code, 10126
except when the student is enrolled in the college while also 10127
enrolled in a community school pursuant to Chapter 3314. or a 10128
science, technology, engineering, and mathematics school 10129
established under Chapter 3326. of the Revised Code; 10130

(d) An adjacent or other school district under an open 10131
enrollment policy adopted pursuant to section 3313.98 of the 10132
Revised Code; 10133

(e) An educational service center or cooperative education district;	10134 10135
(f) Another school district under a cooperative education agreement, compact, or contract;	10136 10137
(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	10138 10139
(h) An alternative public provider or a registered private 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.	10140 10141 10142 10143 10144
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 7 .	10145 10146 10147
(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.	10148 10149 10150 10151
(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;	10152 10153 10154 10155 10156 10157 10158 10159
(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 <u>DD</u> board, minus the number of such children placed with a county MR/DD <u>DD</u>	10160 10161 10162 10163 10164

board in fiscal year 1998. If this calculation produces a negative 10165
number, the number reported under division (A)(4) of this section 10166
shall be zero. 10167

(5) Beginning in fiscal year 2007, in the case of the report 10168
submitted for the first full week in February, or the alternative 10169
week if specified by the superintendent of public instruction, the 10170
number of students reported under division (A)(1) or (2) of this 10171
section for the first full week of the preceding October but who 10172
since that week have received high school diplomas. 10173

(B) To enable the department of education to obtain the data 10174
needed to complete the calculation of payments pursuant to this 10175
chapter, in addition to the formula ADM, each superintendent shall 10176
report separately the following student counts for the same week 10177
for which formula ADM is certified: 10178

(1) The total average daily membership in regular day classes 10179
included in the report under division (A)(1) or (2) of this 10180
section for kindergarten, and each of grades one through twelve in 10181
schools under the superintendent's supervision; 10182

(2) The number of all preschool children with disabilities 10183
enrolled as of the first day of December in classes in the 10184
district that are eligible for approval under division (B) of 10185
section 3317.05 of the Revised Code and the number of those 10186
classes, which shall be reported not later than the fifteenth day 10187
of December, in accordance with rules adopted under that section; 10188

(3) The number of children entitled to attend school in the 10189
district pursuant to section 3313.64 or 3313.65 of the Revised 10190
Code who are: 10191

(a) Participating in a pilot project scholarship program 10192
established under sections 3313.974 to 3313.979 of the Revised 10193
Code as described in division (I)(2)(a) or (b) of this section; 10194

(b) Enrolled in a college under Chapter 3365. of the Revised 10195

Code, except when the student is enrolled in the college while 10196
also enrolled in a community school pursuant to Chapter 3314. or a 10197
science, technology, engineering, and mathematics school 10198
established under Chapter 3326. of the Revised Code; 10199

(c) Enrolled in an adjacent or other school district under 10200
section 3313.98 of the Revised Code; 10201

(d) Enrolled in a community school established under Chapter 10202
3314. of the Revised Code that is not an internet- or 10203
computer-based community school as defined in section 3314.02 of 10204
the Revised Code, including any participation in a college 10205
pursuant to Chapter 3365. of the Revised Code while enrolled in 10206
such community school; 10207

(e) Enrolled in an internet- or computer-based community 10208
school, as defined in section 3314.02 of the Revised Code, 10209
including any participation in a college pursuant to Chapter 3365. 10210
of the Revised Code while enrolled in the school; 10211

(f) Enrolled in a chartered nonpublic school with a 10212
scholarship paid under section 3310.08 of the Revised Code; 10213

(g) Enrolled in kindergarten through grade twelve in an 10214
alternative public provider or a registered private provider with 10215
a scholarship awarded under section 3310.41 of the Revised Code; 10216

(h) Enrolled as a preschool child with a disability in an 10217
alternative public provider or a registered private provider with 10218
a scholarship awarded under section 3310.41 of the Revised Code; 10219

(i) Participating in a program operated by a county ~~MR/DD~~ DD 10220
board or a state institution; 10221

(j) Enrolled in a science, technology, engineering, and 10222
mathematics school established under Chapter 3326. of the Revised 10223
Code, including any participation in a college pursuant to Chapter 10224
3365. of the Revised Code while enrolled in the school. 10225

(4) The number of pupils enrolled in joint vocational schools;	10226 10227
(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 Revised Code;	10228 10229 10230 10231 10232
(6) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category two disabilities described in division (B) of section 3317.013 of the Revised Code;	10233 10234 10235 10236 10237
(7) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code;	10238 10239 10240 10241 10242
(8) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category four disabilities described in division (D) of section 3317.013 of the Revised Code;	10243 10244 10245 10246 10247
(9) 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 five disabilities described in division (E) of section 3317.013 of the Revised Code;	10248 10249 10250 10251 10252
(10) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) and under division (B)(3)(h) of this section receiving special education services for category six disabilities described in division (F)	10253 10254 10255 10256

of section 3317.013 of the Revised Code, including children 10257
attending a special education program operated by an alternative 10258
public provider or a registered private provider with a 10259
scholarship awarded under section 3310.41 of the Revised Code; 10260

(11) The average daily membership of pupils reported under 10261
division (A)(1) or (2) of this section enrolled in category one 10262
vocational education programs or classes, described in division 10263
(A) of section 3317.014 of the Revised Code, operated by the 10264
school district or by another district, other than a joint 10265
vocational school district, or by an educational service center, 10266
excluding any student reported under division (B)(3)(e) of this 10267
section as enrolled in an internet- or computer-based community 10268
school, notwithstanding division (C) of section 3317.02 of the 10269
Revised Code and division (C)(3) of this section; 10270

(12) The average daily membership of pupils reported under 10271
division (A)(1) or (2) of this section enrolled in category two 10272
vocational education programs or services, described in division 10273
(B) of section 3317.014 of the Revised Code, operated by the 10274
school district or another school district, other than a joint 10275
vocational school district, or by an educational service center, 10276
excluding any student reported under division (B)(3)(e) of this 10277
section as enrolled in an internet- or computer-based community 10278
school, notwithstanding division (C) of section 3317.02 of the 10279
Revised Code and division (C)(3) of this section; 10280

(13) The average number of children transported by the school 10281
district on board-owned or contractor-owned and -operated buses, 10282
reported in accordance with rules adopted by the department of 10283
education; 10284

(14)(a) The number of children, other than preschool children 10285
with disabilities, the district placed with a county ~~MR/DD~~ DD 10286
board in fiscal year 1998; 10287

(b) The number of children with disabilities, other than 10288
preschool children with disabilities, placed with a county ~~MR/DD~~ 10289
~~DD~~ board in the current fiscal year to receive special education 10290
services for the category one disability described in division (A) 10291
of section 3317.013 of the Revised Code; 10292

(c) The number of children with disabilities, other than 10293
preschool children with disabilities, placed with a county ~~MR/DD~~ 10294
~~DD~~ board in the current fiscal year to receive special education 10295
services for category two disabilities described in division (B) 10296
of section 3317.013 of the Revised Code; 10297

(d) The number of children with disabilities, other than 10298
preschool children with disabilities, placed with a county ~~MR/DD~~ 10299
~~DD~~ board in the current fiscal year to receive special education 10300
services for category three disabilities described in division (C) 10301
of section 3317.013 of the Revised Code; 10302

(e) The number of children with disabilities, other than 10303
preschool children with disabilities, placed with a county ~~MR/DD~~ 10304
~~DD~~ board in the current fiscal year to receive special education 10305
services for category four disabilities described in division (D) 10306
of section 3317.013 of the Revised Code; 10307

(f) The number of children with disabilities, other than 10308
preschool children with disabilities, placed with a county ~~MR/DD~~ 10309
~~DD~~ board in the current fiscal year to receive special education 10310
services for the category five disabilities described in division 10311
(E) of section 3317.013 of the Revised Code; 10312

(g) The number of children with disabilities, other than 10313
preschool children with disabilities, placed with a county ~~MR/DD~~ 10314
~~DD~~ board in the current fiscal year to receive special education 10315
services for category six disabilities described in division (F) 10316
of section 3317.013 of the Revised Code. 10317

(C)(1) Except as otherwise provided in this section for 10318

kindergarten students, the average daily membership in divisions 10319
(B)(1) to (12) of this section shall be based upon the number of 10320
full-time equivalent students. The state board of education shall 10321
adopt rules defining full-time equivalent students and for 10322
determining the average daily membership therefrom for the 10323
purposes of divisions (A), (B), and (D) of this section. 10324

(2) A student enrolled in a community school established 10325
under Chapter 3314. or a science, technology, engineering, and 10326
mathematics school established under Chapter 3326. of the Revised 10327
Code shall be counted in the formula ADM and, if applicable, the 10328
category one, two, three, four, five, or six special education ADM 10329
of the school district in which the student is entitled to attend 10330
school under section 3313.64 or 3313.65 of the Revised Code for 10331
the same proportion of the school year that the student is counted 10332
in the enrollment of the community school or the science, 10333
technology, engineering, and mathematics school for purposes of 10334
section 3314.08 or 3326.33 of the Revised Code. Notwithstanding 10335
the number of students reported pursuant to division (B)(3)(d), 10336
(e), or (j) of this section, the department may adjust the formula 10337
ADM of a school district to account for students entitled to 10338
attend school in the district under section 3313.64 or 3313.65 of 10339
the Revised Code who are enrolled in a community school or a 10340
science, technology, engineering, and mathematics school for only 10341
a portion of the school year. 10342

(3) No child shall be counted as more than a total of one 10343
child in the sum of the average daily memberships of a school 10344
district under division (A), divisions (B)(1) to (12), or division 10345
(D) of this section, except as follows: 10346

(a) A child with a disability described in section 3317.013 10347
of the Revised Code may be counted both in formula ADM and in 10348
category one, two, three, four, five, or six special education ADM 10349
and, if applicable, in category one or two vocational education 10350

ADM. As provided in division (C) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in formula ADM.

(b) A child enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one or two vocational education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one or two vocational education ADM in the same proportion as the percentage of time that the child spends in the vocational education programs or classes.

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

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

The formula ADM, except as otherwise provided in this 10383
division, shall consist of the average daily membership during 10384
such week, on an FTE basis, of the number of students receiving 10385
any educational services from the district, including students 10386
enrolled in a community school established under Chapter 3314. or 10387
a science, technology, engineering, and mathematics school 10388
established under Chapter 3326. of the Revised Code who are 10389
attending the joint vocational district under an agreement between 10390
the district board of education and the governing authority of the 10391
community school or the science, technology, engineering, and 10392
mathematics school and are entitled to attend school in a city, 10393
local, or exempted village school district whose territory is part 10394
of the territory of the joint vocational district. Beginning in 10395
fiscal year 2007, in the case of the report submitted for the 10396
first week in February, or the alternative week if specified by 10397
the superintendent of public instruction, the superintendent of 10398
the joint vocational school district may include the number of 10399
students reported under division (D)(1) of this section for the 10400
first full week of the preceding October but who since that week 10401
have received high school diplomas. 10402
10403

The following categories of students shall not be included in 10404
the determination made under division (D)(1) of this section: 10405

(a) Students enrolled in adult education classes; 10406

(b) Adjacent or other district joint vocational students 10407
enrolled in the district under an open enrollment policy pursuant 10408
to section 3313.98 of the Revised Code; 10409

(c) Students receiving services in the district pursuant to a 10410
compact, cooperative education agreement, or a contract, but who 10411
are entitled to attend school in a city, local, or exempted 10412
village school district whose territory is not part of the 10413
territory of the joint vocational district; 10414

(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.	10415 10416
(2) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students for the same week for which formula ADM is certified:	10417 10418 10419 10420 10421 10422 10423
(a) Students enrolled in each grade included in the joint vocational district schools;	10424 10425
(b) Children with disabilities receiving special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code;	10426 10427 10428
(c) Children with disabilities receiving special education services for the category two disabilities described in division (B) of section 3317.013 of the Revised Code;	10429 10430 10431
(d) Children with disabilities receiving special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code;	10432 10433 10434
(e) Children with disabilities receiving special education services for category four disabilities described in division (D) of section 3317.013 of the Revised Code;	10435 10436 10437
(f) Children with disabilities receiving special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code;	10438 10439 10440
(g) Children with disabilities receiving special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code;	10441 10442 10443
(h) Students receiving category one vocational education	10444

services, described in division (A) of section 3317.014 of the 10445
Revised Code; 10446

(i) Students receiving category two vocational education 10447
services, described in division (B) of section 3317.014 of the 10448
Revised Code. 10449

The superintendent of each joint vocational school district 10450
shall also indicate the city, local, or exempted village school 10451
district in which each joint vocational district pupil is entitled 10452
to attend school pursuant to section 3313.64 or 3313.65 of the 10453
Revised Code. 10454

(E) In each school of each city, local, exempted village, 10455
joint vocational, and cooperative education school district there 10456
shall be maintained a record of school membership, which record 10457
shall accurately show, for each day the school is in session, the 10458
actual membership enrolled in regular day classes. For the purpose 10459
of determining average daily membership, the membership figure of 10460
any school shall not include any pupils except those pupils 10461
described by division (A) of this section. The record of 10462
membership for each school shall be maintained in such manner that 10463
no pupil shall be counted as in membership prior to the actual 10464
date of entry in the school and also in such manner that where for 10465
any cause a pupil permanently withdraws from the school that pupil 10466
shall not be counted as in membership from and after the date of 10467
such withdrawal. There shall not be included in the membership of 10468
any school any of the following: 10469

(1) Any pupil who has graduated from the twelfth grade of a 10470
public or nonpublic high school; 10471

(2) Any pupil who is not a resident of the state; 10472

(3) Any pupil who was enrolled in the schools of the district 10473
during the previous school year when tests were administered under 10474
section 3301.0711 of the Revised Code but did not take one or more 10475

of the tests required by that section and was not excused pursuant 10476
to division (C)(1) or (3) of that section; 10477

(4) Any pupil who has attained the age of twenty-two years, 10478
except for veterans of the armed services whose attendance was 10479
interrupted before completing the recognized twelve-year course of 10480
the public schools by reason of induction or enlistment in the 10481
armed forces and who apply for reenrollment in the public school 10482
system of their residence not later than four years after 10483
termination of war or their honorable discharge. 10484

If, however, any veteran described by division (E)(4) of this 10485
section elects to enroll in special courses organized for veterans 10486
for whom tuition is paid under the provisions of federal laws, or 10487
otherwise, that veteran shall not be included in average daily 10488
membership. 10489

Notwithstanding division (E)(3) of this section, the 10490
membership of any school may include a pupil who did not take a 10491
test required by section 3301.0711 of the Revised Code if the 10492
superintendent of public instruction grants a waiver from the 10493
requirement to take the test to the specific pupil and a parent is 10494
not paying tuition for the pupil pursuant to section 3313.6410 of 10495
the Revised Code. The superintendent may grant such a waiver only 10496
for good cause in accordance with rules adopted by the state board 10497
of education. 10498

Except as provided in divisions (B)(2) and (F) of this 10499
section, the average daily membership figure of any local, city, 10500
exempted village, or joint vocational school district shall be 10501
determined by dividing the figure representing the sum of the 10502
number of pupils enrolled during each day the school of attendance 10503
is actually open for instruction during the week for which the 10504
formula ADM is being certified by the total number of days the 10505
school was actually open for instruction during that week. For 10506
purposes of state funding, "enrolled" persons are only those 10507

pupils who are attending school, those who have attended school 10508
during the current school year and are absent for authorized 10509
reasons, and those children with disabilities currently receiving 10510
home instruction. 10511

The average daily membership figure of any cooperative 10512
education school district shall be determined in accordance with 10513
rules adopted by the state board of education. 10514

(F)(1) If the formula ADM for the first full school week in 10515
February is at least three per cent greater than that certified 10516
for the first full school week in the preceding October, the 10517
superintendent of schools of any city, exempted village, or joint 10518
vocational school district or educational service center shall 10519
certify such increase to the superintendent of public instruction. 10520
Such certification shall be submitted no later than the fifteenth 10521
day of February. For the balance of the fiscal year, beginning 10522
with the February payments, the superintendent of public 10523
instruction shall use the increased formula ADM in calculating or 10524
recalculating the amounts to be allocated in accordance with 10525
section 3317.022 or 3317.16 of the Revised Code. In no event shall 10526
the superintendent use an increased membership certified to the 10527
superintendent after the fifteenth day of February. Division 10528
(F)(1) of this section does not apply after fiscal year 2006. 10529

(2) If on the first school day of April the total number of 10530
classes or units for preschool children with disabilities that are 10531
eligible for approval under division (B) of section 3317.05 of the 10532
Revised Code exceeds the number of units that have been approved 10533
for the year under that division, the superintendent of schools of 10534
any city, exempted village, or cooperative education school 10535
district or educational service center shall make the 10536
certifications required by this section for that day. If the 10537
department determines additional units can be approved for the 10538
fiscal year within any limitations set forth in the acts 10539

appropriating moneys for the funding of such units, the department 10540
shall approve additional units for the fiscal year on the basis of 10541
such average daily membership. For each unit so approved, the 10542
department shall pay an amount computed in the manner prescribed 10543
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 10544
Code. 10545

(3) If a student attending a community school under Chapter 10546
3314. or a science, technology, engineering, and mathematics 10547
school established under Chapter 3326. of the Revised Code is not 10548
included in the formula ADM certified for the school district in 10549
which the student is entitled to attend school under section 10550
3313.64 or 3313.65 of the Revised Code, the department of 10551
education shall adjust the formula ADM of that school district to 10552
include the student in accordance with division (C)(2) of this 10553
section, and shall recalculate the school district's payments 10554
under this chapter for the entire fiscal year on the basis of that 10555
adjusted formula ADM. This requirement applies regardless of 10556
whether the student was enrolled, as defined in division (E) of 10557
this section, in the community school or the science, technology, 10558
engineering, and mathematics school during the week for which the 10559
formula ADM is being certified. 10560

(4) If a student awarded an educational choice scholarship is 10561
not included in the formula ADM of the school district from which 10562
the department deducts funds for the scholarship under section 10563
3310.08 of the Revised Code, the department shall adjust the 10564
formula ADM of that school district to include the student to the 10565
extent necessary to account for the deduction, and shall 10566
recalculate the school district's payments under this chapter for 10567
the entire fiscal year on the basis of that adjusted formula ADM. 10568
This requirement applies regardless of whether the student was 10569
enrolled, as defined in division (E) of this section, in the 10570
chartered nonpublic school, the school district, or a community 10571

school during the week for which the formula ADM is being 10572
certified. 10573

(G)(1)(a) The superintendent of an institution operating a 10574
special education program pursuant to section 3323.091 of the 10575
Revised Code shall, for the programs under such superintendent's 10576
supervision, certify to the state board of education, in the 10577
manner prescribed by the superintendent of public instruction, 10578
both of the following: 10579

(i) The average daily membership of all children with 10580
disabilities other than preschool children with disabilities 10581
receiving services at the institution for each category of 10582
disability described in divisions (A) to (F) of section 3317.013 10583
of the Revised Code; 10584

(ii) The average daily membership of all preschool children 10585
with disabilities in classes or programs approved annually by the 10586
department of education for unit funding under section 3317.05 of 10587
the Revised Code. 10588

(b) The superintendent of an institution with vocational 10589
education units approved under division (A) of section 3317.05 of 10590
the Revised Code shall, for the units under the superintendent's 10591
supervision, certify to the state board of education the average 10592
daily membership in those units, in the manner prescribed by the 10593
superintendent of public instruction. 10594

(2) The superintendent of each county ~~MR/DD~~ DD board that 10595
maintains special education classes under section 3317.20 of the 10596
Revised Code or units approved pursuant to section 3317.05 of the 10597
Revised Code shall do both of the following: 10598

(a) Certify to the state board, in the manner prescribed by 10599
the board, the average daily membership in classes under section 10600
3317.20 of the Revised Code for each school district that has 10601
placed children in the classes; 10602

(b) Certify to the state board, in the manner prescribed by 10603
the board, the number of all preschool children with disabilities 10604
enrolled as of the first day of December in classes eligible for 10605
approval under division (B) of section 3317.05 of the Revised 10606
Code, and the number of those classes. 10607

(3)(a) If on the first school day of April the number of 10608
classes or units maintained for preschool children with 10609
disabilities by the county ~~MR/DD~~ DD board that are eligible for 10610
approval under division (B) of section 3317.05 of the Revised Code 10611
is greater than the number of units approved for the year under 10612
that division, the superintendent shall make the certification 10613
required by this section for that day. 10614

(b) If the department determines that additional classes or 10615
units can be approved for the fiscal year within any limitations 10616
set forth in the acts appropriating moneys for the funding of the 10617
classes and units described in division (G)(3)(a) of this section, 10618
the department shall approve and fund additional units for the 10619
fiscal year on the basis of such average daily membership. For 10620
each unit so approved, the department shall pay an amount computed 10621
in the manner prescribed in sections 3317.052 and 3317.053 of the 10622
Revised Code. 10623

(H) Except as provided in division (I) of this section, when 10624
any city, local, or exempted village school district provides 10625
instruction for a nonresident pupil whose attendance is 10626
unauthorized attendance as defined in section 3327.06 of the 10627
Revised Code, that pupil's membership shall not be included in 10628
that district's membership figure used in the calculation of that 10629
district's formula ADM or included in the determination of any 10630
unit approved for the district under section 3317.05 of the 10631
Revised Code. The reporting official shall report separately the 10632
average daily membership of all pupils whose attendance in the 10633
district is unauthorized attendance, and the membership of each 10634

such pupil shall be credited to the school district in which the 10635
pupil is entitled to attend school under division (B) of section 10636
3313.64 or section 3313.65 of the Revised Code as determined by 10637
the department of education. 10638

(I)(1) A city, local, exempted village, or joint vocational 10639
school district admitting a scholarship student of a pilot project 10640
district pursuant to division (C) of section 3313.976 of the 10641
Revised Code may count such student in its average daily 10642
membership. 10643

(2) In any year for which funds are appropriated for pilot 10644
project scholarship programs, a school district implementing a 10645
state-sponsored pilot project scholarship program that year 10646
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 10647
count in average daily membership: 10648

(a) All children residing in the district and utilizing a 10649
scholarship to attend kindergarten in any alternative school, as 10650
defined in section 3313.974 of the Revised Code; 10651

(b) All children who were enrolled in the district in the 10652
preceding year who are utilizing a scholarship to attend any such 10653
alternative school. 10654

(J) The superintendent of each cooperative education school 10655
district shall certify to the superintendent of public 10656
instruction, in a manner prescribed by the state board of 10657
education, the applicable average daily memberships for all 10658
students in the cooperative education district, also indicating 10659
the city, local, or exempted village district where each pupil is 10660
entitled to attend school under section 3313.64 or 3313.65 of the 10661
Revised Code. 10662

(K) If the superintendent of public instruction determines 10663
that a component of the formula ADM certified or reported by a 10664
district superintendent, or other reporting entity, is not 10665

correct, the superintendent of public instruction may order that 10666
the formula ADM used for the purposes of payments under any 10667
section of Title XXXIII of the Revised Code be adjusted in the 10668
amount of the error. 10669

Sec. 3317.032. (A) Each city, local, exempted village, and 10670
cooperative education school district, each educational service 10671
center, each county ~~MR/DD~~ DD board, and each institution operating 10672
a special education program pursuant to section 3323.091 of the 10673
Revised Code shall, in accordance with procedures adopted by the 10674
state board of education, maintain a record of district membership 10675
of both of the following: 10676

(1) All preschool children with disabilities in units 10677
approved under division (B) of section 3317.05 of the Revised 10678
Code; 10679

(2) All preschool children with disabilities who are not in 10680
units approved under division (B) of section 3317.05 of the 10681
Revised Code but who are otherwise served by a special education 10682
program. 10683

(B) The superintendent of each district, board, or 10684
institution subject to division (A) of this section shall certify 10685
to the state board of education, in accordance with procedures 10686
adopted by that board, membership figures of all preschool 10687
children with disabilities whose membership is maintained under 10688
division (A)(2) of this section. The figures certified under this 10689
division shall be used in the determination of the ADM used to 10690
compute funds for educational service center governing boards 10691
under section 3317.11 of the Revised Code. 10692

Sec. 3317.05. (A) For the purpose of calculating payments 10693
under sections 3317.052 and 3317.053 of the Revised Code, the 10694
department of education shall determine for each institution, by 10695

the last day of January of each year and based on information 10696
certified under section 3317.03 of the Revised Code, the number of 10697
vocational education units or fractions of units approved by the 10698
department on the basis of standards and rules adopted by the 10699
state board of education. As used in this division, "institution" 10700
means an institution operated by a department specified in section 10701
3323.091 of the Revised Code and that provides vocational 10702
education programs under the supervision of the division of 10703
vocational education of the department that meet the standards and 10704
rules for these programs, including licensure of professional 10705
staff involved in the programs, as established by the state board. 10706

(B) For the purpose of calculating payments under sections 10708
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 10709
department shall determine, based on information certified under 10710
section 3317.03 of the Revised Code, the following by the last day 10711
of January of each year for each educational service center, for 10712
each school district, including each cooperative education school 10713
district, for each institution eligible for payment under section 10714
3323.091 of the Revised Code, and for each county ~~MR/DD~~ DD board: 10715
the number of classes operated by the school district, service 10716
center, institution, or county ~~MR/DD~~ DD board for preschool 10717
children with disabilities, or fraction thereof, including in the 10718
case of a district or service center that is a funding agent, 10719
classes taught by a licensed teacher employed by that district or 10720
service center under section 3313.841 of the Revised Code, 10721
approved annually by the department on the basis of standards and 10722
rules adopted by the state board. 10723

(C) For the purpose of calculating payments under sections 10724
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 10725
department shall determine, based on information certified under 10726
section 3317.03 of the Revised Code, the following by the last day 10727

of January of each year for each school district, including each 10728
cooperative education school district, for each institution 10729
eligible for payment under section 3323.091 of the Revised Code, 10730
and for each county ~~MR/DD~~ DD board: the number of units for 10731
related services, as defined in section 3323.01 of the Revised 10732
Code, for preschool children with disabilities approved annually 10733
by the department on the basis of standards and rules adopted by 10734
the state board. 10735

(D) All of the arithmetical calculations made under this 10736
section shall be carried to the second decimal place. The total 10737
number of units for school districts, service centers, and 10738
institutions approved annually under this section shall not exceed 10739
the number of units included in the estimate of cost for these 10740
units and appropriations made for them by the general assembly. 10741

In the case of units for preschool children with disabilities 10742
described in division (B) of this section, the department shall 10743
approve only preschool units for children who are under age six on 10744
the thirtieth day of September of the academic year, or on the 10745
first day of August of the academic year if the school district in 10746
which the child is enrolled has adopted a resolution under 10747
division (A)(3) of section 3321.01 of the Revised Code, but not 10748
less than age three on the first day of December of the academic 10749
year, except that such a unit may include one or more children who 10750
are under age three or are age six or over on the applicable date, 10751
as reported under division (B)(2) or (G)(2)(b) of section 3317.03 10752
of the Revised Code, if such children have been admitted to the 10753
unit pursuant to rules of the state board. The number of units for 10754
county ~~MR/DD~~ DD boards and institutions eligible for payment under 10755
section 3323.091 of the Revised Code approved under this section 10756
shall not exceed the number that can be funded with appropriations 10757
made for such purposes by the general assembly. 10758
10759

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 the state board.

Sec. 3317.051. (A)(1) Notwithstanding sections 3317.05 and 3317.11 of the Revised Code, a unit funded pursuant to division (L) of section 3317.024 or division (A)(2) of section 3317.052 of the Revised Code shall not be approved for state funding in one school district, including any cooperative education school district or any educational service center, to the extent that such unit provides programs in or services to another district which receives payment pursuant to section 3317.04 of the Revised Code.

(2) Any city, local, exempted village, or cooperative education school district or any educational service center may combine partial unit eligibility for programs for preschool children with disabilities pursuant to section 3317.05 of the Revised Code, and such combined partial units may be approved for state funding in one school district or service center.

(B) After units have been initially approved for any fiscal year under section 3317.05 of the Revised Code, no unit shall be subsequently transferred from a school district or educational service center to another city, exempted village, local, or cooperative education school district or educational service center or to an institution or county ~~MR/DD~~ DD board solely for the purpose of reducing the financial obligations of the school district in a fiscal year it receives payment pursuant to section 3317.04 of the Revised Code.

Sec. 3317.052. As used in this section, "institution" means 10790
an institution operated by a department specified in division (A) 10791
of section 3323.091 of the Revised Code. 10792

(A)(1) The department of education shall pay each school 10793
district, educational service center, institution eligible for 10794
payment under section 3323.091 of the Revised Code, or county 10795
~~MR/DD~~ DD board an amount for the total of all classroom units for 10796
preschool children with disabilities approved under division (B) 10797
of section 3317.05 of the Revised Code. For each unit, the amount 10798
shall be the sum of the minimum salary for the teacher of the 10799
unit, calculated on the basis of the teacher's training level and 10800
years of experience pursuant to the salary schedule prescribed in 10801
the version of section 3317.13 of the Revised Code in effect prior 10802
to July 1, 2001, plus fifteen per cent of that minimum salary 10803
amount, and eight thousand twenty-three dollars. 10804

(2) The department shall pay each school district, 10805
educational service center, institution eligible for payment under 10806
section 3323.091 of the Revised Code, or county ~~MR/DD~~ DD board an 10807
amount for the total of all related services units for preschool 10808
children with disabilities approved under division (C) of section 10809
3317.05 of the Revised Code. For each such unit, the amount shall 10810
be the sum of the minimum salary for the teacher of the unit 10811
calculated on the basis of the teacher's training level and years 10812
of experience pursuant to the salary schedule prescribed in the 10813
version of section 3317.13 of the Revised Code in effect prior to 10814
July 1, 2001, fifteen per cent of that minimum salary amount, and 10815
two thousand one hundred thirty-two dollars. 10816

(B) If a school district, educational service center, or 10817
county ~~MR/DD~~ DD board has had additional units for preschool 10818
children with disabilities approved for the year under division 10819
(F)(2) or (G)(3) of section 3317.03 of the Revised Code, the 10820

district, educational service center, or board shall receive an 10821
additional amount during the last half of the fiscal year. For 10822
each district, center, or board, the additional amount for each 10823
unit shall equal fifty per cent of the amounts computed for the 10824
unit in the manner prescribed by division (A) of this section and 10825
division (C) of section 3317.053 of the Revised Code. 10826

(C) The department shall pay each institution approved for 10827
vocational education units under division (A) of section 3317.05 10828
of the Revised Code an amount for the total of all the units 10829
approved under that division. The amount for each unit shall be 10830
the sum of the minimum salary for the teacher of the unit, 10831
calculated on the basis of the teacher's training level and years 10832
of experience pursuant to the salary schedule prescribed in the 10833
version of section 3317.13 of the Revised Code in effect prior to 10834
July 1, 2001, plus fifteen per cent of that minimum salary amount, 10835
and nine thousand five hundred ten dollars. Each institution that 10836
receives units funds under this division annually shall report to 10837
the department on the delivery of services and the performance of 10838
students and any other information required by the department to 10839
evaluate the institution's vocational education program. 10840

Sec. 3317.07. The state board of education shall establish 10841
rules for the purpose of distributing subsidies for the purchase 10842
of school buses under division (D) of section 3317.024 of the 10843
Revised Code. 10844

No school bus subsidy payments shall be paid to any district 10845
unless such district can demonstrate that pupils residing more 10846
than one mile from the school could not be transported without 10847
such additional aid. 10848

The amount paid to a county ~~MR/DD~~ DD board for buses 10849
purchased for transportation of children in special education 10850
programs operated by the board shall be based on a per pupil 10851

allocation for eligible students. 10852

The amount paid to a school district for buses purchased for 10853
transportation of pupils with disabilities and nonpublic school 10854
pupils shall be determined by a per pupil allocation based on the 10855
number of special education and nonpublic school pupils for whom 10856
transportation is provided. 10857

The state board of education shall adopt a formula to 10858
determine the amount of payments that shall be distributed to 10859
school districts to purchase school buses for pupils other than 10860
pupils with disabilities or nonpublic school pupils. 10861

If any district or ~~MR/DD~~ county DD board obtains bus services 10862
for pupil transportation pursuant to a contract, such district or 10863
board may use payments received under this section to defray the 10864
costs of contracting for bus services in lieu of for purchasing 10865
buses. 10866

If the department of education determines that a county ~~MR/DD~~ 10867
DD board no longer needs a school bus because the board no longer 10868
transports children to a special education program operated by the 10869
board, or if the department determines that a school district no 10870
longer needs a school bus to transport pupils to a nonpublic 10871
school or special education program, the department may reassign a 10872
bus that was funded with payments provided pursuant to this 10873
section for the purpose of transporting such pupils. The 10874
department may reassign a bus to a county ~~MR/DD~~ DD board or school 10875
district that transports children to a special education program 10876
designated in the children's individualized education plans, or to 10877
a school district that transports pupils to a nonpublic school, 10878
and needs an additional school bus. 10879

Sec. 3317.15. (A) As used in this section, "child with a 10880
disability" has the same meaning as in section 3323.01 of the 10881
Revised Code. 10882

(B) Each city, exempted village, local, and joint vocational 10883
school district shall continue to comply with all requirements of 10884
federal statutes and regulations, the Revised Code, and rules 10885
adopted by the state board of education governing education of 10886
children with disabilities, including, but not limited to, 10887
requirements that children with disabilities be served by 10888
appropriately licensed or certificated education personnel. 10889

(C) Each city, exempted village, local, and joint vocational 10890
school district shall consult with the educational service center 10891
serving the county in which the school district is located and, if 10892
it elects to participate pursuant to section 5126.04 of the 10893
Revised Code, the county ~~MR/DD~~ DD board of that county, in 10894
providing services that serve the best interests of children with 10895
disabilities. 10896

(D) Each school district shall annually provide documentation 10897
to the department of education that it employs the appropriate 10898
number of licensed or certificated personnel to serve the 10899
district's students with disabilities. 10900

(E) The department annually shall audit a sample of school 10901
districts to ensure that children with disabilities are being 10902
appropriately reported. 10903

(F) Each school district shall provide speech-language 10904
pathology services at a ratio of one speech-language pathologist 10905
per two thousand students receiving any educational services from 10906
the district other than adult education. Each district shall 10907
provide school psychological services at a ratio of one school 10908
psychologist per two thousand five hundred students receiving any 10909
educational services from the district other than adult education. 10910
A district may obtain the services of speech-language pathologists 10911
and school psychologists by any means permitted by law, including 10912
contracting with an educational service center. If, however, a 10913
district is unable to obtain the services of the required number 10914

of speech-language pathologists or school psychologists, the 10915
district may request from the superintendent of public 10916
instruction, and the superintendent may grant, a waiver of this 10917
provision for a period of time established by the superintendent. 10918

Sec. 3317.20. This section does not apply to preschool 10919
children with disabilities. 10920

(A) As used in this section: 10921

(1) "Applicable weight" means the multiple specified in 10922
section 3317.013 of the Revised Code for a disability described in 10923
that section. 10924

(2) "Child's school district" means the school district in 10925
which a child is entitled to attend school pursuant to section 10926
3313.64 or 3313.65 of the Revised Code. 10927

(3) "State share percentage" means the state share percentage 10928
of the child's school district as defined in section 3317.022 of 10929
the Revised Code. 10930

(B) Except as provided in division (C) of this section, the 10931
department shall annually pay each county ~~MR/DD~~ DD board for each 10932
child with a disability, other than a preschool child with a 10933
disability, for whom the county ~~MR/DD~~ DD board provides special 10934
education and related services an amount equal to the formula 10935
amount + (state share percentage X formula amount X the applicable 10936
weight). 10937

(C) If any school district places with a county ~~MR/DD~~ DD 10938
board more children with disabilities than it had placed with a 10939
county ~~MR/DD~~ DD board in fiscal year 1998, the department shall 10940
not make a payment under division (B) of this section for the 10941
number of children exceeding the number placed in fiscal year 10942
1998. The department instead shall deduct from the district's 10943
payments under this chapter, and pay to the county ~~MR/DD~~ DD board, 10944

an amount calculated in accordance with the formula prescribed in 10945
division (B) of this section for each child over the number of 10946
children placed in fiscal year 1998. 10947

(D) The department shall calculate for each county ~~MR/DD~~ DD 10948
board receiving payments under divisions (B) and (C) of this 10949
section the following amounts: 10950

(1) The amount received by the county ~~MR/DD~~ DD board for 10951
approved special education and related services units, other than 10952
units for preschool children with disabilities, in fiscal year 10953
1998, divided by the total number of children served in the units 10954
that year; 10955

(2) The product of the quotient calculated under division 10956
(D)(1) of this section times the number of children for whom 10957
payments are made under divisions (B) and (C) of this section. 10958

If the amount calculated under division (D)(2) of this 10959
section is greater than the total amount calculated under 10960
divisions (B) and (C) of this section, the department shall pay 10961
the county ~~MR/DD~~ DD board one hundred per cent of the difference 10962
in addition to the payments under divisions (B) and (C) of this 10963
section. 10964

(E) Each county ~~MR/DD~~ DD board shall report to the 10965
department, in the manner specified by the department, the name of 10966
each child for whom the county ~~MR/DD~~ DD board provides special 10967
education and related services and the child's school district. 10968

(F)(1) For the purpose of verifying the accuracy of the 10969
payments under this section, the department may request from 10970
either of the following entities the data verification code 10971
assigned under division (D)(2) of section 3301.0714 of the Revised 10972
Code to any child who is placed with a county ~~MR/DD~~ DD board: 10973

(a) The child's school district; 10974

(b) The independent contractor engaged to create and maintain data verification codes. 10975
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(2) Upon a request by the department under division (F)(1) of this section for the data verification code of a child, the child's school district shall submit that code to the department in the manner specified by the department. If the child has not been assigned a code, the district shall assign a code to that child and submit the code to the department by a date specified by the department. If the district does not assign a code to the child by the specified date, the department shall assign a code to the child. 10977
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The department annually shall submit to each school district the name and data verification code of each child residing in the district for whom the department has assigned a code under this division. 10986
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(3) The department shall not release any data verification code that it receives under division (F) of this section to any person except as provided by law. 10990
10991
10992

(G) Any document relative to special education and related services provided by a county ~~MR/DD~~ DD board that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code. 10993
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Sec. 3319.22. (A)(1) The state board of education shall adopt rules establishing the standards and requirements for obtaining temporary, associate, provisional, and professional educator licenses of any categories, types, and levels the board elects to provide. However, no educator license shall be required for teaching children two years old or younger. 10999
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(2) If the state board requires any examinations for educator licensure, the department of education shall provide the results of such examinations received by the department to the Ohio board of regents, in the manner and to the extent permitted by state and federal law.

(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 11037
nonpublic school teacher proposes to complete meets the 11038
requirement of the rules. The department of education shall 11039
provide technical assistance and support to committees as the 11040
committees incorporate the professional development standards 11041
adopted by the state board of education pursuant to section 11042
3319.61 of the Revised Code into their review of coursework that 11043
is appropriate for license renewal. The rules shall establish a 11044
procedure by which a teacher may appeal the decision of a local 11045
professional development committee. 11046

(2) In any school district in which there is no exclusive 11047
representative established under Chapter 4117. of the Revised 11048
Code, the professional development committees shall be established 11049
as described in division (C)(2) of this section. 11050

Not later than the effective date of the rules adopted under 11051
this section, the board of education of each school district shall 11052
establish the structure for one or more local professional 11053
development committees to be operated by such school district. The 11054
committee structure so established by a district board shall 11055
remain in effect unless within thirty days prior to an anniversary 11056
of the date upon which the current committee structure was 11057
established, the board provides notice to all affected district 11058
employees that the committee structure is to be modified. 11059
Professional development committees may have a district-level or 11060
building-level scope of operations, and may be established with 11061
regard to particular grade or age levels for which an educator 11062
license is designated. 11063

Each professional development committee shall consist of at 11064
least three classroom teachers employed by the district, one 11065
principal employed by the district, and one other employee of the 11066
district appointed by the district superintendent. For committees 11067
with a building-level scope, the teacher and principal members 11068

shall be assigned to that building, and the teacher members shall 11069
be elected by majority vote of the classroom teachers assigned to 11070
that building. For committees with a district-level scope, the 11071
teacher members shall be elected by majority vote of the classroom 11072
teachers of the district, and the principal member shall be 11073
elected by a majority vote of the principals of the district, 11074
unless there are two or fewer principals employed by the district, 11075
in which case the one or two principals employed shall serve on 11076
the committee. If a committee has a particular grade or age level 11077
scope, the teacher members shall be licensed to teach such grade 11078
or age levels, and shall be elected by majority vote of the 11079
classroom teachers holding such a license and the principal shall 11080
be elected by all principals serving in buildings where any such 11081
teachers serve. The district superintendent shall appoint a 11082
replacement to fill any vacancy that occurs on a professional 11083
development committee, except in the case of vacancies among the 11084
elected classroom teacher members, which shall be filled by vote 11085
of the remaining members of the committee so selected. 11086

Terms of office on professional development committees shall 11087
be prescribed by the district board establishing the committees. 11088
The conduct of elections for members of professional development 11089
committees shall be prescribed by the district board establishing 11090
the committees. A professional development committee may include 11091
additional members, except that the majority of members on each 11092
such committee shall be classroom teachers employed by the 11093
district. Any member appointed to fill a vacancy occurring prior 11094
to the expiration date of the term for which a predecessor was 11095
appointed shall hold office as a member for the remainder of that 11096
term. 11097

The initial meeting of any professional development 11098
committee, upon election and appointment of all committee members, 11099
shall be called by a member designated by the district 11100

superintendent. At this initial meeting, the committee shall 11101
select a chairperson and such other officers the committee deems 11102
necessary, and shall adopt rules for the conduct of its meetings. 11103
Thereafter, the committee shall meet at the call of the 11104
chairperson or upon the filing of a petition with the district 11105
superintendent signed by a majority of the committee members 11106
calling for the committee to meet. 11107

(3) In the case of a school district in which an exclusive 11108
representative has been established pursuant to Chapter 4117. of 11109
the Revised Code, professional development committees shall be 11110
established in accordance with any collective bargaining agreement 11111
in effect in the district that includes provisions for such 11112
committees. 11113

If the collective bargaining agreement does not specify a 11114
different method for the selection of teacher members of the 11115
committees, the exclusive representative of the district's 11116
teachers shall select the teacher members. 11117

If the collective bargaining agreement does not specify a 11118
different structure for the committees, the board of education of 11119
the school district shall establish the structure, including the 11120
number of committees and the number of teacher and administrative 11121
members on each committee; the specific administrative members to 11122
be part of each committee; whether the scope of the committees 11123
will be district levels, building levels, or by type of grade or 11124
age levels for which educator licenses are designated; the lengths 11125
of terms for members; the manner of filling vacancies on the 11126
committees; and the frequency and time and place of meetings. 11127
However, in all cases, except as provided in division (C)(4) of 11128
this section, there shall be a majority of teacher members of any 11129
professional development committee, there shall be at least five 11130
total members of any professional development committee, and the 11131
exclusive representative shall designate replacement members in 11132

the case of vacancies among teacher members, unless the collective 11133
bargaining agreement specifies a different method of selecting 11134
such replacements. 11135

(4) Whenever an administrator's coursework plan is being 11136
discussed or voted upon, the local professional development 11137
committee shall, at the request of one of its administrative 11138
members, cause a majority of the committee to consist of 11139
administrative members by reducing the number of teacher members 11140
voting on the plan. 11141

(D)(1) The department of education, educational service 11142
centers, county boards of ~~mental-retardation and~~ developmental 11143
disabilities, regional professional development centers, special 11144
education regional resource centers, college and university 11145
departments of education, head start programs, the eTech Ohio 11146
commission, and the Ohio education computer network may establish 11147
local professional development committees to determine whether the 11148
coursework proposed by their employees who are licensed or 11149
certificated under this section or section 3319.222 of the Revised 11150
Code meet the requirements of the rules adopted under this 11151
section. They may establish local professional development 11152
committees on their own or in collaboration with a school district 11153
or other agency having authority to establish them. 11154

Local professional development committees established by 11155
county boards of ~~mental-retardation and~~ developmental disabilities 11156
shall be structured in a manner comparable to the structures 11157
prescribed for school districts in divisions (C)(2) and (3) of 11158
this section, as shall the committees established by any other 11159
entity specified in division (D)(1) of this section that provides 11160
educational services by employing or contracting for services of 11161
classroom teachers licensed or certificated under this section or 11162
section 3319.222 of the Revised Code. All other entities specified 11163
in division (D)(1) of this section shall structure their 11164

committees in accordance with guidelines which shall be issued by 11165
the state board. 11166

(2) Any public agency that is not specified in division 11167
(D)(1) of this section but provides educational services and 11168
employs or contracts for services of classroom teachers licensed 11169
or certificated under this section or section 3319.222 of the 11170
Revised Code may establish a local professional development 11171
committee, subject to the approval of the department of education. 11172
The committee shall be structured in accordance with guidelines 11173
issued by the state board. 11174

Sec. 3319.99. (A) Whoever violates division (A) of section 11175
3319.151 of the Revised Code is guilty of a minor misdemeanor. 11176

(B) Whoever violates division (H)(1) of section 3319.311 of 11177
the Revised Code is guilty of a misdemeanor of the first degree. 11178

(C) Whoever violates division (F) of section 3319.313 of the 11179
Revised Code shall be punished as follows: 11180

(1) Except as otherwise provided in division (C)(2) of this 11181
section, the person is guilty of a misdemeanor of the fourth 11182
degree. 11183

(2) The person is guilty of a misdemeanor of the first degree 11184
if both of the following conditions apply: 11185

(a) The employee who is the subject of the report that the 11186
person fails to submit was required to be reported for the 11187
commission or alleged commission of an act or offense involving 11188
the infliction on a child of any physical or mental wound, injury, 11189
disability, or condition of a nature that constitutes abuse or 11190
neglect of the child; 11191

(b) During the period between the violation of division (F) 11192
of section 3319.313 of the Revised Code and the conviction of or 11193
plea of guilty by the person for that violation, the employee who 11194

is the subject of the report that the person fails to submit 11195
inflicts on any child attending a school district, educational 11196
service center, public or nonpublic school, or county board of 11197
~~mental retardation and~~ developmental disabilities where the 11198
employee works any physical or mental wound, injury, disability, 11199
or condition of a nature that constitutes abuse or neglect of the 11200
child. 11201

(D) Whoever violates division (B) or (D) of section 3319.317 11202
of the Revised Code is guilty of a misdemeanor of the first 11203
degree. 11204

Sec. 3323.01. As used in this chapter: 11205

(A) "Child with a disability" means a child who is at least 11206
three years of age and less than twenty-two years of age; who has 11207
mental retardation, a hearing impairment (including deafness), a 11208
speech or language impairment, a visual impairment (including 11209
blindness), a serious emotional disturbance, an orthopedic 11210
impairment, autism, traumatic brain injury, an other health 11211
impairment, a specific learning disability, deaf-blindness, or 11212
multiple disabilities; and who, by reason thereof, needs special 11213
education and related services. 11214

A "child with a disability" may include a child who is at 11215
least three years of age and less than six years of age; who is 11216
experiencing developmental delays, as defined by standards adopted 11217
by the state board of education and as measured by appropriate 11218
diagnostic instruments and procedures in one or more of the 11219
following areas: physical development, cognitive development, 11220
communication development, social or emotional development, or 11221
adaptive development; and who, by reason thereof, needs special 11222
education and related services. 11223

(B) "County ~~MR/DD~~ DD board" means a county board of ~~mental~~ 11224
~~retardation and~~ developmental disabilities. 11225

(C) "Free appropriate public education" means special 11226
education and related services that meet all of the following: 11227

(1) Are provided at public expense, under public supervision 11228
and direction, and without charge; 11229

(2) Meet the standards of the state board of education; 11230

(3) Include an appropriate preschool, elementary, or 11231
secondary education as otherwise provided by the law of this 11232
state; 11233

(4) Are provided for each child with a disability in 11234
conformity with the child's individualized education program. 11235

(D) "Homeless children" means "homeless children and youths" 11236
as defined in section 725 of the "McKinney-Vento Homeless 11237
Assistance Act," 42 U.S.C. 11434a. 11238

(E) "Individualized education program" or "IEP" means the 11239
written statement described in section 3323.011 of the Revised 11240
Code. 11241

(F) "Individualized education program team" or "IEP team" 11242
means a group of individuals composed of: 11243

(1) The parents of a child with a disability; 11244

(2) At least one regular education teacher of the child, if 11245
the child is or may be participating in the regular education 11246
environment; 11247

(3) At least one special education teacher, or where 11248
appropriate, at least one special education provider of the child; 11249

(4) A representative of the school district who meets all of 11250
the following: 11251

(a) Is qualified to provide, or supervise the provision of, 11252
specially designed instruction to meet the unique needs of 11253
children with disabilities; 11254

(b) Is knowledgeable about the general education curriculum;	11255
(c) Is knowledgeable about the availability of resources of the school district.	11256 11257
(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team as described in divisions (F)(2) to (4) of this section;	11258 11259 11260
(6) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;	11261 11262 11263 11264
(7) Whenever appropriate, the child with a disability.	11265
(G) "Instruction in braille reading and writing" means the teaching of the system of reading and writing through touch commonly known as standard English braille.	11266 11267 11268
(H) "Other educational agency" means a department, division, bureau, office, institution, board, commission, committee, authority, or other state or local agency, which is not a city, local, or exempted village school district or an agency administered by the department of mental retardation and developmental disabilities, that provides or seeks to provide special education or related services to children with disabilities. The term "other educational agency" includes a joint vocational school district.	11269 11270 11271 11272 11273 11274 11275 11276 11277
(I) "Parent" of a child with a disability, except as used in sections 3323.09 and 3323.141 of the Revised Code, means:	11278 11279
(1) A natural or adoptive parent of a child but not a foster parent of a child;	11280 11281
(2) A guardian, but not the state if the child is a ward of the state;	11282 11283
(3) An individual acting in the place of a natural or	11284

adoptive parent, including a grandparent, stepparent, or other 11285
relative, with whom the child lives, or an individual who is 11286
legally responsible for the child's welfare; 11287

(4) An individual assigned to be a surrogate parent, provided 11288
the individual is not prohibited by this chapter from serving as a 11289
surrogate parent for a child. 11290

(J) "Preschool child with a disability" means a child with a 11291
disability who is at least three years of age but is not of 11292
compulsory school age, as defined under section 3321.01 of the 11293
Revised Code, and who is not currently enrolled in kindergarten. 11294

(K) "Related services" means transportation, and such 11295
developmental, corrective, and other supportive services 11296
(including speech-language pathology and audiology services, 11297
interpreting services, psychological services, physical and 11298
occupational therapy, recreation, including therapeutic 11299
recreation, school nurse services designed to enable a child with 11300
a disability to receive a free appropriate public education as 11301
described in the individualized education program of the child, 11302
counseling services, including rehabilitation counseling, 11303
orientation and mobility services, school health services, social 11304
work services in schools, and parent counseling and training, and 11305
medical services, except that such medical services shall be for 11306
diagnostic and evaluation purposes only) as may be required to 11307
assist a child with a disability to benefit from special 11308
education, and includes the early identification and assessment of 11309
disabling conditions in children. "Related services" does not 11310
include a medical device that is surgically implanted, or the 11311
replacement of such device. 11312

(L) "School district" means a city, local, or exempted 11313
village school district. 11314

(M) "School district of residence," as used in sections 11315

3323.09, 3323.091, 3323.13, and 3323.14 of the Revised Code, 11316
means: 11317

(1) The school district in which the child's natural or 11318
adoptive parents reside; 11319

(2) If the school district specified in division (M)(1) of 11320
this section cannot be determined, the last school district in 11321
which the child's natural or adoptive parents are known to have 11322
resided if the parents' whereabouts are unknown; 11323

(3) If the school district specified in division (M)(2) of 11324
this section cannot be determined, the school district determined 11325
under section 2151.362 of the Revised Code, or if no district has 11326
been so determined, the school district as determined by the 11327
probate court of the county in which the child resides. 11328

(4) Notwithstanding divisions (M)(1) to (3) of this section, 11329
if a school district is required by section 3313.65 of the Revised 11330
Code to pay tuition for a child, that district shall be the 11331
child's school district of residence. 11332

(N) "Special education" means specially designed instruction, 11333
at no cost to parents, to meet the unique needs of a child with a 11334
disability. "Special education" includes instruction conducted in 11335
the classroom, in the home, in hospitals and institutions, and in 11336
other settings, including an early childhood education setting, 11337
and instruction in physical education. 11338

(O) "Student with a visual impairment" means any person who 11339
is less than twenty-two years of age and who has a visual 11340
impairment as that term is defined in this section. 11341

(P) "Transition services" means a coordinated set of 11342
activities for a child with a disability that meet all of the 11343
following: 11344

(1) Is designed to be within a results-oriented process, that 11345

is focused on improving the academic and functional achievement of 11346
the child with a disability to facilitate the child's movement 11347
from school to post-school activities, including post-secondary 11348
education; vocational education; integrated employment (including 11349
supported employment); continuing and adult education; adult 11350
services; independent living; or community participation; 11351

(2) Is based on the individual child's needs, taking into 11352
account the child's strengths, preferences, and interests; 11353

(3) Includes instruction, related services, community 11354
experiences, the development of employment and other post-school 11355
adult living objectives, and, when appropriate, acquisition of 11356
daily living skills and functional vocational evaluation. 11357

"Transition services" for children with disabilities may be 11358
special education, if provided as specially designed instruction, 11359
or may be a related service, if required to assist a child with a 11360
disability to benefit from special education. 11361

(Q) "Visual impairment" for any individual means that one of 11362
the following applies to the individual: 11363

(1) The individual has a visual acuity of 20/200 or less in 11364
the better eye with correcting lenses or has a limited field of 11365
vision in the better eye such that the widest diameter subtends an 11366
angular distance of no greater than twenty degrees. 11367

(2) The individual has a medically indicated expectation of 11368
meeting the requirements of division (Q)(1) of this section over a 11369
period of time. 11370

(3) The individual has a medically diagnosed and medically 11371
uncorrectable limitation in visual functioning that adversely 11372
affects the individual's ability to read and write standard print 11373
at levels expected of the individual's peers of comparable ability 11374
and grade level. 11375

(R) "Ward of the state" has the same meaning as in section 11376
602(36) of the "Individuals with Disabilities Education 11377
Improvement Act of 2004," 20 U.S.C. 1401(36). 11378

Sec. 3323.02. As used in this section, "IDEIA" means the 11379
"Individuals with Disabilities Education Improvement Act of 2004," 11380
Pub. L. No. 108-446. 11381

It is the purpose of this chapter to ensure that all children 11382
with disabilities residing in this state who are at least three 11383
years of age and less than twenty-two years of age, including 11384
children with disabilities who have been suspended or expelled 11385
from school, have available to them a free appropriate public 11386
education. No school district, county ~~MR/DD~~ DD board, or other 11387
educational agency shall receive state or federal funds for 11388
special education and related services unless those services for 11389
children with disabilities are provided in accordance with IDEIA 11390
and related provisions of the Code of Federal Regulations, the 11391
provisions of this chapter, rules and standards adopted by the 11392
state board of education, and any procedures or guidelines issued 11393
by the superintendent of public instruction. Any options or 11394
discretion provided to the state by IDEIA may be exercised in 11395
state law or in rules or standards adopted by the state board of 11396
education. 11397

The state board of education shall establish rules or 11398
standards for the provision of special education and related 11399
services for all children with disabilities who are at least three 11400
years of age and less than twenty-two years of age residing in the 11401
state, regardless of the severity of their disabilities, including 11402
children with disabilities who have been suspended or expelled 11403
from school. The state law and the rules or standards of the state 11404
board of education may impose requirements that are not required 11405
by IDEIA or related provisions of the Code of Federal Regulations. 11406

The school district of residence is responsible, in all instances, 11407
for ensuring that the requirements of Part B of IDEIA are met for 11408
every eligible child in its jurisdiction, regardless of whether 11409
services are provided by another school district, other 11410
educational agency, or other agency, department, or entity, unless 11411
IDEIA or related provisions of the Code of Federal Regulations, 11412
another section of this chapter, or a rule adopted by the state 11413
board of education specifies that another school district, other 11414
educational agency, or other agency, department, or entity is 11415
responsible for ensuring compliance with Part B of IDEIA. 11416

Notwithstanding division (A)(4) of section 3301.53 of the 11417
Revised Code and any rules adopted pursuant to that section and 11418
division (A) of section 3313.646 of the Revised Code, a board of 11419
education of a school district may provide special education and 11420
related services for preschool children with disabilities in 11421
accordance with this chapter and section 3301.52, divisions (A)(1) 11422
to (3) and (A)(5) and (6) of section 3301.53, and sections 3301.54 11423
to 3301.59 of the Revised Code. 11424

The superintendent of public instruction may require any 11425
state or local agency to provide documentation that special 11426
education and related services for children with disabilities 11427
provided by the agency are in compliance with the requirements of 11428
this chapter. 11429

Not later than the first day of February of each year the 11430
superintendent of public instruction shall furnish the 11431
chairpersons of the education committees of the house of 11432
representatives and the senate with a report on the status of 11433
implementation of special education and related services for 11434
children with disabilities required by this chapter. The report 11435
shall include but shall not be limited to the following items: the 11436
most recent available figures on the number of children identified 11437
as children with disabilities and the number of identified 11438

children receiving special education and related services. The 11439
information contained in these reports shall be public 11440
information. 11441

Sec. 3323.021. As used in this section, "participating county 11442
~~MR/DD~~ DD board" means a county board of ~~mental retardation and~~ 11443
developmental disabilities electing to participate in the 11444
provision of or contracting for educational services for children 11445
under division (D) of section 5126.05 of the Revised Code. 11446

(A) When a school district, educational service center, or 11447
participating county ~~MR/DD~~ DD board enters into an agreement or 11448
contract with another school district, educational service center, 11449
or participating county ~~MR/DD~~ DD board to provide educational 11450
services to a disabled child during a school year, both of the 11451
following shall apply: 11452

(1) Beginning with fiscal year 1999, if the provider of the 11453
services intends to increase the amount it charges for some or all 11454
of those services during the next school year or if the provider 11455
intends to cease offering all or part of those services during the 11456
next school year, the provider shall notify the entity for which 11457
the services are provided of these intended changes no later ~~that~~ 11458
than the first day of March of the current fiscal year. 11459

(2) Beginning with fiscal year 1999, if the entity for which 11460
services are provided intends to cease obtaining those services 11461
from the provider for the next school year or intends to change 11462
the type or amount of services it obtains from the provider for 11463
the next school year, the entity shall notify the service provider 11464
of these intended changes no later than the first day of March of 11465
the current fiscal year. 11466

(B) School districts, educational service centers, 11467
participating county ~~MR/DD~~ DD boards, and other applicable 11468
governmental entities shall collaborate where possible to maximize 11469

federal sources of revenue to provide additional funds for special 11470
education related services for disabled children. Annually, each 11471
school district shall report to the department of education any 11472
amounts of money the district received through such medical 11473
assistance program. 11474

(C) The state board of education, the department of ~~mental~~ 11475
~~retardation and~~ developmental disabilities, and the department of 11476
job and family services shall develop working agreements for 11477
pursuing additional funds for services for disabled children. 11478

Sec. 3323.03. The state board of education shall, in 11479
consultation with the department of health, the department of 11480
mental health, and the department of ~~mental retardation and~~ 11481
developmental disabilities, establish standards and procedures for 11482
the identification, location, and evaluation of all children with 11483
disabilities residing in the state, including children with 11484
disabilities who are homeless children or are wards of the state 11485
and children with disabilities attending nonpublic schools, 11486
regardless of the severity of their disabilities, and who are in 11487
need of special education and related services. The state board 11488
shall develop and implement a practical method to determine which 11489
children with disabilities are currently receiving needed special 11490
education and related services. 11491

In conducting the evaluation, the board of education of each 11492
school district shall use a variety of assessment tools and 11493
strategies to gather relevant functional, developmental, and 11494
academic information about the child, including information 11495
provided by the child's parent. The board of education of each 11496
school district, in consultation with the county ~~MR/DD~~ DD board, 11497
the county family and children first council, and the board of 11498
alcohol, drug addiction, and mental health services of each county 11499
in which the school district has territory, shall identify, 11500

locate, and evaluate all children with disabilities residing 11501
within the district to determine which children with disabilities 11502
are not receiving appropriate special education and related 11503
services. In addition, the board of education of each school 11504
district, in consultation with such county boards or council, 11505
shall identify, locate, and evaluate all children with 11506
disabilities who are enrolled by their parents in nonpublic 11507
elementary and secondary schools located within the public school 11508
district, without regard to where those children reside in 11509
accordance with rules of the state board of education or 11510
guidelines of the superintendent of public instruction. 11511

Each county ~~MR/DD~~ DD board, county family and children first 11512
council, and board of alcohol, drug addiction, and mental health 11513
services and the board's or council's contract agencies may 11514
transmit to boards of education the names and addresses of 11515
children with disabilities who are not receiving appropriate 11516
special education and related services. 11517

Sec. 3323.04. The state board of education, in consultation 11518
with the department of mental health and the department of ~~mental~~ 11519
~~retardation and~~ developmental disabilities, shall establish 11520
procedures and standards for the development of individualized 11521
education programs for children with disabilities. 11522

The state board shall require the board of education of each 11523
school district to develop an individualized education program for 11524
each child with a disability who is at least three years of age 11525
and less than twenty-two years of age residing in the district in 11526
a manner that is in accordance with rules of the state board. 11527

Prior to the placement of a child with a disability in a 11528
program operated under section 3323.09 of the Revised Code, the 11529
district board of education shall consult the county ~~MR/DD~~ DD 11530
board of the county in which the child resides regarding the 11531

proposed placement. 11532

A child with a disability enrolled in a nonpublic school or 11533
facility shall be provided special education and related services, 11534
in accordance with an individualized education program, at no cost 11535
for those services, if the child is placed in, or referred to, 11536
that nonpublic school or facility by the department of education 11537
or a school district. 11538

The IEP team shall review the individualized education 11539
program of each child with a disability periodically, but at least 11540
annually, to determine whether the annual goals for the child are 11541
being achieved, and shall revise the individualized education 11542
program as appropriate. 11543

The state board shall establish procedures and standards to 11544
assure that to the maximum extent appropriate, children with 11545
disabilities, including children in public or private institutions 11546
or other care facilities, shall be educated with children who are 11547
not disabled. Special classes, separate schools, or other removal 11548
of children with disabilities from the regular educational 11549
environment shall be used only when the nature or severity of a 11550
child's disability is such that education in regular classes with 11551
supplementary aids and services cannot be achieved satisfactorily. 11552
11553

If an agency directly affected by a placement decision 11554
objects to such decision, an impartial hearing officer, appointed 11555
by the department of education from a list prepared by the 11556
department, shall conduct a hearing to review the placement 11557
decision. The agencies that are parties to a hearing shall divide 11558
the costs of such hearing equally. The decision of the hearing 11559
officer shall be final, except that any party to the hearing who 11560
is aggrieved by the findings or the decision of the hearing 11561
officer may appeal the findings or decision in accordance with 11562
division (H) of section 3323.05 of the Revised Code or the parent 11563

of any child affected by such decision may present a complaint in 11564
accordance with that section. 11565

Sec. 3323.05. The state board of education shall establish 11566
procedures to ensure that children with disabilities and their 11567
parents are guaranteed procedural safeguards under this chapter 11568
with respect to a free appropriate public education. 11569

The procedures shall include, but need not be limited to: 11570

(A) An opportunity for the parents of a child with a 11571
disability to examine all records related to the child and to 11572
participate in meetings with respect to identification, 11573
evaluation, and educational placement of the child, and to obtain 11574
an independent educational evaluation of the child; 11575

(B) Procedures to protect the rights of the child whenever 11576
the parents of the child are not known, an agency after making 11577
reasonable efforts cannot find the parents, or the child is a ward 11578
of the state, including the assignment, in accordance with section 11579
3323.051 of the Revised Code, of an individual to act as a 11580
surrogate for the parents; 11581

(C) Prior written notice to the child's parents of a school 11582
district's proposal or refusal to initiate or change the 11583
identification, evaluation, or educational placement of the child 11584
or the provision of a free appropriate education for the child. 11585
The procedures established under this division shall: 11586

(1) Be designed to ensure that the written prior notice is in 11587
the native language of the parents, unless it clearly is not 11588
feasible to do so. 11589

(2) Specify that the prior written notice shall include: 11590

(a) A description of the action proposed or refused by the 11591
district; 11592

(b) An explanation of why the district proposes or refuses to 11593

take the action and a description of each evaluation procedure, 11594
assessment, record, or report the district used as a basis for the 11595
proposed or refused action; 11596

(c) A statement that the parents of a child with a disability 11597
have protection under the procedural safeguards and, if the notice 11598
is not in regard to an initial referral for evaluation, the means 11599
by which a copy of a description of the procedural safeguards can 11600
be obtained; 11601

(d) Sources for parents to contact to obtain assistance in 11602
understanding the provisions of Part B of the "Individuals with 11603
Disabilities Education Improvement Act of 2004"; 11604

(e) A description of other options considered by the IEP team 11605
and the reason why those options were rejected; 11606

(f) A description of the factors that are relevant to the 11607
agency's proposal or refusal. 11608

(D) An opportunity for the child's parents to present 11609
complaints to the superintendent of the child's school district of 11610
residence with respect to any matter relating to the 11611
identification, evaluation, or educational placement of the child, 11612
or the provision of a free appropriate public education under this 11613
chapter. 11614

Within twenty school days after receipt of a complaint, the 11615
district superintendent or the superintendent's designee, without 11616
undue delay and at a time and place convenient to all parties, 11617
shall review the case, may conduct an administrative review, and 11618
shall notify all parties in writing of the superintendent's or 11619
designee's decision. Where the child is placed in a program 11620
operated by a county ~~MR/DD~~ DD board or other educational agency, 11621
the superintendent shall consult with the administrator of that 11622
county ~~MR/DD~~ DD board or agency. 11623

Any party aggrieved by the decision of the district 11624

superintendent or the superintendent's designee may file a 11625
complaint with the state board as provided under division (E) of 11626
this section, request mediation as provided under division (F) of 11627
this section, or present a due process complaint notice and 11628
request for a due process hearing in writing to the superintendent 11629
of the district, with a copy to the state board, as provided under 11630
division (G) of this section. 11631

(E) An opportunity for a party to file a complaint with the 11632
state board of education with respect to the identification, 11633
evaluation, or educational placement of the child, or the 11634
provision of a free appropriate public education to such child. 11635
The department of education shall review and, where appropriate, 11636
investigate the complaint and issue findings. 11637

(F) An opportunity for parents and a school district to 11638
resolve through mediation disputes involving any matter. 11639

(1) The procedures established under this section shall 11640
ensure that the mediation process is voluntary on the part of the 11641
parties, is not used to deny or delay a parent's right to a due 11642
process hearing or to deny any other rights afforded under this 11643
chapter, and is conducted by a qualified and impartial mediator 11644
who is trained in effective mediation techniques. 11645

(2) A school district may establish procedures to offer to 11646
parents and schools that choose not to use the mediation process, 11647
an opportunity to meet, at a time and location convenient to the 11648
parents, with a disinterested party to encourage the use, and 11649
explain the benefits, of the mediation process to the parents. The 11650
disinterested party shall be an individual who is under contract 11651
with a parent training and information center or community parent 11652
resource center in the state or is under contract with an 11653
appropriate alternative dispute resolution entity. 11654

(3) The department shall maintain a list of individuals who 11655

are qualified mediators and knowledgeable in laws and regulations 11656
relating to the provision of special education and related 11657
services. 11658

(4) The department shall bear the cost of the mediation 11659
process, including the costs of meetings described in division 11660
(F)(2) of this section. 11661

(5) Each session in the mediation process shall be scheduled 11662
in a timely manner and shall be held in a location that is 11663
convenient to the parties to the dispute. 11664

(6) Discussions that occur during the mediation process shall 11665
be confidential and shall not be used as evidence in any 11666
subsequent due process hearing or civil proceeding. 11667

(7) In the case that a resolution is reached to resolve the 11668
complaint through the mediation process, the parties shall execute 11669
a legally binding agreement that sets forth the resolution and 11670
that: 11671

(a) States that all discussions that occurred during the 11672
mediation process shall be confidential and shall not be used as 11673
evidence in any subsequent due process hearing or civil 11674
proceeding; 11675

(b) Is signed by both the parent and a representative for the 11676
school district who has the authority to bind the district; 11677

(c) Is enforceable in any state court of competent 11678
jurisdiction or in a district court of the United States. 11679

(G)(1) An opportunity for parents or a school district to 11680
present a due process complaint and request for a due process 11681
hearing to the superintendent of the school district of the 11682
child's residence with respect to the identification, evaluation, 11683
or educational placement of the child, or the provision of a free 11684
appropriate public education to the child. The party presenting 11685

the due process complaint and request for a due process hearing 11686
shall provide due process complaint notice to the other party and 11687
forward a copy of the notice to the state board. The due process 11688
complaint notice shall include: 11689

(a) The name of the child, the address of the residence of 11690
the child, or the available contact information in the case of a 11691
homeless child, and the name of the school the child is attending; 11692

(b) A description of the nature of the problem of the child 11693
relating to the proposed initiation or change, including facts 11694
relating to the problem; 11695

(c) A proposed resolution of the problem to the extent known 11696
and available to the party at the time. 11697

A party shall not have a due process hearing until the party, 11698
or the attorney representing the party, files a notice that meets 11699
the requirement for filing a due process complaint notice. 11700

A due process hearing shall be conducted by an impartial 11701
hearing officer in accordance with standards and procedures 11702
adopted by the state board. A hearing officer shall not be an 11703
employee of the state board or any agency involved in the 11704
education or care of the child or a person having a personal or 11705
professional interest that conflicts with the person's objectivity 11706
in the hearing. A hearing officer shall possess knowledge of, and 11707
the ability to understand, the provisions of the "Individuals with 11708
Disabilities Education Improvement Act of 2004," federal and state 11709
regulations pertaining to that act, and legal interpretations of 11710
that act by federal and state courts; possess the knowledge and 11711
ability to conduct hearings in accordance with appropriate 11712
standard legal practice; and possess the knowledge and ability to 11713
render and write decisions in accordance with appropriate standard 11714
legal practice. The due process requirements of section 615 of the 11715
"Individuals with Disabilities Education Improvement Act of 2004," 11716

20 U.S.C. 1415, apply to due process complaint notices and 11717
requests for due process hearings and to due process hearings held 11718
under division (G) of this section, including, but not limited to, 11719
timelines for requesting hearings, requirements for sufficient 11720
complaint notices, resolution sessions, and sufficiency and 11721
hearing decisions. 11722

(2) Discussions that occur during a resolution session shall 11723
be confidential and shall not be used as evidence in any 11724
subsequent due process hearing or civil proceeding. If a 11725
resolution to the dispute is reached at a resolution session, the 11726
parties must execute a legally binding written settlement 11727
agreement which shall state that all discussions that occurred 11728
during the resolution process shall be confidential and shall not 11729
be used as evidence in any subsequent due process hearing or civil 11730
proceeding. 11731

(3) A party to a hearing under division (G) of this section 11732
shall be accorded: 11733

(a) The right to be accompanied and advised by counsel and by 11734
individuals with special knowledge or training with respect to the 11735
problems of children with disabilities; 11736

(b) The right to present evidence and confront, 11737
cross-examine, and compel the attendance of witnesses; 11738

(c) The right to a written or electronic verbatim record of 11739
the hearing; 11740

(d) The right to written findings of fact and decisions, 11741
which findings of fact and decisions shall be made available to 11742
the public consistent with the requirements relating to the 11743
confidentiality of personally identifiable data, information, and 11744
records collected and maintained by state educational agencies and 11745
local educational agencies; and shall be transmitted to the 11746
advisory panel established and maintained by the department for 11747

the purpose of providing policy guidance with respect to special 11748
education and related services for children with disabilities in 11749
the state. 11750

(H) An opportunity for any party aggrieved by the findings 11751
and decision rendered in a hearing under division (G) of this 11752
section to appeal within forty-five days of notification of the 11753
decision to the state board, which shall appoint a state level 11754
officer who shall review the case and issue a final order. The 11755
state level officer shall be appointed and shall review the case 11756
in accordance with standards and procedures adopted by the state 11757
board. 11758

Any party aggrieved by the final order of the state level 11759
officer may appeal the final order, in accordance with Chapter 11760
119. of the Revised Code, within forty-five days after 11761
notification of the order to the court of common pleas of the 11762
county in which the child's school district of residence is 11763
located, or to a district court of the United States within ninety 11764
days after the date of the decision of the state level review 11765
officer, as provided in section 615(i)(2) of the "Individuals with 11766
Disabilities Education Improvement Act of 2004," 20 U.S.C. 11767
1415(i)(2). 11768

Sec. 3323.07. The state board of education shall authorize 11769
the establishment and maintenance of special education and related 11770
services for all children with disabilities who are at least three 11771
years of age and less than twenty-two years of age, including 11772
children with disabilities who have been suspended or expelled 11773
from school, and may authorize special education and related 11774
services for children with disabilities who are less than three 11775
years of age in accordance with rules adopted by the state board. 11776
The state board shall require the boards of education of school 11777
districts, shall authorize the department of mental health and the 11778

department of ~~mental retardation and~~ developmental disabilities, 11779
and may authorize any other educational agency, to establish and 11780
maintain such special education and related services in accordance 11781
with standards adopted by the state board. 11782

Sec. 3323.09. (A) As used in this section: 11783

(1) "Home" has the meaning given in section 3313.64 of the 11784
Revised Code. 11785

(2) "Preschool child" means a child who is at least age three 11786
but under age six on the thirtieth day of September of an academic 11787
year. 11788

(B) Each county ~~MR/DD~~ DD board shall establish special 11789
education programs for all children with disabilities who in 11790
accordance with section 3323.04 of the Revised Code have been 11791
placed in special education programs operated by the county board 11792
and for preschool children who are developmentally delayed or at 11793
risk of being developmentally delayed. The board annually shall 11794
submit to the department of education a plan for the provision of 11795
these programs and, if applicable, a request for approval of units 11796
under section 3317.05 of the Revised Code. The superintendent of 11797
public instruction shall review the plan and approve or modify it 11798
in accordance with rules adopted by the state board of education 11799
under section 3301.07 of the Revised Code. The superintendent of 11800
public instruction shall compile the plans submitted by county 11801
boards and shall submit a comprehensive plan to the state board. 11802

A county ~~MR/DD~~ DD board may combine transportation for 11803
children enrolled in classes funded under section 3317.20 or units 11804
approved under section 3317.05 with transportation for children 11805
and adults enrolled in programs and services offered by the board 11806
under section 5126.12 of the Revised Code. 11807

(C) A county ~~MR/DD~~ DD board that during the school year 11808

provided special education pursuant to this section for any child 11809
with mental disabilities under twenty-two years of age shall 11810
prepare and submit the following reports and statements: 11811

(1) The board shall prepare a statement for each child who at 11812
the time of receiving such special education was a resident of a 11813
home and was not in the legal or permanent custody of an Ohio 11814
resident or a government agency in this state, and whose natural 11815
or adoptive parents are not known to have been residents of this 11816
state subsequent to the child's birth. The statement shall contain 11817
the child's name, the name of the child's school district of 11818
residence, the name of the county board providing the special 11819
education, and the number of months, including any fraction of a 11820
month, it was provided. Not later than the thirtieth day of June, 11821
the board shall forward a certified copy of such statement to both 11822
the director of ~~mental retardation and~~ developmental disabilities 11823
and to the home. 11824

Within thirty days after its receipt of a statement, the home 11825
shall pay tuition to the county board computed in the manner 11826
prescribed by section 3323.141 of the Revised Code. 11827

(2) The board shall prepare a report for each school district 11828
that is the school district of residence of one or more of such 11829
children for whom statements are not required by division (C)(1) 11830
of this section. The report shall contain the name of the county 11831
board providing special education, the name of each child 11832
receiving special education, the number of months, including 11833
fractions of a month, that the child received it, and the name of 11834
the child's school district of residence. Not later than the 11835
thirtieth day of June, the board shall forward certified copies of 11836
each report to the school district named in the report, the 11837
superintendent of public instruction, and the director of ~~mental~~ 11838
~~retardation and~~ developmental disabilities. 11839

Sec. 3323.091. (A) The department of mental health, the 11840
department of ~~mental retardation and~~ developmental disabilities, 11841
the department of youth services, and the department of 11842
rehabilitation and correction shall establish and maintain special 11843
education programs for children with disabilities in institutions 11844
under their jurisdiction according to standards adopted by the 11845
state board of education. 11846

(B) The superintendent of each state institution required to 11847
provide services under division (A) of this section, and each 11848
county ~~MR/DD~~ DD board, providing special education for preschool 11849
children with disabilities under this chapter may apply to the 11850
state department of education for unit funding, which shall be 11851
paid in accordance with sections 3317.052 and 3317.053 of the 11852
Revised Code. 11853

The superintendent of each state institution required to 11854
provide services under division (A) of this section may apply to 11855
the department of education for special education and related 11856
services weighted funding for children with disabilities other 11857
than preschool children with disabilities, calculated in 11858
accordance with section 3317.201 of the Revised Code. 11859

Each county ~~MR/DD~~ DD board providing special education for 11860
children with disabilities other than preschool children with 11861
disabilities may apply to the department of education for base 11862
cost and special education and related services weighted funding 11863
calculated in accordance with section 3317.20 of the Revised Code. 11864
11865

(C) In addition to the authorization to apply for state 11866
funding described in division (B) of this section, each state 11867
institution required to provide services under division (A) of 11868
this section is entitled to tuition payments calculated in the 11869
manner described in division (C) of this section. 11870

On or before the thirtieth day of June of each year, the 11871
superintendent of each institution that during the school year 11872
provided special education pursuant to this section shall prepare 11873
a statement for each child with a disability under twenty-two 11874
years of age who has received special education. The statement 11875
shall contain the child's data verification code assigned pursuant 11876
to division (D)(2) of section 3301.0714 of the Revised Code and 11877
the name of the child's school district of residence. Within sixty 11878
days after receipt of such statement, the department of education 11879
shall perform one of the following: 11880

(1) For any child except a preschool child with a disability 11881
described in division (C)(2) of this section, pay to the 11882
institution submitting the statement an amount equal to the 11883
tuition calculated under division (A) of section 3317.08 of the 11884
Revised Code for the period covered by the statement, and deduct 11885
the same from the amount of state funds, if any, payable under 11886
sections 3317.022 and 3317.023 of the Revised Code, to the child's 11887
school district of residence or, if the amount of such state funds 11888
is insufficient, require the child's school district of residence 11889
to pay the institution submitting the statement an amount equal to 11890
the amount determined under this division. 11891

(2) For any preschool child with a disability not included in 11892
a unit approved under division (B) of section 3317.05 of the 11893
Revised Code, perform the following: 11894

(a) Pay to the institution submitting the statement an amount 11895
equal to the tuition calculated under division (B) of section 11896
3317.08 of the Revised Code for the period covered by the 11897
statement, except that in calculating the tuition under that 11898
section the operating expenses of the institution submitting the 11899
statement under this section shall be used instead of the 11900
operating expenses of the school district of residence; 11901

(b) Deduct from the amount of state funds, if any, payable 11902

under sections 3317.022 and 3317.023 of the Revised Code to the 11903
child's school district of residence an amount equal to the amount 11904
paid under division (C)(2)(a) of this section. 11905

Sec. 3323.12. The board of education of a school district 11906
shall provide home instruction for children with disabilities who 11907
are at least three years of age and less than twenty-two years of 11908
age and who are unable to attend school, even with the help of 11909
special transportation. The board may arrange for the provision of 11910
home instruction for a child by a cooperative agreement or 11911
contract with a county ~~MR/DD~~ DD board or other educational agency. 11912
For the purposes of determining formula ADM under section 3317.03 11913
of the Revised Code, five hours of home instruction shall be 11914
equivalent to attendance for five school days. 11915

Sec. 3323.141. (A) When a child who is not in the legal or 11916
permanent custody of an Ohio resident or a government agency in 11917
this state and whose natural or adoptive parents are not known to 11918
have been residents of this state subsequent to the child's birth 11919
is a resident of a home as defined in section 3313.64 of the 11920
Revised Code and receives special education and related services 11921
from a school district or county MR/DD board, the home shall pay 11922
tuition to the board providing the special education. 11923

(B) In the case of a child described in division (A) of this 11924
section who receives special education and related services from a 11925
school district, tuition shall be the amount determined under 11926
division (B)(1) or (2) of this section. 11927

(1) For a child other than a child described in division 11928
(B)(2) of this section the tuition shall be an amount equal to the 11929
sum of the following: 11930

(a) Tuition as determined in the manner provided for by 11931
division (B) of section 3317.081 of the Revised Code for the 11932

district that provides the special education; 11933

(b) Such excess cost as is determined by using a formula 11934
established by rule of the department of education. The excess 11935
cost computed in this section shall not be used as excess cost 11936
computed under section 3323.14 of the Revised Code. 11937

(2) For a child who is a preschool child with a disability 11938
not included in a unit approved under division (B) of section 11939
3317.05 of the Revised Code, the tuition shall be computed as 11940
follows: 11941

(a) Determine the amount of the tuition of the district 11942
providing the education for the child as calculated under division 11943
(B) of section 3317.08 of the Revised Code; 11944

(b) For each type of special education service included in 11945
the computation of the amount of tuition under division (B)(2)(a) 11946
of this section, divide the amount determined for that computation 11947
under division (B)(2) of section 3317.08 of the Revised Code by 11948
the total number of preschool children with disabilities used for 11949
that computation under division (B)(3) of section 3317.08 of the 11950
Revised Code; 11951

(c) Determine the sum of the quotients obtained under 11952
division (B)(2)(b) of this section; 11953

(d) Determine the sum of the amounts determined under 11954
divisions (B)(2)(a) and (c) of this section. 11955

(C) In the case of a child described in division (A) of this 11956
section who receives special education and related services from a 11957
county MR/DD board, tuition shall be the amount determined under 11958
division (C)(1) or (2) of this section. 11959

(1) For a child other than a child described in division 11960
(C)(2) of this section, the tuition shall be an amount equal to 11961
such board's per capita cost of providing special education and 11962

related services for children at least three but less than 11963
twenty-two years of age as determined by using a formula 11964
established by rule of the department of ~~mental retardation and~~ 11965
developmental disabilities. 11966

(2) For a child who is a preschool child with a disability 11967
not included in a unit approved under division (B) of section 11968
3317.05 of the Revised Code, the tuition shall equal the sum of 11969
the amounts of each such board's per capita cost of providing each 11970
of the special education or related service that the child 11971
receives. The calculation of tuition shall be made by using a 11972
formula established by rule of the department of ~~mental~~ 11973
~~retardation and~~ developmental disabilities. The formula for the 11974
calculation of per capita costs under division (C)(2) of this 11975
section shall be based only on each such MR/DD board's cost of 11976
providing each type of special education or related service to 11977
preschool children with disabilities not included in a unit 11978
approved under division (B) of section 3317.05 of the Revised 11979
Code. 11980

(D) If a home fails to pay the tuition required under this 11981
section, the board of education or county MR/DD board providing 11982
the education may recover in a civil action the tuition and the 11983
expenses incurred in prosecuting the action, including court costs 11984
and reasonable attorney's fees. If the prosecuting attorney or 11985
city director of law represents the board in such action, costs 11986
and reasonable attorney's fees awarded by the court, based upon 11987
the time spent preparing and presenting the case by the 11988
prosecuting attorney, director, or a designee of either, shall be 11989
deposited in the county or city general fund. 11990

Sec. 3323.142. This section does not apply to any preschool 11991
child with a disability except if included in a unit approved 11992
under division (B) of section 3317.05 of the Revised Code. 11993

As used in this section, "per pupil amount" for a preschool 11994
child with a disability included in such an approved unit means 11995
the amount determined by dividing the amount received for the 11996
classroom unit in which the child has been placed by the number of 11997
children in the unit. For any other child, "per pupil amount" 11998
means the amount paid for the child under section 3317.20 of the 11999
Revised Code. 12000

When a school district places or has placed a child with a 12001
county ~~MR/DD~~ DD board for special education, but another district 12002
is responsible for tuition under section 3313.64 or 3313.65 of the 12003
Revised Code and the child is not a resident of the territory 12004
served by the county ~~MR/DD~~ DD board, the board may charge the 12005
district responsible for tuition with the educational costs in 12006
excess of the per pupil amount received by the board under Chapter 12007
3317. of the Revised Code. The amount of the excess cost shall be 12008
determined by the formula established by rule of the department of 12009
education under section 3323.14 of the Revised Code, and the 12010
payment for such excess cost shall be made by the school district 12011
directly to the county ~~MR/DD~~ DD board. 12012

A school district board of education and the county ~~MR/DD~~ DD 12013
board that serves the school district may negotiate and contract, 12014
at or after the time of placement, for payments by the board of 12015
education to the county ~~MR/DD~~ DD board for additional services 12016
provided to a child placed with the county ~~MR/DD~~ DD board and 12017
whose individualized education program established pursuant to 12018
section 3323.08 of the Revised Code requires additional services 12019
that are not routinely provided children in the county ~~MR/DD~~ DD 12020
board's program but are necessary to maintain the child's 12021
enrollment and participation in the program. Additional services 12022
may include, but are not limited to, specialized supplies and 12023
equipment for the benefit of the child and instruction, training, 12024
or assistance provided by staff members other than staff members 12025

for which funding is received under Chapter 3317. of the Revised 12026
Code. 12027

Sec. 3323.31. The Franklin county educational service center 12028
shall establish the Ohio Center for Autism and Low Incidence. The 12029
Center shall administer programs and coordinate services for 12030
infants, preschool and school-age children, and adults with autism 12031
and low incidence disabilities. The Center's principal focus shall 12032
be programs and services for persons with autism. The Center shall 12033
be under the direction of an executive director, appointed by the 12034
superintendent of the service center in consultation with the 12035
advisory board established under section 3323.33 of the Revised 12036
Code. 12037

In addition to its other duties, the Ohio Center for Autism 12038
and Low Incidence shall participate as a member of an interagency 12039
workgroup on autism, as it is established by the department of 12040
~~mental retardation and~~ developmental disabilities and shall 12041
provide technical assistance and support to the department in the 12042
department's leadership role to develop and implement the 12043
initiatives identified by the workgroup. 12044

Sec. 3326.99. (A) Whoever violates division (F) of section 12045
3326.24 of the Revised Code shall be punished as follows: 12046

(1) Except as otherwise provided in division (A)(2) of this 12047
section, the person is guilty of a misdemeanor of the fourth 12048
degree. 12049

(2) The person is guilty of a misdemeanor of the first degree 12050
if both of the following conditions apply: 12051

(a) The employee who is the subject of the report that the 12052
person fails to submit was required to be reported for the 12053
commission or alleged commission of an act or offense involving 12054
the infliction on a child of any physical or mental wound, injury, 12055

disability, or condition of a nature that constitutes abuse or 12056
neglect of the child; 12057

(b) During the period between the violation of division (F) 12058
of section 3326.24 of the Revised Code and the conviction of or 12059
plea of guilty by the person for that violation, the employee who 12060
is the subject of the report that the person fails to submit 12061
inflicts on any child attending a school district, educational 12062
service center, public or nonpublic school, or county board of 12063
~~mental retardation and~~ developmental disabilities where the 12064
employee works any physical or mental wound, injury, disability, 12065
or condition of a nature that constitutes abuse or neglect of the 12066
child. 12067

(B) Whoever violates division (B) of section 3326.243 of the 12068
Revised Code is guilty of a misdemeanor of the first degree. 12069

Sec. 3501.01. As used in the sections of the Revised Code 12070
relating to elections and political communications: 12071

(A) "General election" means the election held on the first 12072
Tuesday after the first Monday in each November. 12073

(B) "Regular municipal election" means the election held on 12074
the first Tuesday after the first Monday in November in each 12075
odd-numbered year. 12076

(C) "Regular state election" means the election held on the 12077
first Tuesday after the first Monday in November in each 12078
even-numbered year. 12079

(D) "Special election" means any election other than those 12080
elections defined in other divisions of this section. A special 12081
election may be held only on the first Tuesday after the first 12082
Monday in February, May, August, or November, or on the day 12083
authorized by a particular municipal or county charter for the 12084
holding of a primary election, except that in any year in which a 12085

presidential primary election is held, no special election shall 12086
be held in February or May, except as authorized by a municipal or 12087
county charter, but may be held on the first Tuesday after the 12088
first Monday in March. 12089

(E)(1) "Primary" or "primary election" means an election held 12090
for the purpose of nominating persons as candidates of political 12091
parties for election to offices, and for the purpose of electing 12092
persons as members of the controlling committees of political 12093
parties and as delegates and alternates to the conventions of 12094
political parties. Primary elections shall be held on the first 12095
Tuesday after the first Monday in May of each year except in years 12096
in which a presidential primary election is held. 12097

(2) "Presidential primary election" means a primary election 12098
as defined by division (E)(1) of this section at which an election 12099
is held for the purpose of choosing delegates and alternates to 12100
the national conventions of the major political parties pursuant 12101
to section 3513.12 of the Revised Code. Unless otherwise 12102
specified, presidential primary elections are included in 12103
references to primary elections. In years in which a presidential 12104
primary election is held, all primary elections shall be held on 12105
the first Tuesday after the first Monday in March except as 12106
otherwise authorized by a municipal or county charter. 12107

(F) "Political party" means any group of voters meeting the 12108
requirements set forth in section 3517.01 of the Revised Code for 12109
the formation and existence of a political party. 12110

(1) "Major political party" means any political party 12111
organized under the laws of this state whose candidate for 12112
governor or nominees for presidential electors received no less 12113
than twenty per cent of the total vote cast for such office at the 12114
most recent regular state election. 12115

(2) "Intermediate political party" means any political party 12116

organized under the laws of this state whose candidate for 12117
governor or nominees for presidential electors received less than 12118
twenty per cent but not less than ten per cent of the total vote 12119
cast for such office at the most recent regular state election. 12120

(3) "Minor political party" means any political party 12121
organized under the laws of this state whose candidate for 12122
governor or nominees for presidential electors received less than 12123
ten per cent but not less than five per cent of the total vote 12124
cast for such office at the most recent regular state election or 12125
which has filed with the secretary of state, subsequent to any 12126
election in which it received less than five per cent of such 12127
vote, a petition signed by qualified electors equal in number to 12128
at least one per cent of the total vote cast for such office in 12129
the last preceding regular state election, except that a newly 12130
formed political party shall be known as a minor political party 12131
until the time of the first election for governor or president 12132
which occurs not less than twelve months subsequent to the 12133
formation of such party, after which election the status of such 12134
party shall be determined by the vote for the office of governor 12135
or president. 12136

(G) "Dominant party in a precinct" or "dominant political 12137
party in a precinct" means that political party whose candidate 12138
for election to the office of governor at the most recent regular 12139
state election at which a governor was elected received more votes 12140
than any other person received for election to that office in such 12141
precinct at such election. 12142

(H) "Candidate" means any qualified person certified in 12143
accordance with the provisions of the Revised Code for placement 12144
on the official ballot of a primary, general, or special election 12145
to be held in this state, or any qualified person who claims to be 12146
a write-in candidate, or who knowingly assents to being 12147
represented as a write-in candidate by another at either a 12148

primary, general, or special election to be held in this state. 12149

(I) "Independent candidate" means any candidate who claims 12150
not to be affiliated with a political party, and whose name has 12151
been certified on the office-type ballot at a general or special 12152
election through the filing of a statement of candidacy and 12153
nominating petition, as prescribed in section 3513.257 of the 12154
Revised Code. 12155

(J) "Nonpartisan candidate" means any candidate whose name is 12156
required, pursuant to section 3505.04 of the Revised Code, to be 12157
listed on the nonpartisan ballot, including all candidates for 12158
judicial office, for member of any board of education, for 12159
municipal or township offices in which primary elections are not 12160
held for nominating candidates by political parties, and for 12161
offices of municipal corporations having charters that provide for 12162
separate ballots for elections for these offices. 12163

(K) "Party candidate" means any candidate who claims to be a 12164
member of a political party, whose name has been certified on the 12165
office-type ballot at a general or special election through the 12166
filing of a declaration of candidacy and petition of candidate, 12167
and who has won the primary election of the candidate's party for 12168
the public office the candidate seeks or is selected by party 12169
committee in accordance with section 3513.31 of the Revised Code. 12170

(L) "Officer of a political party" includes, but is not 12171
limited to, any member, elected or appointed, of a controlling 12172
committee, whether representing the territory of the state, a 12173
district therein, a county, township, a city, a ward, a precinct, 12174
or other territory, of a major, intermediate, or minor political 12175
party. 12176

(M) "Question or issue" means any question or issue certified 12177
in accordance with the Revised Code for placement on an official 12178
ballot at a general or special election to be held in this state. 12179

(N) "Elector" or "qualified elector" means a person having	12180
the qualifications provided by law to be entitled to vote.	12181
(O) "Voter" means an elector who votes at an election.	12182
(P) "Voting residence" means that place of residence of an	12183
elector which shall determine the precinct in which the elector	12184
may vote.	12185
(Q) "Precinct" means a district within a county established	12186
by the board of elections of such county within which all	12187
qualified electors having a voting residence therein may vote at	12188
the same polling place.	12189
(R) "Polling place" means that place provided for each	12190
precinct at which the electors having a voting residence in such	12191
precinct may vote.	12192
(S) "Board" or "board of elections" means the board of	12193
elections appointed in a county pursuant to section 3501.06 of the	12194
Revised Code.	12195
(T) "Political subdivision" means a county, township, city,	12196
village, or school district.	12197
(U) "Election officer" or "election official" means any of	12198
the following:	12199
(1) Secretary of state;	12200
(2) Employees of the secretary of state serving the division	12201
of elections in the capacity of attorney, administrative officer,	12202
administrative assistant, elections administrator, office manager,	12203
or clerical supervisor;	12204
(3) Director of a board of elections;	12205
(4) Deputy director of a board of elections;	12206
(5) Member of a board of elections;	12207
(6) Employees of a board of elections;	12208

(7) Precinct polling place judges; 12209

(8) Employees appointed by the boards of elections on a 12210
temporary or part-time basis. 12211

(V) "Acknowledgment notice" means a notice sent by a board of 12212
elections, on a form prescribed by the secretary of state, 12213
informing a voter registration applicant or an applicant who 12214
wishes to change the applicant's residence or name of the status 12215
of the application; the information necessary to complete or 12216
update the application, if any; and if the application is 12217
complete, the precinct in which the applicant is to vote. 12218

(W) "Confirmation notice" means a notice sent by a board of 12219
elections, on a form prescribed by the secretary of state, to a 12220
registered elector to confirm the registered elector's current 12221
address. 12222

(X) "Designated agency" means an office or agency in the 12223
state that provides public assistance or that provides 12224
state-funded programs primarily engaged in providing services to 12225
persons with disabilities and that is required by the National 12226
Voter Registration Act of 1993 to implement a program designed and 12227
administered by the secretary of state for registering voters, or 12228
any other public or government office or agency that implements a 12229
program designed and administered by the secretary of state for 12230
registering voters, including the department of job and family 12231
services, the program administered under section 3701.132 of the 12232
Revised Code by the department of health, the department of mental 12233
health, the department of ~~mental retardation and~~ developmental 12234
disabilities, the rehabilitation services commission, and any 12235
other agency the secretary of state designates. "Designated 12236
agency" does not include public high schools and vocational 12237
schools, public libraries, or the office of a county treasurer. 12238

(Y) "National Voter Registration Act of 1993" means the 12239

"National Voter Registration Act of 1993," 107 Stat. 77, 42 12240
U.S.C.A. 1973gg. 12241

(Z) "Voting Rights Act of 1965" means the "Voting Rights Act 12242
of 1965," 79 Stat. 437, 42 U.S.C.A. 1973, as amended. 12243

(AA) "Photo identification" means a document that meets each 12244
of the following requirements: 12245

(1) It shows the name of the individual to whom it was 12246
issued, which shall conform to the name in the poll list or 12247
signature pollbook. 12248

(2) It shows the current address of the individual to whom it 12249
was issued, which shall conform to the address in the poll list or 12250
signature pollbook, except for a driver's license or a state 12251
identification card issued under section 4507.50 of the Revised 12252
Code, which may show either the current or former address of the 12253
individual to whom it was issued, regardless of whether that 12254
address conforms to the address in the poll list or signature 12255
pollbook. 12256

(3) It shows a photograph of the individual to whom it was 12257
issued. 12258

(4) It includes an expiration date that has not passed. 12259

(5) It was issued by the government of the United States or 12260
this state. 12261

Sec. 3701.78. (A) There is hereby created the commission on 12262
minority health, consisting of eighteen members. The governor 12263
shall appoint to the commission nine members from among health 12264
researchers, health planners, and health professionals. The 12265
speaker of the house of representatives shall appoint to the 12266
commission two members of the house of representatives, not more 12267
than one of whom is a member of the same political party, and the 12268
president of the senate shall appoint to the commission two 12269

members of the senate, not more than one of whom is a member of 12270
the same political party. The directors of health, mental health, 12271
~~mental retardation and~~ developmental disabilities, and job and 12272
family services, or their designees, and the superintendent of 12273
public instruction, or the superintendent's designee, shall be 12274
members of the commission. The commission shall elect a 12275
chairperson from among its members. Of the members appointed by 12276
the governor, five shall be appointed to initial terms of one 12277
year, and four shall be appointed to initial terms of two years. 12278
Thereafter, all members appointed by the governor shall be 12279
appointed to terms of two years. All members of the commission 12280
appointed by the speaker of the house of representatives or the 12281
president of the senate shall be nonvoting members of the 12282
commission and be appointed within thirty days after the 12283
commencement of the first regular session of each general 12284
assembly, and shall serve until the expiration of the session of 12285
the general assembly during which they were appointed. Members of 12286
the commission shall serve without compensation, but shall be 12287
reimbursed for the actual and necessary expenses they incur in the 12288
performance of their official duties. 12289

(B) The commission shall promote health and the prevention of 12290
disease among members of minority groups. Each year the commission 12291
shall distribute grants from available funds to community-based 12292
health groups to be used to promote health and the prevention of 12293
disease among members of minority groups. As used in this 12294
division, "minority group" means any of the following economically 12295
disadvantaged groups: Blacks, American Indians, Hispanics, and 12296
Orientals. The commission shall adopt and maintain rules pursuant 12297
to Chapter 119. of the Revised Code to provide for the 12298
distribution of these grants. No group shall qualify to receive a 12299
grant from the commission unless it receives at least twenty per 12300
cent of its funds from sources other than grants distributed under 12301
this section. 12302

(C) The commission may appoint such employees as it considers 12303
necessary to carry out its duties under this section. The 12304
department of health shall provide office space for the 12305
commission. 12306

(D) The commission shall meet at the call of its chairperson 12307
to conduct its official business. A majority of the voting members 12308
of the commission constitute a quorum. The votes of at least eight 12309
voting members of the commission are necessary for the commission 12310
to take any official action or to approve the distribution of 12311
grants under this section. 12312

Sec. 3701.93. As used in sections 3701.931 to 3701.936 of the 12313
Revised Code: 12314

(A) "Board of health" has the same meaning as in section 12315
3717.01 of the Revised Code. 12316

(B) "Nonpublic school" means a chartered nonpublic school 12317
that meets the minimum education standards prescribed by the state 12318
board of education under section 3301.07 of the Revised Code. 12319
"Nonpublic school" includes facilities used for child care 12320
programs for preschool children operated by the school. 12321

(C) "Public school" means either of the following: 12322

(1) A school operated by a school district, educational 12323
service center, or county board of ~~mental-retardation-and~~ 12324
developmental disabilities, including facilities used for child 12325
care programs for preschool children operated by the district, 12326
center, or board; 12327

(2) A community school established under Chapter 3314. of the 12328
Revised Code, including a facility operated by an internet- or 12329
computer-based community school, as defined in section 3314.02 of 12330
the Revised Code, that is used as a classroom or laboratory for 12331
one or more students. "Public school" does not mean the residence 12332

of a student enrolled in an internet- or computer-based community school. 12333
12334

(D) "School" does not mean any of the following: 12335

(1) A child care program for preschool children that is 12336
licensed by the department of job and family services pursuant to 12337
Chapter 5104. of the Revised Code; 12338

(2) A child care program for preschool children that is not 12339
operated by a public or nonpublic school; 12340

(3) A chartered kindergarten that is associated with a 12341
freestanding preschool and that is not operated by a school 12342
district, educational service center, or county board of ~~mental~~ 12343
~~retardation and~~ developmental disabilities. 12344

Sec. 3701.932. (A) Each board of health shall report the 12345
findings from the inspection of each public and nonpublic school 12346
building and associated grounds conducted under section 3701.931 12347
of the Revised Code to all of the following: 12348

(1) The principal or chief administrator of the building; 12349

(2) The administrator responsible for facility operations and 12350
maintenance on behalf of the school district, educational service 12351
center, county board of ~~mental retardation and~~ developmental 12352
disabilities, or community school controlling the inspected 12353
building and grounds; 12354

(3) In the case of a school operated by a school district, 12355
the superintendent and board of education of that district; 12356

(4) In the case of a school operated by an educational 12357
service center or county board of ~~mental retardation and~~ 12358
developmental disabilities, the center or board; 12359

(5) The auditor of state. 12360

(B) Each report shall include recommendations for changes 12361

that the board of health determines may be needed to abate 12362
conditions that are hazardous to occupants. The report shall 12363
include recommendations made pursuant to an inspection conducted 12364
under section 3707.26 of the Revised Code. 12365

(C) The report is a public record under section 149.43 of the 12366
Revised Code. 12367

Sec. 3701.933. The board of education of each school 12368
district, the governing board of each educational service center, 12369
the county board of ~~mental retardation and~~ developmental 12370
disabilities, the governing authority of each community school, 12371
and the chief administrator of each nonpublic school shall submit 12372
to the board of health, by a deadline and in a manner established 12373
by the director of health, a written plan for abatement of the 12374
conditions determined to be hazardous to occupants, as described 12375
in the report submitted under section 3701.932 of the Revised 12376
Code. The plan shall include a schedule for completion of the 12377
abatement. 12378

The board of health shall determine compliance with the 12379
written plan for abatement. On completion of any plan for 12380
abatement, the board of health shall submit a supplemental report 12381
to all parties specified in division (A) of section 3701.932 of 12382
the Revised Code. 12383

The plan submitted under this section is a public record 12384
under section 149.43 of the Revised Code. 12385

Sec. 3705.36. Three years after the date a birth defects 12386
information system is implemented pursuant to section 3705.30 of 12387
the Revised Code, and annually thereafter, the department of 12388
health shall prepare a report regarding the birth defects 12389
information system. The council created under section 3705.34 of 12390
the Revised Code shall, not later than two years after the date a 12391

birth defects information system is implemented, specify the 12392
information the department is to include in each report. The 12393
department shall file the report with the governor, the president 12394
and minority leader of the senate, the speaker and minority leader 12395
of the house of representatives, the departments of ~~mental~~ 12396
~~retardation and~~ developmental disabilities, education, and job and 12397
family services, the commission on minority health, and the news 12398
media. 12399

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 12400
3721.99 of the Revised Code: 12401

(1)(a) "Home" means an institution, residence, or facility 12402
that provides, for a period of more than twenty-four hours, 12403
whether for a consideration or not, accommodations to three or 12404
more unrelated individuals who are dependent upon the services of 12405
others, including a nursing home, residential care facility, home 12406
for the aging, and a veterans' home operated under Chapter 5907. 12407
of the Revised Code. 12408

(b) "Home" also means both of the following: 12409

(i) Any facility that a person, as defined in section 3702.51 12410
of the Revised Code, proposes for certification as a skilled 12411
nursing facility or nursing facility under Title XVIII or XIX of 12412
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 12413
as amended, and for which a certificate of need, other than a 12414
certificate to recategorize hospital beds as described in section 12415
3702.522 of the Revised Code or division (R)(7)(d) of the version 12416
of section 3702.51 of the Revised Code in effect immediately prior 12417
to April 20, 1995, has been granted to the person under sections 12418
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 12419

(ii) A county home or district home that is or has been 12420
licensed as a residential care facility. 12421

(c) "Home" does not mean any of the following:	12422
(i) Except as provided in division (A)(1)(b) of this section,	12423
a public hospital or hospital as defined in section 3701.01 or	12424
5122.01 of the Revised Code;	12425
(ii) A residential facility for mentally ill persons as	12426
defined under section 5119.22 of the Revised Code;	12427
(iii) A residential facility as defined in section 5123.19 of	12428
the Revised Code;	12429
(iv) A community alternative home as defined in section	12430
3724.01 of the Revised Code;	12431
(v) An adult care facility as defined in section 3722.01 of	12432
the Revised Code;	12433
(vi) An alcohol or drug addiction program as defined in	12434
section 3793.01 of the Revised Code;	12435
(vii) A facility licensed to provide methadone treatment	12436
under section 3793.11 of the Revised Code;	12437
(viii) A facility providing services under contract with the	12438
department of mental retardation and developmental disabilities	12439
under section 5123.18 of the Revised Code;	12440
(ix) A facility operated by a hospice care program licensed	12441
under section 3712.04 of the Revised Code that is used exclusively	12442
for care of hospice patients;	12443
(x) A facility, infirmary, or other entity that is operated	12444
by a religious order, provides care exclusively to members of	12445
religious orders who take vows of celibacy and live by virtue of	12446
their vows within the orders as if related, and does not	12447
participate in the medicare program established under Title XVIII	12448
of the "Social Security Act" or the medical assistance program	12449
established under Chapter 5111. of the Revised Code and Title XIX	12450
of the "Social Security Act," if on January 1, 1994, the facility,	12451

infirmary, or entity was providing care exclusively to members of 12452
the religious order; 12453

(xi) A county home or district home that has never been 12454
licensed as a residential care facility. 12455

(2) "Unrelated individual" means one who is not related to 12456
the owner or operator of a home or to the spouse of the owner or 12457
operator as a parent, grandparent, child, grandchild, brother, 12458
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 12459
uncle. 12460

(3) "Mental impairment" does not mean mental illness as 12461
defined in section 5122.01 of the Revised Code or mental 12462
retardation as defined in section 5123.01 of the Revised Code. 12463

(4) "Skilled nursing care" means procedures that require 12464
technical skills and knowledge beyond those the untrained person 12465
possesses and that are commonly employed in providing for the 12466
physical, mental, and emotional needs of the ill or otherwise 12467
incapacitated. "Skilled nursing care" includes, but is not limited 12468
to, the following: 12469

(a) Irrigations, catheterizations, application of dressings, 12470
and supervision of special diets; 12471

(b) Objective observation of changes in the patient's 12472
condition as a means of analyzing and determining the nursing care 12473
required and the need for further medical diagnosis and treatment; 12474

(c) Special procedures contributing to rehabilitation; 12475

(d) Administration of medication by any method ordered by a 12476
physician, such as hypodermically, rectally, or orally, including 12477
observation of the patient after receipt of the medication; 12478

(e) Carrying out other treatments prescribed by the physician 12479
that involve a similar level of complexity and skill in 12480
administration. 12481

(5)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services.

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(7) "Residential care facility" means a home that provides either of the following:

(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason

of age or physical or mental impairment, and, to at least one of 12512
those individuals, any of the skilled nursing care authorized by 12513
section 3721.011 of the Revised Code. 12514

(8) "Home for the aging" means a home that provides services 12515
as a residential care facility and a nursing home, except that the 12516
home provides its services only to individuals who are dependent 12517
on the services of others by reason of both age and physical or 12518
mental impairment. 12519

The part or unit of a home for the aging that provides 12520
services only as a residential care facility is licensed as a 12521
residential care facility. The part or unit that may provide 12522
skilled nursing care beyond the extent authorized by section 12523
3721.011 of the Revised Code is licensed as a nursing home. 12524

(9) "County home" and "district home" mean a county home or 12525
district home operated under Chapter 5155. of the Revised Code. 12526

(B) The public health council may further classify homes. For 12527
the purposes of this chapter, any residence, institution, hotel, 12528
congregate housing project, or similar facility that meets the 12529
definition of a home under this section is such a home regardless 12530
of how the facility holds itself out to the public. 12531

(C) For purposes of this chapter, personal care services or 12532
skilled nursing care shall be considered to be provided by a 12533
facility if they are provided by a person employed by or 12534
associated with the facility or by another person pursuant to an 12535
agreement to which neither the resident who receives the services 12536
nor the resident's sponsor is a party. 12537

(D) Nothing in division (A)(4) of this section shall be 12538
construed to permit skilled nursing care to be imposed on an 12539
individual who does not require skilled nursing care. 12540

Nothing in division (A)(5) of this section shall be construed 12541
to permit personal care services to be imposed on an individual 12542

who is capable of performing the activity in question without 12543
assistance. 12544

(E) Division (A)(1)(c)(x) of this section does not prohibit a 12545
facility, infirmary, or other entity described in that division 12546
from seeking licensure under sections 3721.01 to 3721.09 of the 12547
Revised Code or certification under Title XVIII or XIX of the 12548
"Social Security Act." However, such a facility, infirmary, or 12549
entity that applies for licensure or certification must meet the 12550
requirements of those sections or titles and the rules adopted 12551
under them and obtain a certificate of need from the director of 12552
health under section 3702.52 of the Revised Code. 12553

(F) Nothing in this chapter, or rules adopted pursuant to it, 12554
shall be construed as authorizing the supervision, regulation, or 12555
control of the spiritual care or treatment of residents or 12556
patients in any home who rely upon treatment by prayer or 12557
spiritual means in accordance with the creed or tenets of any 12558
recognized church or religious denomination. 12559

Sec. 3721.14. To assist in the implementation of the rights 12560
granted in division (A) of section 3721.13 of the Revised Code, 12561
each home shall provide: 12562

(A) Appropriate staff training to implement each resident's 12563
rights under division (A) of section 3721.13 of the Revised Code, 12564
including, but not limited to, explaining: 12565

(1) The resident's rights and the staff's responsibility in 12566
the implementation of the rights; 12567

(2) The staff's obligation to provide all residents who have 12568
similar needs with comparable service. 12569

(B) Arrangements for a resident's needed ancillary services; 12570

(C) Protected areas outside the home for residents to enjoy 12571
outdoor activity, within the capacity of the facility, consistent 12572

with applicable laws and rules;	12573
(D) Adequate indoor space, which need not be dedicated to	12574
that purpose, for families of residents to meet privately with	12575
families of other residents;	12576
(E) Access to the following persons to enter the home during	12577
reasonable hours, except where such access would interfere with	12578
resident care or the privacy of residents:	12579
(1) Employees of the department of health, department of	12580
mental health, department of mental retardation and developmental	12581
disabilities, department of aging, department of job and family	12582
services, and county departments of job and family services;	12583
(2) Prospective residents and their sponsors;	12584
(3) A resident's sponsors;	12585
(4) Residents' rights advocates;	12586
(5) A resident's attorney;	12587
(6) A minister, priest, rabbi, or other person ministering to	12588
a resident's religious needs.	12589
(F) In writing, a description of the home's grievance	12590
procedures.	12591
Sec. 3722.01. (A) As used in this chapter:	12592
(1) "Owner" means the person who owns the business of and who	12593
ultimately controls the operation of an adult care facility and to	12594
whom the manager, if different from the owner, is responsible.	12595
(2) "Manager" means the person responsible for the daily	12596
operation of an adult care facility. The manager and the owner of	12597
a facility may be the same person.	12598
(3) "Adult" means an individual eighteen years of age or	12599
older.	12600

(4) "Unrelated" means that an adult resident is not related to the owner or manager of an adult care facility or to the owner's or manager's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code.

(6)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted by the public health council pursuant to this chapter;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted by the public health council pursuant to this chapter.

(b) "Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(6)(a) of this section to be considered to be providing personal care services.

(7) "Adult family home" means a residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of those adults.

(8) "Adult group home" means a residence or facility that provides accommodations to six to sixteen unrelated adults and provides supervision and personal care services to at least three of the unrelated adults.

(9) "Adult care facility" means an adult family home or an adult group home. For the purposes of this chapter, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom are provided personal care services, is an adult care facility regardless of how the facility holds itself out to the public. "Adult care facility" does not include:

(a) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(b) A nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code;

(c) A community alternative home as defined in section 3724.01 of the Revised Code;

(d) An alcohol and drug addiction program as defined in section 3793.01 of the Revised Code;

(e) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;

(f) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

(g) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of ~~mental retardation and~~ developmental disabilities;

(h) Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security,

transportation, and similar services that are not personal care 12661
services or skilled nursing care; 12662

(i) Any facility that receives funding for operating costs 12663
from the department of development under any program established 12664
to provide emergency shelter housing or transitional housing for 12665
the homeless; 12666

(j) A terminal care facility for the homeless that has 12667
entered into an agreement with a hospice care program under 12668
section 3712.07 of the Revised Code; 12669

(k) A facility approved by the veterans administration under 12670
section 104(a) of the "Veterans Health Care Amendments of 1983," 12671
97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively 12672
for the placement and care of veterans; 12673

(l) Until January 1, 1994, the portion of a facility in which 12674
care is provided exclusively to members of a religious order if 12675
the facility is owned by or part of a nonprofit institution of 12676
higher education authorized to award degrees by the Ohio board of 12677
regents under Chapter 1713. of the Revised Code. 12678

(10) "Residents' rights advocate" means: 12679

(a) An employee or representative of any state or local 12680
government entity that has a responsibility for residents of adult 12681
care facilities and has registered with the department of health 12682
under section 3701.07 of the Revised Code; 12683

(b) An employee or representative, other than a manager or 12684
employee of an adult care facility or nursing home, of any private 12685
nonprofit corporation or association that qualifies for tax-exempt 12686
status under section 501(a) of the "Internal Revenue Code of 12687
1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has 12688
registered with the department of health under section 3701.07 of 12689
the Revised Code, and whose purposes include educating and 12690
counseling residents, assisting residents in resolving problems 12691

and complaints concerning their care and treatment, and assisting 12692
them in securing adequate services. 12693

(11) "Sponsor" means an adult relative, friend, or guardian 12694
of a resident of an adult care facility who has an interest in or 12695
responsibility for the resident's welfare. 12696

(12) "Ombudsperson" means a "representative of the office of 12697
the state long-term care ombudsperson program" as defined in 12698
section 173.14 of the Revised Code. 12699

(13) "Mental health agency" means a community mental health 12700
agency, as defined in section 5119.22 of the Revised Code, under 12701
contract with a board of alcohol, drug addiction, and mental 12702
health services pursuant to division (A)(8)(a) of section 340.03 12703
of the Revised Code. 12704

(B) For purposes of this chapter, personal care services or 12705
skilled nursing care shall be considered to be provided by a 12706
facility if they are provided by a person employed by or 12707
associated with the facility or by another person pursuant to an 12708
agreement to which neither the resident who receives the services 12709
nor the resident's sponsor is a party. 12710

(C) Nothing in division (A)(6) of this section shall be 12711
construed to permit personal care services to be imposed upon a 12712
resident who is capable of performing the activity in question 12713
without assistance. 12714

Sec. 3727.01. (A) As used in this section, "health 12715
maintenance organization" means a public or private organization 12716
organized under the law of any state that is qualified under 12717
section 1310(d) of Title XIII of the "Public Health Service Act," 12718
87 Stat. 931 (1973), 42 U.S.C. 300e-9, or that does all of the 12719
following: 12720

(1) Provides or otherwise makes available to enrolled 12721

participants health care services including at least the following 12722
basic health care services: usual physician services, 12723
hospitalization, laboratory, x-ray, emergency and preventive 12724
service, and out-of-area coverage; 12725

(2) Is compensated, except for copayments, for the provision 12726
of basic health care services to enrolled participants by a 12727
payment that is paid on a periodic basis without regard to the 12728
date the health care services are provided and that is fixed 12729
without regard to the frequency, extent, or kind of health service 12730
actually provided; 12731

(3) Provides physician services primarily in either of the 12732
following ways: 12733

(a) Directly through physicians who are either employees or 12734
partners of the organization; 12735

(b) Through arrangements with individual physicians or one or 12736
more groups of physicians organized on a group-practice or 12737
individual-practice basis. 12738

(B) As used in this chapter: 12739

(1) "Children's hospital" has the same meaning as in section 12740
3702.51 of the Revised Code. 12741

(2) "Hospital" means an institution classified as a hospital 12742
under section 3701.07 of the Revised Code in which are provided to 12743
inpatients diagnostic, medical, surgical, obstetrical, 12744
psychiatric, or rehabilitation care for a continuous period longer 12745
than twenty-four hours or a hospital operated by a health 12746
maintenance organization. "Hospital" does not include a facility 12747
licensed under Chapter 3721. of the Revised Code, a health care 12748
facility operated by the department of mental health or the 12749
department of ~~mental retardation and~~ developmental disabilities, a 12750
health maintenance organization that does not operate a hospital, 12751
the office of any private licensed health care professional, 12752

whether organized for individual or group practice, or a clinic 12753
that provides ambulatory patient services and where patients are 12754
not regularly admitted as inpatients. "Hospital" also does not 12755
include an institution for the sick that is operated exclusively 12756
for patients who use spiritual means for healing and for whom the 12757
acceptance of medical care is inconsistent with their religious 12758
beliefs, accredited by a national accrediting organization, exempt 12759
from federal income taxation under section 501 of the Internal 12760
Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, 12761
and providing twenty-four hour nursing care pursuant to the 12762
exemption in division (E) of section 4723.32 of the Revised Code 12763
from the licensing requirements of Chapter 4723. of the Revised 12764
Code. 12765

(3) "Joint commission" means the commission formerly known as 12766
the joint commission on accreditation of healthcare organizations 12767
or the joint commission on accreditation of hospitals. 12768

Sec. 3735.58. (A) The director of mental health, the director 12769
of ~~mental retardation and~~ developmental disabilities, or the 12770
director of rehabilitation and correction may enter into contracts 12771
for the sale of land not needed by their departments and under 12772
their jurisdiction or supervision to metropolitan housing 12773
authorities for use by such an authority for a housing project or 12774
projects. Such contract may contain such conditions and terms as 12775
are, in the discretion of the directors, in the best interests of 12776
the state and the welfare of the residents of the state. 12777

(B) The director may, upon receipt of a request from a 12778
metropolitan housing authority, request the approval of the 12779
governor to sell and convey land not needed by ~~his~~ the director's 12780
department and under ~~his~~ the director's jurisdiction or 12781
supervision to an authority, subject to such terms and conditions 12782
consistent with the public interest and welfare of the residents 12783

of the state as the director considers necessary. The governor, 12784
with the approval of the controlling board, may approve the 12785
request. Such property shall be appraised at its fair market value 12786
before it is conveyed. The director of administrative services 12787
shall cause it to be appraised by three disinterested persons and 12788
shall determine the fee which each appraiser shall receive, not to 12789
exceed fifty dollars. All appraisal fees shall be paid by the 12790
authority which shall deposit with the director one hundred fifty 12791
dollars before the appraisal is made. If the deposit exceeds the 12792
appraisal fee, the balance shall be returned to the authority. The 12793
appraisal value, when approved by the director, is the purchase 12794
price. If the purchase price is not paid within ninety days after 12795
notice to the authority of the approved appraisal value, the 12796
director shall withdraw ~~his~~ approval of the appraisal value and no 12797
deed shall be delivered to the authority without the written 12798
approval of the director of the purchase price. If the purchase 12799
price is paid within ninety days, a deed shall be prepared and 12800
recorded pursuant to section 5301.13 of the Revised Code. 12801

(C) Moneys received from sales of land to a metropolitan 12802
housing authority shall be placed in the state treasury in special 12803
funds, to be used for such purposes of the department of mental 12804
health, the department of ~~mental retardation and~~ developmental 12805
disabilities, or the department of rehabilitation and correction 12806
as is appropriate. 12807

Sec. 4109.06. (A) This chapter does not apply to the 12808
following: 12809

(1) Minors who are students working on any properly guarded 12810
machines in the manual training department of any school when the 12811
work is performed under the personal supervision of an instructor; 12812

(2) Students participating in a vocational program approved 12813
by the Ohio department of education; 12814

(3) A minor participating in a play, pageant, or concert	12815
produced by an outdoor historical drama corporation, a	12816
professional traveling theatrical production, a professional	12817
concert tour, or a personal appearance tour as a professional	12818
motion picture star, or as an actor or performer in motion	12819
pictures or in radio or television productions in accordance with	12820
the rules adopted pursuant to division (A) of section 4109.05 of	12821
the Revised Code;	12822
(4) The participation, without remuneration of a minor and	12823
with the consent of a parent or guardian, in a performance given	12824
by a church, school, or academy, or at a concert or entertainment	12825
given solely for charitable purposes, or by a charitable or	12826
religious institution;	12827
(5) Minors who are employed by their parents in occupations	12828
other than occupations prohibited by rule adopted under this	12829
chapter;	12830
(6) Minors engaged in the delivery of newspapers to the	12831
consumer;	12832
(7) Minors who have received a high school diploma or a	12833
certificate of attendance from an accredited secondary school or a	12834
certificate of high school equivalence;	12835
(8) Minors who are currently heads of households or are	12836
parents contributing to the support of their children;	12837
(9) Minors engaged in lawn mowing, snow shoveling, and other	12838
related employment;	12839
(10) Minors employed in agricultural employment in connection	12840
with farms operated by their parents, grandparents, or guardians	12841
where they are members of the guardians' household. Minors are not	12842
exempt from this chapter if they reside in agricultural labor	12843
camps as defined in section 3733.41 of the Revised Code;	12844

(11) Students participating in a program to serve as precinct officers as authorized by section 3501.22 of the Revised Code. 12845
12846

(B) Sections 4109.02, 4109.08, 4109.09, and 4109.11 of the Revised Code do not apply to the following: 12847
12848

(1) Minors who work in a sheltered workshop operated by a county board of ~~mental retardation~~ developmental disabilities; 12849
12850

(2) Minors performing services for a nonprofit organization where the minor receives no compensation, except for any expenses incurred by the minor or except for meals provided to the minor; 12851
12852
12853

(3) Minors who are employed in agricultural employment and who do not reside in agricultural labor camps. 12854
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(C) Division (D) of section 4109.07 of the Revised Code does not apply to minors who have their employment hours established as follows: 12856
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(1) A minor adjudicated to be an unruly child or delinquent child who, as a result of the adjudication, is placed on probation may either file a petition in the juvenile court in whose jurisdiction the minor resides, or apply to the superintendent or to the chief administrative officer who issued the minor's age and schooling certificate pursuant to section 3331.01 of the Revised Code, alleging the restrictions on the hours of employment described in division (D) of section 4109.07 of the Revised Code will cause a substantial hardship or are not in the minor's best interests. Upon receipt of a petition or application, the court, the superintendent, or the chief administrative officer, as appropriate, shall consult with the person required to supervise the minor on probation. If after that consultation, the court, the superintendent, or the chief administrative officer finds the minor has failed to show the restrictions will result in a substantial hardship or that the restrictions are not in the minor's best interests, the court, the superintendent, or the 12859
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chief administrative officer shall uphold the restrictions. If 12876
after that consultation, the court, the superintendent, or the 12877
chief administrative officer finds the minor has shown the 12878
restricted hours will cause a substantial hardship or are not in 12879
the minor's best interests, the court, the superintendent, or the 12880
chief administrative officer shall establish differing hours of 12881
employment for the minor and notify the minor and the minor's 12882
employer of those hours, which shall be binding in lieu of the 12883
restrictions on the hours of employment described in division (D) 12884
of section 4109.07 of the Revised Code. 12885

(2) Any minor to whom division (C)(1) of this section does 12886
not apply may either file a petition in the juvenile court in 12887
whose jurisdiction the person resides, or apply to the 12888
superintendent or to the chief administrative officer who issued 12889
the minor's age and schooling certificate pursuant to section 12890
3331.01 of the Revised Code, alleging the restrictions on the 12891
hours of employment described in division (D) of section 4109.07 12892
of the Revised Code will cause a substantial hardship or are not 12893
in the minor's best interests. 12894

If, as a result of a petition or application, the court, the 12895
superintendent, or the chief administrative officer, as 12896
appropriate, finds the minor has failed to show such restrictions 12897
will result in a substantial hardship or that the restrictions are 12898
not in the minor's best interests, the court, the superintendent, 12899
or the chief administrative officer shall uphold the restrictions. 12900
If the court, the superintendent, or the chief administrative 12901
officer finds the minor has shown the restricted hours will cause 12902
a substantial hardship or are not in the minor's best interests, 12903
the court, the superintendent, or the chief administrative officer 12904
shall establish the hours of employment for the minor and shall 12905
notify the minor and the minor's employer of those hours. 12906

(D) Section 4109.03, divisions (A) and (C) of section 12907

4109.02, and division (B) of section 4109.08 of the Revised Code 12908
do not apply to minors who are sixteen or seventeen years of age 12909
and who are employed at a seasonal amusement or recreational 12910
establishment. 12911

(E) As used in this section, "certificate of high school 12912
equivalence" means a statement issued by the state board of 12913
education or an equivalent agency of another state that the holder 12914
of the statement has achieved the equivalent of a high school 12915
education as measured by scores obtained on the tests of general 12916
educational development published by the American council on 12917
education. 12918

Sec. 4115.32. (A) Subject to section 4115.36 of the Revised 12919
Code, there is hereby created the state committee for the purchase 12920
of products and services provided by persons with severe 12921
disabilities. The committee shall be composed ex officio of the 12922
following persons, or their designees: 12923

(1) The directors of administrative services, mental health, 12924
~~mental retardation and~~ developmental disabilities, transportation, 12925
natural resources, and commerce; 12926

(2) The administrators of the rehabilitation services 12927
commission and the bureau of workers' compensation; 12928

(3) The secretary of state; 12929

(4) One representative of a purchasing department of a 12930
political subdivision who is designated by the governor. 12931

The governor shall appoint two representatives of a qualified 12932
nonprofit agency for persons with severe disabilities, and a 12933
person with a severe disability to the committee. 12934

(B) Within thirty days after September 29, 1995, the governor 12935
shall appoint the representatives of a qualified nonprofit agency 12936
for persons with severe disabilities to the committee for a term 12937

ending August 31, 1996. Thereafter, terms for such representatives 12938
are for three years, each term ending on the same day of the same 12939
month of the year as did the term that it succeeds. Each committee 12940
member shall serve from the date of the member's appointment until 12941
the end of the term for which the member was appointed. Vacancies 12942
shall be filled in the same manner provided for original 12943
appointments. Any member appointed to fill a vacancy occurring 12944
prior to the expiration date of the term for which the member's 12945
predecessor was appointed shall serve as a member for the 12946
remainder of that term. A member shall serve subsequent to the 12947
expiration of the member's term and shall continue to serve until 12948
the member's successor takes office. 12949

(C) Members of the committee shall serve without 12950
compensation. Except as otherwise provided in divisions (C)(1) and 12951
(2) of this section, members shall be reimbursed for actual and 12952
necessary expenses, including travel expenses, incurred while away 12953
from their homes or regular places of business and incurred while 12954
performing services for the committee. 12955

(1) The members listed in divisions (A)(1) to (3) of this 12956
section, or their designees, shall not be reimbursed for any 12957
expenses. 12958

(2) No member of the committee who is entitled to receive 12959
reimbursement for the performance of services for the committee 12960
from another agency or entity shall receive reimbursement from the 12961
committee. 12962

(D) The committee shall elect from among its members a 12963
chairperson. The committee may request from any agency of the 12964
state, political subdivision, or instrumentality of the state any 12965
information necessary to enable it to carry out the intent of 12966
sections 4115.31 to 4115.35 of the Revised Code. Upon request of 12967
the committee, the agency, subdivision, or instrumentality shall 12968
furnish the information to the chairperson of the committee. 12969

(E) The committee shall not later than one hundred eighty 12970
days following the close of each fiscal year transmit to the 12971
governor, the general assembly, and each qualified nonprofit 12972
agency for persons with severe disabilities a report that includes 12973
the names of the committee members serving during the preceding 12974
fiscal year, the dates of committee meetings in that year, and any 12975
recommendations for changes in sections 4115.31 to 4115.35 of the 12976
Revised Code that the committee determines are necessary. 12977

(F) The director of administrative services shall designate a 12978
subordinate to act as executive director of the committee and 12979
shall furnish other staff and clerical assistance, office space, 12980
and supplies required by the committee. 12981

Sec. 4141.29. Each eligible individual shall receive benefits 12982
as compensation for loss of remuneration due to involuntary total 12983
or partial unemployment in the amounts and subject to the 12984
conditions stipulated in this chapter. 12985

(A) No individual is entitled to a waiting period or benefits 12986
for any week unless the individual: 12987

(1) Has filed a valid application for determination of 12988
benefit rights in accordance with section 4141.28 of the Revised 12989
Code; 12990

(2) Has made a claim for benefits in accordance with section 12991
4141.28 of the Revised Code; 12992

(3) Has registered at an employment office or other 12993
registration place maintained or designated by the director of job 12994
and family services. Registration shall be made in accordance with 12995
the time limits, frequency, and manner prescribed by the director. 12996

(4)(a)(i) Is able to work and available for suitable work 12997
and, except as provided in division (A)(4)(a)(ii) of this section, 12998
is actively seeking suitable work either in a locality in which 12999

the individual has earned wages subject to this chapter during the 13000
individual's base period, or if the individual leaves that 13001
locality, then in a locality where suitable work normally is 13002
performed. 13003

(ii) The director may waive the requirement that a claimant 13004
be actively seeking work when the director finds that the 13005
individual has been laid off and the employer who laid the 13006
individual off has notified the director within ten days after the 13007
layoff, that work is expected to be available for the individual 13008
within a specified number of days not to exceed forty-five 13009
calendar days following the last day the individual worked. In the 13010
event the individual is not recalled within the specified period, 13011
this waiver shall cease to be operative with respect to that 13012
layoff. 13013

(b) The individual shall be instructed as to the efforts that 13014
the individual must make in the search for suitable work, except 13015
where the active search for work requirement has been waived under 13016
division (A)(4)(a) of this section, and shall keep a record of 13017
where and when the individual has sought work in complying with 13018
those instructions and, upon request, shall produce that record 13019
for examination by the director. 13020

(c) An individual who is attending a training course approved 13021
by the director meets the requirement of this division, if 13022
attendance was recommended by the director and the individual is 13023
regularly attending the course and is making satisfactory 13024
progress. An individual also meets the requirements of this 13025
division if the individual is participating and advancing in a 13026
training program, as defined in division (P) of section 5709.61 of 13027
the Revised Code, and if an enterprise, defined in division (B) of 13028
section 5709.61 of the Revised Code, is paying all or part of the 13029
cost of the individual's participation in the training program 13030
with the intention of hiring the individual for employment as a 13031

new employee, as defined in division (L) of section 5709.61 of the Revised Code, for at least ninety days after the individual's completion of the training program.

(d) An individual who becomes unemployed while attending a regularly established school and whose base period qualifying weeks were earned in whole or in part while attending that school, meets the availability and active search for work requirements of division (A)(4)(a) of this section if the individual regularly attends the school during weeks with respect to which the individual claims unemployment benefits and makes self available on any shift of hours for suitable employment with the individual's most recent employer or any other employer in the individual's base period, or for any other suitable employment to which the individual is directed, under this chapter.

(e) The director shall adopt any rules that the director deems necessary for the administration of division (A)(4) of this section.

(f) Notwithstanding any other provisions of this section, no otherwise eligible individual shall be denied benefits for any week because the individual is in training approved under section 236(a)(1) of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2296, nor shall that individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this chapter, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

For the purposes of division (A)(4)(f) of this section, "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for the purposes of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, and

wages for such work at not less than eighty per cent of the 13064
individual's average weekly wage as determined for the purposes of 13065
that federal act. 13066

(5) Is unable to obtain suitable work. An individual who is 13067
provided temporary work assignments by the individual's employer 13068
under agreed terms and conditions of employment, and who is 13069
required pursuant to those terms and conditions to inquire with 13070
the individual's employer for available work assignments upon the 13071
conclusion of each work assignment, is not considered unable to 13072
obtain suitable employment if suitable work assignments are 13073
available with the employer but the individual fails to contact 13074
the employer to inquire about work assignments. 13075

(6) Participates in reemployment services, such as job search 13076
assistance services, if the individual has been determined to be 13077
likely to exhaust benefits under this chapter, including 13078
compensation payable pursuant to 5 U.S.C.A. Chapter 85, other than 13079
extended compensation, and needs reemployment services pursuant to 13080
the profiling system established by the director under division 13081
(K) of this section, unless the director determines that: 13082

(a) The individual has completed such services; or 13083

(b) There is justifiable cause for the claimant's failure to 13084
participate in such services. 13085

(B) An individual suffering total or partial unemployment is 13086
eligible for benefits for unemployment occurring subsequent to a 13087
waiting period of one week and no benefits shall be payable during 13088
this required waiting period. Not more than one week of waiting 13089
period shall be required of any individual in any benefit year in 13090
order to establish the individual's eligibility for total or 13091
partial unemployment benefits. 13092

(C) The waiting period for total or partial unemployment 13093
shall commence on the first day of the first week with respect to 13094

which the individual first files a claim for benefits at an 13095
employment office or other place of registration maintained or 13096
designated by the director or on the first day of the first week 13097
with respect to which the individual has otherwise filed a claim 13098
for benefits in accordance with the rules of the department of job 13099
and family services, provided such claim is allowed by the 13100
director. 13101

(D) Notwithstanding division (A) of this section, no 13102
individual may serve a waiting period or be paid benefits under 13103
the following conditions: 13104

(1) For any week with respect to which the director finds 13105
that: 13106

(a) The individual's unemployment was due to a labor dispute 13107
other than a lockout at any factory, establishment, or other 13108
premises located in this or any other state and owned or operated 13109
by the employer by which the individual is or was last employed; 13110
and for so long as the individual's unemployment is due to such 13111
labor dispute. No individual shall be disqualified under this 13112
provision if either of the following applies: 13113

(i) The individual's employment was with such employer at any 13114
factory, establishment, or premises located in this state, owned 13115
or operated by such employer, other than the factory, 13116
establishment, or premises at which the labor dispute exists, if 13117
it is shown that the individual is not financing, participating 13118
in, or directly interested in such labor dispute; 13119

(ii) The individual's employment was with an employer not 13120
involved in the labor dispute but whose place of business was 13121
located within the same premises as the employer engaged in the 13122
dispute, unless the individual's employer is a wholly owned 13123
subsidiary of the employer engaged in the dispute, or unless the 13124
individual actively participates in or voluntarily stops work 13125

because of such dispute. If it is established that the claimant 13126
was laid off for an indefinite period and not recalled to work 13127
prior to the dispute, or was separated by the employer prior to 13128
the dispute for reasons other than the labor dispute, or that the 13129
individual obtained a bona fide job with another employer while 13130
the dispute was still in progress, such labor dispute shall not 13131
render the employee ineligible for benefits. 13132

(b) The individual has been given a disciplinary layoff for 13133
misconduct in connection with the individual's work. 13134

(2) For the duration of the individual's unemployment if the 13135
director finds that: 13136

(a) The individual quit work without just cause or has been 13137
discharged for just cause in connection with the individual's 13138
work, provided division (D)(2) of this section does not apply to 13139
the separation of a person under any of the following 13140
circumstances: 13141

(i) Separation from employment for the purpose of entering 13142
the armed forces of the United States if the individual is 13143
inducted into the armed forces within one of the following 13144
periods: 13145

(I) Thirty days after separation; 13146

(II) One hundred eighty days after separation if the 13147
individual's date of induction is delayed solely at the discretion 13148
of the armed forces. 13149

(ii) Separation from employment pursuant to a 13150
labor-management contract or agreement, or pursuant to an 13151
established employer plan, program, or policy, which permits the 13152
employee, because of lack of work, to accept a separation from 13153
employment; 13154

(iii) The individual has left employment to accept a recall 13155

from a prior employer or, except as provided in division 13156
(D)(2)(a)(iv) of this section, to accept other employment as 13157
provided under section 4141.291 of the Revised Code, or left or 13158
was separated from employment that was concurrent employment at 13159
the time of the most recent separation or within six weeks prior 13160
to the most recent separation where the remuneration, hours, or 13161
other conditions of such concurrent employment were substantially 13162
less favorable than the individual's most recent employment and 13163
where such employment, if offered as new work, would be considered 13164
not suitable under the provisions of divisions (E) and (F) of this 13165
section. Any benefits that would otherwise be chargeable to the 13166
account of the employer from whom an individual has left 13167
employment or was separated from employment that was concurrent 13168
employment under conditions described in division (D)(2)(a)(iii) 13169
of this section, shall instead be charged to the mutualized 13170
account created by division (B) of section 4141.25 of the Revised 13171
Code, except that any benefits chargeable to the account of a 13172
reimbursing employer under division (D)(2)(a)(iii) of this section 13173
shall be charged to the account of the reimbursing employer and 13174
not to the mutualized account, except as provided in division 13175
(D)(2) of section 4141.24 of the Revised Code. 13176

(iv) When an individual has been issued a definite layoff 13177
date by the individual's employer and before the layoff date, the 13178
individual quits to accept other employment, the provisions of 13179
division (D)(2)(a)(iii) of this section apply and no 13180
disqualification shall be imposed under division (D) of this 13181
section. However, if the individual fails to meet the employment 13182
and earnings requirements of division (A)(2) of section 4141.291 13183
of the Revised Code, then the individual, pursuant to division 13184
(A)(5) of this section, shall be ineligible for benefits for any 13185
week of unemployment that occurs prior to the layoff date. 13186

(b) The individual has refused without good cause to accept 13187

an offer of suitable work when made by an employer either in 13188
person or to the individual's last known address, or has refused 13189
or failed to investigate a referral to suitable work when directed 13190
to do so by a local employment office of this state or another 13191
state, provided that this division shall not cause a 13192
disqualification for a waiting week or benefits under the 13193
following circumstances: 13194

(i) When work is offered by the individual's employer and the 13195
individual is not required to accept the offer pursuant to the 13196
terms of the labor-management contract or agreement; or 13197

(ii) When the individual is attending a training course 13198
pursuant to division (A)(4) of this section except, in the event 13199
of a refusal to accept an offer of suitable work or a refusal or 13200
failure to investigate a referral, benefits thereafter paid to 13201
such individual shall not be charged to the account of any 13202
employer and, except as provided in division (B)(1)(b) of section 13203
4141.241 of the Revised Code, shall be charged to the mutualized 13204
account as provided in division (B) of section 4141.25 of the 13205
Revised Code. 13206

(c) Such individual quit work to marry or because of marital, 13207
parental, filial, or other domestic obligations. 13208

(d) The individual became unemployed by reason of commitment 13209
to any correctional institution. 13210

(e) The individual became unemployed because of dishonesty in 13211
connection with the individual's most recent or any base period 13212
work. Remuneration earned in such work shall be excluded from the 13213
individual's total base period remuneration and qualifying weeks 13214
that otherwise would be credited to the individual for such work 13215
in the individual's base period shall not be credited for the 13216
purpose of determining the total benefits to which the individual 13217
is eligible and the weekly benefit amount to be paid under section 13218

4141.30 of the Revised Code. Such excluded remuneration and 13219
noncredited qualifying weeks shall be excluded from the 13220
calculation of the maximum amount to be charged, under division 13221
(D) of section 4141.24 and section 4141.33 of the Revised Code, 13222
against the accounts of the individual's base period employers. In 13223
addition, no benefits shall thereafter be paid to the individual 13224
based upon such excluded remuneration or noncredited qualifying 13225
weeks. 13226

For purposes of division (D)(2)(e) of this section, 13227
"dishonesty" means the commission of substantive theft, fraud, or 13228
deceitful acts. 13229

(E) No individual otherwise qualified to receive benefits 13230
shall lose the right to benefits by reason of a refusal to accept 13231
new work if: 13232

(1) As a condition of being so employed the individual would 13233
be required to join a company union, or to resign from or refrain 13234
from joining any bona fide labor organization, or would be denied 13235
the right to retain membership in and observe the lawful rules of 13236
any such organization. 13237

(2) The position offered is vacant due directly to a strike, 13238
lockout, or other labor dispute. 13239

(3) The work is at an unreasonable distance from the 13240
individual's residence, having regard to the character of the work 13241
the individual has been accustomed to do, and travel to the place 13242
of work involves expenses substantially greater than that required 13243
for the individual's former work, unless the expense is provided 13244
for. 13245

(4) The remuneration, hours, or other conditions of the work 13246
offered are substantially less favorable to the individual than 13247
those prevailing for similar work in the locality. 13248

(F) Subject to the special exceptions contained in division 13249

(A)(4)(f) of this section and section 4141.301 of the Revised 13250
Code, in determining whether any work is suitable for a claimant 13251
in the administration of this chapter, the director, in addition 13252
to the determination required under division (E) of this section, 13253
shall consider the degree of risk to the claimant's health, 13254
safety, and morals, the individual's physical fitness for the 13255
work, the individual's prior training and experience, the length 13256
of the individual's unemployment, the distance of the available 13257
work from the individual's residence, and the individual's 13258
prospects for obtaining local work. 13259

(G) The "duration of unemployment" as used in this section 13260
means the full period of unemployment next ensuing after a 13261
separation from any base period or subsequent work and until an 13262
individual has become reemployed in employment subject to this 13263
chapter, or the unemployment compensation act of another state, or 13264
of the United States, and until such individual has worked six 13265
weeks and for those weeks has earned or been paid remuneration 13266
equal to six times an average weekly wage of not less than: 13267
eighty-five dollars and ten cents per week beginning on June 26, 13268
1990; and beginning on and after January 1, 1992, twenty-seven and 13269
one-half per cent of the statewide average weekly wage as computed 13270
each first day of January under division (B)(3) of section 4141.30 13271
of the Revised Code, rounded down to the nearest dollar, except 13272
for purposes of division (D)(2)(c) of this section, such term 13273
means the full period of unemployment next ensuing after a 13274
separation from such work and until such individual has become 13275
reemployed subject to the terms set forth above, and has earned 13276
wages equal to one-half of the individual's average weekly wage or 13277
sixty dollars, whichever is less. 13278

(H) If a claimant is disqualified under division (D)(2)(a), 13279
(c), or (d) of this section or found to be qualified under the 13280
exceptions provided in division (D)(2)(a)(i), (iii), or (iv) of 13281

this section or division (A)(2) of section 4141.291 of the Revised Code, then benefits that may become payable to such claimant, which are chargeable to the account of the employer from whom the individual was separated under such conditions, shall be charged to the mutualized account provided in section 4141.25 of the Revised Code, provided that no charge shall be made to the mutualized account for benefits chargeable to a reimbursing employer, except as provided in division (D)(2) of section 4141.24 of the Revised Code. In the case of a reimbursing employer, the director shall refund or credit to the account of the reimbursing employer any over-paid benefits that are recovered under division (B) of section 4141.35 of the Revised Code. Amounts chargeable to other states, the United States, or Canada that are subject to agreements and arrangements that are established pursuant to section 4141.43 of the Revised Code shall be credited or reimbursed according to the agreements and arrangements to which the chargeable amounts are subject.

(I)(1) Benefits based on service in employment as provided in divisions (B)(2)(a) and (b) of section 4141.01 of the Revised Code shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this chapter; except that after December 31, 1977:

(a) Benefits based on service in an instructional, research, or principal administrative capacity in an institution of higher education, as defined in division (Y) of section 4141.01 of the Revised Code; or for an educational institution as defined in division (CC) of section 4141.01 of the Revised Code, shall not be paid to any individual for any week of unemployment that begins during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms or during a period of paid sabbatical leave provided for in

the individual's contract, if the individual performs such 13314
services in the first of those academic years or terms and has a 13315
contract or a reasonable assurance that the individual will 13316
perform services in any such capacity for any such institution in 13317
the second of those academic years or terms. 13318

(b) Benefits based on service for an educational institution 13319
or an institution of higher education in other than an 13320
instructional, research, or principal administrative capacity, 13321
shall not be paid to any individual for any week of unemployment 13322
which begins during the period between two successive academic 13323
years or terms of the employing educational institution or 13324
institution of higher education, provided the individual performed 13325
those services for the educational institution or institution of 13326
higher education during the first such academic year or term and, 13327
there is a reasonable assurance that such individual will perform 13328
those services for any educational institution or institution of 13329
higher education in the second of such academic years or terms. 13330

If compensation is denied to any individual for any week 13331
under division (I)(1)(b) of this section and the individual was 13332
not offered an opportunity to perform those services for an 13333
institution of higher education or for an educational institution 13334
for the second of such academic years or terms, the individual is 13335
entitled to a retroactive payment of compensation for each week 13336
for which the individual timely filed a claim for compensation and 13337
for which compensation was denied solely by reason of division 13338
(I)(1)(b) of this section. An application for retroactive benefits 13339
shall be timely filed if received by the director or the 13340
director's deputy within or prior to the end of the fourth full 13341
calendar week after the end of the period for which benefits were 13342
denied because of reasonable assurance of employment. The 13343
provision for the payment of retroactive benefits under division 13344
(I)(1)(b) of this section is applicable to weeks of unemployment 13345

beginning on and after November 18, 1983. The provisions under 13346
division (I)(1)(b) of this section shall be retroactive to 13347
September 5, 1982, only if, as a condition for full tax credit 13348
against the tax imposed by the "Federal Unemployment Tax Act," 53 13349
Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311, the United States 13350
secretary of labor determines that retroactivity is required by 13351
federal law. 13352

(c) With respect to weeks of unemployment beginning after 13353
December 31, 1977, benefits shall be denied to any individual for 13354
any week which commences during an established and customary 13355
vacation period or holiday recess, if the individual performs any 13356
services described in divisions (I)(1)(a) and (b) of this section 13357
in the period immediately before the vacation period or holiday 13358
recess, and there is a reasonable assurance that the individual 13359
will perform any such services in the period immediately following 13360
the vacation period or holiday recess. 13361

(d) With respect to any services described in division 13362
(I)(1)(a), (b), or (c) of this section, benefits payable on the 13363
basis of services in any such capacity shall be denied as 13364
specified in division (I)(1)(a), (b), or (c) of this section to 13365
any individual who performs such services in an educational 13366
institution or institution of higher education while in the employ 13367
of an educational service agency. For this purpose, the term 13368
"educational service agency" means a governmental agency or 13369
governmental entity that is established and operated exclusively 13370
for the purpose of providing services to one or more educational 13371
institutions or one or more institutions of higher education. 13372

(e) Any individual employed by a public school district or a 13373
county board of ~~mental-retardation~~ developmental disabilities 13374
shall be notified by the thirtieth day of April each year if the 13375
individual is not to be reemployed the following academic year. 13376

(2) No disqualification will be imposed, between academic 13377

years or terms or during a vacation period or holiday recess under 13378
this division, unless the director or the director's deputy has 13379
received a statement in writing from the educational institution 13380
or institution of higher education that the claimant has a 13381
contract for, or a reasonable assurance of, reemployment for the 13382
ensuing academic year or term. 13383

(3) If an individual has employment with an educational 13384
institution or an institution of higher education and employment 13385
with a noneducational employer, during the base period of the 13386
individual's benefit year, then the individual may become eligible 13387
for benefits during the between-term, or vacation or holiday 13388
recess, disqualification period, based on employment performed for 13389
the noneducational employer, provided that the employment is 13390
sufficient to qualify the individual for benefit rights separately 13391
from the benefit rights based on school employment. The weekly 13392
benefit amount and maximum benefits payable during a 13393
disqualification period shall be computed based solely on the 13394
nonschool employment. 13395

(J) Benefits shall not be paid on the basis of employment 13396
performed by an alien, unless the alien had been lawfully admitted 13397
to the United States for permanent residence at the time the 13398
services were performed, was lawfully present for purposes of 13399
performing the services, or was otherwise permanently residing in 13400
the United States under color of law at the time the services were 13401
performed, under section 212(d)(5) of the "Immigration and 13402
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101: 13403

(1) Any data or information required of individuals applying 13404
for benefits to determine whether benefits are not payable to them 13405
because of their alien status shall be uniformly required from all 13406
applicants for benefits. 13407

(2) In the case of an individual whose application for 13408
benefits would otherwise be approved, no determination that 13409

benefits to the individual are not payable because of the 13410
individual's alien status shall be made except upon a 13411
preponderance of the evidence that the individual had not, in 13412
fact, been lawfully admitted to the United States. 13413

(K) The director shall establish and utilize a system of 13414
profiling all new claimants under this chapter that: 13415

(1) Identifies which claimants will be likely to exhaust 13416
regular compensation and will need job search assistance services 13417
to make a successful transition to new employment; 13418

(2) Refers claimants identified pursuant to division (K)(1) 13419
of this section to reemployment services, such as job search 13420
assistance services, available under any state or federal law; 13421

(3) Collects follow-up information relating to the services 13422
received by such claimants and the employment outcomes for such 13423
claimant's subsequent to receiving such services and utilizes such 13424
information in making identifications pursuant to division (K)(1) 13425
of this section; and 13426

(4) Meets such other requirements as the United States 13427
secretary of labor determines are appropriate. 13428

Sec. 4511.21. (A) No person shall operate a motor vehicle, 13429
trackless trolley, or streetcar at a speed greater or less than is 13430
reasonable or proper, having due regard to the traffic, surface, 13431
and width of the street or highway and any other conditions, and 13432
no person shall drive any motor vehicle, trackless trolley, or 13433
streetcar in and upon any street or highway at a greater speed 13434
than will permit the person to bring it to a stop within the 13435
assured clear distance ahead. 13436

(B) It is prima-facie lawful, in the absence of a lower limit 13437
declared or established pursuant to this section by the director 13438
of transportation or local authorities, for the operator of a 13439

motor vehicle, trackless trolley, or streetcar to operate the same 13440
at a speed not exceeding the following: 13441

(1)(a) Twenty miles per hour in school zones during school 13442
recess and while children are going to or leaving school during 13443
the opening or closing hours, and when twenty miles per hour 13444
school speed limit signs are erected; except that, on 13445
controlled-access highways and expressways, if the right-of-way 13446
line fence has been erected without pedestrian opening, the speed 13447
shall be governed by division (B)(4) of this section and on 13448
freeways, if the right-of-way line fence has been erected without 13449
pedestrian opening, the speed shall be governed by divisions 13450
(B)(9) and (10) of this section. The end of every school zone may 13451
be marked by a sign indicating the end of the zone. Nothing in 13452
this section or in the manual and specifications for a uniform 13453
system of traffic control devices shall be construed to require 13454
school zones to be indicated by signs equipped with flashing or 13455
other lights, or giving other special notice of the hours in which 13456
the school zone speed limit is in effect. 13457

(b) As used in this section and in section 4511.212 of the 13458
Revised Code, "school" means any school chartered under section 13459
3301.16 of the Revised Code and any nonchartered school that 13460
during the preceding year filed with the department of education 13461
in compliance with rule 3301-35-08 of the Ohio Administrative 13462
Code, a copy of the school's report for the parents of the 13463
school's pupils certifying that the school meets Ohio minimum 13464
standards for nonchartered, nontax-supported schools and presents 13465
evidence of this filing to the jurisdiction from which it is 13466
requesting the establishment of a school zone. "School" also 13467
includes a special elementary school that in writing requests the 13468
county engineer of the county in which the special elementary 13469
school is located to create a school zone at the location of that 13470
school. Upon receipt of such a written request, the county 13471

engineer shall create a school zone at that location by erecting 13472
the appropriate signs. 13473

(c) As used in this section, "school zone" means that portion 13474
of a street or highway passing a school fronting upon the street 13475
or highway that is encompassed by projecting the school property 13476
lines to the fronting street or highway, and also includes that 13477
portion of a state highway. Upon request from local authorities 13478
for streets and highways under their jurisdiction and that portion 13479
of a state highway under the jurisdiction of the director of 13480
transportation or a request from a county engineer in the case of 13481
a school zone for a special elementary school, the director may 13482
extend the traditional school zone boundaries. The distances in 13483
divisions (B)(1)(c)(i), (ii), and (iii) of this section shall not 13484
exceed three hundred feet per approach per direction and are 13485
bounded by whichever of the following distances or combinations 13486
thereof the director approves as most appropriate: 13487

(i) The distance encompassed by projecting the school 13488
building lines normal to the fronting highway and extending a 13489
distance of three hundred feet on each approach direction; 13490

(ii) The distance encompassed by projecting the school 13491
property lines intersecting the fronting highway and extending a 13492
distance of three hundred feet on each approach direction; 13493

(iii) The distance encompassed by the special marking of the 13494
pavement for a principal school pupil crosswalk plus a distance of 13495
three hundred feet on each approach direction of the highway. 13496

Nothing in this section shall be construed to invalidate the 13497
director's initial action on August 9, 1976, establishing all 13498
school zones at the traditional school zone boundaries defined by 13499
projecting school property lines, except when those boundaries are 13500
extended as provided in divisions (B)(1)(a) and (c) of this 13501
section. 13502

(d) As used in this division, "crosswalk" has the meaning 13503
given that term in division (LL)(2) of section 4511.01 of the 13504
Revised Code. 13505

The director may, upon request by resolution of the 13506
legislative authority of a municipal corporation, the board of 13507
trustees of a township, or a county board of ~~mental retardation~~ 13508
~~and~~ developmental disabilities created pursuant to Chapter 5126. 13509
of the Revised Code, and upon submission by the municipal 13510
corporation, township, or county board of such engineering, 13511
traffic, and other information as the director considers 13512
necessary, designate a school zone on any portion of a state route 13513
lying within the municipal corporation, lying within the 13514
unincorporated territory of the township, or lying adjacent to the 13515
property of a school that is operated by such county board, that 13516
includes a crosswalk customarily used by children going to or 13517
leaving a school during recess and opening and closing hours, 13518
whenever the distance, as measured in a straight line, from the 13519
school property line nearest the crosswalk to the nearest point of 13520
the crosswalk is no more than one thousand three hundred twenty 13521
feet. Such a school zone shall include the distance encompassed by 13522
the crosswalk and extending three hundred feet on each approach 13523
direction of the state route. 13524

(e) As used in this section, "special elementary school" 13525
means a school that meets all of the following criteria: 13526

(i) It is not chartered and does not receive tax revenue from 13527
any source. 13528

(ii) It does not educate children beyond the eighth grade. 13529

(iii) It is located outside the limits of a municipal 13530
corporation. 13531

(iv) A majority of the total number of students enrolled at 13532
the school are not related by blood. 13533

(v) The principal or other person in charge of the special elementary school annually sends a report to the superintendent of the school district in which the special elementary school is located indicating the total number of students enrolled at the school, but otherwise the principal or other person in charge does not report any other information or data to the superintendent.

(2) Twenty-five miles per hour in all other portions of a municipal corporation, except on state routes outside business districts, through highways outside business districts, and alleys;

(3) Thirty-five miles per hour on all state routes or through highways within municipal corporations outside business districts, except as provided in divisions (B)(4) and (6) of this section;

(4) Fifty miles per hour on controlled-access highways and expressways within municipal corporations;

(5) Fifty-five miles per hour on highways outside municipal corporations, other than highways within island jurisdictions as provided in division (B)(8) of this section and freeways as provided in divisions (B)(13) and (14) of this section;

(6) Fifty miles per hour on state routes within municipal corporations outside urban districts unless a lower prima-facie speed is established as further provided in this section;

(7) Fifteen miles per hour on all alleys within the municipal corporation;

(8) Thirty-five miles per hour on highways outside municipal corporations that are within an island jurisdiction;

(9) Fifty-five miles per hour at all times on freeways with paved shoulders inside municipal corporations, other than freeways as provided in divisions (B)(13) and (14) of this section;

(10) Fifty-five miles per hour at all times on freeways

outside municipal corporations, other than freeways as provided in 13564
divisions (B)(13) and (14) of this section; 13565

(11) Fifty-five miles per hour at all times on all portions 13566
of freeways that are part of the interstate system and on all 13567
portions of freeways that are not part of the interstate system, 13568
but are built to the standards and specifications that are 13569
applicable to freeways that are part of the interstate system for 13570
operators of any motor vehicle weighing in excess of eight 13571
thousand pounds empty weight and any noncommercial bus, except as 13572
provided in division (B)(14) of this section; 13573

(12) Fifty-five miles per hour for operators of any motor 13574
vehicle weighing eight thousand pounds or less empty weight and 13575
any commercial bus at all times on all portions of freeways that 13576
are part of the interstate system and that had such a speed limit 13577
established prior to October 1, 1995, and freeways that are not 13578
part of the interstate system, but are built to the standards and 13579
specifications that are applicable to freeways that are part of 13580
the interstate system and that had such a speed limit established 13581
prior to October 1, 1995, unless a higher speed limit is 13582
established under division (L) of this section; 13583

(13) Sixty-five miles per hour for operators of any motor 13584
vehicle weighing eight thousand pounds or less empty weight and 13585
any commercial bus at all times on all portions of the following: 13586

(a) Freeways that are part of the interstate system and that 13587
had such a speed limit established prior to October 1, 1995, and 13588
freeways that are not part of the interstate system, but are built 13589
to the standards and specifications that are applicable to 13590
freeways that are part of the interstate system and that had such 13591
a speed limit established prior to October 1, 1995; 13592

(b) Freeways that are part of the interstate system and 13593
freeways that are not part of the interstate system but are built 13594

to the standards and specifications that are applicable to 13595
freeways that are part of the interstate system, and that had such 13596
a speed limit established under division (L) of this section; 13597

(c) Rural, divided, multi-lane highways that are designated 13598
as part of the national highway system under the "National Highway 13599
System Designation Act of 1995," 109 Stat. 568, 23 U.S.C.A. 103, 13600
and that had such a speed limit established under division (M) of 13601
this section. 13602

(14) Sixty-five miles per hour at all times on all portions 13603
of freeways that are part of the interstate system and that had 13604
such a speed limit on the effective date of this amendment for 13605
operators of any motor vehicle weighing in excess of eight 13606
thousand pounds empty weight and any noncommercial bus. 13607

(C) It is prima-facie unlawful for any person to exceed any 13608
of the speed limitations in divisions (B)(1)(a), (2), (3), (4), 13609
(6), (7), and (8) of this section, or any declared or established 13610
pursuant to this section by the director or local authorities and 13611
it is unlawful for any person to exceed any of the speed 13612
limitations in division (D) of this section. No person shall be 13613
convicted of more than one violation of this section for the same 13614
conduct, although violations of more than one provision of this 13615
section may be charged in the alternative in a single affidavit. 13616

(D) No person shall operate a motor vehicle, trackless 13617
trolley, or streetcar upon a street or highway as follows: 13618

(1) At a speed exceeding fifty-five miles per hour, except 13619
upon a freeway as provided in divisions (B)(13) and (14) of this 13620
section; 13621

(2) At a speed exceeding sixty-five miles per hour upon a 13622
freeway as provided in divisions (B)(13) and (14) of this section; 13623
13624

(3) If a motor vehicle weighing in excess of eight thousand 13625

pounds empty weight or a noncommercial bus as prescribed in 13626
division (B)(11) of this section, at a speed exceeding fifty-five 13627
miles per hour upon a freeway as provided in that division; 13628

(4) At a speed exceeding the posted speed limit upon a 13629
freeway for which the director has determined and declared a speed 13630
limit of not more than sixty-five miles per hour pursuant to 13631
division (L)(2) or (M) of this section; 13632

(5) At a speed exceeding sixty-five miles per hour upon a 13633
freeway for which such a speed limit has been established through 13634
the operation of division (L)(3) of this section; 13635

(6) At a speed exceeding the posted speed limit upon a 13636
freeway for which the director has determined and declared a speed 13637
limit pursuant to division (I)(2) of this section. 13638

(E) In every charge of violation of this section the 13639
affidavit and warrant shall specify the time, place, and speed at 13640
which the defendant is alleged to have driven, and in charges made 13641
in reliance upon division (C) of this section also the speed which 13642
division (B)(1)(a), (2), (3), (4), (6), (7), or (8) of, or a limit 13643
declared or established pursuant to, this section declares is 13644
prima-facie lawful at the time and place of such alleged 13645
violation, except that in affidavits where a person is alleged to 13646
have driven at a greater speed than will permit the person to 13647
bring the vehicle to a stop within the assured clear distance 13648
ahead the affidavit and warrant need not specify the speed at 13649
which the defendant is alleged to have driven. 13650

(F) When a speed in excess of both a prima-facie limitation 13651
and a limitation in division (D)(1), (2), (3), (4), (5), or (6) of 13652
this section is alleged, the defendant shall be charged in a 13653
single affidavit, alleging a single act, with a violation 13654
indicated of both division (B)(1)(a), (2), (3), (4), (6), (7), or 13655
(8) of this section, or of a limit declared or established 13656

pursuant to this section by the director or local authorities, and 13657
of the limitation in division (D)(1), (2), (3), (4), (5), or (6) 13658
of this section. If the court finds a violation of division 13659
(B)(1)(a), (2), (3), (4), (6), (7), or (8) of, or a limit declared 13660
or established pursuant to, this section has occurred, it shall 13661
enter a judgment of conviction under such division and dismiss the 13662
charge under division (D)(1), (2), (3), (4), (5), or (6) of this 13663
section. If it finds no violation of division (B)(1)(a), (2), (3), 13664
(4), (6), (7), or (8) of, or a limit declared or established 13665
pursuant to, this section, it shall then consider whether the 13666
evidence supports a conviction under division (D)(1), (2), (3), 13667
(4), (5), or (6) of this section. 13668

(G) Points shall be assessed for violation of a limitation 13669
under division (D) of this section in accordance with section 13670
4510.036 of the Revised Code. 13671

(H) Whenever the director determines upon the basis of a 13672
geometric and traffic characteristic study that any speed limit 13673
set forth in divisions (B)(1)(a) to (D) of this section is greater 13674
or less than is reasonable or safe under the conditions found to 13675
exist at any portion of a street or highway under the jurisdiction 13676
of the director, the director shall determine and declare a 13677
reasonable and safe prima-facie speed limit, which shall be 13678
effective when appropriate signs giving notice of it are erected 13679
at the location. 13680

(I)(1) Except as provided in divisions (I)(2) and (K) of this 13681
section, whenever local authorities determine upon the basis of an 13682
engineering and traffic investigation that the speed permitted by 13683
divisions (B)(1)(a) to (D) of this section, on any part of a 13684
highway under their jurisdiction, is greater than is reasonable 13685
and safe under the conditions found to exist at such location, the 13686
local authorities may by resolution request the director to 13687
determine and declare a reasonable and safe prima-facie speed 13688

limit. Upon receipt of such request the director may determine and 13689
declare a reasonable and safe prima-facie speed limit at such 13690
location, and if the director does so, then such declared speed 13691
limit shall become effective only when appropriate signs giving 13692
notice thereof are erected at such location by the local 13693
authorities. The director may withdraw the declaration of a 13694
prima-facie speed limit whenever in the director's opinion the 13695
altered prima-facie speed becomes unreasonable. Upon such 13696
withdrawal, the declared prima-facie speed shall become 13697
ineffective and the signs relating thereto shall be immediately 13698
removed by the local authorities. 13699

(2) A local authority may determine on the basis of a 13700
geometric and traffic characteristic study that the speed limit of 13701
sixty-five miles per hour on a portion of a freeway under its 13702
jurisdiction that was established through the operation of 13703
division (L)(3) of this section is greater than is reasonable or 13704
safe under the conditions found to exist at that portion of the 13705
freeway. If the local authority makes such a determination, the 13706
local authority by resolution may request the director to 13707
determine and declare a reasonable and safe speed limit of not 13708
less than fifty-five miles per hour for that portion of the 13709
freeway. If the director takes such action, the declared speed 13710
limit becomes effective only when appropriate signs giving notice 13711
of it are erected at such location by the local authority. 13712

(J) Local authorities in their respective jurisdictions may 13713
authorize by ordinance higher prima-facie speeds than those stated 13714
in this section upon through highways, or upon highways or 13715
portions thereof where there are no intersections, or between 13716
widely spaced intersections, provided signs are erected giving 13717
notice of the authorized speed, but local authorities shall not 13718
modify or alter the basic rule set forth in division (A) of this 13719
section or in any event authorize by ordinance a speed in excess 13720

of fifty miles per hour. 13721

Alteration of prima-facie limits on state routes by local 13722
authorities shall not be effective until the alteration has been 13723
approved by the director. The director may withdraw approval of 13724
any altered prima-facie speed limits whenever in the director's 13725
opinion any altered prima-facie speed becomes unreasonable, and 13726
upon such withdrawal, the altered prima-facie speed shall become 13727
ineffective and the signs relating thereto shall be immediately 13728
removed by the local authorities. 13729

(K)(1) As used in divisions (K)(1), (2), (3), and (4) of this 13730
section, "unimproved highway" means a highway consisting of any of 13731
the following: 13732

(a) Unimproved earth; 13733

(b) Unimproved graded and drained earth; 13734

(c) Gravel. 13735

(2) Except as otherwise provided in divisions (K)(4) and (5) 13736
of this section, whenever a board of township trustees determines 13737
upon the basis of an engineering and traffic investigation that 13738
the speed permitted by division (B)(5) of this section on any part 13739
of an unimproved highway under its jurisdiction and in the 13740
unincorporated territory of the township is greater than is 13741
reasonable or safe under the conditions found to exist at the 13742
location, the board may by resolution declare a reasonable and 13743
safe prima-facie speed limit of fifty-five but not less than 13744
twenty-five miles per hour. An altered speed limit adopted by a 13745
board of township trustees under this division becomes effective 13746
when appropriate traffic control devices, as prescribed in section 13747
4511.11 of the Revised Code, giving notice thereof are erected at 13748
the location, which shall be no sooner than sixty days after 13749
adoption of the resolution. 13750

(3)(a) Whenever, in the opinion of a board of township 13751

trustees, any altered prima-facie speed limit established by the 13752
board under this division becomes unreasonable, the board may 13753
adopt a resolution withdrawing the altered prima-facie speed 13754
limit. Upon the adoption of such a resolution, the altered 13755
prima-facie speed limit becomes ineffective and the traffic 13756
control devices relating thereto shall be immediately removed. 13757

(b) Whenever a highway ceases to be an unimproved highway and 13758
the board has adopted an altered prima-facie speed limit pursuant 13759
to division (K)(2) of this section, the board shall, by 13760
resolution, withdraw the altered prima-facie speed limit as soon 13761
as the highway ceases to be unimproved. Upon the adoption of such 13762
a resolution, the altered prima-facie speed limit becomes 13763
ineffective and the traffic control devices relating thereto shall 13764
be immediately removed. 13765

(4)(a) If the boundary of two townships rests on the 13766
centerline of an unimproved highway in unincorporated territory 13767
and both townships have jurisdiction over the highway, neither of 13768
the boards of township trustees of such townships may declare an 13769
altered prima-facie speed limit pursuant to division (K)(2) of 13770
this section on the part of the highway under their joint 13771
jurisdiction unless the boards of township trustees of both of the 13772
townships determine, upon the basis of an engineering and traffic 13773
investigation, that the speed permitted by division (B)(5) of this 13774
section is greater than is reasonable or safe under the conditions 13775
found to exist at the location and both boards agree upon a 13776
reasonable and safe prima-facie speed limit of less than 13777
fifty-five but not less than twenty-five miles per hour for that 13778
location. If both boards so agree, each shall follow the procedure 13779
specified in division (K)(2) of this section for altering the 13780
prima-facie speed limit on the highway. Except as otherwise 13781
provided in division (K)(4)(b) of this section, no speed limit 13782
altered pursuant to division (K)(4)(a) of this section may be 13783

withdrawn unless the boards of township trustees of both townships 13784
determine that the altered prima-facie speed limit previously 13785
adopted becomes unreasonable and each board adopts a resolution 13786
withdrawing the altered prima-facie speed limit pursuant to the 13787
procedure specified in division (K)(3)(a) of this section. 13788

(b) Whenever a highway described in division (K)(4)(a) of 13789
this section ceases to be an unimproved highway and two boards of 13790
township trustees have adopted an altered prima-facie speed limit 13791
pursuant to division (K)(4)(a) of this section, both boards shall, 13792
by resolution, withdraw the altered prima-facie speed limit as 13793
soon as the highway ceases to be unimproved. Upon the adoption of 13794
the resolution, the altered prima-facie speed limit becomes 13795
ineffective and the traffic control devices relating thereto shall 13796
be immediately removed. 13797

(5) As used in division (K)(5) of this section: 13798

(a) "Commercial subdivision" means any platted territory 13799
outside the limits of a municipal corporation and fronting a 13800
highway where, for a distance of three hundred feet or more, the 13801
frontage is improved with buildings in use for commercial 13802
purposes, or where the entire length of the highway is less than 13803
three hundred feet long and the frontage is improved with 13804
buildings in use for commercial purposes. 13805

(b) "Residential subdivision" means any platted territory 13806
outside the limits of a municipal corporation and fronting a 13807
highway, where, for a distance of three hundred feet or more, the 13808
frontage is improved with residences or residences and buildings 13809
in use for business, or where the entire length of the highway is 13810
less than three hundred feet long and the frontage is improved 13811
with residences or residences and buildings in use for business. 13812

Whenever a board of township trustees finds upon the basis of 13813
an engineering and traffic investigation that the prima-facie 13814

speed permitted by division (B)(5) of this section on any part of 13815
a highway under its jurisdiction that is located in a commercial 13816
or residential subdivision, except on highways or portions thereof 13817
at the entrances to which vehicular traffic from the majority of 13818
intersecting highways is required to yield the right-of-way to 13819
vehicles on such highways in obedience to stop or yield signs or 13820
traffic control signals, is greater than is reasonable and safe 13821
under the conditions found to exist at the location, the board may 13822
by resolution declare a reasonable and safe prima-facie speed 13823
limit of less than fifty-five but not less than twenty-five miles 13824
per hour at the location. An altered speed limit adopted by a 13825
board of township trustees under this division shall become 13826
effective when appropriate signs giving notice thereof are erected 13827
at the location by the township. Whenever, in the opinion of a 13828
board of township trustees, any altered prima-facie speed limit 13829
established by it under this division becomes unreasonable, it may 13830
adopt a resolution withdrawing the altered prima-facie speed, and 13831
upon such withdrawal, the altered prima-facie speed shall become 13832
ineffective, and the signs relating thereto shall be immediately 13833
removed by the township. 13834

(L)(1) Within one hundred twenty days of February 29, 1996, 13835
the director of transportation, based upon a geometric and traffic 13836
characteristic study of a freeway that is part of the interstate 13837
system or that is not part of the interstate system, but is built 13838
to the standards and specifications that are applicable to 13839
freeways that are part of the interstate system, in consultation 13840
with the director of public safety and, if applicable, the local 13841
authority having jurisdiction over a portion of such freeway, may 13842
determine and declare that the speed limit of less than sixty-five 13843
miles per hour established on such freeway or portion of freeway 13844
either is reasonable and safe or is less than that which is 13845
reasonable and safe. 13846

(2) If the established speed limit for such a freeway or 13847
portion of freeway is determined to be less than that which is 13848
reasonable and safe, the director of transportation, in 13849
consultation with the director of public safety and, if 13850
applicable, the local authority having jurisdiction over the 13851
portion of freeway, shall determine and declare a reasonable and 13852
safe speed limit of not more than sixty-five miles per hour for 13853
that freeway or portion of freeway. 13854

The director of transportation or local authority having 13855
jurisdiction over the freeway or portion of freeway shall erect 13856
appropriate signs giving notice of the speed limit at such 13857
location within one hundred fifty days of February 29, 1996. Such 13858
speed limit becomes effective only when such signs are erected at 13859
the location. 13860

(3) If, within one hundred twenty days of February 29, 1996, 13861
the director of transportation does not make a determination and 13862
declaration of a reasonable and safe speed limit for a freeway or 13863
portion of freeway that is part of the interstate system or that 13864
is not part of the interstate system, but is built to the 13865
standards and specifications that are applicable to freeways that 13866
are part of the interstate system and that has a speed limit of 13867
less than sixty-five miles per hour, the speed limit on that 13868
freeway or portion of a freeway shall be sixty-five miles per 13869
hour. The director of transportation or local authority having 13870
jurisdiction over the freeway or portion of the freeway shall 13871
erect appropriate signs giving notice of the speed limit of 13872
sixty-five miles per hour at such location within one hundred 13873
fifty days of February 29, 1996. Such speed limit becomes 13874
effective only when such signs are erected at the location. A 13875
speed limit established through the operation of division (L)(3) 13876
of this section is subject to reduction under division (I)(2) of 13877
this section. 13878

(M) Within three hundred sixty days after February 29, 1996, 13879
the director of transportation, based upon a geometric and traffic 13880
characteristic study of a rural, divided, multi-lane highway that 13881
has been designated as part of the national highway system under 13882
the "National Highway System Designation Act of 1995," 109 Stat. 13883
568, 23 U.S.C.A. 103, in consultation with the director of public 13884
safety and, if applicable, the local authority having jurisdiction 13885
over a portion of the highway, may determine and declare that the 13886
speed limit of less than sixty-five miles per hour established on 13887
the highway or portion of highway either is reasonable and safe or 13888
is less than that which is reasonable and safe. 13889

If the established speed limit for the highway or portion of 13890
highway is determined to be less than that which is reasonable and 13891
safe, the director of transportation, in consultation with the 13892
director of public safety and, if applicable, the local authority 13893
having jurisdiction over the portion of highway, shall determine 13894
and declare a reasonable and safe speed limit of not more than 13895
sixty-five miles per hour for that highway or portion of highway. 13896
The director of transportation or local authority having 13897
jurisdiction over the highway or portion of highway shall erect 13898
appropriate signs giving notice of the speed limit at such 13899
location within three hundred ninety days after February 29, 1996. 13900
The speed limit becomes effective only when such signs are erected 13901
at the location. 13902

(N)(1)(a) If the boundary of two local authorities rests on 13903
the centerline of a highway and both authorities have jurisdiction 13904
over the highway, the speed limit for the part of the highway 13905
within their joint jurisdiction shall be either one of the 13906
following as agreed to by both authorities: 13907

(i) Either prima-facie speed limit permitted by division (B) 13908
of this section; 13909

(ii) An altered speed limit determined and posted in 13910

accordance with this section. 13911

(b) If the local authorities are unable to reach an 13912
agreement, the speed limit shall remain as established and posted 13913
under this section. 13914

(2) Neither local authority may declare an altered 13915
prima-facie speed limit pursuant to this section on the part of 13916
the highway under their joint jurisdiction unless both of the 13917
local authorities determine, upon the basis of an engineering and 13918
traffic investigation, that the speed permitted by this section is 13919
greater than is reasonable or safe under the conditions found to 13920
exist at the location and both authorities agree upon a uniform 13921
reasonable and safe prima-facie speed limit of less than 13922
fifty-five but not less than twenty-five miles per hour for that 13923
location. If both authorities so agree, each shall follow the 13924
procedure specified in this section for altering the prima-facie 13925
speed limit on the highway, and the speed limit for the part of 13926
the highway within their joint jurisdiction shall be uniformly 13927
altered. No altered speed limit may be withdrawn unless both local 13928
authorities determine that the altered prima-facie speed limit 13929
previously adopted becomes unreasonable and each adopts a 13930
resolution withdrawing the altered prima-facie speed limit 13931
pursuant to the procedure specified in this section. 13932

(0) As used in this section: 13933

(1) "Interstate system" has the same meaning as in 23 13934
U.S.C.A. 101. 13935

(2) "Commercial bus" means a motor vehicle designed for 13936
carrying more than nine passengers and used for the transportation 13937
of persons for compensation. 13938

(3) "Noncommercial bus" includes but is not limited to a 13939
school bus or a motor vehicle operated solely for the 13940
transportation of persons associated with a charitable or 13941

nonprofit organization. 13942

(P)(1) A violation of any provision of this section is one of 13943
the following: 13944

(a) Except as otherwise provided in divisions (P)(1)(b), 13945
(1)(c), (2), and (3) of this section, a minor misdemeanor; 13946

(b) If, within one year of the offense, the offender 13947
previously has been convicted of or pleaded guilty to two 13948
violations of any provision of this section or of any provision of 13949
a municipal ordinance that is substantially similar to any 13950
provision of this section, a misdemeanor of the fourth degree; 13951

(c) If, within one year of the offense, the offender 13952
previously has been convicted of or pleaded guilty to three or 13953
more violations of any provision of this section or of any 13954
provision of a municipal ordinance that is substantially similar 13955
to any provision of this section, a misdemeanor of the third 13956
degree. 13957

(2) If the offender has not previously been convicted of or 13958
pleaded guilty to a violation of any provision of this section or 13959
of any provision of a municipal ordinance that is substantially 13960
similar to this section and operated a motor vehicle faster than 13961
thirty-five miles an hour in a business district of a municipal 13962
corporation, faster than fifty miles an hour in other portions of 13963
a municipal corporation, or faster than thirty-five miles an hour 13964
in a school zone during recess or while children are going to or 13965
leaving school during the school's opening or closing hours, a 13966
misdemeanor of the fourth degree. 13967

(3) Notwithstanding division (P)(1) of this section, if the 13968
offender operated a motor vehicle in a construction zone where a 13969
sign was then posted in accordance with section 4511.98 of the 13970
Revised Code, the court, in addition to all other penalties 13971
provided by law, shall impose upon the offender a fine of two 13972

times the usual amount imposed for the violation. No court shall 13973
impose a fine of two times the usual amount imposed for the 13974
violation upon an offender if the offender alleges, in an 13975
affidavit filed with the court prior to the offender's sentencing, 13976
that the offender is indigent and is unable to pay the fine 13977
imposed pursuant to this division and if the court determines that 13978
the offender is an indigent person and unable to pay the fine. 13979

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 13980
trackless trolley upon meeting or overtaking from either direction 13981
any school bus stopped for the purpose of receiving or discharging 13982
any school child, person attending programs offered by community 13983
boards of mental health and county boards of ~~mental retardation~~ 13984
~~and~~ developmental disabilities, or child attending a program 13985
offered by a head start agency, shall stop at least ten feet from 13986
the front or rear of the school bus and shall not proceed until 13987
such school bus resumes motion, or until signaled by the school 13988
bus driver to proceed. 13989

It is no defense to a charge under this division that the 13990
school bus involved failed to display or be equipped with an 13991
automatically extended stop warning sign as required by division 13992
(B) of this section. 13993

(B) Every school bus shall be equipped with amber and red 13994
visual signals meeting the requirements of section 4511.771 of the 13995
Revised Code, and an automatically extended stop warning sign of a 13996
type approved by the state board of education, which shall be 13997
actuated by the driver of the bus whenever but only whenever the 13998
bus is stopped or stopping on the roadway for the purpose of 13999
receiving or discharging school children, persons attending 14000
programs offered by community boards of mental health and county 14001
boards of ~~mental retardation and~~ developmental disabilities, or 14002
children attending programs offered by head start agencies. A 14003

school bus driver shall not actuate the visual signals or the stop 14004
warning sign in designated school bus loading areas where the bus 14005
is entirely off the roadway or at school buildings when children 14006
or persons attending programs offered by community boards of 14007
mental health and county boards of ~~mental retardation and~~ 14008
developmental disabilities are loading or unloading at curbside or 14009
at buildings when children attending programs offered by head 14010
start agencies are loading or unloading at curbside. The visual 14011
signals and stop warning sign shall be synchronized or otherwise 14012
operated as required by rule of the board. 14013

(C) Where a highway has been divided into four or more 14014
traffic lanes, a driver of a vehicle, streetcar, or trackless 14015
trolley need not stop for a school bus approaching from the 14016
opposite direction which has stopped for the purpose of receiving 14017
or discharging any school child, persons attending programs 14018
offered by community boards of mental health and county boards of 14019
~~mental retardation and~~ developmental disabilities, or children 14020
attending programs offered by head start agencies. The driver of 14021
any vehicle, streetcar, or trackless trolley overtaking the school 14022
bus shall comply with division (A) of this section. 14023

(D) School buses operating on divided highways or on highways 14024
with four or more traffic lanes shall receive and discharge all 14025
school children, persons attending programs offered by community 14026
boards of mental health and county boards of ~~mental retardation~~ 14027
~~and~~ developmental disabilities, and children attending programs 14028
offered by head start agencies on their residence side of the 14029
highway. 14030

(E) No school bus driver shall start the driver's bus until 14031
after any child, person attending programs offered by community 14032
boards of mental health and county boards of ~~mental retardation~~ 14033
~~and~~ developmental disabilities, or child attending a program 14034
offered by a head start agency who may have alighted therefrom has 14035

reached a place of safety on the child's or person's residence 14036
side of the road. 14037

(F)(1) Whoever violates division (A) of this section may be 14038
fined an amount not to exceed five hundred dollars. A person who 14039
is issued a citation for a violation of division (A) of this 14040
section is not permitted to enter a written plea of guilty and 14041
waive the person's right to contest the citation in a trial but 14042
instead must appear in person in the proper court to answer the 14043
charge. 14044

(2) In addition to and independent of any other penalty 14045
provided by law, the court or mayor may impose upon an offender 14046
who violates this section a class seven suspension of the 14047
offender's driver's license, commercial driver's license, 14048
temporary instruction permit, probationary license, or nonresident 14049
operating privilege from the range specified in division (A)(7) of 14050
section 4510.02 of the Revised Code. When a license is suspended 14051
under this section, the court or mayor shall cause the offender to 14052
deliver the license to the court, and the court or clerk of the 14053
court immediately shall forward the license to the registrar of 14054
motor vehicles, together with notice of the court's action. 14055

(G) As used in this section: 14056

(1) "Head start agency" has the same meaning as in section 14057
3301.32 of the Revised Code. 14058

(2) "School bus," as used in relation to children who attend 14059
a program offered by a head start agency, means a bus that is 14060
owned and operated by a head start agency, is equipped with an 14061
automatically extended stop warning sign of a type approved by the 14062
state board of education, is painted the color and displays the 14063
markings described in section 4511.77 of the Revised Code, and is 14064
equipped with amber and red visual signals meeting the 14065
requirements of section 4511.771 of the Revised Code, irrespective 14066

of whether or not the bus has fifteen or more children aboard at 14067
any time. "School bus" does not include a van owned and operated 14068
by a head start agency, irrespective of its color, lights, or 14069
markings. 14070

Sec. 4723.071. (A) As used in this section, "health-related 14071
activities," "MR/DD personnel," "prescribed medication," and "tube 14072
feeding" have the same meanings as in section 5123.41 of the 14073
Revised Code. 14074

(B) The board of nursing shall adopt rules as it considers 14075
necessary to govern nursing delegation as it applies to MR/DD 14076
personnel who administer prescribed medications, perform 14077
health-related activities, and perform tube feedings pursuant to 14078
the authority granted under section 5123.42 of the Revised Code. 14079
The board shall not establish in the rules any requirement that is 14080
inconsistent with the authority of MR/DD personnel granted under 14081
that section. The rules shall be adopted in accordance with 14082
Chapter 119. of the Revised Code. 14083

(C) The board of nursing may accept complaints from any 14084
person or government entity regarding the performance or 14085
qualifications of MR/DD personnel who administer prescribed 14086
medications, perform health-related activities, and perform tube 14087
feedings pursuant to the authority granted under section 5123.42 14088
of the Revised Code. The board shall refer all complaints received 14089
to the department of ~~mental retardation and~~ developmental 14090
disabilities. The board may participate in an investigation of a 14091
complaint being conducted by the department under section 5123.421 14092
of the Revised Code. 14093

Sec. 5101.35. (A) As used in this section: 14094

(1) "Agency" means the following entities that administer a 14095
family services program: 14096

(a) The department of job and family services; 14097

(b) A county department of job and family services; 14098

(c) A public children services agency; 14099

(d) A private or government entity administering, in whole or 14100
in part, a family services program for or on behalf of the 14101
department of job and family services or a county department of 14102
job and family services or public children services agency. 14103

(2) "Appellant" means an applicant, participant, former 14104
participant, recipient, or former recipient of a family services 14105
program who is entitled by federal or state law to a hearing 14106
regarding a decision or order of the agency that administers the 14107
program. 14108

(3) "Family services program" means assistance provided under 14109
a Title IV-A program as defined in section 5101.80 of the Revised 14110
Code or under Chapter 5104., 5111., or 5115. or section 173.35, 14111
5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the 14112
Revised Code, other than assistance provided under section 5101.46 14113
of the Revised Code by the department of mental health, the 14114
department of ~~mental retardation and~~ developmental disabilities, a 14115
board of alcohol, drug addiction, and mental health services, or a 14116
county board of ~~mental retardation and~~ developmental disabilities. 14117

(B) Except as provided by divisions (G) and (H) of this 14118
section, an appellant who appeals under federal or state law a 14119
decision or order of an agency administering a family services 14120
program shall, at the appellant's request, be granted a state 14121
hearing by the department of job and family services. This state 14122
hearing shall be conducted in accordance with rules adopted under 14123
this section. The state hearing shall be recorded, but neither the 14124
recording nor a transcript of the recording shall be part of the 14125
official record of the proceeding. A state hearing decision is 14126
binding upon the agency and department, unless it is reversed or 14127

modified on appeal to the director of job and family services or a 14128
court of common pleas. 14129

(C) Except as provided by division (G) of this section, an 14130
appellant who disagrees with a state hearing decision may make an 14131
administrative appeal to the director of job and family services 14132
in accordance with rules adopted under this section. This 14133
administrative appeal does not require a hearing, but the director 14134
or the director's designee shall review the state hearing decision 14135
and previous administrative action and may affirm, modify, remand, 14136
or reverse the state hearing decision. Any person designated to 14137
make an administrative appeal decision on behalf of the director 14138
shall have been admitted to the practice of law in this state. An 14139
administrative appeal decision is the final decision of the 14140
department and is binding upon the department and agency, unless 14141
it is reversed or modified on appeal to the court of common pleas. 14142

(D) An agency shall comply with a decision issued pursuant to 14143
division (B) or (C) of this section within the time limits 14144
established by rules adopted under this section. If a county 14145
department of job and family services or a public children 14146
services agency fails to comply within these time limits, the 14147
department may take action pursuant to section 5101.24 of the 14148
Revised Code. If another agency fails to comply within the time 14149
limits, the department may force compliance by withholding funds 14150
due the agency or imposing another sanction established by rules 14151
adopted under this section. 14152

(E) An appellant who disagrees with an administrative appeal 14153
decision of the director of job and family services or the 14154
director's designee issued under division (C) of this section may 14155
appeal from the decision to the court of common pleas pursuant to 14156
section 119.12 of the Revised Code. The appeal shall be governed 14157
by section 119.12 of the Revised Code except that: 14158

(1) The person may appeal to the court of common pleas of the 14159

county in which the person resides, or to the court of common 14160
pleas of Franklin county if the person does not reside in this 14161
state. 14162

(2) The person may apply to the court for designation as an 14163
indigent and, if the court grants this application, the appellant 14164
shall not be required to furnish the costs of the appeal. 14165

(3) The appellant shall mail the notice of appeal to the 14166
department of job and family services and file notice of appeal 14167
with the court within thirty days after the department mails the 14168
administrative appeal decision to the appellant. For good cause 14169
shown, the court may extend the time for mailing and filing notice 14170
of appeal, but such time shall not exceed six months from the date 14171
the department mails the administrative appeal decision. Filing 14172
notice of appeal with the court shall be the only act necessary to 14173
vest jurisdiction in the court. 14174

(4) The department shall be required to file a transcript of 14175
the testimony of the state hearing with the court only if the 14176
court orders the department to file the transcript. The court 14177
shall make such an order only if it finds that the department and 14178
the appellant are unable to stipulate to the facts of the case and 14179
that the transcript is essential to a determination of the appeal. 14180
The department shall file the transcript not later than thirty 14181
days after the day such an order is issued. 14182

(F) The department of job and family services shall adopt 14183
rules in accordance with Chapter 119. of the Revised Code to 14184
implement this section, including rules governing the following: 14185

(1) State hearings under division (B) of this section. The 14186
rules shall include provisions regarding notice of eligibility 14187
termination and the opportunity of an appellant appealing a 14188
decision or order of a county department of job and family 14189
services to request a county conference with the county department 14190

before the state hearing is held. 14191

(2) Administrative appeals under division (C) of this 14192
section; 14193

(3) Time limits for complying with a decision issued under 14194
division (B) or (C) of this section; 14195

(4) Sanctions that may be applied against an agency under 14196
division (D) of this section. 14197

(G) The department of job and family services may adopt rules 14198
in accordance with Chapter 119. of the Revised Code establishing 14199
an appeals process for an appellant who appeals a decision or 14200
order regarding a Title IV-A program identified under division 14201
(A)(4)(c), (d), (e), or (f) of section 5101.80 of the Revised Code 14202
that is different from the appeals process established by this 14203
section. The different appeals process may include having a state 14204
agency that administers the Title IV-A program pursuant to an 14205
interagency agreement entered into under section 5101.801 of the 14206
Revised Code administer the appeals process. 14207

(H) If an appellant receiving medicaid through a health 14208
insuring corporation that holds a certificate of authority under 14209
Chapter 1751. of the Revised Code is appealing a denial of 14210
medicaid services based on lack of medical necessity or other 14211
clinical issues regarding coverage by the health insuring 14212
corporation, the person hearing the appeal may order an 14213
independent medical review if that person determines that a review 14214
is necessary. The review shall be performed by a health care 14215
professional with appropriate clinical expertise in treating the 14216
recipient's condition or disease. The department shall pay the 14217
costs associated with the review. 14218

A review ordered under this division shall be part of the 14219
record of the hearing and shall be given appropriate evidentiary 14220
consideration by the person hearing the appeal. 14221

(I) The requirements of Chapter 119. of the Revised Code 14222
apply to a state hearing or administrative appeal under this 14223
section only to the extent, if any, specifically provided by rules 14224
adopted under this section. 14225

Sec. 5101.46. (A) As used in this section: 14226

(1) "Title XX" means Title XX of the "Social Security Act," 14227
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 14228

(2) "Respective local agency" means, with respect to the 14229
department of job and family services, a county department of job 14230
and family services; with respect to the department of mental 14231
health, a board of alcohol, drug addiction, and mental health 14232
services; and with respect to the department of ~~mental retardation~~ 14233
~~and~~ developmental disabilities, a county board of ~~mental~~ 14234
~~retardation and~~ developmental disabilities. 14235

(3) "Federal poverty guidelines" means the poverty guidelines 14236
as revised annually by the United States department of health and 14237
human services in accordance with section 673(2) of the "Omnibus 14238
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 14239
9902, as amended, for a family size equal to the size of the 14240
family of the person whose income is being determined. 14241

(B) The departments of job and family services, mental 14242
health, and ~~mental retardation and~~ developmental disabilities, 14243
with their respective local agencies, shall administer the 14244
provision of social services funded through grants made under 14245
Title XX. The social services furnished with Title XX funds shall 14246
be directed at the following goals: 14247

(1) Achieving or maintaining economic self-support to 14248
prevent, reduce, or eliminate dependency; 14249

(2) Achieving or maintaining self-sufficiency, including 14250
reduction or prevention of dependency; 14251

(3) Preventing or remedying neglect, abuse, or exploitation 14252
of children and adults unable to protect their own interests, or 14253
preserving, rehabilitating, or reuniting families; 14254

(4) Preventing or reducing inappropriate institutional care 14255
by providing for community-based care, home-based care, or other 14256
forms of less intensive care; 14257

(5) Securing referral or admission for institutional care 14258
when other forms of care are not appropriate, or providing 14259
services to individuals in institutions. 14260

(C)(1) All federal funds received under Title XX shall be 14261
appropriated as follows: 14262

(a) Seventy-two and one-half per cent to the department of 14263
job and family services; 14264

(b) Twelve and ninety-three one-hundreths per cent to the 14265
department of mental health; 14266

(c) Fourteen and fifty-seven one-hundreths per cent to the 14267
department of ~~mental retardation and~~ developmental disabilities. 14268

(2) Each state department shall, subject to the approval of 14269
the controlling board, develop formulas for the distribution of 14270
their Title XX appropriations to their respective local agencies. 14271
The formulas shall take into account the total population of the 14272
area that is served by the agency, the percentage of the 14273
population in the area that falls below the federal poverty 14274
guidelines, and the agency's history of and ability to utilize 14275
Title XX funds. 14276

(3) Each of the state departments shall expend no more than 14277
three per cent of its Title XX appropriation for state 14278
administrative costs. Each of the department's respective local 14279
agencies shall expend no more than fourteen per cent of its Title 14280
XX appropriation for local administrative costs. 14281

(4) The department of job and family services shall expend no more than two per cent of its Title XX appropriation for the training of the following:

(a) Employees of county departments of job and family services;

(b) Providers of services under contract with the state departments' respective local agencies;

(c) Employees of a public children services agency directly engaged in providing Title XX services.

(D) The department of job and family services shall prepare a biennial comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion.

For each state fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.

The departments of mental health and ~~mental retardation and~~ developmental disabilities shall prepare and submit to the department of job and family services the portions of each biennial plan and annual report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of biennial plans and annual reports.

(E) Each county department shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family

services planning committee pursuant to section 329.06 of the 14313
Revised Code. As part of its preparation of the county profile, 14314
the county department may prepare a local needs report analyzing 14315
the need for Title XX social services. 14316

The county department shall submit the county profile to the 14317
board of county commissioners for its review. Once the county 14318
profile has been approved by the board, the county department 14319
shall file a copy of the county profile with the department of job 14320
and family services. The department shall approve the county 14321
profile if the department determines the profile provides for the 14322
Title XX social services to meet the goals specified in division 14323
(B) of this section. 14324

(F) Any of the three state departments and their respective 14325
local agencies may require that an entity under contract to 14326
provide social services with Title XX funds submit to an audit on 14327
the basis of alleged misuse or improper accounting of funds. If an 14328
audit is required, the social services provider shall reimburse 14329
the state department or local agency for the cost it incurred in 14330
conducting the audit or having the audit conducted. 14331

If an audit demonstrates that a social services provider is 14332
responsible for one or more adverse findings, the provider shall 14333
reimburse the appropriate state department or its respective local 14334
agency the amount of the adverse findings. The amount shall not be 14335
reimbursed with Title XX funds received under this section. The 14336
three state departments and their respective local agencies may 14337
terminate or refuse to enter into a Title XX contract with a 14338
social services provider if there are adverse findings in an audit 14339
that are the responsibility of the provider. 14340

(G) The department of job and family services may adopt rules 14341
to implement and carry out the purposes of this section. Rules 14342
governing financial and operational matters of the department or 14343
matters between the department and county departments of job and 14344

family services shall be adopted as internal management rules in 14345
accordance with section 111.15 of the Revised Code. Rules 14346
governing eligibility for services, program participation, and 14347
other matters pertaining to applicants and participants shall be 14348
adopted in accordance with Chapter 119. of the Revised Code. 14349

Sec. 5101.611. If a county department of job and family 14350
services knows or has reasonable cause to believe that the subject 14351
of a report made under section 5101.61 or of an investigation 14352
conducted under sections 5101.62 to 5101.64 or on the initiative 14353
of the department is mentally retarded or developmentally disabled 14354
as defined in section 5126.01 of the Revised Code, the department 14355
shall refer the case to the county board of ~~mental retardation and~~ 14356
developmental disabilities of that county for review pursuant to 14357
section 5126.31 of the Revised Code. 14358

If a county board of ~~mental retardation and~~ developmental 14359
disabilities refers a case to the county department of job and 14360
family services in accordance with section 5126.31, the department 14361
shall proceed with the case in accordance with sections 5101.60 to 14362
5101.71 of the Revised Code. 14363

Sec. 5103.02. As used in sections 5103.03 to 5103.17 of the 14364
Revised Code: 14365

(A) "Association" or "institution" includes any incorporated 14366
or unincorporated organization, society, association, or agency, 14367
public or private, that receives or cares for children for two or 14368
more consecutive weeks; any individual, including the operator of 14369
a foster home, who, for hire, gain, or reward, receives or cares 14370
for children for two or more consecutive weeks, unless the 14371
individual is related to them by blood or marriage; and any 14372
individual not in the regular employ of a court, or of an 14373
institution or association certified in accordance with section 14374

5103.03 of the Revised Code, who in any manner becomes a party to 14375
the placing of children in foster homes, unless the individual is 14376
related to such children by blood or marriage, or is the appointed 14377
guardian of such children; provided, that any organization, 14378
society, association, school, agency, child guidance center, 14379
detention or rehabilitation facility, or children's clinic 14380
licensed, regulated, approved, operated under the direction of, or 14381
otherwise certified by the department of education, a local board 14382
of education, the department of youth services, the department of 14383
mental health, or the department of ~~mental retardation and~~ 14384
developmental disabilities, or any individual who provides care 14385
for only a single-family group, placed there by their parents or 14386
other relative having custody, shall not be considered as being 14387
within the purview of these sections. 14388

(B) "Family foster home" means a foster home that is not a 14389
specialized foster home. 14390

(C) "Foster caregiver" means a person holding a valid foster 14391
home certificate issued under section 5103.03 of the Revised Code. 14392

(D) "Foster home" means a private residence in which children 14393
are received apart from their parents, guardian, or legal 14394
custodian, by an individual reimbursed for providing the children 14395
nonsecure care, supervision, or training twenty-four hours a day. 14396
"Foster home" does not include care provided for a child in the 14397
home of a person other than the child's parent, guardian, or legal 14398
custodian while the parent, guardian, or legal custodian is 14399
temporarily away. Family foster homes and specialized foster homes 14400
are types of foster homes. 14401

(E) "Medically fragile foster home" means a foster home that 14402
provides specialized medical services designed to meet the needs 14403
of children with intensive health care needs who meet all of the 14404
following criteria: 14405

(1) Under rules adopted by the department of job and family services governing payment under Chapter 5111. of the Revised Code for long-term care services, the children require a skilled level of care.	14406 14407 14408 14409
(2) The children require the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of their medical conditions.	14410 14411 14412
(3) The children require the services of a registered nurse on a daily basis.	14413 14414
(4) The children are at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded.	14415 14416 14417
(F) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency that recommends that the department of job and family services take any of the following actions under section 5103.03 of the Revised Code regarding a foster home:	14418 14419 14420 14421 14422
(1) Issue a certificate;	14423
(2) Deny a certificate;	14424
(3) Renew a certificate;	14425
(4) Deny renewal of a certificate;	14426
(5) Revoke a certificate.	14427
(G) "Specialized foster home" means a medically fragile foster home or a treatment foster home.	14428 14429
(H) "Treatment foster home" means a foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received in the foster home and that receives and cares for children who are emotionally or behaviorally disturbed, chemically dependent, mentally retarded, developmentally disabled, or who otherwise have exceptional needs.	14430 14431 14432 14433 14434 14435

Sec. 5103.13. (A) As used in this section and section	14436
5103.131 of the Revised Code:	14437
(1)(a) "Children's crisis care facility" means a facility	14438
that has as its primary purpose the provision of residential and	14439
other care to either or both of the following:	14440
(i) One or more preteens voluntarily placed in the facility	14441
by the preteen's parent or other caretaker who is facing a crisis	14442
that causes the parent or other caretaker to seek temporary care	14443
for the preteen and referral for support services;	14444
(ii) One or more preteens placed in the facility by a public	14445
children services agency or private child placing agency that has	14446
legal custody or permanent custody of the preteen and determines	14447
that an emergency situation exists necessitating the preteen's	14448
placement in the facility rather than an institution certified	14449
under section 5103.03 of the Revised Code or elsewhere.	14450
(b) "Children's crisis care facility" does not include either	14451
of the following:	14452
(i) Any organization, society, association, school, agency,	14453
child guidance center, detention or rehabilitation facility, or	14454
children's clinic licensed, regulated, approved, operated under	14455
the direction of, or otherwise certified by the department of	14456
education, a local board of education, the department of youth	14457
services, the department of mental health, or the department of	14458
mental retardation and developmental disabilities;	14459
(ii) Any individual who provides care for only a	14460
single-family group, placed there by their parents or other	14461
relative having custody.	14462
(2) "Legal custody" and "permanent custody" have the same	14463
meanings as in section 2151.011 of the Revised Code.	14464
(3) "Preteen" means an individual under thirteen years of	14465

age. 14466

(B) No person shall operate a children's crisis care facility 14467
or hold a children's crisis care facility out as a certified 14468
children's crisis care facility unless there is a valid children's 14469
crisis care facility certificate issued under this section for the 14470
facility. 14471

(C) A person seeking to operate a children's crisis care 14472
facility shall apply to the director of job and family services to 14473
obtain a certificate for the facility. The director shall certify 14474
the person's children's crisis care facility if the facility meets 14475
all of the certification standards established in rules adopted 14476
under division (F) of this section and the person complies with 14477
all of the rules governing the certification of children's crisis 14478
care facilities adopted under that division. The issuance of a 14479
children's crisis care facility certificate does not exempt the 14480
facility from a requirement to obtain another certificate or 14481
license mandated by law. 14482

(D)(1) No certified children's crisis care facility shall do 14483
any of the following: 14484

(a) Provide residential care to a preteen for more than one 14485
hundred twenty days in a calendar year; 14486

(b) Subject to division (D)(1)(c) of this section and except 14487
as provided in division (D)(2) of this section, provide 14488
residential care to a preteen for more than sixty consecutive 14489
days; 14490

(c) Except as provided in division (D)(3) of this section, 14491
provide residential care to a preteen for more than seventy-two 14492
consecutive hours if a public children services agency or private 14493
child placing agency placed the preteen in the facility; 14494

(d) Fail to comply with section 2151.86 of the Revised Code. 14495

(2) A certified children's crisis care facility may provide 14496
residential care to a preteen for up to ninety consecutive days, 14497
other than a preteen placed in the facility by a public children 14498
services agency or private child placing agency, if any of the 14499
following are the case: 14500

(a) The preteen's parent or other caretaker is enrolled in an 14501
alcohol and drug addiction program certified under section 3793.06 14502
of the Revised Code or a community mental health service certified 14503
under section 5119.611 of the Revised Code; 14504

(b) The preteen's parent or other caretaker is an inpatient 14505
in a hospital; 14506

(c) The preteen's parent or other caretaker is incarcerated; 14507

(d) A physician has diagnosed the preteen's parent or other 14508
caretaker as medically incapacitated. 14509

(3) A certified children's crisis care facility may provide 14510
residential care to a preteen placed in the facility by a public 14511
children services agency or private child placing agency for more 14512
than seventy-two consecutive hours if the director of job and 14513
family services or the director's designee issues the agency a 14514
waiver of the seventy-two consecutive hour limitation. The waiver 14515
may authorize the certified children's crisis care facility to 14516
provide residential care to the preteen for up to fourteen 14517
consecutive days. 14518

(E) The director of job and family services may suspend or 14519
revoke a children's crisis care facility's certificate pursuant to 14520
Chapter 119. of the Revised Code if the facility violates division 14521
(D) of this section or ceases to meet any of the certification 14522
standards established in rules adopted under division (F) of this 14523
section or the facility's operator ceases to comply with any of 14524
the rules governing the certification of children's crisis care 14525
facilities adopted under that division. 14526

(F) Not later than ninety days after ~~the effective date of~~ 14527
~~this amendment~~ September 21, 2006, the director of job and family 14528
services shall adopt rules pursuant to Chapter 119. of the Revised 14529
Code for the certification of children's crisis care facilities. 14530
The rules shall specify that a certificate shall not be issued to 14531
an applicant if the conditions at the children's crisis care 14532
facility would jeopardize the health or safety of the preteens 14533
placed in the facility. 14534

Sec. 5104.08. (A) There is hereby created in the department 14535
of job and family services a child care advisory council to advise 14536
and assist the department in the administration of this chapter 14537
and in the development of child care. The council shall consist of 14538
twenty-two voting members appointed by the director of job and 14539
family services with the approval of the governor. The director of 14540
job and family services, the director of ~~mental retardation and~~ 14541
developmental disabilities, the director of mental health, the 14542
superintendent of public instruction, the director of health, the 14543
director of commerce, and the state fire marshal shall serve as 14544
nonvoting members of the council. 14545

Six members shall be representatives of child care centers 14546
subject to licensing, the members to represent a variety of 14547
centers, including nonprofit and proprietary, from different 14548
geographical areas of the state. At least three members shall be 14549
parents, guardians, or custodians of children receiving child care 14550
or publicly funded child care in the child's own home, a center, a 14551
type A home, a head start program, a certified type B home, or a 14552
type B home at the time of appointment. Three members shall be 14553
representatives of in-home aides, type A homes, certified type B 14554
homes, or type B homes or head start programs. At least six 14555
members shall represent county departments of job and family 14556
services. The remaining members shall be representatives of the 14557
teaching, child development, and health professions, and other 14558

individuals interested in the welfare of children. At least six 14559
members of the council shall not be employees or licensees of a 14560
child day-care center, head start program, or type A home, or 14561
providers operating a certified type B home or type B home, or 14562
in-home aides. 14563

Appointments shall be for three-year terms. Vacancies shall 14564
be filled for the unexpired terms. A member of the council is 14565
subject to removal by the director of job and family services for 14566
a willful and flagrant exercise of authority or power that is not 14567
authorized by law, for a refusal or willful neglect to perform any 14568
official duty as a member of the council imposed by law, or for 14569
being guilty of misfeasance, malfeasance, nonfeasance, or gross 14570
neglect of duty as a member of the council. 14571

There shall be two co-chairpersons of the council. One 14572
co-chairperson shall be the director of job and family services or 14573
the director's designee, and one co-chairperson shall be elected 14574
by the members of the council. The council shall meet as often as 14575
is necessary to perform its duties, provided that it shall meet at 14576
least once in each quarter of each calendar year and at the call 14577
of the co-chairpersons. The co-chairpersons or their designee 14578
shall send to each member a written notice of the date, time, and 14579
place of each meeting. 14580

Members of the council shall serve without compensation, but 14581
shall be reimbursed for necessary expenses. 14582

(B) The child care advisory council shall advise the director 14583
on matters affecting the licensing of centers and type A homes and 14584
the certification of type B homes and in-home aides. The council 14585
shall make an annual report to the director of job and family 14586
services that addresses the availability, affordability, 14587
accessibility, and quality of child care and that summarizes the 14588
recommendations and plans of action that the council has proposed 14589
to the director during the preceding fiscal year. The director of 14590

job and family services shall provide copies of the report to the 14591
governor, speaker and minority leader of the house of 14592
representatives, and the president and minority leader of the 14593
senate and, on request, shall make copies available to the public. 14594

(C) The director of job and family services shall adopt rules 14595
pursuant to Chapter 119. of the Revised Code to implement this 14596
section. 14597

Sec. 5107.24. (A) As used in this section: 14598

(1) "Adult-supervised living arrangement" means a family 14599
setting approved, licensed, or certified by the department of job 14600
and family services, the department of mental health, the 14601
department of ~~mental retardation and~~ developmental disabilities, 14602
the department of youth services, a public children services 14603
agency, a private child placing agency, or a private noncustodial 14604
agency that is maintained by a person age eighteen or older who 14605
assumes responsibility for the care and control of a minor parent, 14606
pregnant minor, or child of a minor parent or provides the minor 14607
parent, pregnant minor, or child of a minor parent supportive 14608
services, including counseling, guidance, and supervision. 14609
"Adult-supervised living arrangement" does not mean a public 14610
institution. 14611

(2) "Child of a minor parent" means a child born to a minor 14612
parent, except that the child ceases to be considered a child of 14613
minor parent when the minor parent attains age eighteen. 14614

(3) "Minor parent" means a parent who is under age eighteen 14615
and is not married. 14616

(4) "Pregnant minor" means a pregnant person who is under age 14617
eighteen and not married. 14618

(B)(1) Except as provided in division (B)(2) of this section 14619
and to the extent permitted by Title IV-A and federal regulations 14620

adopted under Title IV-A, a pregnant minor, minor parent, or child 14621
of a minor parent must reside in a place of residence maintained 14622
by a parent, guardian, custodian, or specified relative of the 14623
pregnant minor or minor parent as the parent's, guardian's, 14624
custodian's, or specified relative's own home to be eligible to 14625
participate in Ohio works first. 14626

(2) To the extent permitted by Title IV-A and federal 14627
regulations adopted under it, a pregnant minor, minor parent, or 14628
child of a minor parent is exempt from the requirement of division 14629
(B)(1) of this section if any of the following apply: 14630

(a) The minor parent or pregnant minor does not have a 14631
parent, guardian, custodian, or specified relative living or whose 14632
whereabouts are known. 14633

(b) No parent, guardian, custodian, or specified relative of 14634
the minor parent or pregnant minor will allow the pregnant minor, 14635
minor parent, or minor parent's child to live in the parent's, 14636
guardian's, custodian's, or specified relative's home. 14637

(c) The department of job and family services, a county 14638
department of job and family services, or a public children 14639
services agency determines that the physical or emotional health 14640
or safety of the pregnant minor, minor parent, or minor parent's 14641
child would be in jeopardy if the pregnant minor, minor parent, or 14642
minor parent's child lived in the same home as the parent, 14643
guardian, custodian, or specified relative. 14644

(d) The department of job and family services, a county 14645
department of job and family services, or a public children 14646
services agency otherwise determines that it is in the best 14647
interest of the pregnant minor, minor parent, or minor parent's 14648
child to waive the requirement of division (B)(1) of this section. 14649

(C) A pregnant minor, minor parent, or child of a minor 14650
parent exempt from the requirement of division (B)(1) of this 14651

section must reside in an adult-supervised living arrangement to 14652
be eligible to participate in Ohio works first. 14653

(D) The department of job and family services, whenever 14654
possible and to the extent permitted by Title IV-A and federal 14655
regulations adopted under it, shall provide cash assistance under 14656
Ohio works first to the parent, guardian, custodian, or specified 14657
relative of a pregnant minor or minor parent on behalf of the 14658
pregnant minor, minor parent, or minor parent's child. 14659

Sec. 5111.042. The departments of ~~mental retardation and~~ 14660
developmental disabilities and job and family services may 14661
approve, reduce, deny, or terminate a service included in the 14662
individualized service plan developed for a medicaid recipient 14663
with mental retardation or other developmental disability who is 14664
eligible for medicaid case management services. If either 14665
department approves, reduces, denies, or terminates a service, 14666
that department shall timely notify the medicaid recipient that 14667
the recipient may request a hearing under section 5101.35 of the 14668
Revised Code. 14669

Sec. 5111.151. (A) This section applies to eligibility 14670
determinations for all cases involving medicaid provided pursuant 14671
to this chapter, qualified medicare beneficiaries, specified 14672
low-income medicare beneficiaries, qualifying individuals-1, 14673
qualifying individuals-2, and medical assistance for covered 14674
families and children. 14675

(B) As used in this section: 14676

(1) "Trust" means any arrangement in which a grantor 14677
transfers real or personal property to a trust with the intention 14678
that it be held, managed, or administered by at least one trustee 14679
for the benefit of the grantor or beneficiaries. "Trust" includes 14680
any legal instrument or device similar to a trust. 14681

(2) "Legal instrument or device similar to a trust" includes, 14682
but is not limited to, escrow accounts, investment accounts, 14683
partnerships, contracts, and other similar arrangements that are 14684
not called trusts under state law but are similar to a trust and 14685
to which all of the following apply: 14686

(a) The property in the trust is held, managed, retained, or 14687
administered by a trustee. 14688

(b) The trustee has an equitable, legal, or fiduciary duty to 14689
hold, manage, retain, or administer the property for the benefit 14690
of the beneficiary. 14691

(c) The trustee holds identifiable property for the 14692
beneficiary. 14693

(3) "Grantor" is a person who creates a trust, including all 14694
of the following: 14695

(a) An individual; 14696

(b) An individual's spouse; 14697

(c) A person, including a court or administrative body, with 14698
legal authority to act in place of or on behalf of an individual 14699
or an individual's spouse; 14700

(d) A person, including a court or administrative body, that 14701
acts at the direction or on request of an individual or the 14702
individual's spouse. 14703

(4) "Beneficiary" is a person or persons, including a 14704
grantor, who benefits in some way from a trust. 14705

(5) "Trustee" is a person who manages a trust's principal and 14706
income for the benefit of the beneficiaries. 14707

(6) "Person" has the same meaning as in section 1.59 of the 14708
Revised Code and includes an individual, corporation, business 14709
trust, estate, trust, partnership, and association. 14710

(7) "Applicant" is an individual who applies for medicaid or 14711
the individual's spouse. 14712

(8) "Recipient" is an individual who receives medicaid or the 14713
individual's spouse. 14714

(9) "Revocable trust" is a trust that can be revoked by the 14715
grantor or the beneficiary, including all of the following, even 14716
if the terms of the trust state that it is irrevocable: 14717

(a) A trust that provides that the trust can be terminated 14718
only by a court; 14719

(b) A trust that terminates on the happening of an event, but 14720
only if the event occurs at the direction or control of the 14721
grantor, beneficiary, or trustee. 14722

(10) "Irrevocable trust" is a trust that cannot be revoked by 14723
the grantor or terminated by a court and that terminates only on 14724
the occurrence of an event outside of the control or direction of 14725
the beneficiary or grantor. 14726

(11) "Payment" is any disbursement from the principal or income 14727
of the trust, including actual cash, noncash or property 14728
disbursements, or the right to use and occupy real property. 14729

(12) "Payments to or for the benefit of the applicant or 14730
recipient" is a payment to any person resulting in a direct or 14731
indirect benefit to the applicant or recipient. 14732

(13) "Testamentary trust" is a trust that is established by a 14733
will and does not take effect until after the death of the person 14734
who created the trust. 14735

(C) If an applicant or recipient is a beneficiary of a trust, 14736
the county department of job and family services shall determine 14737
what type of trust it is and shall treat the trust in accordance 14738
with the appropriate provisions of this section and rules adopted 14739
by the department of job and family services governing trusts. The 14740

county department of job and family services may determine that 14741
the trust or portion of the trust is one of the following: 14742

- (1) A countable resource; 14743
- (2) Countable income; 14744
- (3) A countable resource and countable income; 14745
- (4) Not a countable resource or countable income. 14746

(D)(1) A trust or legal instrument or device similar to a 14747
trust shall be considered a medicaid qualifying trust if all of 14748
the following apply: 14749

- (a) The trust was established on or prior to August 10, 1993. 14750
- (b) The trust was not established by a will. 14751
- (c) The trust was established by an applicant or recipient. 14752
- (d) The applicant or recipient is or may become the 14753
beneficiary of all or part of the trust. 14754
- (e) Payment from the trust is determined by one or more 14755
trustees who are permitted to exercise any discretion with respect 14756
to the distribution to the applicant or recipient. 14757

(2) If a trust meets the requirement of division (D)(1) of 14758
this section, the amount of the trust that is considered by the 14759
county department of job and family services as an available 14760
resource to the applicant or recipient shall be the maximum amount 14761
of payments permitted under the terms of the trust to be 14762
distributed to the applicant or recipient, assuming the full 14763
exercise of discretion by the trustee or trustees. The maximum 14764
amount shall include only amounts that are permitted to be 14765
distributed but are not distributed from either the income or 14766
principal of the trust. 14767

(3) Amounts that are actually distributed from a medicaid 14768
qualifying trust to a beneficiary for any purpose shall be treated 14769

in accordance with rules adopted by the department of job and 14770
family services governing income. 14771

(4) Availability of a medicaid qualifying trust shall be 14772
considered without regard to any of the following: 14773

(a) Whether or not the trust is irrevocable or was 14774
established for purposes other than to enable a grantor to qualify 14775
for medicaid, medical assistance for covered families and 14776
children, or as a qualified medicare beneficiary, specified 14777
low-income medicare beneficiary, qualifying individual-1, or 14778
qualifying individual-2; 14779

(b) Whether or not the trustee actually exercises discretion. 14780

(5) If any real or personal property is transferred to a 14781
medicaid qualifying trust that is not distributable to the 14782
applicant or recipient, the transfer shall be considered an 14783
improper disposition of assets and shall be subject to section 14784
5111.0116 of the Revised Code and rules to implement that section 14785
adopted under section 5111.011 of the Revised Code. 14786

(6) The baseline date for the look-back period for 14787
disposition of assets involving a medicaid qualifying trust shall 14788
be the date on which the applicant or recipient is both 14789
institutionalized and first applies for medicaid. 14790

(E)(1) A trust or legal instrument or device similar to a 14791
trust shall be considered a self-settled trust if all of the 14792
following apply: 14793

(a) The trust was established on or after August 11, 1993. 14794

(b) The trust was not established by a will. 14795

(c) The trust was established by an applicant or recipient, 14796
spouse of an applicant or recipient, or a person, including a 14797
court or administrative body, with legal authority to act in place 14798
of or on behalf of an applicant, recipient, or spouse, or acting 14799

at the direction or on request of an applicant, recipient, or 14800
spouse. 14801

(2) A trust that meets the requirements of division (E)(1) of 14802
this section and is a revocable trust shall be treated by the 14803
county department of job and family services as follows: 14804

(a) The corpus of the trust shall be considered a resource 14805
available to the applicant or recipient. 14806

(b) Payments from the trust to or for the benefit of the 14807
applicant or recipient shall be considered unearned income of the 14808
applicant or recipient. 14809

(c) Any other payments from the trust shall be considered an 14810
improper disposition of assets and shall be subject to section 14811
5111.0116 of the Revised Code and rules to implement that section 14812
adopted under section 5111.011 of the Revised Code. 14813

(3) A trust that meets the requirements of division (E)(1) of 14814
this section and is an irrevocable trust shall be treated by the 14815
county department of job and family services as follows: 14816

(a) If there are any circumstances under which payment from 14817
the trust could be made to or for the benefit of the applicant or 14818
recipient, including a payment that can be made only in the 14819
future, the portion from which payments could be made shall be 14820
considered a resource available to the applicant or recipient. The 14821
county department of job and family services shall not take into 14822
account when payments can be made. 14823

(b) Any payment that is actually made to or for the benefit 14824
of the applicant or recipient from either the corpus or income 14825
shall be considered unearned income. 14826

(c) If a payment is made to someone other than to the 14827
applicant or recipient and the payment is not for the benefit of 14828
the applicant or recipient, the payment shall be considered an 14829

improper disposition of assets and shall be subject to section 14830
5111.0116 of the Revised Code and rules to implement that section 14831
adopted under section 5111.011 of the Revised Code. 14832

(d) The date of the disposition shall be the later of the 14833
date of establishment of the trust or the date of the occurrence 14834
of the event. 14835

(e) When determining the value of the disposed asset under 14836
this provision, the value of the trust shall be its value on the 14837
date payment to the applicant or recipient was foreclosed. 14838

(f) Any income earned or other resources added subsequent to 14839
the foreclosure date shall be added to the total value of the 14840
trust. 14841

(g) Any payments to or for the benefit of the applicant or 14842
recipient after the foreclosure date but prior to the application 14843
date shall be subtracted from the total value. Any other payments 14844
shall not be subtracted from the value. 14845

(h) Any addition of assets after the foreclosure date shall 14846
be considered a separate disposition. 14847

(4) If a trust is funded with assets of another person or 14848
persons in addition to assets of the applicant or recipient, the 14849
applicable provisions of this section and rules adopted by the 14850
department of job and family services governing trusts shall apply 14851
only to the portion of the trust attributable to the applicant or 14852
recipient. 14853

(5) The availability of a self-settled trust shall be 14854
considered without regard to any of the following: 14855

(a) The purpose for which the trust is established; 14856

(b) Whether the trustees have exercised or may exercise 14857
discretion under the trust; 14858

(c) Any restrictions on when or whether distributions may be 14859

made from the trust; 14860

(d) Any restrictions on the use of distributions from the 14861
trust. 14862

(6) The baseline date for the look-back period for 14863
dispositions of assets involving a self-settled trust shall be the 14864
date on which the applicant or recipient is both institutionalized 14865
and first applies for medicaid. 14866

(F) The principal or income from any of the following shall 14867
be exempt from being counted as a resource by a county department 14868
of job and family services: 14869

(1)(a) A special needs trust that meets all of the following 14870
requirements: 14871

(i) The trust contains assets of an applicant or recipient 14872
under sixty-five years of age and may contain the assets of other 14873
individuals. 14874

(ii) The applicant or recipient is disabled as defined in 14875
rules adopted by the department of job and family services. 14876

(iii) The trust is established for the benefit of the 14877
applicant or recipient by a parent, grandparent, legal guardian, 14878
or a court. 14879

(iv) The trust requires that on the death of the applicant or 14880
recipient the state will receive all amounts remaining in the 14881
trust up to an amount equal to the total amount of medicaid paid 14882
on behalf of the applicant or recipient. 14883

(b) If a special needs trust meets the requirements of 14884
division (F)(1)(a) of this section and has been established for a 14885
disabled applicant or recipient under sixty-five years of age, the 14886
exemption for the trust granted pursuant to division (F) of this 14887
section shall continue after the disabled applicant or recipient 14888
becomes sixty-five years of age if the applicant or recipient 14889

continues to be disabled as defined in rules adopted by the 14890
department of job and family services. Except for income earned by 14891
the trust, the grantor shall not add to or otherwise augment the 14892
trust after the applicant or recipient attains sixty-five years of 14893
age. An addition or augmentation of the trust by the applicant or 14894
recipient with the applicant's own assets after the applicant or 14895
recipient attains sixty-five years of age shall be treated as an 14896
improper disposition of assets. 14897

(c) Cash distributions to the applicant or recipient shall be 14898
counted as unearned income. All other distributions from the trust 14899
shall be treated as provided in rules adopted by the department of 14900
job and family services governing in-kind income. 14901

(d) Transfers of assets to a special needs trust shall not be 14902
treated as an improper transfer of resources. Assets held prior to 14903
the transfer to the trust shall be considered as countable assets 14904
or countable income or countable assets and income. 14905

(2)(a) A qualifying income trust that meets all of the 14906
following requirements: 14907

(i) The trust is composed only of pension, social security, 14908
and other income to the applicant or recipient, including 14909
accumulated interest in the trust. 14910

(ii) The income is received by the individual and the right 14911
to receive the income is not assigned or transferred to the trust. 14912

(iii) The trust requires that on the death of the applicant 14913
or recipient the state will receive all amounts remaining in the 14914
trust up to an amount equal to the total amount of medicaid paid 14915
on behalf of the applicant or recipient. 14916

(b) No resources shall be used to establish or augment the 14917
trust. 14918

(c) If an applicant or recipient has irrevocably transferred 14919

or assigned the applicant's or recipient's right to receive income 14920
to the trust, the trust shall not be considered a qualifying 14921
income trust by the county department of job and family services. 14922

(d) Income placed in a qualifying income trust shall not be 14923
counted in determining an applicant's or recipient's eligibility 14924
for medicaid. The recipient of the funds may place any income 14925
directly into a qualifying income trust without those funds 14926
adversely affecting the applicant's or recipient's eligibility for 14927
medicaid. Income generated by the trust that remains in the trust 14928
shall not be considered as income to the applicant or recipient. 14929

(e) All income placed in a qualifying income trust shall be 14930
combined with any countable income not placed in the trust to 14931
arrive at a base income figure to be used for spend down 14932
calculations. 14933

(f) The base income figure shall be used for post-eligibility 14934
deductions, including personal needs allowance, monthly income 14935
allowance, family allowance, and medical expenses not subject to 14936
third party payment. Any income remaining shall be used toward 14937
payment of patient liability. Payments made from a qualifying 14938
income trust shall not be combined with the base income figure for 14939
post-eligibility calculations. 14940

(g) The base income figure shall be used when determining the 14941
spend down budget for the applicant or recipient. Any income 14942
remaining after allowable deductions are permitted as provided 14943
under rules adopted by the department of job and family services 14944
shall be considered the applicant's or recipient's spend down 14945
liability. 14946

(3)(a) A pooled trust that meets all of the following 14947
requirements: 14948

(i) The trust contains the assets of the applicant or 14949
recipient of any age who is disabled as defined in rules adopted 14950

by the department of job and family services. 14951

(ii) The trust is established and managed by a nonprofit 14952
association. 14953

(iii) A separate account is maintained for each beneficiary 14954
of the trust but, for purposes of investment and management of 14955
funds, the trust pools the funds in these accounts. 14956

(iv) Accounts in the trust are established by the applicant 14957
or recipient, the applicant's or recipient's parent, grandparent, 14958
or legal guardian, or a court solely for the benefit of 14959
individuals who are disabled. 14960

(v) The trust requires that, to the extent that any amounts 14961
remaining in the beneficiary's account on the death of the 14962
beneficiary are not retained by the trust, the trust pay to the 14963
state the amounts remaining in the trust up to an amount equal to 14964
the total amount of medicaid paid on behalf of the beneficiary. 14965

(b) Cash distributions to the applicant or recipient shall be 14966
counted as unearned income. All other distributions from the trust 14967
shall be treated as provided in rules adopted by the department of 14968
job and family services governing in-kind income. 14969

(c) Transfers of assets to a pooled trust shall not be 14970
treated as an improper disposition of assets. Assets held prior to 14971
the transfer to the trust shall be considered as countable assets, 14972
countable income, or countable assets and income. 14973

(4) A supplemental services trust that meets the requirements 14974
of section 5815.28 of the Revised Code and to which all of the 14975
following apply: 14976

(a) A person may establish a supplemental services trust 14977
pursuant to section 5815.28 of the Revised Code only for another 14978
person who is eligible to receive services through one of the 14979
following agencies: 14980

(i) The department of mental retardation and developmental	14981
disabilities;	14982
(ii) A county board of mental retardation and developmental	14983
disabilities;	14984
(iii) The department of mental health;	14985
(iv) A board of alcohol, drug addiction, and mental health	14986
services.	14987
(b) A county department of job and family services shall not	14988
determine eligibility for another agency's program. An applicant	14989
or recipient shall do one of the following:	14990
(i) Provide documentation from one of the agencies listed in	14991
division (F)(4)(a) of this section that establishes that the	14992
applicant or recipient was determined to be eligible for services	14993
from the agency at the time of the creation of the trust;	14994
(ii) Provide an order from a court of competent jurisdiction	14995
that states that the applicant or recipient was eligible for	14996
services from one of the agencies listed in division (F)(4)(a) of	14997
this section at the time of the creation of the trust.	14998
(c) At the time the trust is created, the trust principal	14999
does not exceed the maximum amount permitted. The maximum amount	15000
permitted in calendar year 2006 is two hundred twenty-two thousand	15001
dollars. Each year thereafter, the maximum amount permitted is the	15002
prior year's amount plus two thousand dollars.	15003
(d) A county department of job and family services shall	15004
review the trust to determine whether it complies with the	15005
provisions of section 5815.28 of the Revised Code.	15006
(e) Payments from supplemental services trusts shall be	15007
exempt as long as the payments are for supplemental services as	15008
defined in rules adopted by the department of job and family	15009
services. All supplemental services shall be purchased by the	15010

trustee and shall not be purchased through direct cash payments to 15011
the beneficiary. 15012

(f) If a trust is represented as a supplemental services 15013
trust and a county department of job and family services 15014
determines that the trust does not meet the requirements provided 15015
in division (F)(4) of this section and section 5815.28 of the 15016
Revised Code, the county department of job and family services 15017
shall not consider it an exempt trust. 15018

(G)(1) A trust or legal instrument or device similar to a 15019
trust shall be considered a trust established by an individual for 15020
the benefit of the applicant or recipient if all of the following 15021
apply: 15022

(a) The trust is created by a person other than the applicant 15023
or recipient. 15024

(b) The trust names the applicant or recipient as a 15025
beneficiary. 15026

(c) The trust is funded with assets or property in which the 15027
applicant or recipient has never held an ownership interest prior 15028
to the establishment of the trust. 15029

(2) Any portion of a trust that meets the requirements of 15030
division (G)(1) of this section shall be an available resource 15031
only if the trust permits the trustee to expend principal, corpus, 15032
or assets of the trust for the applicant's or recipient's medical 15033
care, care, comfort, maintenance, health, welfare, general well 15034
being, or any combination of these purposes. 15035

(3) A trust that meets the requirements of division (G)(1) of 15036
this section shall be considered an available resource even if the 15037
trust contains any of the following types of provisions: 15038

(a) A provision that prohibits the trustee from making 15039
payments that would supplant or replace medicaid or other public 15040

assistance; 15041

(b) A provision that prohibits the trustee from making 15042
payments that would impact or have an effect on the applicant's or 15043
recipient's right, ability, or opportunity to receive medicaid or 15044
other public assistance; 15045

(c) A provision that attempts to prevent the trust or its 15046
corpus or principal from being counted as an available resource. 15047

(4) A trust that meets the requirements of division (G)(1) of 15048
this section shall not be counted as an available resource if at 15049
least one of the following circumstances applies: 15050

(a) If a trust contains a clear statement requiring the 15051
trustee to preserve a portion of the trust for another beneficiary 15052
or remainderman, that portion of the trust shall not be counted as 15053
an available resource. Terms of a trust that grant discretion to 15054
preserve a portion of the trust shall not qualify as a clear 15055
statement requiring the trustee to preserve a portion of the 15056
trust. 15057

(b) If a trust contains a clear statement requiring the 15058
trustee to use a portion of the trust for a purpose other than 15059
medical care, care, comfort, maintenance, welfare, or general well 15060
being of the applicant or recipient, that portion of the trust 15061
shall not be counted as an available resource. Terms of a trust 15062
that grant discretion to limit the use of a portion of the trust 15063
shall not qualify as a clear statement requiring the trustee to 15064
use a portion of the trust for a particular purpose. 15065

(c) If a trust contains a clear statement limiting the 15066
trustee to making fixed periodic payments, the trust shall not be 15067
counted as an available resource and payments shall be treated in 15068
accordance with rules adopted by the department of job and family 15069
services governing income. Terms of a trust that grant discretion 15070
to limit payments shall not qualify as a clear statement requiring 15071

the trustee to make fixed periodic payments. 15072

(d) If a trust contains a clear statement that requires the 15073
trustee to terminate the trust if it is counted as an available 15074
resource, the trust shall not be counted as an available resource. 15075
Terms of a trust that grant discretion to terminate the trust do 15076
not qualify as a clear statement requiring the trustee to 15077
terminate the trust. 15078

(e) If a person obtains a judgment from a court of competent 15079
jurisdiction that expressly prevents the trustee from using part 15080
or all of the trust for the medical care, care, comfort, 15081
maintenance, welfare, or general well being of the applicant or 15082
recipient, the trust or that portion of the trust subject to the 15083
court order shall not be counted as a resource. 15084

(f) If a trust is specifically exempt from being counted as 15085
an available resource by a provision of the Revised Code, rules, 15086
or federal law, the trust shall not be counted as a resource. 15087

(g) If an applicant or recipient presents a final judgment 15088
from a court demonstrating that the applicant or recipient was 15089
unsuccessful in a civil action against the trustee to compel 15090
payments from the trust, the trust shall not be counted as an 15091
available resource. 15092

(h) If an applicant or recipient presents a final judgment 15093
from a court demonstrating that in a civil action against the 15094
trustee the applicant or recipient was only able to compel limited 15095
or periodic payments, the trust shall not be counted as an 15096
available resource and payments shall be treated in accordance 15097
with rules adopted by the department of job and family services 15098
governing income. 15099

(i) If an applicant or recipient provides written 15100
documentation showing that the cost of a civil action brought to 15101
compel payments from the trust would be cost prohibitive, the 15102

trust shall not be counted as an available resource. 15103

(5) Any actual payments to the applicant or recipient from a 15104
trust that meet the requirements of division (G)(1) of this 15105
section, including trusts that are not counted as an available 15106
resource, shall be treated as provided in rules adopted by the 15107
department of job and family services governing income. Payments 15108
to any person other than the applicant or recipient shall not be 15109
considered income to the applicant or recipient. Payments from the 15110
trust to a person other than the applicant or recipient shall not 15111
be considered an improper disposition of assets. 15112

Sec. 5111.202. (A) As used in this section: 15113

(1) "Dementia" includes Alzheimer's disease or a related 15114
disorder. 15115

(2) "Serious mental illness" means "serious mental illness," 15116
as defined by the United States department of health and human 15117
services in regulations adopted under section 1919(e)(7)(G)(i) of 15118
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 15119
as amended. 15120

(3) "Mentally ill individual" means an individual who has a 15121
serious mental illness other than either of the following: 15122

(a) A primary diagnosis of dementia; 15123

(b) A primary diagnosis that is not a primary diagnosis of 15124
dementia and a primary diagnosis of something other than a serious 15125
mental illness. 15126

(4) "Mentally retarded individual" means an individual who is 15127
mentally retarded or has a related condition, as described in 15128
section 1905(d) of the "Social Security Act." 15129

(5) "Specialized services" means the services specified by 15130
the United States department of health and human services in 15131
regulations adopted under section 1919(e)(7)(G)(iii) of the 15132

"Social Security Act." 15133

(B)(1) Except as provided in division (D) of this section, no 15134
nursing facility shall admit as a resident any mentally ill 15135
individual unless the facility has received evidence that the 15136
department of mental health has determined both of the following 15137
under section 5119.061 of the Revised Code: 15138

(a) That the individual requires the level of services 15139
provided by a nursing facility because of the individual's 15140
physical and mental condition; 15141

(b) Whether the individual requires specialized services for 15142
mental illness. 15143

(2) Except as provided in division (D) of this section, no 15144
nursing facility shall admit as a resident any mentally retarded 15145
individual unless the facility has received evidence that the 15146
department of ~~mental retardation and~~ developmental disabilities 15147
has determined both of the following under section 5123.021 of the 15148
Revised Code: 15149

(a) That the individual requires the level of services 15150
provided by a nursing facility because of the individual's 15151
physical and mental condition; 15152

(b) Whether the individual requires specialized services for 15153
mental retardation. 15154

(C) The department of job and family services shall not make 15155
payments under the medical assistance program to a nursing 15156
facility on behalf of any individual who is admitted to the 15157
facility in violation of division (B) of this section for the 15158
period beginning on the date of admission and ending on the date 15159
the requirements of division (B) of this section are met. 15160

(D) A determination under division (B) of this section is not 15161
required for any individual who is exempted from the requirement 15162

that a determination be made by division (B)(2) of section 15163
5119.061 of the Revised Code or rules adopted by the department of 15164
mental health under division (E)(3) of that section, or by 15165
division (B)(2) of section 5123.021 of the Revised Code or rules 15166
adopted by the department of ~~mental retardation and~~ developmental 15167
disabilities under division (E)(3) of that section. 15168

Sec. 5111.203. Regardless of whether or not an applicant for 15169
admission to a nursing facility or resident of a nursing facility 15170
is an applicant for or recipient of medical assistance, the 15171
department of job and family services shall provide notice and an 15172
opportunity for a hearing to any applicant for admission to a 15173
nursing facility or resident of a nursing facility who is 15174
adversely affected by a determination made by the department of 15175
mental health under section 5119.061 of the Revised Code or by the 15176
department of ~~mental retardation and~~ developmental disabilities 15177
under section 5123.021 of the Revised Code. The hearing shall be 15178
conducted in the same manner as hearings conducted under section 15179
5101.35 of the Revised Code. Any decision made by the department 15180
of job and family services on the basis of the hearing is binding 15181
on the department of mental health and the department of ~~mental~~ 15182
~~retardation and~~ developmental disabilities. 15183

Sec. 5111.211. (A) The department of ~~mental retardation and~~ 15184
developmental disabilities is responsible for the nonfederal share 15185
of claims submitted for services that are covered by the medicaid 15186
program and provided to an eligible medicaid recipient by an 15187
intermediate care facility for the mentally retarded if all of the 15188
following are the case: 15189

(1) The services are provided on or after July 1, 2003; 15190

(2) The facility receives initial certification by the 15191
director of health as an intermediate care facility for the 15192

mentally retarded on or after June 1, 2003; 15193

(3) The facility, or a portion of the facility, is licensed 15194
by the director of ~~mental-retardation-and~~ developmental 15195
disabilities as a residential facility under section 5123.19 of 15196
the Revised Code; 15197

(4) There is a valid provider agreement for the facility. 15198

(B) Each month, the department of job and family services 15199
shall invoice the department of ~~mental-retardation-and~~ 15200
developmental disabilities by interagency transfer voucher for the 15201
claims for which the department of ~~mental-retardation-and~~ 15202
developmental disabilities is responsible pursuant to this 15203
section. 15204

Sec. 5111.251. (A) The department of job and family services 15205
shall pay a provider for each of the provider's eligible 15206
intermediate care facilities for the mentally retarded for its 15207
reasonable capital costs, a per resident per day rate established 15208
prospectively each fiscal year for each intermediate care facility 15209
for the mentally retarded. Except as otherwise provided in 15210
sections 5111.20 to 5111.33 of the Revised Code, the rate shall be 15211
based on the facility's capital costs for the calendar year 15212
preceding the fiscal year in which the rate will be paid. The rate 15213
shall equal the sum of the following: 15214

(1) The facility's desk-reviewed, actual, allowable, per diem 15215
cost of ownership for the preceding cost reporting period, limited 15216
as provided in divisions (C) and (F) of this section; 15217

(2) Any efficiency incentive determined under division (B) of 15218
this section; 15219

(3) Any amounts for renovations determined under division (D) 15220
of this section; 15221

(4) Any amounts for return on equity determined under 15222

division (I) of this section. 15223

Buildings shall be depreciated using the straight line method 15224
over forty years or over a different period approved by the 15225
department. Components and equipment shall be depreciated using 15226
the straight line method over a period designated by the director 15227
of job and family services in rules adopted under section 5111.02 15228
of the Revised Code, consistent with the guidelines of the 15229
American hospital association, or over a different period approved 15230
by the department of job and family services. Any rules authorized 15231
by this division that specify useful lives of buildings, 15232
components, or equipment apply only to assets acquired on or after 15233
July 1, 1993. Depreciation for costs paid or reimbursed by any 15234
government agency shall not be included in costs of ownership or 15235
renovation unless that part of the payment under sections 5111.20 15236
to 5111.33 of the Revised Code is used to reimburse the government 15237
agency. 15238

(B) The department of job and family services shall pay to a 15239
provider for each of the provider's eligible intermediate care 15240
facilities for the mentally retarded an efficiency incentive equal 15241
to fifty per cent of the difference between any desk-reviewed, 15242
actual, allowable cost of ownership and the applicable limit on 15243
cost of ownership payments under division (C) of this section. For 15244
purposes of computing the efficiency incentive, depreciation for 15245
costs paid or reimbursed by any government agency shall be 15246
considered as a cost of ownership, and the applicable limit under 15247
division (C) of this section shall apply both to facilities with 15248
more than eight beds and facilities with eight or fewer beds. The 15249
efficiency incentive paid to a provider for a facility with eight 15250
or fewer beds shall not exceed three dollars per patient day, 15251
adjusted annually for the inflation rate for the twelve-month 15252
period beginning on the first day of July of the calendar year 15253
preceding the calendar year that precedes the fiscal year for 15254

which the efficiency incentive is determined and ending on the 15255
thirtieth day of the following June, using the consumer price 15256
index for shelter costs for all urban consumers for the north 15257
central region, as published by the United States bureau of labor 15258
statistics. 15259

(C) Cost of ownership payments for intermediate care 15260
facilities for the mentally retarded with more than eight beds 15261
shall not exceed the following limits: 15262

(1) For facilities with dates of licensure prior to January 15263
1, 1958, not exceeding two dollars and fifty cents per patient 15264
day; 15265

(2) For facilities with dates of licensure after December 31, 15266
1957, but prior to January 1, 1968, not exceeding: 15267

(a) Three dollars and fifty cents per patient day if the cost 15268
of construction was three thousand five hundred dollars or more 15269
per bed; 15270

(b) Two dollars and fifty cents per patient day if the cost 15271
of construction was less than three thousand five hundred dollars 15272
per bed. 15273

(3) For facilities with dates of licensure after December 31, 15274
1967, but prior to January 1, 1976, not exceeding: 15275

(a) Four dollars and fifty cents per patient day if the cost 15276
of construction was five thousand one hundred fifty dollars or 15277
more per bed; 15278

(b) Three dollars and fifty cents per patient day if the cost 15279
of construction was less than five thousand one hundred fifty 15280
dollars per bed, but exceeds three thousand five hundred dollars 15281
per bed; 15282

(c) Two dollars and fifty cents per patient day if the cost 15283
of construction was three thousand five hundred dollars or less 15284

per bed.	15285
(4) For facilities with dates of licensure after December 31,	15286
1975, but prior to January 1, 1979, not exceeding:	15287
(a) Five dollars and fifty cents per patient day if the cost	15288
of construction was six thousand eight hundred dollars or more per	15289
bed;	15290
(b) Four dollars and fifty cents per patient day if the cost	15291
of construction was less than six thousand eight hundred dollars	15292
per bed but exceeds five thousand one hundred fifty dollars per	15293
bed;	15294
(c) Three dollars and fifty cents per patient day if the cost	15295
of construction was five thousand one hundred fifty dollars or	15296
less per bed, but exceeds three thousand five hundred dollars per	15297
bed;	15298
(d) Two dollars and fifty cents per patient day if the cost	15299
of construction was three thousand five hundred dollars or less	15300
per bed.	15301
(5) For facilities with dates of licensure after December 31,	15302
1978, but prior to January 1, 1980, not exceeding:	15303
(a) Six dollars per patient day if the cost of construction	15304
was seven thousand six hundred twenty-five dollars or more per	15305
bed;	15306
(b) Five dollars and fifty cents per patient day if the cost	15307
of construction was less than seven thousand six hundred	15308
twenty-five dollars per bed but exceeds six thousand eight hundred	15309
dollars per bed;	15310
(c) Four dollars and fifty cents per patient day if the cost	15311
of construction was six thousand eight hundred dollars or less per	15312
bed but exceeds five thousand one hundred fifty dollars per bed;	15313
(d) Three dollars and fifty cents per patient day if the cost	15314

of construction was five thousand one hundred fifty dollars or 15315
less but exceeds three thousand five hundred dollars per bed; 15316

(e) Two dollars and fifty cents per patient day if the cost 15317
of construction was three thousand five hundred dollars or less 15318
per bed. 15319

(6) For facilities with dates of licensure after December 31, 15320
1979, but prior to January 1, 1981, not exceeding: 15321

(a) Twelve dollars per patient day if the beds were 15322
originally licensed as residential facility beds by the department 15323
of ~~mental retardation and~~ developmental disabilities; 15324

(b) Six dollars per patient day if the beds were originally 15325
licensed as nursing home beds by the department of health. 15326

(7) For facilities with dates of licensure after December 31, 15327
1980, but prior to January 1, 1982, not exceeding: 15328

(a) Twelve dollars per patient day if the beds were 15329
originally licensed as residential facility beds by the department 15330
of ~~mental retardation and~~ developmental disabilities; 15331

(b) Six dollars and forty-five cents per patient day if the 15332
beds were originally licensed as nursing home beds by the 15333
department of health. 15334

(8) For facilities with dates of licensure after December 31, 15335
1981, but prior to January 1, 1983, not exceeding: 15336

(a) Twelve dollars per patient day if the beds were 15337
originally licensed as residential facility beds by the department 15338
of ~~mental retardation and~~ developmental disabilities; 15339

(b) Six dollars and seventy-nine cents per patient day if the 15340
beds were originally licensed as nursing home beds by the 15341
department of health. 15342

(9) For facilities with dates of licensure after December 31, 15343
1982, but prior to January 1, 1984, not exceeding: 15344

(a) Twelve dollars per patient day if the beds were 15345
originally licensed as residential facility beds by the department 15346
of ~~mental retardation and~~ developmental disabilities; 15347

(b) Seven dollars and nine cents per patient day if the beds 15348
were originally licensed as nursing home beds by the department of 15349
health. 15350

(10) For facilities with dates of licensure after December 15351
31, 1983, but prior to January 1, 1985, not exceeding: 15352

(a) Twelve dollars and twenty-four cents per patient day if 15353
the beds were originally licensed as residential facility beds by 15354
the department of ~~mental retardation and~~ developmental 15355
disabilities; 15356

(b) Seven dollars and twenty-three cents per patient day if 15357
the beds were originally licensed as nursing home beds by the 15358
department of health. 15359

(11) For facilities with dates of licensure after December 15360
31, 1984, but prior to January 1, 1986, not exceeding: 15361

(a) Twelve dollars and fifty-three cents per patient day if 15362
the beds were originally licensed as residential facility beds by 15363
the department of ~~mental retardation and~~ developmental 15364
disabilities; 15365

(b) Seven dollars and forty cents per patient day if the beds 15366
were originally licensed as nursing home beds by the department of 15367
health. 15368

(12) For facilities with dates of licensure after December 15369
31, 1985, but prior to January 1, 1987, not exceeding: 15370

(a) Twelve dollars and seventy cents per patient day if the 15371
beds were originally licensed as residential facility beds by the 15372
department of ~~mental retardation and~~ developmental disabilities; 15373

(b) Seven dollars and fifty cents per patient day if the beds 15374

were originally licensed as nursing home beds by the department of health. 15375
15376

(13) For facilities with dates of licensure after December 15377
31, 1986, but prior to January 1, 1988, not exceeding: 15378

(a) Twelve dollars and ninety-nine cents per patient day if 15379
the beds were originally licensed as residential facility beds by 15380
the department of ~~mental-retardation and~~ developmental 15381
disabilities; 15382

(b) Seven dollars and sixty-seven cents per patient day if 15383
the beds were originally licensed as nursing home beds by the 15384
department of health. 15385

(14) For facilities with dates of licensure after December 15386
31, 1987, but prior to January 1, 1989, not exceeding thirteen 15387
dollars and twenty-six cents per patient day; 15388

(15) For facilities with dates of licensure after December 15389
31, 1988, but prior to January 1, 1990, not exceeding thirteen 15390
dollars and forty-six cents per patient day; 15391

(16) For facilities with dates of licensure after December 15392
31, 1989, but prior to January 1, 1991, not exceeding thirteen 15393
dollars and sixty cents per patient day; 15394

(17) For facilities with dates of licensure after December 15395
31, 1990, but prior to January 1, 1992, not exceeding thirteen 15396
dollars and forty-nine cents per patient day; 15397

(18) For facilities with dates of licensure after December 15398
31, 1991, but prior to January 1, 1993, not exceeding thirteen 15399
dollars and sixty-seven cents per patient day; 15400

(19) For facilities with dates of licensure after December 15401
31, 1992, not exceeding fourteen dollars and twenty-eight cents 15402
per patient day. 15403

(D) Beginning January 1, 1981, regardless of the original 15404

date of licensure, the department of job and family services shall 15405
pay a rate for the per diem capitalized costs of renovations to 15406
intermediate care facilities for the mentally retarded made after 15407
January 1, 1981, not exceeding six dollars per patient day using 15408
1980 as the base year and adjusting the amount annually until June 15409
30, 1993, for fluctuations in construction costs calculated by the 15410
department using the "Dodge building cost indexes, northeastern 15411
and north central states," published by Marshall and Swift. The 15412
payment provided for in this division is the only payment that 15413
shall be made for the capitalized costs of a nonextensive 15414
renovation of an intermediate care facility for the mentally 15415
retarded. Nonextensive renovation costs shall not be included in 15416
cost of ownership, and a nonextensive renovation shall not affect 15417
the date of licensure for purposes of division (C) of this 15418
section. This division applies to nonextensive renovations 15419
regardless of whether they are made by an owner or a lessee. If 15420
the tenancy of a lessee that has made renovations ends before the 15421
depreciation expense for the renovation costs has been fully 15422
reported, the former lessee shall not report the undepreciated 15423
balance as an expense. 15424

For a nonextensive renovation to qualify for payment under 15425
this division, both of the following conditions must be met: 15426

(1) At least five years have elapsed since the date of 15427
licensure or date of an extensive renovation of the portion of the 15428
facility that is proposed to be renovated, except that this 15429
condition does not apply if the renovation is necessary to meet 15430
the requirements of federal, state, or local statutes, ordinances, 15431
rules, or policies. 15432

(2) The provider has obtained prior approval from the 15433
department of job and family services. The provider shall submit a 15434
plan that describes in detail the changes in capital assets to be 15435
accomplished by means of the renovation and the timetable for 15436

completing the project. The time for completion of the project 15437
shall be no more than eighteen months after the renovation begins. 15438
The director of job and family services shall adopt rules under 15439
section 5111.02 of the Revised Code that specify criteria and 15440
procedures for prior approval of renovation projects. No provider 15441
shall separate a project with the intent to evade the 15442
characterization of the project as a renovation or as an extensive 15443
renovation. No provider shall increase the scope of a project 15444
after it is approved by the department of job and family services 15445
unless the increase in scope is approved by the department. 15446

(E) The amounts specified in divisions (C) and (D) of this 15447
section shall be adjusted beginning July 1, 1993, for the 15448
estimated inflation for the twelve-month period beginning on the 15449
first day of July of the calendar year preceding the calendar year 15450
that precedes the fiscal year for which rate will be paid and 15451
ending on the thirtieth day of the following June, using the 15452
consumer price index for shelter costs for all urban consumers for 15453
the north central region, as published by the United States bureau 15454
of labor statistics. 15455

(F)(1) For facilities of eight or fewer beds that have dates 15456
of licensure or have been granted project authorization by the 15457
department of ~~mental retardation and~~ developmental disabilities 15458
before July 1, 1993, and for facilities of eight or fewer beds 15459
that have dates of licensure or have been granted project 15460
authorization after that date if the providers of the facilities 15461
demonstrate that they made substantial commitments of funds on or 15462
before that date, cost of ownership shall not exceed eighteen 15463
dollars and thirty cents per resident per day. The eighteen-dollar 15464
and thirty-cent amount shall be increased by the change in the 15465
"Dodge building cost indexes, northeastern and north central 15466
states," published by Marshall and Swift, during the period 15467
beginning June 30, 1990, and ending July 1, 1993, and by the 15468

change in the consumer price index for shelter costs for all urban 15469
consumers for the north central region, as published by the United 15470
States bureau of labor statistics, annually thereafter. 15471

(2) For facilities with eight or fewer beds that have dates 15472
of licensure or have been granted project authorization by the 15473
department of ~~mental retardation and~~ developmental disabilities on 15474
or after July 1, 1993, for which substantial commitments of funds 15475
were not made before that date, cost of ownership payments shall 15476
not exceed the applicable amount calculated under division (F)(1) 15477
of this section, if the department of job and family services 15478
gives prior approval for construction of the facility. If the 15479
department does not give prior approval, cost of ownership 15480
payments shall not exceed the amount specified in division (C) of 15481
this section. 15482

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 15483
section, the total payment for cost of ownership, cost of 15484
ownership efficiency incentive, and capitalized costs of 15485
renovations for an intermediate care facility for the mentally 15486
retarded with eight or fewer beds shall not exceed the sum of the 15487
limitations specified in divisions (C) and (D) of this section. 15488

(G) Notwithstanding any provision of this section or section 15489
5111.241 of the Revised Code, the director of job and family 15490
services may adopt rules under section 5111.02 of the Revised Code 15491
that provide for a calculation of a combined maximum payment limit 15492
for indirect care costs and cost of ownership for intermediate 15493
care facilities for the mentally retarded with eight or fewer 15494
beds. 15495

(H) After the date on which a transaction of sale is closed, 15496
the provider shall refund to the department the amount of excess 15497
depreciation paid to the provider for the facility by the 15498
department for each year the provider has operated the facility 15499
under a provider agreement and prorated according to the number of 15500

medicaid patient days for which the provider has received payment 15501
for the facility. For the purposes of this division, "depreciation 15502
paid to the provider for the facility" means the amount paid to 15503
the provider for the intermediate care facility for the mentally 15504
retarded for cost of ownership pursuant to this section less any 15505
amount paid for interest costs. For the purposes of this division, 15506
"excess depreciation" is the intermediate care facility for the 15507
mentally retarded's depreciated basis, which is the provider's 15508
cost less accumulated depreciation, subtracted from the purchase 15509
price but not exceeding the amount of depreciation paid to the 15510
provider for the facility. 15511

(I) The department of job and family services shall pay a 15512
provider for each of the provider's eligible proprietary 15513
intermediate care facilities for the mentally retarded a return on 15514
the facility's net equity computed at the rate of one and one-half 15515
times the average of interest rates on special issues of public 15516
debt obligations issued to the federal hospital insurance trust 15517
fund for the cost reporting period. No facility's return on net 15518
equity paid under this division shall exceed one dollar per 15519
patient day. 15520

In calculating the rate for return on net equity, the 15521
department shall use the greater of the facility's inpatient days 15522
during the applicable cost reporting period or the number of 15523
inpatient days the facility would have had during that period if 15524
its occupancy rate had been ninety-five per cent. 15525

(J)(1) Except as provided in division (J)(2) of this section, 15526
if a provider leases or transfers an interest in a facility to 15527
another provider who is a related party, the related party's 15528
allowable cost of ownership shall include the lesser of the 15529
following: 15530

(a) The annual lease expense or actual cost of ownership, 15531
whichever is applicable; 15532

(b) The reasonable cost to the lessor or provider making the transfer. 15533
15534

(2) If a provider leases or transfers an interest in a facility to another provider who is a related party, regardless of the date of the lease or transfer, the related party's allowable cost of ownership shall include the annual lease expense or actual cost of ownership, whichever is applicable, subject to the limitations specified in divisions (B) to (I) of this section, if all of the following conditions are met: 15535
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(a) The related party is a relative of owner; 15542

(b) In the case of a lease, if the lessor retains any ownership interest, it is, except as provided in division (J)(2)(d)(ii) of this section, in only the real property and any improvements on the real property; 15543
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(c) In the case of a transfer, the provider making the transfer retains, except as provided in division (J)(2)(d)(iv) of this section, no ownership interest in the facility; 15547
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(d) The department of job and family services determines that the lease or transfer is an arm's length transaction pursuant to rules adopted under section 5111.02 of the Revised Code. The rules shall provide that a lease or transfer is an arm's length transaction if all of the following, as applicable, apply: 15550
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(i) In the case of a lease, once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (J)(2)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor. 15555
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(ii) In the case of a lease, the lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an 15561
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interest in the facility in this manner, the department shall 15564
treat the facility as if the lease never occurred when the 15565
department calculates its reimbursement rates for capital costs. 15566

(iii) In the case of a transfer, once the transfer goes into 15567
effect, the provider that made the transfer has no direct or 15568
indirect interest in the provider that acquires the facility or 15569
the facility itself, including interest as an owner, officer, 15570
director, employee, independent contractor, or consultant, but 15571
excluding interest as a creditor. 15572

(iv) In the case of a transfer, the provider that made the 15573
transfer does not reacquire an interest in the facility except 15574
through the exercise of a creditor's rights in the event of a 15575
default. If the provider reacquires an interest in the facility in 15576
this manner, the department shall treat the facility as if the 15577
transfer never occurred when the department calculates its 15578
reimbursement rates for capital costs. 15579

(v) The lease or transfer satisfies any other criteria 15580
specified in the rules. 15581

(e) Except in the case of hardship caused by a catastrophic 15582
event, as determined by the department, or in the case of a lessor 15583
or provider making the transfer who is at least sixty-five years 15584
of age, not less than twenty years have elapsed since, for the 15585
same facility, allowable cost of ownership was determined most 15586
recently under this division. 15587

Sec. 5111.291. Notwithstanding sections 5111.20 to 5111.33 of 15588
the Revised Code, the department of job and family services may 15589
compute the rate for intermediate care facilities for the mentally 15590
retarded operated by the department of ~~mental retardation and~~ 15591
developmental disabilities or the department of mental health 15592
according to the reasonable cost principles of Title XVIII. 15593

Sec. 5111.65. As used in sections 5111.65 to 5111.688 of the 15594
Revised Code: 15595

(A) "Change of operator" means an entering operator becoming 15596
the operator of a nursing facility or intermediate care facility 15597
for the mentally retarded in the place of the exiting operator. 15598

(1) Actions that constitute a change of operator include the 15599
following: 15600

(a) A change in an exiting operator's form of legal 15601
organization, including the formation of a partnership or 15602
corporation from a sole proprietorship; 15603

(b) A transfer of all the exiting operator's ownership 15604
interest in the operation of the facility to the entering 15605
operator, regardless of whether ownership of any or all of the 15606
real property or personal property associated with the facility is 15607
also transferred; 15608

(c) A lease of the facility to the entering operator or the 15609
exiting operator's termination of the exiting operator's lease; 15610

(d) If the exiting operator is a partnership, dissolution of 15611
the partnership; 15612

(e) If the exiting operator is a partnership, a change in 15613
composition of the partnership unless both of the following apply: 15614

(i) The change in composition does not cause the 15615
partnership's dissolution under state law. 15616

(ii) The partners agree that the change in composition does 15617
not constitute a change in operator. 15618

(f) If the operator is a corporation, dissolution of the 15619
corporation, a merger of the corporation into another corporation 15620
that is the survivor of the merger, or a consolidation of one or 15621
more other corporations to form a new corporation. 15622

(2) The following, alone, do not constitute a change of operator: 15623
15624

(a) A contract for an entity to manage a nursing facility or intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions; 15625
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(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility or intermediate care facility for the mentally retarded if an entering operator does not become the operator in place of an exiting operator; 15629
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(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator. 15634
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(B) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded. 15638
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(C) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or intermediate care facility for the mentally retarded resides in the facility. 15641
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(D) "Effective date of a voluntary termination" means the day the intermediate care facility for the mentally retarded ceases to accept medicaid patients. 15645
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(E) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid patients other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation. 15648
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(F) "Entering operator" means the person or government entity 15653
that will become the operator of a nursing facility or 15654
intermediate care facility for the mentally retarded when a change 15655
of operator occurs. 15656

(G) "Exiting operator" means any of the following: 15657

(1) An operator that will cease to be the operator of a 15658
nursing facility or intermediate care facility for the mentally 15659
retarded on the effective date of a change of operator; 15660

(2) An operator that will cease to be the operator of a 15661
nursing facility or intermediate care facility for the mentally 15662
retarded on the effective date of a facility closure; 15663

(3) An operator of an intermediate care facility for the 15664
mentally retarded that is undergoing or has undergone a voluntary 15665
termination; 15666

(4) An operator of a nursing facility that is undergoing or 15667
has undergone a voluntary withdrawal of participation. 15668

(H)(1) "Facility closure" means discontinuance of the use of 15669
the building, or part of the building, that houses the facility as 15670
a nursing facility or intermediate care facility for the mentally 15671
retarded that results in the relocation of all of the facility's 15672
residents. A facility closure occurs regardless of any of the 15673
following: 15674

(a) The operator completely or partially replacing the 15675
facility by constructing a new facility or transferring the 15676
facility's license to another facility; 15677

(b) The facility's residents relocating to another of the 15678
operator's facilities; 15679

(c) Any action the department of health takes regarding the 15680
facility's certification under Title XIX of the "Social Security 15681
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may 15682

result in the transfer of part of the facility's survey findings 15683
to another of the operator's facilities; 15684

(d) Any action the department of health takes regarding the 15685
facility's license under Chapter 3721. of the Revised Code; 15686

(e) Any action the department of ~~mental retardation and~~ 15687
developmental disabilities takes regarding the facility's license 15688
under section 5123.19 of the Revised Code. 15689

(2) A facility closure does not occur if all of the 15690
facility's residents are relocated due to an emergency evacuation 15691
and one or more of the residents return to a medicaid-certified 15692
bed in the facility not later than thirty days after the 15693
evacuation occurs. 15694

(I) "Fiscal year," "intermediate care facility for the 15695
mentally retarded," "nursing facility," "operator," "owner," and 15696
"provider agreement" have the same meanings as in section 5111.20 15697
of the Revised Code. 15698

(J) "Voluntary termination" means an operator's voluntary 15699
election to terminate the participation of an intermediate care 15700
facility for the mentally retarded in the medicaid program but to 15701
continue to provide service of the type provided by a residential 15702
facility as defined in section 5123.19 of the Revised Code. 15703

(K) "Voluntary withdrawal of participation" means an 15704
operator's voluntary election to terminate the participation of a 15705
nursing facility in the medicaid program but to continue to 15706
provide service of the type provided by a nursing facility. 15707

Sec. 5111.677. Neither of the following shall affect the 15708
department of job and family services' determination of whether or 15709
when a change of operator occurs or the effective date of an 15710
entering operator's provider agreement under section 5111.671, 15711
section 5111.672, or, pursuant to section 5111.675, section 15712

5111.22 of the Revised Code: 15713

(A) The department of health's determination that a change of 15714
operator has or has not occurred for purposes of licensure under 15715
Chapter 3721. of the Revised Code; 15716

(B) The department of ~~mental retardation and~~ developmental 15717
disabilities' determination that a change of operator has or has 15718
not occurred for purposes of licensure under section 5123.19 of 15719
the Revised Code. 15720

Sec. 5111.709. (A) There is hereby created the medicaid 15721
buy-in advisory council. The council shall consist of all of the 15722
following: 15723

(1) The following voting members: 15724

(a) The executive director of assistive technology of Ohio or 15725
the executive director's designee; 15726

(b) The director of the axis center for public awareness of 15727
people with disabilities or the director's designee; 15728

(c) The executive director of the cerebral palsy association 15729
of Ohio or the executive director's designee; 15730

(d) The chief executive officer of Ohio advocates for mental 15731
health or the chief executive officer's designee; 15732

(e) The state director of the Ohio chapter of AARP or the 15733
state director's designee; 15734

(f) The director of the Ohio developmental disabilities 15735
council created under section 5123.35 of the Revised Code or the 15736
director's designee; 15737

(g) The executive director of the governor's council on 15738
people with disabilities created under section 3303.41 of the 15739
Revised Code or the executive director's designee; 15740

(h) The administrator of the legal rights service created	15741
under section 5123.60 of the Revised Code or the administrator's	15742
designee;	15743
(i) The chairperson of the Ohio Olmstead task force or the	15744
chairperson's designee;	15745
(j) The executive director of the Ohio statewide independent	15746
living council or the executive director's designee;	15747
(k) The president of the Ohio chapter of the national	15748
multiple sclerosis society or the president's designee;	15749
(l) The executive director of the arc of Ohio or the	15750
executive director's designee;	15751
(m) The executive director of the commission on minority	15752
health or the executive director's designee;	15753
(n) The executive director of the brain injury association of	15754
Ohio or the executive director's designee;	15755
(o) The executive officer of any other advocacy organization	15756
who volunteers to serve on the council, or such an executive	15757
officer's designee, if the other voting members, at a meeting	15758
called by the chairperson elected under division (C) of this	15759
section, determine it is appropriate for the advocacy organization	15760
to be represented on the council;	15761
(p) One or more participants who volunteer to serve on the	15762
council and are selected by the other voting members at a meeting	15763
the chairperson calls after the medicaid buy-in for workers with	15764
disabilities program is implemented.	15765
(2) The following non-voting members:	15766
(a) The director of job and family services or the director's	15767
designee;	15768
(b) The administrator of the rehabilitation services	15769
commission or the administrator's designee;	15770

(c) The director of alcohol and drug addiction services or 15771
the director's designee; 15772

(d) The director of ~~mental retardation and~~ developmental 15773
disabilities or the director's designee; 15774

(e) The director of mental health or the director's designee; 15775

(f) The executive officer of any other government entity, or 15776
the executive officer's designee, if the voting members, at a 15777
meeting called by the chairperson, determine it is appropriate for 15778
the government entity to be represented on the council. 15779

(B) All members of the medicaid buy-in advisory council shall 15780
serve without compensation or reimbursement, except as serving on 15781
the council is considered part of their usual job duties. 15782

(C) The voting members of the medicaid buy-in advisory 15783
council shall elect one of the members of the council to serve as 15784
the council's chairperson for a two-year term. The chairperson may 15785
be re-elected to successive terms. 15786

(D) The department of job and family services shall provide 15787
the Ohio medicaid buy-in advisory council with accommodations for 15788
the council to hold its meetings and shall provide the council 15789
with other administrative assistance the council needs to perform 15790
its duties. 15791

Sec. 5111.87. (A) As used in this section and section 15792
5111.871 of the Revised Code: 15793

(1) "Intermediate care facility for the mentally retarded" 15794
has the same meaning as in section 5111.20 of the Revised Code. 15795

(2) "Medicaid waiver component" has the same meaning as in 15796
section 5111.85 of the Revised Code. 15797

(B) The director of job and family services may apply to the 15798
United States secretary of health and human services for both of 15799

the following: 15800

(1) One or more medicaid waiver components under which home 15801
and community-based services are provided to individuals with 15802
mental retardation or other developmental disability as an 15803
alternative to placement in an intermediate care facility for the 15804
mentally retarded; 15805

(2) One or more medicaid waiver components under which home 15806
and community-based services are provided in the form of any of 15807
the following: 15808

(a) Early intervention and supportive services for children 15809
under three years of age who have developmental delays or 15810
disabilities the director determines are significant; 15811

(b) Therapeutic services for children who have autism; 15812

(c) Specialized habilitative services for individuals who are 15813
eighteen years of age or older and have autism. 15814

(C) No medicaid waiver component authorized by division 15815
(B)(2)(b) or (c) of this section shall provide services that are 15816
available under another medicaid waiver component. No medicaid 15817
waiver component authorized by division (B)(2)(b) of this section 15818
shall provide services to an individual that the individual is 15819
eligible to receive through an individualized education program as 15820
defined in section 3323.01 of the Revised Code. 15821

(D) The director of ~~mental retardation and~~ developmental 15822
disabilities or director of health may request that the director 15823
of job and family services apply for one or more medicaid waivers 15824
under this section. 15825

(E) Before applying for a waiver under this section, the 15826
director of job and family services shall seek, accept, and 15827
consider public comments. 15828

Sec. 5111.871. The department of job and family services 15829

shall enter into a contract with the department of ~~mental~~ 15830
~~retardation and~~ developmental disabilities under section 5111.91 15831
of the Revised Code with regard to one or more of the components 15832
of the medicaid program established by the department of job and 15833
family services under one or more of the medicaid waivers sought 15834
under section 5111.87 of the Revised Code. The contract shall 15835
provide for the department of ~~mental-retardation and~~ developmental 15836
disabilities to administer the components in accordance with the 15837
terms of the waivers. The directors of job and family services and 15838
~~mental-retardation and~~ developmental disabilities shall adopt 15839
rules in accordance with Chapter 119. of the Revised Code 15840
governing the components. 15841

If the department of ~~mental-retardation and~~ developmental 15842
disabilities or the department of job and family services denies 15843
an individual's application for home and community-based services 15844
provided under any of these medicaid components, the department 15845
that denied the services shall give timely notice to the 15846
individual that the individual may request a hearing under section 15847
5101.35 of the Revised Code. 15848

The departments of ~~mental-retardation and~~ developmental 15849
disabilities and job and family services may approve, reduce, 15850
deny, or terminate a service included in the individualized 15851
service plan developed for a medicaid recipient eligible for home 15852
and community-based services provided under any of these medicaid 15853
components. The departments shall consider the recommendations a 15854
county board of ~~mental-retardation and~~ developmental disabilities 15855
makes under division (A)(1)(c) of section 5126.055 of the Revised 15856
Code. If either department approves, reduces, denies, or 15857
terminates a service, that department shall give timely notice to 15858
the medicaid recipient that the recipient may request a hearing 15859
under section 5101.35 of the Revised Code. 15860

If supported living, as defined in section 5126.01 of the 15861

Revised Code, is to be provided as a service under any of these 15862
components, any person or government entity with a current, valid 15863
medicaid provider agreement and a current, valid certificate under 15864
section 5123.161 of the Revised Code may provide the service. 15865
15866

If a service is to be provided under any of these components 15867
by a residential facility, as defined in section 5123.19 of the 15868
Revised Code, any person or government entity with a current, 15869
valid medicaid provider agreement and a current, valid license 15870
under section 5123.19 of the Revised Code may provide the service. 15871

Sec. 5111.872. When the department of ~~mental retardation and~~ 15872
developmental disabilities allocates enrollment numbers to a 15873
county board of ~~mental retardation and~~ developmental disabilities 15874
for home and community-based services specified in division (B)(1) 15875
of section 5111.87 of the Revised Code and provided under any of 15876
the components of the medicaid program that the department 15877
administers under section 5111.871 of the Revised Code, the 15878
department shall consider all of the following: 15879

(A) The number of individuals with mental retardation or 15880
other developmental disability who are on a waiting list the 15881
county board establishes under division (C) of section 5126.042 of 15882
the Revised Code for those services and are given priority on the 15883
waiting list pursuant to division (D) or (E) of that section; 15884

(B) The implementation component required by division (A)(3) 15885
of section 5126.054 of the Revised Code of the county board's plan 15886
approved under section 5123.046 of the Revised Code; 15887

(C) Anything else the department considers necessary to 15888
enable county boards to provide those services to individuals in 15889
accordance with the priority requirements of divisions (D) and (E) 15890
of section 5126.042 of the Revised Code. 15891

Sec. 5111.873. (A) Not later than the effective date of the 15892
first of any medicaid waivers the United States secretary of 15893
health and human services grants pursuant to a request made under 15894
section 5111.87 of the Revised Code, the director of job and 15895
family services shall adopt rules in accordance with Chapter 119. 15896
of the Revised Code establishing statewide fee schedules for home 15897
and community-based services specified in division (B)(1) of 15898
section 5111.87 of the Revised Code and provided under the 15899
components of the medicaid program that the department of ~~mental~~ 15900
~~retardation and~~ developmental disabilities administers under 15901
section 5111.871 of the Revised Code. The rules shall provide for 15902
all of the following: 15903

(1) The department of ~~mental retardation and~~ developmental 15904
disabilities arranging for the initial and ongoing collection of 15905
cost information from a comprehensive, statistically valid sample 15906
of persons and government entities providing the services at the 15907
time the information is obtained; 15908

(2) The collection of consumer-specific information through 15909
an assessment instrument the department of ~~mental retardation and~~ 15910
developmental disabilities shall provide to the department of job 15911
and family services; 15912

(3) With the information collected pursuant to divisions 15913
(A)(1) and (2) of this section, an analysis of that information, 15914
and other information the director determines relevant, methods 15915
and standards for calculating the fee schedules that do all of the 15916
following: 15917

(a) Assure that the fees are consistent with efficiency, 15918
economy, and quality of care; 15919

(b) Consider the intensity of consumer resource need; 15920

(c) Recognize variations in different geographic areas 15921

regarding the resources necessary to assure the health and welfare 15922
of consumers; 15923

(d) Recognize variations in environmental supports available 15924
to consumers. 15925

(B) As part of the process of adopting rules under this 15926
section, the director shall consult with the director of ~~mental~~ 15927
~~retardation and~~ developmental disabilities, representatives of 15928
county boards of ~~mental retardation and~~ developmental 15929
disabilities, persons who provide the home and community-based 15930
services, and other persons and government entities the director 15931
identifies. 15932

(C) The directors of job and family services and ~~mental~~ 15933
~~retardation and~~ developmental disabilities shall review the rules 15934
adopted under this section at times they determine to ensure that 15935
the methods and standards established by the rules for calculating 15936
the fee schedules continue to do everything that division (A)(3) 15937
of this section requires. 15938

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 15939
of the Revised Code: 15940

"Home and community-based services" has the same meaning as 15941
in section 5123.01 of the Revised Code. 15942

"ICF/MR services" means intermediate care facility for the 15943
mentally retarded services covered by the medicaid program that an 15944
intermediate care facility for the mentally retarded provides to a 15945
resident of the facility who is a medicaid recipient eligible for 15946
medicaid-covered intermediate care facility for the mentally 15947
retarded services. 15948

"Intermediate care facility for the mentally retarded" means 15949
an intermediate care facility for the mentally retarded that is 15950
certified as in compliance with applicable standards for the 15951

medicaid program by the director of health in accordance with 15952
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 15953
U.S.C. 1396, as amended, and licensed as a residential facility 15954
under section 5123.19 of the Revised Code. 15955

"Residential facility" has the same meaning as in section 15956
5123.19 of the Revised Code. 15957

(B) For the purpose of increasing the number of slots 15958
available for home and community-based services and subject to 15959
sections 5111.877 and 5111.878 of the Revised Code, the operator 15960
of an intermediate care facility for the mentally retarded may 15961
convert all of the beds in the facility from providing ICF/MR 15962
services to providing home and community-based services if all of 15963
the following requirements are met: 15964

(1) The operator provides the directors of health, job and 15965
family services, and ~~mental retardation and~~ developmental 15966
disabilities at least ninety days' notice of the operator's intent 15967
to relinquish the facility's certification as an intermediate care 15968
facility for the mentally retarded and to begin providing home and 15969
community-based services. 15970

(2) The operator complies with the requirements of sections 15971
5111.65 to 5111.688 of the Revised Code regarding a voluntary 15972
termination as defined in section 5111.65 of the Revised Code if 15973
those requirements are applicable. 15974

(3) The operator notifies each of the facility's residents 15975
that the facility is to cease providing ICF/MR services and inform 15976
each resident that the resident may do either of the following: 15977

(a) Continue to receive ICF/MR services by transferring to 15978
another facility that is an intermediate care facility for the 15979
mentally retarded willing and able to accept the resident if the 15980
resident continues to qualify for ICF/MR services; 15981

(b) Begin to receive home and community-based services 15982

instead of ICF/MR services from any provider of home and 15983
community-based services that is willing and able to provide the 15984
services to the resident if the resident is eligible for the 15985
services and a slot for the services is available to the resident. 15986

(4) The operator meets the requirements for providing home 15987
and community-based services, including the following: 15988

(a) Such requirements applicable to a residential facility if 15989
the operator maintains the facility's license as a residential 15990
facility; 15991

(b) Such requirements applicable to a facility that is not 15992
licensed as a residential facility if the operator surrenders the 15993
facility's residential facility license under section 5123.19 of 15994
the Revised Code. 15995

(5) The director of ~~mental-retardation and~~ developmental 15996
disabilities approves the conversion. 15997

(C) The notice to the director of ~~mental-retardation and~~ 15998
developmental disabilities under division (B)(1) of this section 15999
shall specify whether the operator wishes to surrender the 16000
facility's license as a residential facility under section 5123.19 16001
of the Revised Code. 16002

(D) If the director of ~~mental-retardation and~~ developmental 16003
disabilities approves a conversion under division (B) of this 16004
section, the director of health shall terminate the certification 16005
of the intermediate care facility for the mentally retarded to be 16006
converted. The director of health shall notify the director of job 16007
and family services of the termination. On receipt of the director 16008
of health's notice, the director of job and family services shall 16009
terminate the operator's medicaid provider agreement that 16010
authorizes the operator to provide ICF/MR services at the 16011
facility. The operator is not entitled to notice or a hearing 16012
under Chapter 119. of the Revised Code before the director of job 16013

and family services terminates the medicaid provider agreement. 16014
16015

Sec. 5111.875. (A) For the purpose of increasing the number 16016
of slots available for home and community-based services and 16017
subject to sections 5111.877 and 5111.878 of the Revised Code, a 16018
person who acquires, through a request for proposals issued by the 16019
director of ~~mental retardation and~~ developmental disabilities, a 16020
residential facility that is an intermediate care facility for the 16021
mentally retarded and for which the license as a residential 16022
facility was previously surrendered or revoked may convert some or 16023
all of the facility's beds from providing ICF/MR services to 16024
providing home and community-based services if all of the 16025
following requirements are met: 16026

(1) The person provides the directors of health, job and 16027
family services, and ~~mental retardation and~~ developmental 16028
disabilities at least ninety days' notice of the person's intent 16029
to make the conversion. 16030

(2) The person complies with the requirements of sections 16031
5111.65 to 5111.688 of the Revised Code regarding a voluntary 16032
termination as defined in section 5111.65 of the Revised Code if 16033
those requirements are applicable. 16034

(3) If the person intends to convert all of the facility's 16035
beds, the person notifies each of the facility's residents that 16036
the facility is to cease providing ICF/MR services and informs 16037
each resident that the resident may do either of the following: 16038

(a) Continue to receive ICF/MR services by transferring to 16039
another facility that is an intermediate care facility for the 16040
mentally retarded willing and able to accept the resident if the 16041
resident continues to qualify for ICF/MR services; 16042

(b) Begin to receive home and community-based services 16043

instead of ICF/MR services from any provider of home and 16044
community-based services that is willing and able to provide the 16045
services to the resident if the resident is eligible for the 16046
services and a slot for the services is available to the resident. 16047

(4) If the person intends to convert some but not all of the 16048
facility's beds, the person notifies each of the facility's 16049
residents that the facility is to convert some of its beds from 16050
providing ICF/MR services to providing home and community-based 16051
services and inform each resident that the resident may do either 16052
of the following: 16053

(a) Continue to receive ICF/MR services from any provider of 16054
ICF/MR services that is willing and able to provide the services 16055
to the resident if the resident continues to qualify for ICF/MR 16056
services; 16057

(b) Begin to receive home and community-based services 16058
instead of ICF/MR services from any provider of home and 16059
community-based services that is willing and able to provide the 16060
services to the resident if the resident is eligible for the 16061
services and a slot for the services is available to the resident. 16062

(5) The person meets the requirements for providing home and 16063
community-based services at a residential facility. 16064

(B) The notice provided to the directors under division 16065
(A)(1) of this section shall specify whether some or all of the 16066
facility's beds are to be converted. If some but not all of the 16067
beds are to be converted, the notice shall specify how many of the 16068
facility's beds are to be converted and how many of the beds are 16069
to continue to provide ICF/MR services. 16070

(C) On receipt of a notice under division (A)(1) of this 16071
section, the director of health shall do the following: 16072

(1) Terminate the certification of the intermediate care 16073
facility for the mentally retarded if the notice specifies that 16074

all of the facility's beds are to be converted; 16075

(2) Reduce the facility's certified capacity by the number of 16076
beds being converted if the notice specifies that some but not all 16077
of the beds are to be converted. 16078

(D) The director of health shall notify the director of job 16079
and family services of the termination or reduction under division 16080
(C) of this section. On receipt of the director of health's 16081
notice, the director of job and family services shall do the 16082
following: 16083

(1) Terminate the person's medicaid provider agreement that 16084
authorizes the person to provide ICF/MR services at the facility 16085
if the facility's certification was terminated; 16086

(2) Amend the person's medicaid provider agreement to reflect 16087
the facility's reduced certified capacity if the facility's 16088
certified capacity is reduced. 16089

The person is not entitled to notice or a hearing under 16090
Chapter 119. of the Revised Code before the director of job and 16091
family services terminates or amends the medicaid provider 16092
agreement. 16093

Sec. 5111.876. Subject to section 5111.877 of the Revised 16094
Code, the director of ~~mental retardation and~~ developmental 16095
disabilities may request that the director of job and family 16096
services seek the approval of the United States secretary of 16097
health and human services to increase the number of slots 16098
available for home and community-based services by a number not 16099
exceeding the number of beds that were part of the licensed 16100
capacity of a residential facility that had its license revoked or 16101
surrendered under section 5123.19 of the Revised Code if the 16102
residential facility was an intermediate care facility for the 16103
mentally retarded at the time of the license revocation or 16104

surrender. The revocation or surrender may have occurred before, 16105
or may occur on or after, ~~the effective date of this section June~~ 16106
24, 2008. The request may include beds the director removed from 16107
such a residential facility's licensed capacity before 16108
transferring ownership or operation of the residential facility 16109
pursuant to a request for proposals. 16110

Sec. 5111.8710. The directors of job and family services and 16111
~~mental retardation and~~ developmental disabilities may adopt rules 16112
in accordance with Chapter 119. of the Revised Code as necessary 16113
to implement sections 5111.874 to 5111.8710 of the Revised Code. 16114

Sec. 5111.915. (A) The department of job and family services 16115
shall enter into an agreement with the department of 16116
administrative services for the department of administrative 16117
services to contract through competitive selection pursuant to 16118
section 125.07 of the Revised Code with a vendor to perform an 16119
assessment of the data collection and data warehouse functions of 16120
the medicaid data warehouse system, including the ability to link 16121
the data sets of all agencies serving medicaid recipients. 16122

The assessment of the data system shall include functions 16123
related to fraud and abuse detection, program management and 16124
budgeting, and performance measurement capabilities of all 16125
agencies serving medicaid recipients, including the departments of 16126
aging, alcohol and drug addiction services, health, job and family 16127
services, mental health, and ~~mental retardation and~~ developmental 16128
disabilities. 16129

The department of administrative services shall enter into 16130
this contract within thirty days after ~~the effective date of this~~ 16131
~~section~~ September 29, 2005. The contract shall require the vendor 16132
to complete the assessment within ninety days after ~~the effective~~ 16133
~~date of this section~~ September 29, 2005. 16134

A qualified vendor with whom the department of administrative services contracts to assess the data system shall also assist the medicaid agencies in the definition of the requirements for an enhanced data system or a new data system and assist the department of administrative services in the preparation of a request for proposal to enhance or develop a data system.

(B) Based on the assessment performed pursuant to division (A) of this section, the department of administrative services shall seek a qualified vendor through competitive selection pursuant to section 125.07 of the Revised Code to develop or enhance a data collection and data warehouse system for the department of job and family services and all agencies serving medicaid recipients.

Within ninety days after ~~the effective date of this section~~ September 29, 2005, the department of job and family services shall seek enhanced federal funding for ninety per cent of the funds required to establish or enhance the data system. The department of administrative services shall not award a contract for establishing or enhancing the data system until the department of job and family services receives approval from the secretary of the United States department of health and human services for the ninety per cent federal match.

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the Revised Code:

(A) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code, except that it does not include any such facility operated by the department of ~~mental retardation and~~ developmental disabilities.

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

Sec. 5112.32. For the purpose of the franchise permit fee 16165
imposed under section 5112.31 of the Revised Code, the department 16166
of ~~mental retardation and~~ developmental disabilities shall: 16167

(A) Not later than August 1, 1993, report to the department 16168
of job and family services the number of beds in each intermediate 16169
care facility for the mentally retarded certified on July 1, 1993, 16170
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 16171
42 U.S.C.A. 301, as amended; 16172

(B) Not later than June 1, 1994, and the first day of each 16173
June thereafter, report to the department of job and family 16174
services the number of beds in each such facility certified on the 16175
preceding first day of May under that title. 16176

Sec. 5112.37. There is hereby created in the state treasury 16177
the home and community-based services for the mentally retarded 16178
and developmentally disabled fund. Ninety-four and twenty-eight 16179
hundredths per cent of all installment payments and penalties paid 16180
by an intermediate care facility for the mentally retarded under 16181
sections 5112.33 and 5112.34 of the Revised Code shall be 16182
deposited into the fund. The department of job and family services 16183
shall distribute the money in the fund in accordance with rules 16184
adopted under section 5112.39 of the Revised Code. The departments 16185
of job and family services and ~~mental retardation and~~ 16186
developmental disabilities shall use the money for the medicaid 16187
program established under Chapter 5111. of the Revised Code and 16188
home and community-based services to mentally retarded and 16189
developmentally disabled persons. 16190

Sec. 5112.371. There is hereby created in the state treasury 16191
the children with intensive behavioral needs programs fund. Five 16192
and seventy-two hundredths per cent of all installment payments 16193
and penalties paid by an intermediate care facility for the 16194

mentally retarded under sections 5112.33 and 5112.34 of the 16195
Revised Code shall be deposited in the fund. The money in the fund 16196
shall be used for the programs the director of ~~mental retardation~~ 16197
~~and~~ developmental disabilities establishes under section 5123.0417 16198
of the Revised Code. 16199

Sec. 5119.16. As used in this section, "free clinic" has the 16200
same meaning as in section 2305.2341 of the Revised Code. 16201

(A) The department of mental health is hereby designated to 16202
provide certain goods and services for the department of mental 16203
health, the department of ~~mental retardation and~~ developmental 16204
disabilities, the department of rehabilitation and correction, the 16205
department of youth services, and other state, county, or 16206
municipal agencies requesting such goods and services when the 16207
department of mental health determines that it is in the public 16208
interest, and considers it advisable, to provide these goods and 16209
services. The department of mental health also may provide goods 16210
and services to agencies operated by the United States government 16211
and to public or private nonprofit agencies, other than free 16212
clinics, that are funded in whole or in part by the state if the 16213
public or private nonprofit agencies are designated for 16214
participation in this program by the director of mental health for 16215
community mental health agencies, the director of ~~mental~~ 16216
~~retardation and~~ developmental disabilities for community mental 16217
retardation and developmental disabilities agencies, the director 16218
of rehabilitation and correction for community rehabilitation and 16219
correction agencies, or the director of youth services for 16220
community youth services agencies. 16221

Designated community agencies shall receive goods and 16222
services through the department of mental health only in those 16223
cases where the designating state agency certifies that providing 16224
such goods and services to the agency will conserve public 16225

resources to the benefit of the public and where the provision of 16226
such goods and services is considered feasible by the department 16227
of mental health. 16228

(B) The department of mental health may permit free clinics 16229
to purchase certain goods and services to the extent the purchases 16230
fall within the exemption to the Robinson-Patman Act, 15 U.S.C. 13 16231
et seq., applicable to ~~non-profit~~ nonprofit institutions, in 15 16232
U.S.C. 13c, as amended. 16233

(C) The goods and services to be provided by the department 16234
of mental health under divisions (A) and (B) of this section may 16235
include: 16236

(1) Procurement, storage, processing, and distribution of 16237
food and professional consultation on food operations; 16238

(2) Procurement, storage, and distribution of medical and 16239
laboratory supplies, dental supplies, medical records, forms, 16240
optical supplies, and sundries, subject to section 5120.135 of the 16241
Revised Code; 16242

(3) Procurement, storage, repackaging, distribution, and 16243
dispensing of drugs, the provision of professional pharmacy 16244
consultation, and drug information services; 16245

(4) Other goods and services as may be agreed to. 16246

(D) The department of mental health shall provide the goods 16247
and services designated in division (C) of this section to its 16248
institutions and to state-operated community-based mental health 16249
services. 16250

(E) After consultation with and advice from the director of 16251
~~mental retardation and~~ developmental disabilities, the director of 16252
rehabilitation and correction, and the director of youth services, 16253
the department of mental health shall provide the goods and 16254
services designated in division (C) of this section to the 16255

department of ~~mental retardation and~~ developmental disabilities, 16256
the department of rehabilitation and correction, and the 16257
department of youth services. 16258

(F) The cost of administration of this section shall be 16259
determined by the department of mental health and paid by the 16260
agencies or free clinics receiving the goods and services to the 16261
department for deposit in the state treasury to the credit of the 16262
mental health fund, which is hereby created. The fund shall be 16263
used to pay the cost of administration of this section to the 16264
department. 16265

(G) If the goods or services designated in division (C) of 16266
this section are not provided in a satisfactory manner by the 16267
department of mental health to the agencies described in division 16268
(A) of this section, the director of ~~mental retardation and~~ 16269
developmental disabilities, the director of rehabilitation and 16270
correction, the director of youth services, or the managing 16271
officer of a department of mental health institution shall attempt 16272
to resolve unsatisfactory service with the director of mental 16273
health. If, after such attempt, the provision of goods or services 16274
continues to be unsatisfactory, the director or officer shall 16275
notify the director of mental health. If within thirty days of 16276
such notice the department of mental health does not provide the 16277
specified goods and services in a satisfactory manner, the 16278
director of ~~mental retardation and~~ developmental disabilities, the 16279
director of rehabilitation and correction, the director of youth 16280
services, or the managing officer of the department of mental 16281
health institution shall notify the director of mental health of 16282
the director's or managing officer's intent to cease purchasing 16283
goods and services from the department. Following a sixty-day 16284
cancellation period from the date of such notice, the department 16285
of ~~mental retardation~~ developmental disabilities, department of 16286
rehabilitation and correction, department of youth services, or 16287

the department of mental health institution may obtain the goods 16288
and services from a source other than the department of mental 16289
health, if the department certifies to the department of 16290
administrative services that the requirements of this division 16291
have been met. 16292

(H) Whenever a state agency fails to make a payment for goods 16293
and services provided under this section within thirty-one days 16294
after the date the payment was due, the office of budget and 16295
management may transfer moneys from the state agency to the 16296
department of mental health. The amount transferred shall not 16297
exceed the amount of overdue payments. Prior to making a transfer 16298
under this division, the office of budget and management shall 16299
apply any credits the state agency has accumulated in payments for 16300
goods and services provided under this section. 16301

(I) Purchases of goods and services under this section are 16302
not subject to section 307.86 of the Revised Code. 16303

Sec. 5119.221. (A) Upon petition by the director of mental 16304
health, the court of common pleas or the probate court may appoint 16305
a receiver to take possession of and operate a residential 16306
facility licensed pursuant to section 5119.22 of the Revised Code, 16307
when conditions existing at the residential facility present a 16308
substantial risk of physical or mental harm to residents and no 16309
other remedies at law are adequate to protect the health, safety, 16310
and welfare of the residents. 16311

Petitions filed pursuant to this section shall include: 16312

(1) A description of the specific conditions existing at the 16313
residential facility which present a substantial risk of physical 16314
or mental harm to residents; 16315

(2) A statement of the absence of other adequate remedies at 16316
law; 16317

(3) The number of individuals residing at the facility; 16318

(4) A statement that the facts have been brought to the 16319
attention of the owner or licensee and that conditions have not 16320
been remedied within a reasonable period of time or that the 16321
conditions, though remedied periodically, habitually exist at the 16322
residential facility as a pattern or practice; and 16323

(5) The name and address of the person holding the license 16324
for the residential facility. 16325

(B) A court in which a petition is filed pursuant to this 16326
section shall notify the person holding the license for the 16327
facility of the filing. The department shall send notice of the 16328
filing to the following, as appropriate: the legal rights service 16329
created pursuant to section 5123.60 of the Revised Code; facility 16330
owner; facility operator; board of alcohol, drug addiction, and 16331
mental health services; board of health; department of ~~mental~~ 16332
~~retardation and~~ developmental disabilities; department of job and 16333
family services; facility residents; and residents' families and 16334
guardians. The court shall provide a hearing on the petition 16335
within five court days of the time it was filed, except that the 16336
court may appoint a receiver prior to that time if it determines 16337
that the circumstances necessitate such action. 16338

Following a hearing on the petition, and upon a determination 16339
that the appointment of a receiver is warranted, the court shall 16340
appoint a receiver and notify the department of mental health and 16341
appropriate persons of this action. 16342

In setting forth the powers of the receiver, the court may 16343
generally authorize the receiver to do all that is prudent and 16344
necessary to safely and efficiently operate the residential 16345
facility within the requirements of state and federal law, but 16346
shall require the receiver to obtain court approval prior to 16347
making any single expenditure of more than five thousand dollars 16348

to correct deficiencies in the structure or furnishings of a 16349
facility. The court shall closely review the conduct of the 16350
receiver and shall require regular and detailed reports. 16351

(C) A receivership established pursuant to this section shall 16352
be terminated, following notification of the appropriate parties 16353
and a hearing, if the court determines either of the following: 16354

(1) The residential facility has been closed and the former 16355
residents have been relocated to an appropriate facility; 16356

(2) Circumstances no longer exist at the residential facility 16357
which present a substantial risk of physical or mental harm to 16358
residents, and there is no deficiency in the residential facility 16359
that is likely to create a future risk of harm. 16360

Notwithstanding division (C)(2) of this section, the court 16361
shall not terminate a receivership for a residential facility that 16362
has previously operated under another receivership unless the 16363
responsibility for the operation of the facility is transferred to 16364
an operator approved by the court and the department of mental 16365
health. 16366

(D) Except for the department of mental health or appropriate 16367
board of alcohol, drug addiction, and mental health services, no 16368
party or person interested in an action shall be appointed a 16369
receiver pursuant to this section. 16370

To assist the court in identifying persons qualified to be 16371
named as receivers, the director of the department of mental 16372
health shall maintain a list of the names of such persons. The 16373
department of mental health, the department of job and family 16374
services, and the department of health shall provide technical 16375
assistance to any receiver appointed pursuant to this section. 16376

Before entering upon the duties of receiver, the receiver 16377
must be sworn to perform the duties faithfully, and, with surety 16378
approved by the court, judge, or clerk, execute a bond to such 16379

person, and in such sum as the court or judge directs, to the 16380
effect that such receiver will faithfully discharge the duties of 16381
receiver in the action, and obey the orders of the court therein. 16382

(1) Under the control of the appointing court, a receiver may 16383
do the following: 16384

(a) Bring and defend actions in the appointee's name as 16385
receiver; 16386

(b) Take and keep possession of property. 16387

(2) The court shall authorize the receiver to do the 16388
following: 16389

(a) Collect payment for all goods and services provided to 16390
the residents or others during the period of the receivership at 16391
the same rate as was charged by the licensee at the time the 16392
petition for receivership was filed, unless a different rate is 16393
set by the court; 16394

(b) Honor all leases, mortgages, and secured transactions 16395
governing all buildings, goods, and fixtures of which the receiver 16396
has taken possession, but, in the case of a rental agreement only 16397
to the extent of payments that are for the use of the property 16398
during the period of the receivership, or, in the case of a 16399
purchase agreement, only to the extent that payments come due 16400
during the period of the receivership; 16401

(c) If transfer of residents is necessary, provide for the 16402
orderly transfer of residents by: 16403

(i) Cooperating with all appropriate state and local agencies 16404
in carrying out the transfer of residents to alternative community 16405
placements; 16406

(ii) Providing for the transportation of residents' 16407
belongings and records; 16408

(iii) Helping to locate alternative placements and develop 16409

plans for transfer; 16410

(iv) Encouraging residents or guardians to participate in 16411
transfer planning except when an emergency exists and immediate 16412
transfer is necessary. 16413

(d) Make periodic reports on the status of the residential 16414
facility to the court; the appropriate state agencies; and the 16415
board of alcohol, drug addiction, and mental health services. Each 16416
report shall be made available to residents, their guardians, and 16417
families. 16418

(e) Compromise demands or claims; and 16419

(f) Generally do such acts respecting the residential 16420
facility as the court authorizes. 16421

Notwithstanding any other provision of law, contracts which 16422
are necessary to carry out the powers and duties of the receiver 16423
need not be competitively bid. 16424

Sec. 5119.51. Pursuant to Article X of the compact set forth 16425
in section 5119.50 of the Revised Code, the director of mental 16426
health and the director of ~~mental retardation and~~ developmental 16427
disabilities each shall designate an officer who shall be the 16428
compact administrator for ~~his~~ the department and who, acting 16429
jointly with like officers of other party states, shall adopt 16430
rules to carry out more effectively the terms of the compact. The 16431
compact administrators of each department shall serve subject to 16432
the pleasure of the governor and shall cooperate with all 16433
departments, agencies, and officers of and in the government of 16434
this state and its subdivisions in facilitating the proper 16435
administration of the compact or of any supplementary agreements 16436
entered into by this state thereunder. 16437

Sec. 5120.07. (A) There is hereby created the ex-offender 16438
reentry coalition consisting of the following seventeen members or 16439

their designees:	16440
(1) The director of rehabilitation and correction;	16441
(2) The director of aging;	16442
(3) The director of alcohol and drug addiction services;	16443
(4) The director of development;	16444
(5) The superintendent of public instruction;	16445
(6) The director of health;	16446
(7) The director of job and family services;	16447
(8) The director of mental health;	16448
(9) The director of mental retardation and developmental disabilities;	16449 16450
(10) The director of public safety;	16451
(11) The director of youth services;	16452
(12) The chancellor of the Ohio board of regents;	16453
(13) The director of the governor's office of external affairs and economic opportunity;	16454 16455
(14) The director of the governor's office of faith-based and community initiatives;	16456 16457
(15) The director of the rehabilitation services commission;	16458
(16) The director of the department of commerce;	16459
(17) The executive director of a health care licensing board created under Title XLVII of the Revised Code, as appointed by the chairperson of the coalition.	16460 16461 16462
(B) The members of the coalition shall serve without compensation. The director of rehabilitation and correction or the director's designee shall be the chairperson of the coalition.	16463 16464 16465
(C) In consultation with persons interested and involved in	16466

the reentry of ex-offenders into the community, including but not
limited to, service providers, community-based organizations, and
local governments, the coalition shall identify and examine social
service barriers and other obstacles to the reentry of
ex-offenders into the community. Not later than one year after ~~the~~
~~effective date of this act~~ April 7, 2009, and on or before the
same date of each year thereafter, the coalition shall submit to
the speaker of the house of representatives and the president of
the senate a report, including recommendations for legislative
action, the activities of the coalition, and the barriers
affecting the successful reentry of ex-offenders into the
community. The report shall analyze the effects of those barriers
on ex-offenders and on their children and other family members in
various areas, including but not limited to, the following:

- (1) Admission to public and other housing;
- (2) Child support obligations and procedures;
- (3) Parental incarceration and family reunification;
- (4) Social security benefits, veterans' benefits, food
stamps, and other forms of public assistance;
- (5) Employment;
- (6) Education programs and financial assistance;
- (7) Substance abuse, mental health, and sex offender
treatment programs and financial assistance;
- (8) Civic and political participation;
- (9) Other collateral consequences under the Revised Code or
the Ohio administrative code law that may result from a criminal
conviction.

Sec. 5120.135. (A) As used in this section, "laboratory

services" includes the performance of medical laboratory analysis; 16496
professional laboratory and pathologist consultation; the 16497
procurement, storage, and distribution of laboratory supplies; and 16498
the performance of phlebotomy services. 16499

(B) The department of rehabilitation and correction shall 16500
provide laboratory services to the departments of mental health, 16501
~~mental retardation and~~ developmental disabilities, youth services, 16502
and rehabilitation and correction. The department of 16503
rehabilitation and correction may also provide laboratory services 16504
to other state, county, or municipal agencies and to private 16505
persons that request laboratory services if the department of 16506
rehabilitation and correction determines that the provision of 16507
laboratory services is in the public interest and considers it 16508
advisable to provide such services. The department of 16509
rehabilitation and correction may also provide laboratory services 16510
to agencies operated by the United States government and to public 16511
and private entities funded in whole or in part by the state if 16512
the director of rehabilitation and correction designates them as 16513
eligible to receive such services. 16514

The department of rehabilitation and correction shall provide 16515
laboratory services from a laboratory that complies with the 16516
standards for certification set by the United States department of 16517
health and human services under the "Clinical Laboratory 16518
Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. 16519
In addition, the laboratory shall maintain accreditation or 16520
certification with an appropriate accrediting or certifying 16521
organization as considered necessary by the recipients of its 16522
laboratory services and as authorized by the director of 16523
rehabilitation and correction. 16524

(C) The cost of administering this section shall be 16525
determined by the department of rehabilitation and correction and 16526
shall be paid by entities that receive laboratory services to the 16527

department for deposit in the state treasury to the credit of the 16528
laboratory services fund, which is hereby created. The fund shall 16529
be used to pay the costs the department incurs in administering 16530
this section. 16531

(D) If the department of rehabilitation and correction does 16532
not provide laboratory services under this section in a 16533
satisfactory manner to the department of ~~mental retardation and~~ 16534
developmental disabilities, youth services, or mental health, the 16535
director of ~~mental retardation and~~ developmental disabilities, 16536
youth services, or mental health shall attempt to resolve the 16537
matter of the unsatisfactory provision of services with the 16538
director of rehabilitation and correction. If, after this attempt, 16539
the provision of laboratory services continues to be 16540
unsatisfactory, the director of ~~mental retardation and~~ 16541
developmental disabilities, youth services, or mental health shall 16542
notify the director of rehabilitation and correction regarding the 16543
continued unsatisfactory provision of laboratory services. If, 16544
within thirty days after the director receives this notice, the 16545
department of rehabilitation and correction does not provide the 16546
specified laboratory services in a satisfactory manner, the 16547
director of ~~mental retardation and~~ developmental disabilities, 16548
youth services, or mental health shall notify the director of 16549
rehabilitation and correction of the notifying director's intent 16550
to cease obtaining laboratory services from the department of 16551
rehabilitation and correction. Following the end of a cancellation 16552
period of sixty days that begins on the date of the notice, the 16553
department that sent the notice may obtain laboratory services 16554
from a provider other than the department of rehabilitation and 16555
correction, if the department that sent the notice certifies to 16556
the department of administrative services that the requirements of 16557
this division have been met. 16558

(E) Whenever a state agency fails to make a payment for 16559

laboratory services provided to it by the department of 16560
rehabilitation and correction under this section within thirty-one 16561
days after the date the payment was due, the office of budget and 16562
management may transfer moneys from that state agency to the 16563
department of rehabilitation and correction for deposit to the 16564
credit of the laboratory services fund. The amount transferred 16565
shall not exceed the amount of the overdue payments. Prior to 16566
making a transfer under this division, the office shall apply any 16567
credits the state agency has accumulated in payment for laboratory 16568
services provided under this section. 16569

Sec. 5121.01. As used in sections 5121.01 to 5121.21 of the 16570
Revised Code: 16571

(A) "Resident" means a person admitted to an institution or 16572
other facility pursuant to Chapter 5123. of the Revised Code who 16573
is under observation or receiving habilitation and care. 16574

(B) "Applicable cost" means the rate for support applicable 16575
to a resident as specified in this section. 16576

The cost for support of residents in institutions under the 16577
jurisdiction of the department of ~~mental retardation and~~ 16578
developmental disabilities, and of residents in private facilities 16579
or homes whose care or treatment is being paid for by the 16580
department, shall be based on the average per capita cost of the 16581
care and treatment of the residents. The cost of services for 16582
residents shall be computed using the projected average daily per 16583
capita cost at the institution, or at the discretion of the 16584
department, the subunit thereof in which services are provided. 16585
Such costs shall be computed at least annually for the next 16586
prospective period using generally accepted governmental 16587
accounting principles. The cost of services for residents that are 16588
being cared for and maintained in a private facility or home under 16589
the supervision of the department and for which a purchase of 16590

services contract is being paid to the private facility or home by 16591
the department shall not be more than the per diem cost of the 16592
contract. The cost of services for a resident receiving 16593
pre-admission care, after-care, day-care, or routine consultation 16594
and treatment services in a community service unit under the 16595
jurisdiction of the department shall be computed on the basis of 16596
the average cost of such services at the institution at which they 16597
are provided. 16598

The department shall annually determine the ability to pay of 16599
a resident or the resident's liable relatives and the amount that 16600
such person shall pay in accordance with section 5121.04 of the 16601
Revised Code. 16602

Collections of support payments shall be made by the 16603
department and, subject to meeting prior requirements for payment 16604
and crediting of such collections and other available receipts, in 16605
accordance with the bond proceedings applicable to obligations 16606
issued pursuant to section 154.20 of the Revised Code, such 16607
collections and other available receipts designated by the 16608
director of ~~mental retardation and~~ developmental disabilities for 16609
deposit in the special accounts, together with insurance contract 16610
payments provided for in division (B)(8) of section 5121.04 of the 16611
Revised Code, shall be remitted to the treasurer of state for 16612
deposit in the state treasury to the credit of the ~~mental~~ 16613
~~retardation~~ developmental disabilities operating fund, which is 16614
hereby created, to be used for the general purposes of the 16615
department. The department shall make refunds of overpayment of 16616
support charges from the ~~mental retardation~~ developmental 16617
disabilities operating fund. 16618

Sec. 5121.02. All individuals admitted to a state institution 16619
operated by the department of ~~mental retardation and~~ developmental 16620
disabilities under section 5123.03 of the Revised Code shall be 16621

maintained at the expense of the state. Their traveling and 16622
incidental expenses in conveying them to the state institution 16623
shall be paid by the county of commitment. Upon admission, the 16624
individuals shall be neatly and comfortably clothed. Thereafter, 16625
the expense of necessary clothing shall be borne by the 16626
responsible relatives or guardian if they are financially able. If 16627
not furnished, the state shall bear the expense. Any required 16628
traveling expense after admission to the state institution shall 16629
be borne by the state if the responsible relatives or guardian are 16630
unable to do so. 16631

Sec. 5121.03. When any person is committed to an institution 16632
under the jurisdiction of the department of ~~mental retardation and~~ 16633
developmental disabilities pursuant to judicial proceedings, the 16634
judge ordering such commitment shall: 16635

(A) Make a reliable report on the financial condition of such 16636
person and of each of the relatives of the person who are liable 16637
for the person's support, as provided in section 5121.06 of the 16638
Revised Code and rules and procedures adopted by the director of 16639
~~mental retardation and~~ developmental disabilities; 16640

(B) Certify to the managing officer of such institution, and 16641
the managing officer shall thereupon enter upon the managing 16642
officer's records the name and address of any guardian appointed 16643
and of any relative liable for such person's support under section 16644
5121.06 of the Revised Code. 16645

Sec. 5121.04. (A) The department of ~~mental retardation and~~ 16646
developmental disabilities shall investigate the financial 16647
condition of the residents in institutions, residents whose care 16648
or treatment is being paid for in a private facility or home under 16649
the control of the department, and of the relatives named in 16650
section 5121.06 of the Revised Code as liable for the support of 16651

such residents, in order to determine the ability of any resident 16652
or liable relatives to pay for the support of the resident and to 16653
provide suitable clothing as required by the superintendent of the 16654
institution. 16655

(B) The department shall follow the provisions of this 16656
division in determining the ability to pay of a resident or the 16657
resident's liable relatives and the amount to be charged such 16658
resident or liable relatives. 16659

(1) Subject to divisions (B)(10) and (11) of this section, a 16660
resident without dependents shall be liable for the full 16661
applicable cost. A resident without dependents who has a gross 16662
annual income equal to or exceeding the sum of the full applicable 16663
cost, plus fifty dollars per month, regardless of the source of 16664
such income, shall pay currently the full amount of the applicable 16665
cost; if the resident's gross annual income is less than such sum, 16666
not more than fifty dollars per month shall be kept for personal 16667
use by or on behalf of the resident, except as permitted in the 16668
state plan for providing medical assistance under Title XIX of the 16669
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 16670
amended, and the balance shall be paid currently on the resident's 16671
support. Subject to divisions (B)(10) and (11) of this section, 16672
the estate of a resident without dependents shall pay currently 16673
any remaining difference between the applicable cost and the 16674
amounts prescribed in this section, or shall execute an agreement 16675
with the department for payment to be made at some future date 16676
under terms suitable to the department. However, no security 16677
interest, mortgage, or lien shall be taken, granted, or charged 16678
against any principal residence of a resident without dependents 16679
under an agreement or otherwise to secure support payments, and no 16680
foreclosure actions shall be taken on security interests, 16681
mortgages, or liens taken, granted, or charged against principal 16682
residences of residents prior to October 7, 1977. 16683

21,001 to 22,000	35	30	25	20	--	--	--	--	16716
22,001 to 23,000	40	35	30	25	20	--	--	--	16717
23,001 to 24,000	45	40	35	30	25	20	--	--	16718
24,001 to 25,000	50	45	40	35	30	25	20	--	16719
25,001 to 26,000	55	50	45	40	35	30	25	20	16720
26,001 to 27,000	60	55	50	45	40	35	30	25	16721
27,001 to 28,000	70	60	55	50	45	40	35	30	16722
28,001 to 30,000	80	70	60	55	50	45	40	35	16723
30,001 to 40,000	90	80	70	60	55	50	45	40	16724
40,001 and over	100	90	80	70	60	55	50	45	16725

Footnote a. The resident or relative shall furnish a copy of 16726
the resident's or relative's federal income tax return as evidence 16727
of gross annual income. 16728

Footnote b. The number of dependents includes the liable 16729
relative but excludes a resident in an institution. "Dependent" 16730
includes any person who receives more than half the person's 16731
support from the resident or the resident's liable relative. 16732

(3) A resident or liable relative having medical, funeral, or 16733
related expenses in excess of four per cent of the adjusted gross 16734
annual income, which expenses were not covered by insurance, may 16735
adjust such gross annual income by reducing the adjusted gross 16736
annual income by the full amount of such expenses. Proof of such 16737
expenses satisfactory to the department must be furnished. 16738

(4) Additional dependencies may be claimed if: 16739

(a) The liable relative is blind; 16740

(b) The liable relative is over sixty-five; 16741

(c) A child is a college student with expenses in excess of 16742
fifty dollars per month; 16743

(d) The services of a housekeeper, costing in excess of fifty 16744
dollars per month, are required if the person who normally keeps 16745
house for minor children is the resident. 16746

(5) If with respect to any resident with dependents there is chargeable under division (B)(2) of this section less than fifty per cent of the applicable cost or, if the base support rate was used, less than fifty per cent of the amount determined by use of the base support rate, and if with respect to such resident there is a liable relative who has an estate having a value in excess of fifteen thousand dollars or if such resident has a dependent and an estate having a value in excess of fifteen thousand dollars, there shall be paid with respect to such resident a total of fifty per cent of the applicable cost or the base support rate amount, as the case may be, on a current basis or there shall be executed with respect to such resident an agreement with the department for payment to be made at some future date under terms suitable to the department.

(6) When a person has been a resident for fifteen years and the support charges for which a relative is liable have been paid for the fifteen-year period, the liable relative shall be relieved of any further support charges.

(7) The department shall accept voluntary payments from residents or liable relatives whose incomes are below the minimum shown in the schedule set forth in this division. The department also shall accept voluntary payments in excess of required amounts from both liable and nonliable relatives.

(8) If a resident is covered by an insurance policy, or other contract that provides for payment of expenses for care and treatment for mental retardation or other developmental disability at or from an institution or facility (including a community service unit under the jurisdiction of the department), the other provisions of this section, except divisions (B)(8), (10), and (11) of this section, and of section 5121.01 of the Revised Code shall be suspended to the extent that such insurance policy or other contract is in force, and such resident shall be charged the

full amount of the applicable cost. Any insurance carrier or other 16779
third party payor providing coverage for such care and treatment 16780
shall pay for this support obligation in an amount equal to the 16781
lesser of either the applicable cost or the benefits provided 16782
under the policy or other contract. Whether or not an insured, 16783
owner of, or other person having an interest in such policy or 16784
other contract is liable for support payments under other 16785
provisions of this chapter, the insured, policy owner, or other 16786
person shall assign payment directly to the department of all 16787
assignable benefits under the policy or other contract and shall 16788
pay over to the department, within ten days of receipt, all 16789
insurance or other benefits received as reimbursement or payment 16790
for expenses incurred by the resident or for any other reason. If 16791
the insured, policy owner, or other person refuses to assign such 16792
payment to the department or refuses to pay such received 16793
reimbursements or payments over to the department within ten days 16794
of receipt, the insured's, policy owners', or other person's total 16795
liability for the services equals the applicable statutory 16796
liability for payment for the services as determined under other 16797
provisions of this chapter, plus the amounts payable under the 16798
terms of the policy or other contract. In no event shall this 16799
total liability exceed the full amount of the applicable cost. 16800
Upon its request, the department is entitled to a court order that 16801
compels the insured, owner of, or other person having an interest 16802
in the policy or other contract to comply with the assignment 16803
requirements of this division or that itself serves as a legally 16804
sufficient assignment in compliance with such requirements. 16805
Notwithstanding section 5123.89 of the Revised Code and any other 16806
law relating to confidentiality of records, the managing officer 16807
of the institution or facility where a person is or has been a 16808
resident shall disclose pertinent medical information concerning 16809
the resident to the insurance carrier or other third party payor 16810
in question, in order to effect collection from the carrier or 16811

payor of the state's claim for care and treatment under this 16812
division. For such disclosure, the managing officer is not subject 16813
to any civil or criminal liability. 16814

(9) The rate to be charged for pre-admission care, 16815
after-care, day-care, or routine consultation and treatment 16816
services shall be based upon the ability of the resident or the 16817
resident's liable relatives to pay. When it is determined by the 16818
department that a charge shall be made, such charge shall be 16819
computed as provided in divisions (B)(1) and (2) of this section. 16820

(10) If a resident with or without dependents is the 16821
beneficiary of a trust created pursuant to section 5815.28 of the 16822
Revised Code, then, notwithstanding any contrary provision of this 16823
chapter or of a rule adopted pursuant to this chapter, divisions 16824
(C) and (D) of that section shall apply in determining the assets 16825
or resources of the resident, the resident's estate, the settlor, 16826
or the settlor's estate and to claims arising under this chapter 16827
against the resident, the resident's estate, the settlor, or the 16828
settlor's estate. 16829

(11) If the department waives the liability of an individual 16830
and the individual's liable relatives pursuant to section 5123.194 16831
of the Revised Code, the liability of the individual and relative 16832
ceases in accordance with the waiver's terms. 16833

(C) The department may enter into agreements with a resident 16834
or a liable relative for support payments to be made in the 16835
future. However, no security interest, mortgage, or lien shall be 16836
taken, granted, or charged against any principal family residence 16837
of a resident with dependents or a liable relative under an 16838
agreement or otherwise to secure support payments, and no 16839
foreclosure actions shall be taken on security interests, 16840
mortgages or liens taken, granted, or charged against principal 16841
residences of residents or liable relatives prior to October 7, 16842
1977. 16843

(D) The department shall make all investigations and 16844
determinations required by this section within ninety days after a 16845
resident is admitted to an institution under the department's 16846
control and immediately shall notify by mail the persons liable of 16847
the amount to be charged. 16848

(E) All actions to enforce the collection of payments agreed 16849
upon or charged by the department shall be commenced within six 16850
years after the date of default of an agreement to pay support 16851
charges or the date such payment becomes delinquent. If a payment 16852
is made pursuant to an agreement which is in default, a new 16853
six-year period for actions to enforce the collection of payments 16854
under such agreement shall be computed from the date of such 16855
payment. For purposes of this division an agreement is in default 16856
or a payment is delinquent if a payment is not made within thirty 16857
days after it is incurred or a payment, pursuant to an agreement, 16858
is not made within thirty days after the date specified for such 16859
payment. In all actions to enforce the collection of payment for 16860
the liability for support, every court of record shall receive 16861
into evidence the proof of claim made by the state together with 16862
all debts and credits, and it shall be prima-facie evidence of the 16863
facts contained in it. 16864

Sec. 5121.05. The department of ~~mental-retardation-and~~ 16865
developmental disabilities may subpoena witnesses, take testimony 16866
under oath, and examine any public records relating to the income 16867
and other assets of a resident or liable relative. All 16868
information, conclusions, and recommendations shall be submitted 16869
to the department by the investigating agent of the department. 16870
The department shall determine the amount of support to be paid, 16871
by whom, and whether clothing shall be furnished by the relatives 16872
or guardian. 16873

Sec. 5121.051. All outstanding liability of relatives for the 16874

support of any patient or resident in a benevolent institution 16875
under the control of the department of mental health or the 16876
department of ~~mental retardation and~~ developmental disabilities 16877
accrued prior to January 1, 1956, including the liability of the 16878
patient ~~himself~~ personally, is hereby ~~cancelled~~ canceled, provided 16879
that this section does not abrogate any written agreements or 16880
security arrangement for the payment of support charges entered 16881
into between the state and any patient or liable relative prior to 16882
such date. 16883

Sec. 5121.06. (A) The following persons other than the 16884
resident or the resident's estate are liable relatives and all the 16885
following persons are jointly and severally liable for the support 16886
of a resident in an institution under the control of the 16887
department of ~~mental retardation and~~ developmental disabilities: 16888

(1) The resident or the resident's estate; 16889

(2) The resident's spouse; 16890

(3) The father or mother, or both, of a minor resident under 16891
the age of eighteen years. 16892

(B) The department shall determine, pursuant to section 16893
5121.04 of the Revised Code, the amount to be charged each 16894
resident and liable relative in the order named in this section, 16895
but shall not collect from any person more than one hundred per 16896
cent of the applicable cost. 16897

(C) An action to collect delinquent payments or to enforce 16898
agreements in default may be brought against any or all persons 16899
named in this section. To the extent parents of adult residents, 16900
pursuant to the language of this section previously in force, 16901
incurred charges for the support of such residents between the 16902
eighteenth birthday of such resident and July 1, 1975, their 16903
liability for such period may be ~~cancelled~~ canceled, compromised, 16904

or settled as provided in section 5121.07 of the Revised Code. 16905

(D) Irrespective of the number of residents whose care might 16906
be chargeable against a liable relative, no individual liable 16907
relative nor group of liable relatives who are members of the same 16908
family unit shall be charged with the support of more than one 16909
resident during the same period of time, and different periods of 16910
time for which such liable relative has paid the charges for such 16911
different residents' care and support shall be added together for 16912
the purpose of completing the maximum fifteen-year period of 16913
liability of such liable relative under division (B)(6) of section 16914
5121.04 of the Revised Code. 16915

Sec. 5121.061. The authority of the department of ~~mental~~ 16916
~~retardation and~~ developmental disabilities to modify support 16917
charges pursuant to section 5121.04 of the Revised Code shall not 16918
be exercised until the resident or liable relative has petitioned 16919
the department for modification as provided in section 5121.07 of 16920
the Revised Code and has offered to the department satisfactory 16921
proof of the resident's or liable relative's earnings and assets. 16922
The department may modify the charges if its investigation 16923
warrants such modification. 16924

Sec. 5121.07. Any person who has been charged with the 16925
payment of the support of a resident or for pre-admission care, 16926
after-care, day-care, or routine consultation and treatment 16927
services in a community service unit under the control of the 16928
department of ~~mental retardation and~~ developmental disabilities 16929
may petition the department for a release from, or modification 16930
of, such charge, and the department, after an investigation, may 16931
cancel or modify such former charge, or may cancel, compromise, or 16932
settle any accrued liability in an amount not exceeding five 16933
thousand dollars. Amounts in excess thereof may be canceled, 16934
compromised, or settled as provided in section 131.02 of the 16935

Revised Code. The department may for due cause increase the amount 16936
previously ordered paid. 16937

Sec. 5121.08. The managing officers of the institutions under 16938
the control of the department of ~~mental retardation and~~ 16939
developmental disabilities and the committing court, if requested, 16940
shall submit to the department such information as they may obtain 16941
concerning the financial condition of any resident or of relatives 16942
liable for the resident's support. 16943

Sec. 5121.09. In case the estate of any resident in an 16944
institution under the jurisdiction of the department of ~~mental~~ 16945
~~retardation and~~ developmental disabilities is sufficient for the 16946
resident's support, without hardship to any others who may be 16947
dependent thereon, and no guardian has been appointed for such 16948
estate, the agent of the department shall petition the probate 16949
court of the proper county to appoint a guardian. 16950

Sec. 5121.10. Upon the death of a resident or former resident 16951
of any institution under the jurisdiction of the department of 16952
~~mental retardation and~~ developmental disabilities, or upon the 16953
death of a person responsible under section 5121.06 of the Revised 16954
Code for the support of a resident, the department may waive the 16955
presentation of any claim for support against the estate of such 16956
decedent, when in its judgment an otherwise dependent person will 16957
be directly benefited by the estate. Claims against an estate for 16958
support of a resident are subject to section 5815.28 and Chapter 16959
2117. of the Revised Code, and shall be treated, and may be 16960
barred, the same as the claims of other creditors of the estate, 16961
pursuant to that section or chapter. 16962

The department may accept from a guardian or trustee of a 16963
resident a contract agreeing to pay to the state from the property 16964
of the guardian's or trustee's ward before or at the death of the 16965

ward a fixed annual amount for the support of the ward while the 16966
ward is a resident, with interest at four per cent per annum. A 16967
copy of the contract shall be filed in the probate court of the 16968
proper county and duly entered as a part of the records concerning 16969
the ward. 16970

Sec. 5121.11. The state shall bear the expense of the burial 16971
or cremation of an indigent resident who dies in a state 16972
institution operated by the department of ~~mental retardation and~~ 16973
developmental disabilities under section 5123.03 of the Revised 16974
Code or in a state correctional institution if the body is not 16975
claimed for interment or cremation at the expense of friends or 16976
relatives or is not delivered for anatomical purposes or for the 16977
study of embalming in accordance with section 1713.34 of the 16978
Revised Code. The managing officer of the institution shall 16979
provide at the grave of the person or, if the person's cremated 16980
remains are buried, at the grave of the person's cremated remains, 16981
a metal, stone, or concrete marker on which shall be inscribed the 16982
name and age of the person and the date of death. 16983

Sec. 5121.12. The support and maintenance of residents 16984
confined in state institutions operated by the department of 16985
~~mental retardation and~~ developmental disabilities under section 16986
5123.03 of the Revised Code, including those transferred to them 16987
from state correctional institutions, and also including persons 16988
under indictment or conviction for crime, shall be collected and 16989
paid in accordance with sections 5121.01 to 5121.21 of the Revised 16990
Code. 16991

Sec. 5123.01. As used in this chapter: 16992

(A) "Chief medical officer" means the licensed physician 16993
appointed by the managing officer of an institution for the 16994
mentally retarded with the approval of the director of ~~mental~~ 16995

~~retardation and~~ developmental disabilities to provide medical 16996
treatment for residents of the institution. 16997

(B) "Chief program director" means a person with special 16998
training and experience in the diagnosis and management of the 16999
mentally retarded, certified according to division (C) of this 17000
section in at least one of the designated fields, and appointed by 17001
the managing officer of an institution for the mentally retarded 17002
with the approval of the director to provide habilitation and care 17003
for residents of the institution. 17004

(C) "Comprehensive evaluation" means a study, including a 17005
sequence of observations and examinations, of a person leading to 17006
conclusions and recommendations formulated jointly, with 17007
dissenting opinions if any, by a group of persons with special 17008
training and experience in the diagnosis and management of persons 17009
with mental retardation or a developmental disability, which group 17010
shall include individuals who are professionally qualified in the 17011
fields of medicine, psychology, and social work, together with 17012
such other specialists as the individual case may require. 17013

(D) "Education" means the process of formal training and 17014
instruction to facilitate the intellectual and emotional 17015
development of residents. 17016

(E) "Habilitation" means the process by which the staff of 17017
the institution assists the resident in acquiring and maintaining 17018
those life skills that enable the resident to cope more 17019
effectively with the demands of the resident's own person and of 17020
the resident's environment and in raising the level of the 17021
resident's physical, mental, social, and vocational efficiency. 17022
Habilitation includes but is not limited to programs of formal, 17023
structured education and training. 17024

(F) "Health officer" means any public health physician, 17025
public health nurse, or other person authorized or designated by a 17026

city or general health district. 17027

(G) "Home and community-based services" means medicaid-funded 17028
home and community-based services specified in division (B)(1) of 17029
section 5111.87 of the Revised Code provided under the medicaid 17030
waiver components the department of ~~mental retardation and~~ 17031
developmental disabilities administers pursuant to section 17032
5111.871 of the Revised Code. 17033

(H) "Indigent person" means a person who is unable, without 17034
substantial financial hardship, to provide for the payment of an 17035
attorney and for other necessary expenses of legal representation, 17036
including expert testimony. 17037

(I) "Institution" means a public or private facility, or a 17038
part of a public or private facility, that is licensed by the 17039
appropriate state department and is equipped to provide 17040
residential habilitation, care, and treatment for the mentally 17041
retarded. 17042

(J) "Licensed physician" means a person who holds a valid 17043
certificate issued under Chapter 4731. of the Revised Code 17044
authorizing the person to practice medicine and surgery or 17045
osteopathic medicine and surgery, or a medical officer of the 17046
government of the United States while in the performance of the 17047
officer's official duties. 17048

(K) "Managing officer" means a person who is appointed by the 17049
director of ~~mental retardation and~~ developmental disabilities to 17050
be in executive control of an institution for the mentally 17051
retarded under the jurisdiction of the department. 17052

(L) "Medicaid" has the same meaning as in section 5111.01 of 17053
the Revised Code. 17054

(M) "Medicaid case management services" means case management 17055
services provided to an individual with mental retardation or 17056
other developmental disability that the state medicaid plan 17057

requires. 17058

(N) "Mentally retarded person" means a person having 17059
significantly subaverage general intellectual functioning existing 17060
concurrently with deficiencies in adaptive behavior, manifested 17061
during the developmental period. 17062

(O) "Mentally retarded person subject to institutionalization 17063
by court order" means a person eighteen years of age or older who 17064
is at least moderately mentally retarded and in relation to whom, 17065
because of the person's retardation, either of the following 17066
conditions exist: 17067

(1) The person represents a very substantial risk of physical 17068
impairment or injury to self as manifested by evidence that the 17069
person is unable to provide for and is not providing for the 17070
person's most basic physical needs and that provision for those 17071
needs is not available in the community; 17072

(2) The person needs and is susceptible to significant 17073
habilitation in an institution. 17074

(P) "A person who is at least moderately mentally retarded" 17075
means a person who is found, following a comprehensive evaluation, 17076
to be impaired in adaptive behavior to a moderate degree and to be 17077
functioning at the moderate level of intellectual functioning in 17078
accordance with standard measurements as recorded in the most 17079
current revision of the manual of terminology and classification 17080
in mental retardation published by the American association on 17081
mental retardation. 17082

(Q) As used in this division, "substantial functional 17083
limitation," "developmental delay," and "established risk" have 17084
the meanings established pursuant to section 5123.011 of the 17085
Revised Code. 17086

"Developmental disability" means a severe, chronic disability 17087
that is characterized by all of the following: 17088

(1) It is attributable to a mental or physical impairment or 17089
a combination of mental and physical impairments, other than a 17090
mental or physical impairment solely caused by mental illness as 17091
defined in division (A) of section 5122.01 of the Revised Code. 17092

(2) It is manifested before age twenty-two. 17093

(3) It is likely to continue indefinitely. 17094

(4) It results in one of the following: 17095

(a) In the case of a person under three years of age, at 17096
least one developmental delay or an established risk; 17097

(b) In the case of a person at least three years of age but 17098
under six years of age, at least two developmental delays or an 17099
established risk; 17100

(c) In the case of a person six years of age or older, a 17101
substantial functional limitation in at least three of the 17102
following areas of major life activity, as appropriate for the 17103
person's age: self-care, receptive and expressive language, 17104
learning, mobility, self-direction, capacity for independent 17105
living, and, if the person is at least sixteen years of age, 17106
capacity for economic self-sufficiency. 17107

(5) It causes the person to need a combination and sequence 17108
of special, interdisciplinary, or other type of care, treatment, 17109
or provision of services for an extended period of time that is 17110
individually planned and coordinated for the person. 17111

(R) "Developmentally disabled person" means a person with a 17112
developmental disability. 17113

(S) "State institution" means an institution that is 17114
tax-supported and under the jurisdiction of the department. 17115

(T) "Residence" and "legal residence" have the same meaning 17116
as "legal settlement," which is acquired by residing in Ohio for a 17117
period of one year without receiving general assistance prior to 17118

July 17, 1995, under former Chapter 5113. of the Revised Code, 17119
financial assistance under Chapter 5115. of the Revised Code, or 17120
assistance from a private agency that maintains records of 17121
assistance given. A person having a legal settlement in the state 17122
shall be considered as having legal settlement in the assistance 17123
area in which the person resides. No adult person coming into this 17124
state and having a spouse or minor children residing in another 17125
state shall obtain a legal settlement in this state as long as the 17126
spouse or minor children are receiving public assistance, care, or 17127
support at the expense of the other state or its subdivisions. For 17128
the purpose of determining the legal settlement of a person who is 17129
living in a public or private institution or in a home subject to 17130
licensing by the department of job and family services, the 17131
department of mental health, or the department of ~~mental~~ 17132
~~retardation and~~ developmental disabilities, the residence of the 17133
person shall be considered as though the person were residing in 17134
the county in which the person was living prior to the person's 17135
entrance into the institution or home. Settlement once acquired 17136
shall continue until a person has been continuously absent from 17137
Ohio for a period of one year or has acquired a legal residence in 17138
another state. A woman who marries a man with legal settlement in 17139
any county immediately acquires the settlement of her husband. The 17140
legal settlement of a minor is that of the parents, surviving 17141
parent, sole parent, parent who is designated the residential 17142
parent and legal custodian by a court, other adult having 17143
permanent custody awarded by a court, or guardian of the person of 17144
the minor, provided that: 17145

(1) A minor female who marries shall be considered to have 17146
the legal settlement of her husband and, in the case of death of 17147
her husband or divorce, she shall not thereby lose her legal 17148
settlement obtained by the marriage. 17149

(2) A minor male who marries, establishes a home, and who has 17150

resided in this state for one year without receiving general 17151
assistance prior to July 17, 1995, under former Chapter 5113. of 17152
the Revised Code, financial assistance under Chapter 5115. of the 17153
Revised Code, or assistance from a private agency that maintains 17154
records of assistance given shall be considered to have obtained a 17155
legal settlement in this state. 17156

(3) The legal settlement of a child under eighteen years of 17157
age who is in the care or custody of a public or private child 17158
caring agency shall not change if the legal settlement of the 17159
parent changes until after the child has been in the home of the 17160
parent for a period of one year. 17161

No person, adult or minor, may establish a legal settlement 17162
in this state for the purpose of gaining admission to any state 17163
institution. 17164

(U)(1) "Resident" means, subject to division (R)(2) of this 17165
section, a person who is admitted either voluntarily or 17166
involuntarily to an institution or other facility pursuant to 17167
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 17168
Code subsequent to a finding of not guilty by reason of insanity 17169
or incompetence to stand trial or under this chapter who is under 17170
observation or receiving habilitation and care in an institution. 17171

(2) "Resident" does not include a person admitted to an 17172
institution or other facility under section 2945.39, 2945.40, 17173
2945.401, or 2945.402 of the Revised Code to the extent that the 17174
reference in this chapter to resident, or the context in which the 17175
reference occurs, is in conflict with any provision of sections 17176
2945.37 to 2945.402 of the Revised Code. 17177

(V) "Respondent" means the person whose detention, 17178
commitment, or continued commitment is being sought in any 17179
proceeding under this chapter. 17180

(W) "Working day" and "court day" mean Monday, Tuesday, 17181

Wednesday, Thursday, and Friday, except when such day is a legal holiday. 17182
17183

(X) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty. 17184
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(Y) "Court" means the probate division of the court of common pleas. 17191
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(Z) "Supported living" has the same meaning as in section 5126.01 of the Revised Code. 17193
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Sec. 5123.011. The director of ~~mental retardation and~~ developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code that establish definitions of "substantial functional limitation," "developmental delay," "established risk," "biological risk," and "environmental risk." 17195
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Sec. 5123.012. (A) As used in this section: 17200

(1) "Biological risk" and "environmental risk" have the meanings established pursuant to section 5123.011 of the Revised Code. 17201
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(2) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code. 17204
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(B) Except as provided in division (C) of this section, the department of ~~mental retardation and~~ developmental disabilities shall make eligibility determinations in accordance with the definition of "developmental disability" in section 5123.01 of the Revised Code. The department may adopt rules in accordance with 17206
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Chapter 119. of the Revised Code establishing eligibility for 17211
programs and services for either of the following: 17212

(1) Individuals under age six who have a biological risk or 17213
environmental risk of a developmental delay; 17214

(2) Any preschool child with a disability eligible for 17215
services under section 3323.02 of the Revised Code whose 17216
disability is not attributable solely to mental illness as defined 17217
in section 5122.01 of the Revised Code. 17218

(C)(1) The department shall make determinations of 17219
eligibility for protective services in accordance with sections 17220
5123.55 to 5123.59 of the Revised Code. 17221

(2) Determinations of whether a mentally retarded person is 17222
subject to institutionalization by court order shall be made in 17223
accordance with sections 5123.71 to 5123.76 of the Revised Code 17224
and shall be based on the definition of "mentally retarded person 17225
subject to institutionalization by court order" in section 5123.01 17226
of the Revised Code. 17227

(3) All persons who were eligible for services and enrolled 17228
in programs offered by the department of ~~mental retardation and~~ 17229
developmental disabilities pursuant to this chapter on July 1, 17230
1991, shall continue to be eligible for those services and to be 17231
enrolled in those programs as long as they are in need of 17232
services. 17233

Sec. ~~5123.011~~ 5123.013. The provisions of this chapter 17234
regarding institutionalization apply to a person who is found 17235
incompetent to stand trial or not guilty by reason of insanity and 17236
is committed pursuant to section 2945.39, 2945.40, 2945.401, or 17237
2945.402 of the Revised Code to the extent that the provisions are 17238
not in conflict with any provision of sections 2945.37 to 2945.402 17239
of the Revised Code. If a provision of this chapter is in conflict 17240

with a provision in sections 2945.37 to 2945.402 of the Revised 17241
Code regarding a person who has been so committed, the provision 17242
in sections 2945.37 to 2945.402 of the Revised Code shall control 17243
regarding that person. 17244

Sec. 5123.014. Whenever the department or director of mental 17245
retardation and developmental disabilities is referred to or 17246
designated in any statute, rule, contract, grant, or other 17247
document, the reference or designation shall be deemed to refer to 17248
the department or director of developmental disabilities, as the 17249
case may be. 17250

Sec. 5123.02. The department of ~~mental retardation and~~ 17251
developmental disabilities shall do the following: 17252

(A) Promote comprehensive statewide programs and services for 17253
persons with mental retardation or a developmental disability and 17254
their families wherever they reside in the state. These programs 17255
shall include public education, prevention, diagnosis, treatment, 17256
training, and care. 17257

(B) Provide administrative leadership for statewide services 17258
which include residential facilities, evaluation centers, and 17259
community classes which are wholly or in part financed by the 17260
department of ~~mental retardation and~~ developmental disabilities as 17261
provided by section 5123.26 of the Revised Code; 17262

(C) Develop and maintain, to the extent feasible, data on all 17263
services and programs for persons with mental retardation or a 17264
developmental disability, that are provided by governmental and 17265
private agencies; 17266

(D) Make periodic determinations of the number of persons 17267
with mental retardation or a developmental disability requiring 17268
services in the state; 17269

(E) Provide leadership to local authorities in planning and 17270

developing community-wide services for persons with mental 17271
retardation or a developmental disability and their families; 17272

(F) Promote programs of professional training and research in 17273
cooperation with other state departments, agencies, and 17274
institutions of higher learning. 17275

Sec. 5123.021. (A) As used in this section, "mentally 17276
retarded individual" and "specialized services" have the same 17277
meanings as in section 5111.202 of the Revised Code. 17278

(B)(1) Except as provided in division (B)(2) of this section 17279
and rules adopted under division (E)(3) of this section, for 17280
purposes of section 5111.202 of the Revised Code, the department 17281
of ~~mental retardation and~~ developmental disabilities shall 17282
determine in accordance with section 1919(e)(7) of the "Social 17283
Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, 17284
and regulations adopted under section 1919(f)(8)(A) of that act 17285
whether, because of the individual's physical and mental 17286
condition, a mentally retarded individual seeking admission to a 17287
nursing facility requires the level of services provided by a 17288
nursing facility and, if the individual requires that level of 17289
services, whether the individual requires specialized services for 17290
mental retardation. 17291

(2) A determination under this division is not required for 17292
any of the following: 17293

(a) An individual seeking readmission to a nursing facility 17294
after having been transferred from a nursing facility to a 17295
hospital for care; 17296

(b) An individual who meets all of the following conditions: 17297

(i) The individual is admitted to the nursing facility 17298
directly from a hospital after receiving inpatient care at the 17299
hospital; 17300

(ii) The individual requires nursing facility services for 17301
the condition for which the individual received care in the 17302
hospital; 17303

(iii) The individual's attending physician has certified, 17304
before admission to the nursing facility, that the individual is 17305
likely to require less than thirty days of nursing facility 17306
services. 17307

(c) An individual transferred from one nursing facility to 17308
another nursing facility, with or without an intervening hospital 17309
stay. 17310

(C) Except as provided in rules adopted under division (F)(3) 17311
of this section, the department of ~~mental retardation and~~ 17312
developmental disabilities shall review and determine, for each 17313
resident of a nursing facility who is mentally retarded, whether 17314
the resident, because of the resident's physical and mental 17315
condition, requires the level of services provided by a nursing 17316
facility and whether the resident requires specialized services 17317
for mental retardation. The review and determination shall be 17318
conducted in accordance with section 1919(e)(7) of the "Social 17319
Security Act" and the regulations adopted under section 17320
1919(f)(8)(A) of the act. The review and determination shall be 17321
completed promptly after a nursing facility has notified the 17322
department that there has been a significant change in the 17323
resident's mental or physical condition. 17324

(D)(1) In the case of a nursing facility resident who has 17325
continuously resided in a nursing facility for at least thirty 17326
months before the date of a review and determination under 17327
division (C) of this section, if the resident is determined not to 17328
require the level of services provided by a nursing facility, but 17329
is determined to require specialized services for mental 17330
retardation, the department, in consultation with the resident's 17331
family or legal representative and care givers, shall do all of 17332

the following: 17333

(a) Inform the resident of the institutional and 17334
noninstitutional alternatives covered under the state plan for 17335
medical assistance; 17336

(b) Offer the resident the choice of remaining in the nursing 17337
facility or receiving covered services in an alternative 17338
institutional or noninstitutional setting; 17339

(c) Clarify the effect on eligibility for services under the 17340
state plan for medical assistance if the resident chooses to leave 17341
the facility, including its effect on readmission to the facility; 17342

(d) Provide for or arrange for the provision of specialized 17343
services for the resident's mental retardation in the setting 17344
chosen by the resident. 17345

(2) In the case of a nursing facility resident who has 17346
continuously resided in a nursing facility for less than thirty 17347
months before the date of the review and determination under 17348
division (C) of this section, if the resident is determined not to 17349
require the level of services provided by a nursing facility, but 17350
is determined to require specialized services for mental 17351
retardation, or if the resident is determined to require neither 17352
the level of services provided by a nursing facility nor 17353
specialized services for mental retardation, the department shall 17354
act in accordance with its alternative disposition plan approved 17355
by the United States department of health and human services under 17356
section 1919(e)(7)(E) of the "Social Security Act." 17357

(3) In the case of an individual who is determined under 17358
division (B) or (C) of this section to require both the level of 17359
services provided by a nursing facility and specialized services 17360
for mental retardation, the department of ~~mental retardation and~~ 17361
developmental disabilities shall provide or arrange for the 17362
provision of the specialized services needed by the individual or 17363

resident while residing in a nursing facility. 17364

(E) The department of ~~mental retardation and~~ developmental 17365
disabilities shall adopt rules in accordance with Chapter 119. of 17366
the Revised Code that do all of the following: 17367

(1) Establish criteria to be used in making the 17368
determinations required by divisions (B) and (C) of this section. 17369
The criteria shall not exceed the criteria established by 17370
regulations adopted by the United States department of health and 17371
human services under section 1919(f)(8)(A) of the "Social Security 17372
Act." 17373

(2) Specify information to be provided by the individual or 17374
nursing facility resident being assessed; 17375

(3) Specify any circumstances, in addition to circumstances 17376
listed in division (B) of this section, under which determinations 17377
under divisions (B) and (C) of this section are not required to be 17378
made. 17379

Sec. 5123.03. (A) The department of ~~mental retardation and~~ 17380
developmental disabilities shall do all of the following: 17381

(1) Maintain, operate, manage, and govern all state 17382
institutions for the care, treatment, and training of the mentally 17383
retarded; 17384

(2) Designate all such institutions by appropriate names; 17385

(3) Provide and designate facilities for the custody, care, 17386
and special treatment of persons of the following classes: 17387

(a) Dangerous persons in state institutions for the mentally 17388
retarded who represent a serious threat to the safety of the other 17389
patients of the institution; 17390

(b) Persons charged with crimes who are found incompetent to 17391
stand trial or not guilty by reason of insanity and who are also 17392

mentally retarded persons subject to institutionalization by court order. 17393
17394

(4) Have control of all institutions maintained in part by the state for the care, treatment, and training of the mentally retarded; 17395
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(5) Administer the laws relative to persons in such institutions in an efficient, economical, and humane manner; 17398
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(6) Ascertain by actual examinations and inquiry whether institutionalizations are made according to law. 17400
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(B) The department may do any of the following: 17402

(1) Subject to section 5139.08 of the Revised Code, receive from the department of youth services for observation, diagnosis, care, habilitation, or placement any children in the custody of the department of youth services; 17403
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(2) Receive for observation any minor from a public institution other than an institution under the jurisdiction of the department of ~~mental retardation and~~ developmental disabilities, from a private charitable institution, or from a person having legal custody of such a minor, upon such terms as are proper; 17407
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(3) Receive from the department of mental health any patient in the custody of the department who is transferred to the department of ~~mental retardation and~~ developmental disabilities upon such terms and conditions as may be agreed upon by the two departments. 17413
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~~(e)~~(C) In addition to the powers and duties expressly conferred by this section, the department may take any other action necessary for the full and efficient executive, administrative, and fiscal supervision of the state institutions described in this section. 17418
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Sec. 5123.031. The director of ~~mental retardation and~~ 17423
developmental disabilities may require the performance of duties 17424
by the officers of the institutions under the jurisdiction of the 17425
department of ~~mental retardation and~~ developmental disabilities so 17426
as fully to meet the requirements, intents, and purposes of this 17427
chapter. In case of an apparent conflict between the powers 17428
conferred upon any managing officer and those conferred by this 17429
chapter upon the department, the presumption shall be conclusive 17430
in favor of the department. 17431

The director shall adopt rules for the nonpartisan management 17432
of the institutions under the jurisdiction of the department. An 17433
officer or employee of the department or any officer or employee 17434
of any institution under its control who, by solicitation or 17435
otherwise, exerts ~~his~~ the officer's or employee's influence 17436
directly or indirectly to induce any other officer or employee of 17437
the department or any of its institutions to adopt ~~his~~ the 17438
officer's or employee's political views or to favor any particular 17439
person, issue, or candidate for office shall be removed from ~~his~~ 17440
the officer's or employee's office or position, by the department 17441
in case of an officer or employee, and by the governor in case of 17442
the director. 17443

The managing officer of any institution under the 17444
jurisdiction of the department shall submit reports to the 17445
director relating to the admission, examination, comprehensive 17446
evaluation, diagnosis, release, or discharge of any resident. 17447

The director, or a person designated by ~~him~~ the director, 17448
shall visit each institution regularly to review the admission 17449
procedures of all new residents and to investigate complaints made 17450
by any resident or by any person on behalf of a resident. 17451

The director shall prescribe the forms of affidavits, 17452
applications, comprehensive evaluations, orders of 17453

institutionalization and release, and all other forms that are 17454
required in the institutionalization, admission, and release of 17455
all persons with respect to institutions under the jurisdiction of 17456
the department, and of reports and records provided for under this 17457
chapter. 17458

Sec. 5123.032. (A) As used in this section, "developmental 17459
center" means any institution or facility of the department of 17460
~~mental retardation and~~ developmental disabilities that, on or 17461
~~after the effective date of this section~~ January 30, 2004, is 17462
named, designated, or referred to as a developmental center. 17463

(B) Notwithstanding any other provision of law, on and after 17464
~~the effective date of this section~~ January 30, 2004, any closure 17465
of a developmental center shall be subject to, and in accordance 17466
with, this section. Notwithstanding any other provision of law, if 17467
the governor announced on or after January 1, 2003, and prior to 17468
~~the effective date of this section~~ January 30, 2004, the intended 17469
closure of a developmental center and if the closure identified in 17470
the announcement has not occurred prior to ~~the effective date of~~ 17471
~~this section~~ January 30, 2004, the closure identified in the 17472
announcement shall be subject to the criteria set forth in this 17473
section as if the announcement had been made on or after ~~the~~ 17474
~~effective date of this section~~ January 30, 2004, except for the 17475
time at which the notice to the general assembly must be provided 17476
as identified in division (C) of this section. 17477

(C) Notwithstanding any other provision of law, on and after 17478
~~the effective date of this section~~ January 30, 2004, at least ten 17479
days prior to making any official, public announcement that the 17480
governor intends to close one or more developmental centers, the 17481
governor shall notify the general assembly in writing that the 17482
governor intends to close one or more developmental centers. 17483
Notwithstanding any other provision of law, if the governor 17484

announced on or after January 1, 2003, and prior to ~~the effective~~ 17485
~~date of this section January 30, 2004,~~ the intended closure of a 17486
developmental center and if the closure identified in the 17487
announcement has not occurred prior to ~~the effective date of this~~ 17488
~~section January 30, 2004,~~ not later than ten days after ~~the~~ 17489
~~effective date of this section January 30, 2004,~~ the governor 17490
shall notify the general assembly in writing of the prior 17491
announcement and that the governor intends to close the center 17492
identified in the prior announcement, and the notification to the 17493
general assembly shall constitute, for purposes of this section, 17494
the governor's official, public announcement that the governor 17495
intends to close that center. 17496

The notice required by this division shall identify by name 17497
each developmental center that the governor intends to close or, 17498
if the governor has not determined any specific developmental 17499
center to close, shall state the governor's general intent to 17500
close one or more developmental centers. When the governor 17501
notifies the general assembly as required by this division, the 17502
legislative service commission promptly shall conduct an 17503
independent study of the developmental centers of the department 17504
of ~~mental retardation and~~ developmental disabilities and of the 17505
department's operation of the centers, and the study shall address 17506
relevant criteria and factors, including, but not limited to, all 17507
of the following: 17508

(1) The manner in which the closure of developmental centers 17509
in general would affect the safety, health, well-being, and 17510
lifestyle of the centers' residents and their family members and 17511
would affect public safety and, if the governor's notice 17512
identifies by name one or more developmental centers that the 17513
governor intends to close, the manner in which the closure of each 17514
center so identified would affect the safety, health, well-being, 17515
and lifestyle of the center's residents and their family members 17516

and would affect public safety;	17517
(2) The availability of alternate facilities;	17518
(3) The cost effectiveness of the facilities identified for closure;	17519 17520
(4) A comparison of the cost of residing at a facility identified for closure and the cost of new living arrangements;	17521 17522
(5) The geographic factors associated with each facility and its proximity to other similar facilities;	17523 17524
(6) The impact of collective bargaining on facility operations;	17525 17526
(7) The utilization and maximization of resources;	17527
(8) Continuity of the staff and ability to serve the facility population;	17528 17529
(9) Continuing costs following closure of a facility;	17530
(10) The impact of the closure on the local economy;	17531
(11) Alternatives and opportunities for consolidation with other facilities;	17532 17533
(12) How the closing of a facility identified for closure relates to the department's plans for the future of developmental centers in this state;	17534 17535 17536
(13) The effect of the closure of developmental centers in general upon the state's fiscal resources and fiscal status and, if the governor's notice identifies by name one or more developmental centers that the governor intends to close, the effect of the closure of each center so identified upon the state's fiscal resources and fiscal status.	17537 17538 17539 17540 17541 17542
(D) The legislative service commission shall complete the study required by division (C) of this section, and prepare a report that contains its findings, not later than sixty days after	17543 17544 17545

the governor makes the official, public announcement that the 17546
governor intends to close one or more developmental centers as 17547
described in division (C) of this section. The commission shall 17548
provide a copy of the report to each member of the general 17549
assembly who requests a copy of the report. 17550

Not later than the date on which the legislative service 17551
commission is required to complete the report under this division, 17552
the ~~mental retardation and~~ developmental disabilities 17553
developmental center closure commission is hereby created as 17554
described in division (E) of this section. The officials with the 17555
duties to appoint members of the closure commission, as described 17556
in division (E) of this section, shall appoint the specified 17557
members of the closure commission, and, as soon as possible after 17558
the appointments, the closure commission shall meet for the 17559
purposes described in that division. Upon completion of the report 17560
and the creation of the closure commission under this division, 17561
the legislative service commission promptly shall provide a copy 17562
of the report to the closure commission and shall present the 17563
report as described in division (E) of this section. 17564

(E)(1) A ~~mental retardation and~~ developmental disabilities 17565
developmental center closure commission shall be created at the 17566
time and in the manner specified in division (D) of this section. 17567
The closure commission consists of six members. One member shall 17568
be the director of ~~the department of mental retardation and~~ 17569
developmental disabilities. One member shall be the director of 17570
~~the department of~~ health. One member shall be a private executive 17571
with expertise in facility utilization, in economics, or in both 17572
facility utilization and economics, jointly appointed by the 17573
speaker of the house of representatives and the president of the 17574
senate. The member appointed for expertise in facility 17575
utilization, economics, or both may not be a member of the general 17576
assembly and may not have a developmental center identified for 17577

closure by the governor in the county in which the member resides. 17578
One member shall be a member of the board of the Ohio civil 17579
service employees' association, jointly appointed by the speaker 17580
of the house of representatives and the president of the senate. 17581
One member shall be either a family member of a resident of a 17582
developmental center or a representative of a mental retardation 17583
and developmental disabilities advocacy group, jointly appointed 17584
by the speaker of the house of representatives and the president 17585
of the senate. The member appointed who is a family member of a 17586
developmental center resident or a representative of an advocacy 17587
group may not be a member of the general assembly. One member 17588
shall be a member of the law enforcement community, appointed by 17589
the governor. The officials with the duties to appoint members of 17590
the closure commission shall make the appointments, and the 17591
closure commission shall meet, within the time periods specified 17592
in division (D) of this section. The members of the closure 17593
commission shall serve without compensation. At the closure 17594
commission's first meeting, the members shall organize and appoint 17595
a chairperson and vice-chairperson. 17596

The closure commission shall meet as often as is necessary 17597
for the purpose of making the recommendations to the governor that 17598
are described in this division. The closure commission's meetings 17599
shall be open to the public, and the closure commission shall 17600
accept public testimony. The legislative service commission shall 17601
appear before the closure commission and present the report the 17602
legislative service commission prepared under division (D) of this 17603
section. The closure commission shall meet for the purpose of 17604
making recommendations to the governor, which recommendations may 17605
include all of the following: 17606

(a) Whether any developmental center should be closed; 17607

(b) If the recommendation described in division (E)(1)(a) of 17608
this section is that one or more developmental centers should be 17609

closed, which center or centers should be closed; 17610

(c) If the governor's notice described in division (C) of 17611
this section identifies by name one or more developmental centers 17612
that the governor intends to close, whether the center or centers 17613
so identified should be closed. 17614

(2) The ~~mental retardation and~~ developmental disabilities 17615
developmental center closure commission, not later than sixty days 17616
after it receives the report of the legislative service commission 17617
under division (D) of this section, shall prepare a report 17618
containing its recommendations to the governor. The closure 17619
commission shall send a copy of the report to the governor and to 17620
each member of the general assembly who requests a copy of the 17621
report. Upon receipt of the closure commission's report, the 17622
governor shall review and consider the commission's 17623
recommendation. The governor shall do one of the following: 17624

(a) Follow the recommendation of the commission; 17625

(b) Close no developmental center; 17626

(c) Take other action that the governor determines is 17627
necessary for the purpose of expenditure reductions or budget cuts 17628
and state the reasons for the action. 17629

The governor's decision is final. Upon the governor's making 17630
of the decision, the closure commission shall cease to exist. 17631
Another closure commission shall be created under this section 17632
each time the governor subsequently makes an official, public 17633
announcement that the governor intends to close one or more 17634
developmental centers. 17635

Sec. 5123.033. The program fee fund is hereby created in the 17636
state treasury. All fees collected pursuant to sections 5123.161, 17637
5123.164, 5123.19, and 5126.25 of the Revised Code shall be 17638
credited to the fund. Money credited to the fund shall be used 17639

solely for the department of ~~mental retardation and~~ developmental 17640
disabilities' duties under sections 5123.16 to 5123.169, 5123.19, 17641
and 5126.25 of the Revised Code and to provide continuing 17642
education and professional training to employees of county boards 17643
of ~~mental retardation and~~ developmental disabilities for the 17644
purpose of section 5126.25 of the Revised Code and other providers 17645
of services to individuals with mental retardation or a 17646
developmental disability. If the money credited to the fund is 17647
inadequate to pay all of the department's costs in performing 17648
those duties and providing the continuing education and 17649
professional training, the department may use other available 17650
funds appropriated to the department to pay the remaining costs of 17651
performing those duties and providing the continuing education and 17652
professional training. 17653

Sec. 5123.04. (A) The director of ~~mental retardation and~~ 17654
developmental disabilities is the executive head of the department 17655
of ~~mental retardation and~~ developmental disabilities. All duties 17656
conferred on the department and its institutions by law or by 17657
order of the director shall be performed under such rules as the 17658
director prescribes, and shall be under the director's control. 17659
The director shall establish bylaws for the government of all 17660
institutions under the jurisdiction of the department. Except as 17661
otherwise is provided as to appointments by chiefs of divisions, 17662
the director shall appoint such employees as are necessary for the 17663
efficient conduct of the department, and shall prescribe their 17664
titles and duties. If the director is not a licensed physician, 17665
decisions relating to medical diagnosis and treatment shall be the 17666
responsibility of a licensed physician appointed by the director. 17667

(B) The director shall adopt rules for the proper execution 17668
of the powers and duties of the department. 17669

(C) The director shall adopt rules establishing standards 17670

that mental retardation programs and facilities shall follow when 17671
performing evaluations of the mental condition of defendants 17672
ordered by the court under section 2919.271 or 2945.371 of the 17673
Revised Code, and for the treatment of defendants who have been 17674
found incompetent to stand trial under section 2945.38 of the 17675
Revised Code, and certify the compliance of such programs and 17676
facilities with the standards. 17677

(D) On behalf of the department, the director has the 17678
authority to, and responsibility for, entering into contracts and 17679
other agreements. 17680

(E) The director shall adopt rules in accordance with Chapter 17681
119. of the Revised Code that do all of the following: 17682

(1) Specify the supplemental services that may be provided 17683
through a trust authorized by section 5815.28 of the Revised Code; 17684

(2) Establish standards for the maintenance and distribution 17685
to a beneficiary of assets of a trust authorized by section 17686
5815.28 of the Revised Code. 17687

(F) The director shall provide monitoring of county boards of 17688
~~mental retardation and~~ developmental disabilities. 17689

Sec. 5123.042. (A) The director of ~~mental retardation and~~ 17690
developmental disabilities shall adopt rules in accordance with 17691
Chapter 119. of the Revised Code establishing the following: 17692

(1) Uniform standards under which: 17693

(a) A person or agency shall submit plans to the county board 17694
of ~~mental retardation and~~ developmental disabilities for the 17695
development of residential services for individuals with mental 17696
retardation or a developmental disability within the county; 17697

(b) The county board must review the plans and recommend 17698
providers for the services. 17699

(2) The eligibility criteria for selecting persons and 17700
agencies to provide residential services, which shall take into 17701
consideration the recommendations of the county board. 17702

(B) The county board, in accordance with its comprehensive 17703
service plan, shall review all proposals for the development of 17704
residential services that are submitted to it and shall, if the 17705
proposals are acceptable to the county board, recommend providers 17706
for the development of residential services within the county. The 17707
department shall approve proposals for the development of 17708
residential services within counties based upon the availability 17709
of funds and in accordance with rules adopted under division 17710
(A)(2) of this section. 17711

No county board shall recommend providers for the development 17712
of residential services if the county board is an applicant to 17713
provide services. In cases of possible conflict of interest, the 17714
director shall appoint a committee that shall, in accordance with 17715
the approved county comprehensive service plan, review and 17716
recommend to the director providers for the services. 17717

If a county board fails to establish an approved 17718
comprehensive service plan, the director may establish residential 17719
services development goals for the county board based on 17720
documented need as determined by the department. If a county board 17721
fails to develop or implement such a plan in accordance with the 17722
rules adopted under this section, the department may, without the 17723
involvement of the county board, review and select providers for 17724
the development of residential services in the county. 17725

Sec. 5123.043. (A) The director of ~~mental retardation and~~ 17726
developmental disabilities shall adopt rules establishing 17727
procedures for administrative resolution of complaints filed under 17728
division (B) of this section and section 5126.06 of the Revised 17729
Code. The rules shall be adopted in accordance with Chapter 119. 17730

of the Revised Code. 17731

(B) Except as provided in division (C) of this section, any 17732
person or county board of ~~mental retardation and~~ developmental 17733
disabilities that has a complaint involving any of the programs, 17734
services, policies, or administrative practices of the department 17735
of ~~mental retardation and~~ developmental disabilities or any of the 17736
entities under contract with the department, may file a complaint 17737
with the department. Prior to commencing a civil action regarding 17738
the complaint, a person or county board shall attempt to have the 17739
complaint resolved through the administrative resolution process 17740
established in the rules adopted under this section. After 17741
exhausting the administrative resolution process, the person or 17742
county board may commence a civil action if the complaint is not 17743
settled to the person's or county board's satisfaction. 17744

(C) An employee of the department may not file under this 17745
section a complaint related to the terms and conditions of 17746
employment for the employee. 17747

Sec. 5123.044. The department of ~~mental retardation and~~ 17748
developmental disabilities shall determine whether county boards 17749
of ~~mental retardation and~~ developmental disabilities are in 17750
compliance with section 5126.046 of the Revised Code. The 17751
department shall provide assistance to an individual with mental 17752
retardation or other developmental disability who requests 17753
assistance with the individual's right under section 5126.046 of 17754
the Revised Code to choose a provider of habilitation, vocational, 17755
community employment, residential, or supported living services if 17756
the department is notified of a county board's alleged violation 17757
of the individual's right to choose such a provider. 17758

Sec. 5123.046. The department of ~~mental retardation and~~ 17759
developmental disabilities shall review each component of the 17760

three-calendar-year plan it receives from a county board of ~~mental~~ 17761
~~retardation and~~ developmental disabilities under section 5126.054 17762
of the Revised Code and, in consultation with the department of 17763
job and family services and office of budget and management, 17764
approve each component that includes all the information and 17765
conditions specified in that section. The third component of the 17766
plan shall be approved or disapproved not later than forty-five 17767
days after the third component is submitted to the department. If 17768
the department approves all three components of the plan, the plan 17769
is approved. Otherwise, the plan is disapproved. If the plan is 17770
disapproved, the department shall take action against the county 17771
board under division (B) of section 5126.056 of the Revised Code. 17772
17773

In approving plans under this section, the department shall 17774
ensure that the aggregate of all plans provide for the increased 17775
enrollment into home and community-based services during each 17776
state fiscal year of at least five hundred individuals who did not 17777
receive residential services, supported living, or home and 17778
community-based services the prior state fiscal year if the 17779
department has enough additional enrollment available for this 17780
purpose. 17781

The department shall establish protocols that the department 17782
shall use to determine whether a county board is complying with 17783
the programmatic and financial accountability mechanisms and 17784
achieving outcomes specified in its approved plan. If the 17785
department determines that a county board is not in compliance 17786
with the mechanisms or achieving the outcomes specified in its 17787
approved plan, the department may take action under division (F) 17788
of section 5126.055 of the Revised Code. 17789

Sec. 5123.047. The department of ~~mental retardation and~~ 17790
developmental disabilities shall pay the nonfederal share of 17791

medicaid expenditures for medicaid case management services and 17792
home and community-based services for which no county board of 17793
~~mental retardation and~~ developmental disabilities is required by 17794
section 5126.059 or 5126.0510 of the Revised Code to pay. 17795

Sec. 5123.048. The director of ~~mental retardation and~~ 17796
developmental disabilities may enter into an agreement with a 17797
county board of ~~mental retardation and~~ developmental disabilities 17798
under which the department of ~~mental retardation and~~ developmental 17799
disabilities is to pay the nonfederal share of medicaid 17800
expenditures for one or more of the home and community-based 17801
services that the county board would, if not for the agreement, be 17802
required by section 5126.0510 of the Revised Code to pay. The 17803
agreement shall specify which home and community-based services 17804
the agreement covers. The department shall pay the nonfederal 17805
share of medicaid expenditures for the home and community-based 17806
services that the agreement covers as long as the agreement is in 17807
effect. 17808

Sec. 5123.049. The director of ~~mental retardation and~~ 17809
developmental disabilities shall adopt rules in accordance with 17810
Chapter 119. of the Revised Code governing the authorization and 17811
payment of home and community-based services and medicaid case 17812
management services. The rules shall provide for private providers 17813
of the services to receive one hundred per cent of the medicaid 17814
allowable payment amount and for government providers of the 17815
services to receive the federal share of the medicaid allowable 17816
payment, less the amount withheld as a fee under section 5123.0412 17817
of the Revised Code and any amount that may be required by rules 17818
adopted under section 5123.0413 of the Revised Code to be 17819
deposited into the state ~~MR/DD~~ developmental disabilities risk 17820
fund. The rules shall establish the process by which county boards 17821
of ~~mental retardation and~~ developmental disabilities shall certify 17822

and provide 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. The process shall require a county board to
certify that the county board has funding available at one time
for two months costs for those expenditures. The process may
permit a county board to certify that the county board has funding
available at one time for more than two months costs for those
expenditures.

Sec. 5123.0410. An individual with mental retardation or
other developmental disability who moves from one county in this
state to another county in this state shall receive home and
community-based services in the new county that are comparable in
scope to the home and community-based services the individual
receives in the prior county at the time the individual moves. If
the county board serving the county to which the individual moves
determines under section 5126.041 of the Revised Code that the
individual is eligible for county board services, the county board
shall ensure that the individual receives the comparable services.
If the county board determines that the individual is not eligible
for county board services, the department of ~~mental retardation~~
~~and~~ developmental disabilities shall ensure that the individual
receives the comparable services.

If the home and community-based services that the individual
receives at the time the individual moves include supported living
or residential services, the department shall reduce the amount
the department allocates to the county board serving the county
the individual left for those supported living or residential
services by an amount that equals the payment the department
authorizes or projects, or both, for those supported living or
residential services from the last day the individual resides in
the county to the last day of the state fiscal year in which the
individual moves. The department shall increase the amount the

department allocates to the county board serving the county the 17855
individual moves to by the same amount. The department shall make 17856
the reduction and increase effective the day the department 17857
determines the individual has residence in the new county. The 17858
department shall determine the amount that is to be reduced and 17859
increased in accordance with the department's rules for 17860
authorizing payments for home and community-based services 17861
established adopted under section 5123.049 of the Revised Code. 17862
The department shall annualize the reduction and increase for the 17863
subsequent state fiscal year as necessary. 17864

Sec. 5123.0411. The department of ~~mental-retardation-and~~ 17865
developmental disabilities may bring a mandamus action against a 17866
county board of ~~mental-retardation-and~~ developmental disabilities 17867
that fails to pay the nonfederal share of medicaid expenditures 17868
that the county board is required by sections 5126.059 and 17869
5126.0510 of the Revised Code to pay. The department may bring the 17870
mandamus action in the court of common pleas of the county served 17871
by the county board or in the Franklin county court of common 17872
pleas. 17873

Sec. 5123.0412. (A) The department of ~~mental-retardation-and~~ 17874
developmental disabilities shall charge each county board of 17875
~~mental-retardation-and~~ developmental disabilities an annual fee 17876
equal to one and one-half per cent of the total value of all 17877
medicaid paid claims for home and community-based services 17878
provided during the year to an individual eligible for services 17879
from the county board. No county board shall pass the cost of a 17880
fee charged to the county board under this section on to another 17881
provider of these services. 17882

(B) The fees collected under this section shall be deposited 17883
into the ~~ODMR/DD~~ ODDD administration and oversight fund and the 17884
ODJFS administration and oversight fund, both of which are hereby 17885

created in the state treasury. The portion of the fees to be 17886
deposited into the ~~ODMR/DD~~ ODDD administration and oversight fund 17887
and the portion of the fees to be deposited into the ODJFS 17888
administration and oversight fund shall be the portion specified 17889
in an interagency agreement entered into under division (C) of 17890
this section. The department of ~~mental-retardation-and~~ 17891
developmental disabilities shall use the money in the ~~ODMR/DD~~ ODDD 17892
administration and oversight fund and the department of job and 17893
family services shall use the money in the ODJFS administration 17894
and oversight fund for both of the following purposes: 17895

(1) The administrative and oversight costs of medicaid case 17896
management services and home and community-based services. The 17897
administrative and oversight costs shall include costs for staff, 17898
systems, and other resources the departments need and dedicate 17899
solely to the following duties associated with the services: 17900

- (a) Eligibility determinations; 17901
- (b) Training; 17902
- (c) Fiscal management; 17903
- (d) Claims processing; 17904
- (e) Quality assurance oversight; 17905
- (f) Other duties the departments identify. 17906

(2) Providing technical support to county boards' local 17907
administrative authority under section 5126.055 of the Revised 17908
Code for the services. 17909

(C) The departments of ~~mental-retardation-and~~ developmental 17910
disabilities and job and family services shall enter into an 17911
interagency agreement to do both of the following: 17912

(1) Specify which portion of the fees collected under this 17913
section is to be deposited into the ~~ODMR/DD~~ ODDD administration 17914
and oversight fund and which portion is to be deposited into the 17915

ODJFS administration and oversight fund; 17916

(2) Provide for the departments to coordinate the staff whose 17917
costs are paid for with money in the ~~ODMR/DD~~ ODDD administration 17918
and oversight fund and the ODJFS administration and oversight 17919
fund. 17920

(D) The departments shall submit an annual report to the 17921
director of budget and management certifying how the departments 17922
spent the money in the ~~ODMR/DD~~ ODDD administration and oversight 17923
fund and the ODJFS administration and oversight fund for the 17924
purposes specified in division (B) of this section. 17925

Sec. 5123.0413. (A) The department of ~~mental retardation and~~ 17926
developmental disabilities, in consultation with the department of 17927
job and family services, office of budget and management, and 17928
county boards of ~~mental retardation and~~ developmental 17929
disabilities, shall adopt rules in accordance with Chapter 119. of 17930
the Revised Code no later than January 1, 2002, establishing a 17931
method of paying for extraordinary costs, including extraordinary 17932
costs for services to individuals with mental retardation or other 17933
developmental disability, and ensure the availability of adequate 17934
funds in the event a county property tax levy for services for 17935
individuals with mental retardation or other developmental 17936
disability fails. The rules may provide for using and managing 17937
either or both of the following: 17938

(1) A state ~~MR/DD~~ developmental disabilities risk fund, which 17939
is hereby created in the state treasury; 17940

(2) A state insurance against ~~MR/DD~~ developmental 17941
disabilities risk fund, which is hereby created in the state 17942
treasury. 17943

(B) Beginning January 1, 2002, the department of job and 17944
family services may not request approval from the United States 17945

secretary of health and human services to increase the number of 17946
slots for home and community-based services until the rules 17947
required by division (A) of this section are in effect. 17948

Sec. 5123.0414. (A) When the director of ~~mental-retardation~~ 17949
~~and~~ developmental disabilities, under section 119.07 of the 17950
Revised Code, sends a party a notice by registered mail, return 17951
receipt requested, that the director intends to take action 17952
against the party authorized by section 5123.082, 5123.166, 17953
5123.168, 5123.19, 5123.45, 5123.51, or 5126.25 of the Revised 17954
Code and the notice is returned to the director with an 17955
endorsement indicating that the notice was refused or unclaimed, 17956
the director shall resend the notice by ordinary mail to the 17957
party. 17958

(B) If the original notice was refused, the notice shall be 17959
deemed received as of the date the director resends the notice. 17960

(C) If the original notice was unclaimed, the notice shall be 17961
deemed received as of the date the director resends the notice 17962
unless, not later than thirty days after the date the director 17963
sent the original notice, the resent notice is returned to the 17964
director for failure of delivery. 17965

If the notice concerns taking action under section 5123.51 of 17966
the Revised Code and the resent notice is returned to the director 17967
for failure of delivery not later than thirty days after the date 17968
the director sent the original notice, the director shall cause 17969
the notice to be published in a newspaper of general circulation 17970
in the county of the party's last known residence or business and 17971
shall mail a dated copy of the published notice to the party at 17972
the last known address. The notice shall be deemed received as of 17973
the date of the publication. 17974

If the notice concerns taking action under section 5123.082, 17975
5123.166, 5123.168, 5123.19, 5123.45, or 5126.25 of the Revised 17976

Code and the resent notice is returned to the director for failure 17977
of delivery not later than thirty days after the date the director 17978
sent the original notice, the director shall resend the notice to 17979
the party a second time. The notice shall be deemed received as of 17980
the date the director resends the notice the second time. 17981

Sec. 5123.0415. As used in this section, "license" means a 17982
license, certificate, or evidence of registration. 17983

Each person and government entity that applies for or holds a 17984
valid license issued under section 5123.082, 5123.161, 5123.19, 17985
5123.45, 5126.25, or 5126.252 of the Revised Code shall notify the 17986
director of ~~mental retardation and~~ developmental disabilities of 17987
any change in the person or government entity's address. 17988

Sec. 5123.0416. (A) Subject to the availability of funds 17989
appropriated to the department of ~~mental retardation and~~ 17990
developmental disabilities for medicaid waiver state match, the 17991
department shall expend, in fiscal year 2009 and each fiscal year 17992
thereafter, not less than the amount appropriated in appropriation 17993
item 322-416, medicaid waiver - state match, in fiscal year 2008 17994
to do both of the following: 17995

(1) Pay the nonfederal share of medicaid expenditures for 17996
home and community-based services that section 5123.047 of the 17997
Revised Code requires the department to pay; 17998

(2) Assist county boards of ~~mental retardation and~~ 17999
developmental disabilities in paying the nonfederal share of 18000
medicaid expenditures for home and community-based services that 18001
section 5126.0510 of the Revised Code requires county boards to 18002
pay. 18003

(B) The department shall make the expenditures required by 18004
division (A)(2) of this section in the form of allocations to 18005
county boards or by other means. If the department makes the 18006

expenditures in the form of allocations, the process for making 18007
the allocations shall conform to a process the department shall 18008
establish after consulting with representatives of county boards. 18009

Sec. 5123.0417. (A) Using funds available under section 18010
5112.371 of the Revised Code, the director of ~~mental retardation~~ 18011
~~and~~ developmental disabilities shall establish one or more 18012
programs for individuals under twenty-one years of age who have 18013
intensive behavioral needs, including such individuals with a 18014
primary diagnosis of autism spectrum disorder. The programs may 18015
include one or more medicaid waiver components that the director 18016
administers pursuant to section 5111.871 of the Revised Code. The 18017
programs may do one or more of the following: 18018

(1) Establish models that incorporate elements common to 18019
effective intervention programs and evidence-based practices in 18020
services for children with intensive behavioral needs; 18021

(2) Design a template for individualized education plans and 18022
individual service plans that provide consistent intervention 18023
programs and evidence-based practices for the care and treatment 18024
of children with intensive behavioral needs; 18025

(3) Disseminate best practice guidelines for use by families 18026
of children with intensive behavioral needs and professionals 18027
working with such families; 18028

(4) Develop a transition planning model for effectively 18029
mainstreaming school-age children with intensive behavioral needs 18030
to their public school district; 18031

(5) Contribute to the field of early and effective 18032
identification and intervention programs for children with 18033
intensive behavioral needs by providing financial support for 18034
scholarly research and publication of clinical findings. 18035

(B) The director of ~~mental retardation and~~ developmental 18036

disabilities shall collaborate with the director of job and family 18037
services and consult with the executive director of the Ohio 18038
center for autism and low incidence and university-based programs 18039
that specialize in services for individuals with developmental 18040
disabilities when establishing programs under this section. 18041

Sec. 5123.05. The department of ~~mental retardation and~~ 18042
developmental disabilities may conduct audits of the services and 18043
programs that either receive funds through the department or are 18044
subject to regulation by the department. Audits shall be conducted 18045
in accordance with procedures prescribed by the department. 18046
Records created or received by the department in connection with 18047
an audit are not public records under section 149.43 of the 18048
Revised Code until a report of the audit is released by the 18049
department. 18050

Sec. 5123.051. (A) If the department of ~~mental retardation~~ 18051
~~and~~ developmental disabilities determines pursuant to an audit 18052
conducted under section 5123.05 of the Revised Code or a 18053
reconciliation conducted under section 5123.18 of the Revised Code 18054
that money is owed the state by a provider of a service or 18055
program, the department may enter into a payment agreement with 18056
the provider. The agreement shall include the following: 18057

(1) A schedule of installment payments whereby the money owed 18058
the state is to be paid in full within a period not to exceed one 18059
year; 18060

(2) A provision that the provider may pay the entire balance 18061
owed at any time during the term of the agreement; 18062

(3) A provision that if any installment is not paid in full 18063
within forty-five days after it is due, the entire balance owed is 18064
immediately due and payable; 18065

(4) Any other terms and conditions that are agreed to by the 18066

department and the provider. 18067

(B) The department may include a provision in a payment 18068
agreement that requires the provider to pay interest on the money 18069
owed the state. The department, in its discretion, shall determine 18070
whether to require the payment of interest and, if it so requires, 18071
the rate of interest. Neither the obligation to pay interest nor 18072
the rate of interest is subject to negotiation between the 18073
department and the provider. 18074

(C) If the provider fails to pay any installment in full 18075
within forty-five days after its due date, the department shall 18076
certify the entire balance owed to the attorney general for 18077
collection under section 131.02 of the Revised Code. The 18078
department may withhold funds from payments made to a provider 18079
under section 5123.18 of the Revised Code to satisfy a judgment 18080
secured by the attorney general. 18081

(D) The purchase of service fund is hereby created. Money 18082
credited to the fund shall be used solely for purposes of section 18083
5123.05 of the Revised Code. 18084

Sec. 5123.06. The director of ~~mental retardation and~~ 18085
developmental disabilities may establish divisions in the 18086
department of ~~mental retardation and~~ developmental disabilities 18087
and prescribe their powers and duties. 18088

Each division shall consist of a deputy director and the 18089
officers and employees, including those in institutions, necessary 18090
for the performance of the functions assigned to it. The director 18091
shall supervise the work of each division and be responsible for 18092
the determination of general policies in the exercise of powers 18093
vested in the department and powers assigned to each division. The 18094
deputy director of each division shall be responsible to the 18095
director for the organization, direction, and supervision of the 18096
work of the division and the exercise of the powers and the 18097

performance of the duties of the department assigned to the 18098
division, and, with the approval of the director, may establish 18099
bureaus or other administrative units in the division. 18100

Appointment to the position of deputy director of a division 18101
may be made from persons holding positions in the classified 18102
service in the department. 18103

The deputy director of each division shall be a person who 18104
has had special training and experience in the type of work with 18105
the performance of which the division is charged. 18106

Each deputy director of a division, under the director, shall 18107
have entire executive charge of the division to which the deputy 18108
director is appointed. Subject to sections 124.01 to 124.64 of the 18109
Revised Code, and civil service rules, the deputy director of a 18110
division shall, with the approval of the director, select and 18111
appoint the necessary employees in the deputy director's division 18112
and may remove those employees for cause. 18113

Sec. 5123.07. There may be created in the department of 18114
~~mental retardation and~~ developmental disabilities a bureau of 18115
research. The bureau shall: 18116

(A) Plan, direct, and coordinate all research programs 18117
conducted by the department; 18118

(B) Provide continuing evaluation of research programs; 18119

(C) Direct and coordinate scientific investigations and 18120
studies as undertaken under this section. 18121

The department shall institute and encourage scientific 18122
investigation by the staffs of the various institutions under its 18123
control and supervision, and publish bulletins and reports of the 18124
scientific and clinical work done in such institutions. Scientific 18125
investigation in the department shall be undertaken and continued 18126
only with the approval of the director of ~~mental retardation and~~ 18127

developmental disabilities. 18128

Sec. 5123.08. An appointing officer may appoint a person who 18129
holds a certified position in the classified service within the 18130
department of ~~mental retardation and~~ developmental disabilities to 18131
a position in the unclassified service within the department. A 18132
person appointed pursuant to this section to a position in the 18133
unclassified service shall retain the right to resume the position 18134
and status held by the person in the classified service 18135
immediately prior to the person's appointment to the position in 18136
the unclassified service, regardless of the number of positions 18137
the person held in the unclassified service. An employee's right 18138
to resume a position in the classified service may only be 18139
exercised when an appointing authority demotes the employee to a 18140
pay range lower than the employee's current pay range or revokes 18141
the employee's appointment to the unclassified service. An 18142
employee forfeits the right to resume a position in the classified 18143
service when the employee is removed from the position in the 18144
unclassified service due to incompetence, inefficiency, 18145
dishonesty, drunkenness, immoral conduct, insubordination, 18146
discourteous treatment of the public, neglect of duty, violation 18147
of this chapter or Chapter 124. of the Revised Code, the rules of 18148
the director of ~~mental retardation and~~ developmental disabilities 18149
or the director of administrative services, any other failure of 18150
good behavior, any other acts of misfeasance, malfeasance, or 18151
nonfeasance in office, or conviction of a felony. An employee also 18152
forfeits the right to resume a position in the classified service 18153
upon transfer to a different agency. 18154

Reinstatement to a position in the classified service shall 18155
be to a position substantially equal to that position in the 18156
classified service held previously, as certified by the director 18157
of administrative services. If the position the person previously 18158
held in the classified service has been placed in the unclassified 18159

service or is otherwise unavailable, the person shall be appointed 18160
to a position in the classified service within the department that 18161
the director of administrative services certifies is comparable in 18162
compensation to the position the person previously held in the 18163
classified service. Service in the position in the unclassified 18164
service shall be counted as service in the position in the 18165
classified service held by the person immediately prior to the 18166
person's appointment to the position in the unclassified service. 18167
When a person is reinstated to a position in the classified 18168
service as provided in this section, the person is entitled to all 18169
rights, status, and benefits accruing to the position in the 18170
classified service during the time of the person's service in the 18171
position in the unclassified service. 18172

Sec. 5123.081. (A) As used in this section: 18173

(1) "Applicant" means a person who is under final 18174
consideration for appointment to or employment with the department 18175
of ~~mental retardation and~~ developmental disabilities, including, 18176
but not limited to, a person who is being transferred to the 18177
department and an employee who is being recalled or reemployed 18178
after a layoff. 18179

(2) "Criminal records check" has the same meaning as in 18180
section 109.572 of the Revised Code. 18181

(3) "Minor drug possession offense" has the same meaning as 18182
in section 2925.01 of the Revised Code. 18183

(B) The director of ~~mental retardation and~~ developmental 18184
disabilities shall request the superintendent of the bureau of 18185
criminal identification and investigation to conduct a criminal 18186
records check with respect to each applicant, except that the 18187
director is not required to request a criminal records check for 18188
an employee of the department who is being considered for a 18189
different position or is returning after a leave of absence or 18190

seasonal break in employment, as long as the director has no 18191
reason to believe that the employee has committed any of the 18192
offenses listed or described in division (E) of this section. 18193

If the applicant does not present proof that the applicant 18194
has been a resident of this state for the five-year period 18195
immediately prior to the date upon which the criminal records 18196
check is requested, the director shall request that the 18197
superintendent of the bureau obtain information from the federal 18198
bureau of investigation as a part of the criminal records check 18199
for the applicant. If the applicant presents proof that the 18200
applicant has been a resident of this state for that five-year 18201
period, the director may request that the superintendent of the 18202
bureau include information from the federal bureau of 18203
investigation in the criminal records check. For purposes of this 18204
division, an applicant may provide proof of residency in this 18205
state by presenting, with a notarized statement asserting that the 18206
applicant has been a resident of this state for that five-year 18207
period, a valid driver's license, notification of registration as 18208
an elector, a copy of an officially filed federal or state tax 18209
form identifying the applicant's permanent residence, or any other 18210
document the director considers acceptable. 18211

(C) The director shall provide to each applicant a copy of 18212
the form prescribed pursuant to division (C)(1) of section 109.572 18213
of the Revised Code, provide to each applicant a standard 18214
impression sheet to obtain fingerprint impressions prescribed 18215
pursuant to division (C)(2) of section 109.572 of the Revised 18216
Code, obtain the completed form and impression sheet from each 18217
applicant, and forward the completed form and impression sheet to 18218
the superintendent of the bureau of criminal identification and 18219
investigation at the time the criminal records check is requested. 18220

Any applicant who receives pursuant to this division a copy 18221
of the form prescribed pursuant to division (C)(1) of section 18222

109.572 of the Revised Code and a copy of an impression sheet 18223
prescribed pursuant to division (C)(2) of that section and who is 18224
requested to complete the form and provide a set of fingerprint 18225
impressions shall complete the form or provide all the information 18226
necessary to complete the form and shall provide the material with 18227
the impressions of the applicant's fingerprints. If an applicant, 18228
upon request, fails to provide the information necessary to 18229
complete the form or fails to provide impressions of the 18230
applicant's fingerprints, the director shall not employ the 18231
applicant. 18232

(D) The director may request any other state or federal 18233
agency to supply the director with a written report regarding the 18234
criminal record of each applicant. With regard to an applicant who 18235
becomes a department employee, if the employee holds an 18236
occupational or professional license or other credentials, the 18237
director may request that the state or federal agency that 18238
regulates the employee's occupation or profession supply the 18239
director with a written report of any information pertaining to 18240
the employee's criminal record that the agency obtains in the 18241
course of conducting an investigation or in the process of 18242
renewing the employee's license or other credentials. 18243

(E) Except as provided in division (K)(2) of this section and 18244
in rules adopted by the director in accordance with division (M) 18245
of this section, the director shall not employ a person to fill a 18246
position with the department who has been convicted of or pleaded 18247
guilty to any of the following: 18248

(1) A violation of section 2903.01, 2903.02, 2903.03, 18249
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 18250
2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 18251
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 18252
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 18253
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 18254

2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 18255
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of 18256
section 2905.04 of the Revised Code as it existed prior to July 1, 18257
1996, a violation of section 2919.23 of the Revised Code that 18258
would have been a violation of section 2905.04 of the Revised Code 18259
as it existed prior to July 1, 1996, had the violation occurred 18260
prior to that date, a violation of section 2925.11 of the Revised 18261
Code that is not a minor drug possession offense, or felonious 18262
sexual penetration in violation of former section 2907.12 of the 18263
Revised Code; 18264

(2) A felony contained in the Revised Code that is not listed 18265
in this division, if the felony bears a direct and substantial 18266
relationship to the duties and responsibilities of the position 18267
being filled; 18268

(3) Any offense contained in the Revised Code constituting a 18269
misdemeanor of the first degree on the first offense and a felony 18270
on a subsequent offense, if the offense bears a direct and 18271
substantial relationship to the position being filled and the 18272
nature of the services being provided by the department; 18273

(4) A violation of an existing or former municipal ordinance 18274
or law of this state, any other state, or the United States, if 18275
the offense is substantially equivalent to any of the offenses 18276
listed or described in division (E)(1), (2), or (3) of this 18277
section. 18278

(F) Prior to employing an applicant, the director shall 18279
require the applicant to submit a statement with the applicant's 18280
signature attesting that the applicant has not been convicted of 18281
or pleaded guilty to any of the offenses listed or described in 18282
division (E) of this section. The director also shall require the 18283
applicant to sign an agreement under which the applicant agrees to 18284
notify the director within fourteen calendar days if, while 18285
employed with the department, the applicant is ever formally 18286

charged with, convicted of, or pleads guilty to any of the 18287
offenses listed or described in division (E) of this section. The 18288
agreement shall inform the applicant that failure to report formal 18289
charges, a conviction, or a guilty plea may result in being 18290
dismissed from employment. 18291

(G) The director shall pay to the bureau of criminal 18292
identification and investigation the fee prescribed pursuant to 18293
division (C)(3) of section 109.572 of the Revised Code for each 18294
criminal records check requested and conducted pursuant to this 18295
section. 18296

(H)(1) Any report obtained pursuant to this section is not a 18297
public record for purposes of section 149.43 of the Revised Code 18298
and shall not be made available to any person, other than the 18299
applicant who is the subject of the records check or criminal 18300
records check or the applicant's representative, the department or 18301
its representative, a county board of ~~mental retardation and~~ 18302
developmental disabilities, and any court, hearing officer, or 18303
other necessary individual involved in a case dealing with the 18304
denial of employment to the applicant or the denial, suspension, 18305
or revocation of a certificate or evidence of registration under 18306
section 5123.082 of the Revised Code. 18307

(2) An individual for whom the director has obtained reports 18308
under this section may submit a written request to the director to 18309
have copies of the reports sent to any state agency, entity of 18310
local government, or private entity. The individual shall specify 18311
in the request the agencies or entities to which the copies are to 18312
be sent. On receiving the request, the director shall send copies 18313
of the reports to the agencies or entities specified. 18314

The director may request that a state agency, entity of local 18315
government, or private entity send copies to the director of any 18316
report regarding a records check or criminal records check that 18317
the agency or entity possesses, if the director obtains the 18318

written consent of the individual who is the subject of the 18319
report. 18320

(I) The director shall request the registrar of motor 18321
vehicles to supply the director with a certified abstract 18322
regarding the record of convictions for violations of motor 18323
vehicle laws of each applicant who will be required by the 18324
applicant's employment to transport individuals with mental 18325
retardation or a developmental disability or to operate the 18326
department's vehicles for any other purpose. For each abstract 18327
provided under this section, the director shall pay the amount 18328
specified in section 4509.05 of the Revised Code. 18329

(J) The director shall provide each applicant with a copy of 18330
any report or abstract obtained about the applicant under this 18331
section. 18332

(K)(1) The director shall inform each person, at the time of 18333
the person's initial application for employment, that the person 18334
is required to provide a set of impressions of the person's 18335
fingerprints and that a criminal records check is required to be 18336
conducted and satisfactorily completed in accordance with section 18337
109.572 of the Revised Code if the person comes under final 18338
consideration for employment as a precondition to employment in a 18339
position. 18340

(2) The director may employ an applicant pending receipt of 18341
reports requested under this section. The director shall terminate 18342
employment of any such applicant if it is determined from the 18343
reports that the applicant failed to inform the director that the 18344
applicant had been convicted of or pleaded guilty to any of the 18345
offenses listed or described in division (E) of this section. 18346

(L) The director may charge an applicant a fee for costs the 18347
director incurs in obtaining reports, abstracts, or fingerprint 18348
impressions under this section. A fee charged under this division 18349

shall not exceed the amount of the fees the director pays under 18350
divisions (G) and (I) of this section. If a fee is charged under 18351
this division, the director shall notify the applicant of the 18352
amount of the fee at the time of the applicant's initial 18353
application for employment and that, unless the fee is paid, the 18354
director will not consider the applicant for employment. 18355

(M) The director shall adopt rules in accordance with Chapter 18356
119. of the Revised Code to implement this section, including 18357
rules specifying circumstances under which the director may employ 18358
a person who has been convicted of or pleaded guilty to an offense 18359
listed or described in division (E) of this section but who meets 18360
standards in regard to rehabilitation set by the director. 18361

Sec. 5123.082. (A) The director of ~~mental retardation and~~ 18362
developmental disabilities shall adopt rules in accordance with 18363
Chapter 119. of the Revised Code: 18364

(1) Designating positions of employment for which the 18365
director determines that certification or evidence of registration 18366
is required as a condition of employment in the department of 18367
~~mental retardation and~~ developmental disabilities, entities that 18368
contract with the department or county boards of ~~mental~~ 18369
~~retardation and~~ developmental disabilities to operate programs or 18370
provide services to persons with mental retardation and 18371
developmental disabilities, or other positions of employment in 18372
programs that serve those persons. The rules shall designate the 18373
position of investigative agent, as defined in section 5126.20 of 18374
the Revised Code, as a position for which certification is 18375
required. 18376

(2) Establishing levels of certification or registration for 18377
each position for which certification or registration is required; 18378

(3) Establishing for each level of each position the 18379
requirements that must be met to obtain certification or 18380

registration, including standards regarding education, specialized 18381
training, and experience. The standards shall take into account 18382
the nature and needs of persons with mental retardation or a 18383
developmental disability and the specialized techniques needed to 18384
serve them. The requirements for an investigative agent shall be 18385
the same as the certification requirements for an investigative 18386
agent under section 5126.25 of the Revised Code. 18387

(4) Establishing renewal schedules and renewal requirements 18388
for certification and registration, including standards regarding 18389
education, specialized training, and experience. The renewal 18390
requirements for an investigative agent shall be the same as the 18391
renewal requirements for an investigative agent under section 18392
5126.25 of the Revised Code. 18393

(5) Establishing procedures for denial, suspension, and 18394
revocation of a certificate or evidence of registration, including 18395
appeal procedures; 18396

(6) Establishing other requirements needed to carry out this 18397
section. 18398

(B) The director shall issue, renew, deny, suspend, or revoke 18399
a certificate or evidence of registration in accordance with rules 18400
adopted under this section. The director shall deny, suspend, or 18401
revoke a certificate or evidence of registration if the director 18402
finds, pursuant to an adjudication conducted in accordance with 18403
Chapter 119. of the Revised Code, that an applicant for or holder 18404
of a certificate or evidence of registration is guilty of 18405
intemperate, immoral, or other conduct unbecoming to the 18406
applicant's or holder's position, or is guilty of incompetence or 18407
negligence within the scope of the applicant's or holder's duties. 18408
The director shall deny or revoke a certificate or evidence of 18409
registration after the director finds, pursuant to an adjudication 18410
conducted in accordance with Chapter 119. of the Revised Code, 18411
that the applicant for or holder of the certificate or evidence of 18412

registration has been convicted of or pleaded guilty to any of the 18413
offenses listed or described in division (E) of section 5126.28 of 18414
the Revised Code, unless the individual meets standards for 18415
rehabilitation that the director establishes in the rules adopted 18416
under that section. Evidence supporting such allegations must be 18417
presented to the director in writing, and the director shall 18418
provide prompt notice of the allegations to the person who is the 18419
subject of the allegations. A denial, suspension, or revocation 18420
may be appealed in accordance with the procedures established in 18421
rules adopted under this section. 18422

(C) A person holding a valid certificate or evidence of 18423
registration under this section on the effective date of any rules 18424
adopted under this section that increase the certification or 18425
registration standards shall have the period that the rules 18426
prescribe, but not less than one year after the effective date of 18427
the rules, to meet the new standards. 18428

(D) No person shall be employed in a position for which 18429
certification or registration is required under rules adopted 18430
under this section, unless the person holds a valid certificate or 18431
evidence of registration for the position. 18432

Sec. 5123.083. On receipt of a notice pursuant to section 18433
3123.43 of the Revised Code, the director of ~~mental retardation~~ 18434
~~and~~ developmental disabilities shall comply with sections 3123.41 18435
to 3123.50 of the Revised Code and any applicable rules adopted 18436
under section 3123.63 of the Revised Code with respect to a 18437
certificate or evidence of registration issued pursuant to this 18438
chapter. 18439

Sec. 5123.09. Subject to the rules of the department of 18440
~~mental retardation and~~ developmental disabilities, each 18441
institution under the jurisdiction of the department shall be 18442

under the control of a managing officer to be known as a 18443
superintendent or by other appropriate title. The managing officer 18444
shall be appointed by the director of ~~mental-retardation and~~ 18445
developmental disabilities and shall be in the unclassified 18446
service and serve at the pleasure of the director. Each managing 18447
officer shall be of good moral character and have skill, ability, 18448
and experience in the managing officer's profession. Appointment 18449
to the position of managing officer of an institution may be made 18450
from persons holding positions in the classified service in the 18451
department. 18452

The managing officer, under the director, shall have entire 18453
executive charge of the institution for which the managing officer 18454
is appointed, except as provided in section 5119.16 of the Revised 18455
Code. Subject to civil service rules and rules adopted by the 18456
department, the managing officer shall appoint the necessary 18457
employees, and the managing officer or the director may remove 18458
those employees for cause. A report of all appointments, 18459
resignations, and discharges shall be filed with the appropriate 18460
division at the close of each month. 18461

After conference with the managing officer of each 18462
institution, the director shall determine the number of employees 18463
to be appointed to the various institutions and clinics. 18464

Sec. 5123.091. The director of ~~metal-retardation and~~ 18465
developmental disabilities may, by rule and with the approval of 18466
the governor, change the purpose for which any institution under 18467
the control of the department is being used. The director may 18468
designate a new or another use for the institution, provided the 18469
change of use and new designation has for its objective 18470
improvement in the classification, segregation, care, education, 18471
cure, or rehabilitation of the persons admitted. 18472

Sec. 5123.092. (A) There is hereby established at each 18473
institution and branch institution under the control of the 18474
department of ~~mental retardation and~~ developmental disabilities a 18475
citizen's advisory council consisting of thirteen members. At 18476
least seven of the members shall be persons who are not providers 18477
of mental retardation services. Each council shall include parents 18478
or other relatives of residents of institutions under the control 18479
of the department, community leaders, professional persons in 18480
relevant fields, and persons who have an interest in or knowledge 18481
of mental retardation. The managing officer of the institution 18482
shall be a nonvoting member of the council. 18483

(B) The director of ~~mental retardation and~~ developmental 18484
disabilities shall be the appointing authority for the voting 18485
members of each citizen's advisory council. Each time the term of 18486
a voting member expires, the remaining members of the council 18487
shall recommend to the director one or more persons to serve on 18488
the council. The director may accept a nominee of the council or 18489
reject the nominee or nominees. If the director rejects the 18490
nominee or nominees, the remaining members of the advisory council 18491
shall further recommend to the director one or more other persons 18492
to serve on the advisory council. This procedure shall continue 18493
until a member is appointed to the advisory council. 18494

Each advisory council shall elect from its appointed members 18495
a chairperson, vice-chairperson, and a secretary to serve for 18496
terms of one year. Advisory council officers shall not serve for 18497
more than two consecutive terms in the same office. A majority of 18498
the advisory council members constitutes a quorum. 18499

(C) Terms of office shall be for three years, each term 18500
ending on the same day of the same month of the year as did the 18501
term which it succeeds. No member shall serve more than two 18502
consecutive terms, except that any former member may be appointed 18503

if one year or longer has elapsed since the member served two 18504
consecutive terms. Each member shall hold office from the date of 18505
appointment until the end of the term for which the member was 18506
appointed. Any vacancy shall be filled in the same manner in which 18507
the original appointment was made, and the appointee to a vacancy 18508
in an unexpired term shall serve the balance of the term of the 18509
original appointee. Any member shall continue in office subsequent 18510
to the expiration date of the member's term until the member's 18511
successor takes office, or until a period of sixty days has 18512
elapsed, whichever occurs first. 18513

(D) Members shall be expected to attend all meetings of the 18514
advisory council. Unexcused absence from two successive regularly 18515
scheduled meetings shall be considered prima-facie evidence of 18516
intent not to continue as a member. The chairperson of the board 18517
shall, after a member has been absent for two successive regularly 18518
scheduled meetings, direct a letter to the member asking if the 18519
member wishes to remain in membership. If an affirmative reply is 18520
received, the member shall be retained as a member except that, 18521
if, after having expressed a desire to remain a member, the member 18522
then misses a third successive regularly scheduled meeting without 18523
being excused, the chairperson shall terminate the member's 18524
membership. 18525

(E) A citizen's advisory council shall meet six times 18526
annually, or more frequently if three council members request the 18527
chairperson to call a meeting. The council shall keep minutes of 18528
each meeting and shall submit them to the managing officer of the 18529
institution with which the council is associated, the department 18530
of ~~mental retardation and~~ developmental disabilities, and the 18531
legal rights service. 18532

(F) Members of citizen's advisory councils shall receive no 18533
compensation for their services, except that they shall be 18534
reimbursed for their actual and necessary expenses incurred in the 18535

performance of their official duties by the institution with which 18536
they are associated from funds allocated to it, provided that 18537
reimbursement for those expenses shall not exceed limits imposed 18538
upon the department of ~~mental retardation and~~ developmental 18539
disabilities by administrative rules regulating travel within this 18540
state. 18541

(G) The councils shall have reasonable access to all patient 18542
treatment and living areas and records of the institution, except 18543
those records of a strictly personal or confidential nature. The 18544
councils shall have access to a patient's personal records with 18545
the consent of the patient or the patient's legal guardian or, if 18546
the patient is a minor, with the consent of the parent or legal 18547
guardian of the patient. 18548

(H) As used in this section, "branch institution" means a 18549
facility that is located apart from an institution and is under 18550
the control of the managing officer of the institution. 18551

Sec. 5123.093. The citizen's advisory councils established 18552
under section 5123.092 of the Revised Code shall: 18553

(A) Transmit verbal or written information from any person or 18554
organization associated with the institution or within the 18555
community, that an advisory council considers important, to the 18556
joint council on ~~mental retardation and~~ developmental disabilities 18557
created by section 101.37 of the Revised Code and the director of 18558
~~mental retardation and~~ developmental disabilities; 18559

(B) Review the records of all applicants to any unclassified 18560
position at the institution, except for resident physician 18561
positions filled under section 5123.11 of the Revised Code; 18562

(C) Review and evaluate institutional employee training and 18563
continuing education programs; 18564

(D) On or before the thirty-first day of January of each 18565

year, submit a written report to the joint council on ~~mental~~ 18566
~~retardation and~~ developmental disabilities and the director of 18567
~~mental retardation and~~ developmental disabilities regarding 18568
matters affecting the institution including, but not limited to, 18569
allegations of dehumanizing practices and violations of individual 18570
or legal rights; 18571

(E) Review institutional budgets, programs, services, and 18572
planning; 18573

(F) Develop and maintain relationships within the community 18574
with community mental retardation and developmental disabilities 18575
organizations; 18576

(G) Participate in the formulation of the institution's 18577
objectives, administrative procedures, program philosophy, and 18578
long range goals; 18579

(H) Bring any matter that an advisory council considers 18580
important to the attention of the joint council on ~~mental~~ 18581
~~retardation and~~ developmental disabilities and the director of 18582
~~mental retardation and~~ developmental disabilities; 18583

(I) Recommend to the director of ~~mental retardation and~~ 18584
developmental disabilities persons for appointment to citizen's 18585
advisory councils; 18586

(J) Adopt any rules or procedures necessary to carry out this 18587
section. 18588

The chairperson of the advisory council or the chairperson's 18589
designee shall be notified within twenty-four hours of any alleged 18590
incident of abuse to a resident or staff member by anyone. 18591
Incidents of resident or staff abuse shall include, but not be 18592
limited to, sudden deaths, accidents, suicides, attempted 18593
suicides, injury caused by other persons, alleged criminal acts, 18594
errors in prescribing or administering medication, theft from 18595
clients, fires, epidemic disease, administering unprescribed 18596

drugs, unauthorized use of restraint, withholding of information 18597
concerning alleged abuse, neglect, or any deprivation of rights as 18598
defined in Chapter 5122. or 5123. of the Revised Code. 18599

Sec. 5123.10. The department of ~~mental retardation and~~ 18600
developmental disabilities shall require any of its employees and 18601
each officer and employee of every institution under its control 18602
who may be charged with custody or control of any money or 18603
property belonging to the state or who is required to give bond to 18604
give a surety company bond, properly conditioned, in a sum to be 18605
fixed by the department which, when approved by the department, 18606
shall be filed in the office of the secretary of state. The cost 18607
of such bonds, when approved by the department, shall be paid from 18608
funds available for the department. The bonds required or 18609
authorized by this section may, in the discretion of the director 18610
of ~~mental retardation and~~ developmental disabilities, be 18611
individual, schedule, or blanket bonds. 18612

Sec. 5123.11. (A) The director of ~~mental retardation and~~ 18613
developmental disabilities may enter into an agreement with the 18614
boards of trustees or boards of directors of two or more 18615
universities in which there is a college of medicine or college of 18616
osteopathic medicine, or of two or more colleges of medicine or 18617
colleges of osteopathic medicine, or any combination of those 18618
universities and colleges, to establish, manage, and conduct 18619
residency medical training programs. The agreement may also 18620
provide for clinical clerkships for medical students. The director 18621
shall also enter into an agreement with the boards of trustees or 18622
boards of directors of one or more universities in which there is 18623
a school of professional psychology to establish, manage, and 18624
conduct residency psychological training programs. 18625

(B) The department shall pay all costs incurred by a 18626
university or college that relate directly to the training of 18627

resident physicians or psychologists in programs developed under 18628
this section. The director of ~~mental retardation and~~ developmental 18629
disabilities shall ensure that any procedures and limitations 18630
imposed for the purpose of reimbursing universities or colleges, 18631
or for direct payment of residents' salaries, are incorporated 18632
into agreements between the department and the universities or 18633
colleges. Any agreement shall provide that residency training for 18634
a physician shall not exceed four calendar years. 18635

Sec. 5123.12. The director of ~~mental retardation and~~ 18636
developmental disabilities may enter into an agreement with boards 18637
of trustees or boards of directors of one or more universities, 18638
colleges, or schools to establish, manage, and conduct residency 18639
training programs for students enrolled in courses of studies for 18640
occupations or professions which may be determined by the director 18641
to be needed by the department to provide adequate care and 18642
treatment for the residents of any institution administered by the 18643
director. 18644

Sec. 5123.122. Notwithstanding section 5121.04 of the Revised 18645
Code and except as provided in section 5123.194 of the Revised 18646
Code, the liable relative of a mentally retarded or 18647
developmentally disabled person who is a minor receiving 18648
residential services pursuant to a contract entered into with the 18649
department of ~~mental retardation and~~ developmental disabilities 18650
under section 5123.18 of the Revised Code shall be charged for the 18651
minor's support the percentage of a base support rate determined 18652
in accordance with division (B)(2) of section 5121.04 of the 18653
Revised Code. 18654

Sec. 5123.13. (A) As used in this section, "felony" has the 18655
same meaning as in section 109.511 of the Revised Code. 18656

(B)(1) Subject to division (C) of this section, upon the 18657

recommendation of the director of ~~mental retardation and~~ 18658
developmental disabilities, the managing officer of an institution 18659
under the jurisdiction of the department of ~~mental retardation and~~ 18660
developmental disabilities may designate one or more employees to 18661
be special police officers of the department. The special police 18662
officers shall take an oath of office, wear the badge of office, 18663
and give bond for the proper and faithful discharge of their 18664
duties in an amount that the director requires. 18665

(2) In accordance with section 109.77 of the Revised Code, 18666
the special police officers shall be required to complete 18667
successfully a peace officer basic training program approved by 18668
the Ohio peace officer training commission and to be certified by 18669
the commission. The cost of the training shall be paid by the 18670
department of ~~mental retardation and~~ developmental disabilities. 18671

(3) Special police officers, on the premises of institutions 18672
under the jurisdiction of the department of ~~mental retardation and~~ 18673
developmental disabilities and subject to the rules of the 18674
department, shall protect the property of the institutions and the 18675
persons and property of patients in the institutions, suppress 18676
riots, disturbances, and breaches of the peace, and enforce the 18677
laws of the state and the rules of the department for the 18678
preservation of good order. They may arrest any person without a 18679
warrant and detain the person until a warrant can be obtained 18680
under the circumstances described in division (F) of section 18681
2935.03 of the Revised Code. 18682

(C)(1) The managing officer of an institution under the 18683
jurisdiction of the department of ~~mental retardation and~~ 18684
developmental disabilities shall not designate an employee as a 18685
special police officer of the department pursuant to division 18686
(B)(1) of this section on a permanent basis, on a temporary basis, 18687
for a probationary term, or on other than a permanent basis if the 18688
employee previously has been convicted of or has pleaded guilty to 18689

a felony. 18690

(2)(a) The managing officer of an institution under the 18691
jurisdiction of the department of ~~mental retardation and~~ 18692
developmental disabilities shall terminate the employment as a 18693
special police officer of the department of an employee designated 18694
as a special police officer under division (B)(1) of this section 18695
if that employee does either of the following: 18696

(i) Pleads guilty to a felony; 18697

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 18698
plea agreement as provided in division (D) of section 2929.43 of 18699
the Revised Code in which the employee agrees to surrender the 18700
certificate awarded to that employee under section 109.77 of the 18701
Revised Code. 18702

(b) The managing officer shall suspend from employment as a 18703
special police officer of the department an employee designated as 18704
a special police officer under division (B)(1) of this section if 18705
that employee is convicted, after trial, of a felony. If the 18706
special police officer files an appeal from that conviction and 18707
the conviction is upheld by the highest court to which the appeal 18708
is taken or if the special police officer does not file a timely 18709
appeal, the managing officer shall terminate the employment of 18710
that special police officer. If the special police officer files 18711
an appeal that results in that special police officer's acquittal 18712
of the felony or conviction of a misdemeanor, or in the dismissal 18713
of the felony charge against that special police officer, the 18714
managing officer shall reinstate that special police officer. A 18715
special police officer of the department who is reinstated under 18716
division (C)(2)(b) of this section shall not receive any back pay 18717
unless that special police officer's conviction of the felony was 18718
reversed on appeal, or the felony charge was dismissed, because 18719
the court found insufficient evidence to convict the special 18720
police officer of the felony. 18721

(3) Division (C) of this section does not apply regarding an 18722
offense that was committed prior to January 1, 1997. 18723

(4) The suspension from employment, or the termination of the 18724
employment, of a special police officer under division (C)(2) of 18725
this section shall be in accordance with Chapter 119. of the 18726
Revised Code. 18727

Sec. 5123.14. The department of ~~mental retardation and~~ 18728
developmental disabilities may make such investigations as are 18729
necessary in the performance of its duties and to that end the 18730
director of ~~mental retardation and~~ developmental disabilities 18731
shall have the same power as a judge of a county court to 18732
administer oaths and to enforce the attendance and testimony of 18733
witnesses and the production of books or papers. 18734

The department shall keep a record of such investigations 18735
stating the time, place, charges or subject, witnesses summoned 18736
and examined, and its conclusions. 18737

In matters involving the conduct of an officer, a 18738
stenographic report of the evidence shall be taken and a copy of 18739
such report, with all documents introduced, kept on file at the 18740
office of the department. 18741

Witnesses shall be paid the fees and mileage provided for 18742
under section 119.094 of the Revised Code, but no officer or 18743
employee of the institution under investigation is entitled to 18744
such fees. 18745

Any judge of the probate court or of the court of common 18746
pleas, upon application of the department, may compel the 18747
attendance of witnesses, the production of books or papers, and 18748
the giving of testimony before the department, by a judgment for 18749
contempt or otherwise, in the same manner as in cases before said 18750
courts. 18751

Sec. 5123.15. The department of ~~mental retardation and~~ 18752
developmental disabilities may appoint and commission any 18753
competent agency or person, to serve without compensation, as a 18754
special agent, investigator, or representative to perform a 18755
designated duty for and in behalf of the department. Specific 18756
credentials shall be given by the department to each person so 18757
designated, and each credential shall state the: 18758

(A) Name; 18759

(B) Agency with which such person is connected; 18760

(C) Purpose of appointment; 18761

(D) Date of expiration of appointment; 18762

(E) Such information as the department considers proper. 18763

Sec. 5123.16. (A) As used in sections 5123.16 to 5123.169 of 18764
the Revised Code: 18765

(1) "Provider" means a person or government entity certified 18766
by the director of ~~mental retardation and~~ developmental 18767
disabilities to provide supported living. 18768

(2) "Related party" means any of the following: 18769

(a) In the case of a provider who is an individual, any of 18770
the following: 18771

(i) The spouse of the provider; 18772

(ii) A parent or stepparent of the provider or provider's 18773
spouse; 18774

(iii) A child of the provider or provider's spouse; 18775

(iv) A sibling, half sibling, or stepsibling of the provider 18776
or provider's spouse; 18777

(v) A grandparent of the provider or provider's spouse; 18778

(vi) A grandchild of the provider or provider's spouse;	18779
(vii) An employee or employer of the provider or provider's spouse.	18780 18781
(b) In the case of a provider that is a person other than an individual, any of the following:	18782 18783
(i) An employee of the person;	18784
(ii) An officer of the provider, including the chief executive officer, president, vice-president, secretary, and treasurer;	18785 18786 18787
(iii) A member of the provider's board of directors or trustees;	18788 18789
(iv) A person owning a financial interest of five per cent or more in the provider;	18790 18791
(v) A corporation that has a subsidiary relationship with the provider;	18792 18793
(vi) A person or government entity that has control over the provider's day-to-day operation;	18794 18795
(vii) A person over which the provider has control of the day-to-day operation.	18796 18797
(c) In the case of a provider that is a government entity, any of the following:	18798 18799
(i) An employee of the provider;	18800
(ii) An officer of the provider;	18801
(iii) A member of the provider's governing board;	18802
(iv) A government entity that has control over the provider's day-to-day operation;	18803 18804
(v) A person or government entity over which the provider has control of the day-to-day operation.	18805 18806

(B) No person or government entity may provide supported 18807
living without a valid supported living certificate issued by the 18808
director of ~~mental retardation and~~ developmental disabilities. 18809

(C) A county board of ~~mental retardation and~~ developmental 18810
disabilities may provide supported living only to the extent 18811
permitted by rules adopted under section 5123.169 of the Revised 18812
Code. 18813

Sec. 5123.161. A person or government entity that seeks to 18814
provide supported living shall apply to the director of ~~mental~~ 18815
~~retardation and~~ developmental disabilities for a supported living 18816
certificate. 18817

Except as provided in section 5123.166 of the Revised Code, 18818
the director shall issue the applicant a supported living 18819
certificate if the applicant follows the application process 18820
established in rules adopted under section 5123.169 of the Revised 18821
Code, meets the applicable certification standards established in 18822
those rules, and pays the certification fee established in those 18823
rules. 18824

Sec. 5123.162. The director of ~~mental retardation and~~ 18825
developmental disabilities may conduct surveys of persons and 18826
government entities that seek a supported living certificate to 18827
determine whether the persons and government entities meet the 18828
certification standards. The director may also conduct surveys of 18829
providers to determine whether the providers continue to meet the 18830
certification standards. The director shall conduct the surveys in 18831
accordance with rules adopted under section 5123.169 of the 18832
Revised Code. 18833

The records of surveys conducted under this section are 18834
public records for the purpose of section 149.43 of the Revised 18835
Code and shall be made available on the request of any person or 18836

government entity. 18837

Sec. 5123.163. A supported living certificate is valid for a 18838
period of time established in rules adopted under section 5123.169 18839
of the Revised Code, unless any of the following occur before the 18840
end of that period of time: 18841

(A) The director of ~~mental retardation and~~ developmental 18842
disabilities issues an order requiring that action be taken 18843
against the certificate holder under section 5123.166 of the 18844
Revised Code. 18845

(B) The director issues an order terminating the certificate 18846
under section 5123.168 of the Revised Code. 18847

(C) The certificate holder voluntarily surrenders the 18848
certificate to the director. 18849

Sec. 5123.164. Except as provided in section 5123.166 of the 18850
Revised Code, the director of ~~mental retardation and~~ developmental 18851
disabilities shall renew a supported living certificate if the 18852
certificate holder follows the renewal process established in 18853
rules adopted under section 5123.169 of the Revised Code, 18854
continues to meet the applicable certification standards 18855
established in those rules, and pays the renewal fee established 18856
in those rules. 18857

Sec. 5123.166. (A) If good cause exists as specified in 18858
division (B) of this section and determined in accordance with 18859
procedures established in rules adopted under section 5123.169 of 18860
the Revised Code, the director of ~~mental retardation and~~ 18861
developmental disabilities may issue an adjudication order 18862
requiring that one of the following actions be taken against a 18863
person or government entity seeking or holding a supported living 18864
certificate: 18865

(1) Refusal to issue or renew a supported living certificate;	18866
(2) Revocation of a supported living certificate;	18867
(3) Suspension of a supported living certificate holder's	18868
authority to do either or both of the following:	18869
(a) Continue to provide supported living to one or more	18870
individuals from one or more counties who receive supported living	18871
from the certificate holder at the time the director takes the	18872
action;	18873
(b) Begin to provide supported living to one or more	18874
individuals from one or more counties who do not receive supported	18875
living from the certificate holder at the time the director takes	18876
the action.	18877
(B) The following constitute good cause for taking action	18878
under division (A) of this section against a person or government	18879
entity seeking or holding a supported living certificate:	18880
(1) The person or government entity's failure to meet or	18881
continue to meet the applicable certification standards	18882
established in rules adopted under section 5123.169 of the Revised	18883
Code;	18884
(2) The person or government entity violates section 5123.165	18885
of the Revised Code;	18886
(3) The person or government entity's failure to satisfy the	18887
requirements of section 5123.52, 5126.28, or 5126.281 of the	18888
Revised Code;	18889
(4) Misfeasance;	18890
(5) Malfeasance;	18891
(6) Nonfeasance;	18892
(7) Confirmed abuse or neglect;	18893
(8) Financial irresponsibility;	18894

(9) Other conduct the director determines is or would be 18895
injurious to individuals who receive or would receive supported 18896
living from the person or government entity. 18897

(C) Except as provided in division (D) of this section, the 18898
director shall issue an adjudication order under division (A) of 18899
this section in accordance with Chapter 119. of the Revised Code. 18900

(D)(1) The director may issue an order requiring that action 18901
specified in division (A)(3) of this section be taken before a 18902
provider is provided notice and an opportunity for a hearing if 18903
all of the following are the case: 18904

(a) The director determines such action is warranted by the 18905
provider's failure to continue to meet the applicable 18906
certification standards; 18907

(b) The director determines that the failure either 18908
represents a pattern of serious noncompliance or creates a 18909
substantial risk to the health or safety of an individual who 18910
receives or would receive supported living from the provider; 18911

(c) If the order will suspend the provider's authority to 18912
continue to provide supported living to an individual who receives 18913
supported living from the provider at the time the director issues 18914
the order, both of the following are the case: 18915

(i) The director makes the individual, or the individual's 18916
guardian, aware of the director's determination under division 18917
(D)(1)(b) of this section and the individual or guardian does not 18918
select another provider. 18919

(ii) A county board of ~~mental-retardation and~~ developmental 18920
disabilities has filed a complaint with a probate court under 18921
section 5123.33 of the Revised Code that includes facts describing 18922
the nature of abuse or neglect that the individual has suffered 18923
due to the provider's actions that are the basis for the director 18924
making the determination under division (D)(1)(b) of this section 18925

and the probate court does not issue an order authorizing the 18926
county board to arrange services for the individual pursuant to an 18927
individualized service plan developed for the individual under 18928
section 5123.31 of the Revised Code. 18929

(2) If the director issues an order under division (D)(1) of 18930
this section, sections 119.091 to 119.13 of the Revised Code and 18931
all of the following apply: 18932

(a) The director shall send the provider notice of the order 18933
by registered mail, return receipt requested, not later than 18934
twenty-four hours after issuing the order and shall include in the 18935
notice the reasons for the order, the citation to the law or rule 18936
directly involved, and a statement that the provider will be 18937
afforded a hearing if the provider requests it within ten days of 18938
the time of receiving the notice. 18939

(b) If the provider requests a hearing within the required 18940
time and the provider has provided the director the provider's 18941
current address, the director shall immediately set, and notify 18942
the provider of, the date, time, and place for the hearing. 18943

(c) The date of the hearing shall be not later than thirty 18944
days after the director receives the provider's timely request for 18945
the hearing. 18946

(d) The hearing shall be conducted in accordance with section 18947
119.09 of the Revised Code, except for all of the following: 18948

(i) The hearing shall continue uninterrupted until its close, 18949
except for weekends, legal holidays, and other interruptions the 18950
provider and director agree to. 18951

(ii) If the director appoints a referee or examiner to 18952
conduct the hearing, the referee or examiner, not later than ten 18953
days after the date the referee or examiner receives a transcript 18954
of the testimony and evidence presented at the hearing or, if the 18955
referee or examiner does not receive the transcript or no such 18956

transcript is made, the date that the referee or examiner closes 18957
the record of the hearing, shall submit to the director a written 18958
report setting forth the referee or examiner's findings of fact 18959
and conclusions of law and a recommendation of the action the 18960
director should take. 18961

(iii) The provider may, not later than five days after the 18962
date the director, in accordance with section 119.09 of the 18963
Revised Code, sends the provider or the provider's attorney or 18964
other representative of record a copy of the referee or examiner's 18965
report and recommendation, file with the director written 18966
objections to the report and recommendation. 18967

(iv) The director shall approve, modify, or disapprove the 18968
referee or examiner's report and recommendation not earlier than 18969
six days, and not later than fifteen days, after the date the 18970
director, in accordance with section 119.09 of the Revised Code, 18971
sends a copy of the report and recommendation to the provider or 18972
the provider's attorney or other representative of record. 18973

(3) The director may lift an order issued under division 18974
(D)(1) of this section even though a hearing regarding the order 18975
is occurring or pending if the director determines that the 18976
provider has taken action eliminating the good cause for issuing 18977
the order. The hearing shall proceed unless the provider withdraws 18978
the request for the hearing in a written letter to the director. 18979

(4) The director shall lift an order issued under division 18980
(D)(1) of this section if both of the following are the case: 18981

(a) The provider provides the director a plan of compliance 18982
the director determines is acceptable. 18983

(b) The director determines that the provider has implemented 18984
the plan of compliance correctly. 18985

Sec. 5123.167. If the director of ~~mental retardation and~~ 18986

developmental disabilities issues an adjudication order under 18987
section 5123.166 of the Revised Code refusing to issue a supported 18988
living certificate to a person or government entity or to renew a 18989
person or government entity's supported living certificate, 18990
neither the person or government entity nor a related party of the 18991
person or government entity may apply for another supported living 18992
certificate earlier than the date that is one year after the date 18993
the order is issued. If the director issues an adjudication order 18994
under that section revoking a person or government entity's 18995
supported living certificate, neither the person or government 18996
entity nor a related party of the person or government entity may 18997
apply for another supported living certificate earlier than the 18998
date that is five years after the date the order is issued. 18999

Sec. 5123.168. The director of ~~mental retardation and~~ 19000
developmental disabilities may issue an adjudication order in 19001
accordance with Chapter 119. of the Revised Code to terminate a 19002
supported living certificate if the certificate holder has not 19003
billed for supported living for twelve consecutive months. 19004

Sec. 5123.169. The director of ~~mental retardation and~~ 19005
developmental disabilities shall adopt rules under Chapter 119. of 19006
the Revised Code establishing all of the following: 19007

(A) The extent to which a county board of ~~mental retardation~~ 19008
~~and~~ developmental disabilities may provide supported living; 19009

(B) The application process for obtaining a supported living 19010
certificate under section 5123.161 of the Revised Code; 19011

(C) The certification standards a person or government entity 19012
must meet to obtain a supported living certificate to provide 19013
supported living; 19014

(D) The certification fee for a supported living certificate, 19015
which shall be deposited into the program fee fund created under 19016

section 5123.033 of the Revised Code; 19017

(E) The period of time a supported living certificate is 19018
valid; 19019

(F) The process for renewing a supported living certificate 19020
under section 5123.164 of the Revised Code; 19021

(G) The renewal fee for a supported living certificate, which 19022
shall be deposited into the program fee fund created under section 19023
5123.033 of the Revised Code; 19024

(H) Procedures for conducting surveys under section 5123.162 19025
of the Revised Code; 19026

(I) Procedures for determining whether there is good cause to 19027
take action under section 5123.166 of the Revised Code against a 19028
person or government entity seeking or holding a supported living 19029
certificate. 19030

Sec. 5123.17. The department of ~~mental retardation and~~ 19031
developmental disabilities may provide for the custody, 19032
supervision, control, treatment, and training of persons with 19033
mental retardation or a developmental disability elsewhere than 19034
within the enclosure of an institution under its jurisdiction, if 19035
the department so determines with respect to any individual or 19036
group of individuals. In all such cases, the department shall 19037
ensure adequate and proper supervision for the protection of those 19038
persons and of the public. 19039

Sec. 5123.171. As used in this section, "respite care" means 19040
appropriate, short-term, temporary care provided to a mentally 19041
retarded or developmentally disabled person to sustain the family 19042
structure or to meet planned or emergency needs of the family. 19043

The department of ~~mental retardation and~~ developmental 19044
disabilities shall provide respite care services to persons with 19045

mental retardation or a developmental disability for the purpose 19046
of promoting self-sufficiency and normalization, preventing or 19047
reducing inappropriate institutional care, and furthering the 19048
unity of the family by enabling the family to meet the special 19049
needs of a mentally retarded or developmentally disabled person. 19050

In order to be eligible for respite care services under this 19051
section, the mentally retarded or developmentally disabled person 19052
must be in need of habilitation services as defined in section 19053
5126.01 of the Revised Code. 19054

Respite care may be provided in a facility licensed under 19055
section 5123.19 of the Revised Code or certified as an 19056
intermediate care facility for the mentally retarded under Title 19057
XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 19058
301, as amended, or certified as a respite care home under section 19059
5126.05 of the Revised Code. 19060

The department shall develop a system for locating vacant 19061
beds that are available for respite care and for making 19062
information on vacant beds available to users of respite care 19063
services. Facilities certified as intermediate care facilities for 19064
the mentally retarded and facilities holding contracts with the 19065
department for the provision of residential services under section 19066
5123.18 of the Revised Code shall report vacant beds to the 19067
department but shall not be required to accept respite care 19068
clients. 19069

The director of ~~mental retardation and~~ developmental 19070
disabilities shall adopt, and may amend or rescind, rules in 19071
accordance with Chapter 119. of the Revised Code for both of the 19072
following: 19073

(A) Certification by county boards of ~~mental retardation and~~ 19074
developmental disabilities of respite care homes; 19075

(B) Provision of respite care services authorized by this 19076

section. Rules adopted under this division shall establish all of 19077
the following: 19078

(1) A formula for distributing funds appropriated for respite 19079
care services; 19080

(2) Standards for supervision, training and quality control 19081
in the provision of respite care services; 19082

(3) Eligibility criteria for emergency respite care services. 19083

Sec. 5123.172. (A) As used in this section: 19084

(1) "Provider" means any person or government agency that 19085
owns, operates, manages, or is employed or under contract to 19086
operate a residential facility licensed under section 5123.19 of 19087
the Revised Code. 19088

(2) "Related to a provider" means that a person or government 19089
agency is affiliated with a provider, has control over the 19090
provider or is controlled by the provider, or is a member of the 19091
provider's family. 19092

(3) "Member of the provider's family" means the provider's 19093
spouse, natural or adoptive parent, stepparent, natural or 19094
adoptive child, stepchild, sibling, stepsister, stepbrother, 19095
half-brother, half-sister, daughter-in-law, son-in-law, 19096
brother-in-law, sister-in-law, grandparent, or grandchild. 19097

(B) Prior to entering into a contract with the department of 19098
~~mental retardation and~~ developmental disabilities under section 19099
5123.18 of the Revised Code and as required thereafter, every 19100
provider holding or negotiating a contract with the department 19101
shall report upon the request of the department, in the form and 19102
on the schedule established in rules adopted by the department in 19103
accordance with Chapter 119. of the Revised Code, the following 19104
information: 19105

(1) The name and address of every person holding a financial 19106

interest of five per cent or more in the management or operation 19107
of the residential facility; 19108

(2) The names and addresses of members of the board of 19109
trustees or directors of the residential facility or of the 19110
management contractor; 19111

(3) Every contract or business transaction between the 19112
provider and any person or government agency related to the 19113
provider if such contract or transaction would affect rates of 19114
payment under section 5123.18 of the Revised Code. 19115

(C) The department shall make reports filed under division 19116
(B) of this section available to the appropriate county board of 19117
~~mental retardation and~~ developmental disabilities and any other 19118
appropriate public agencies. 19119

(D) Any provider who fails to comply with reporting 19120
requirements of this section shall be subject to a civil penalty 19121
not to exceed one thousand dollars for each violation and to 19122
possible license revocation. 19123

Sec. 5123.18. (A) As used in this section: 19124

(1) "Contractor" means a person or government agency that 19125
enters into a contract with the department of ~~mental retardation~~ 19126
~~and~~ developmental disabilities under this section. 19127

(2) "Government agency" means a state agency as defined in 19128
section 117.01 of the Revised Code or a similar agency of a 19129
political subdivision of the state. 19130

(3) "Residential services" means the services necessary for 19131
an individual with mental retardation or a developmental 19132
disability to live in the community, including room and board, 19133
clothing, transportation, personal care, habilitation, 19134
supervision, and any other services the department considers 19135
necessary for the individual to live in the community. 19136

(B)(1) The department of ~~mental retardation and~~ developmental disabilities may enter into a contract with a person or government agency to provide residential services to individuals with mental retardation or developmental disabilities in need of residential services. Contracts for residential services shall be of the following types:

(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 19168
all applicable standards for licensing or certification by the 19169
appropriate government agency. In addition, if the residential 19170
facility is operated as a nonprofit entity, the members of the 19171
board of trustees or board of directors of the facility must not 19172
have a financial interest in or receive financial benefit from the 19173
facility, other than reimbursement for actual expenses incurred in 19174
attending board meetings. 19175

(E)(1) The department shall determine the payment amount 19176
assigned to an initial contract. To the extent that the department 19177
determines sufficient funds are available, the payment amount 19178
assigned to an initial contract shall be equal to the average 19179
amount assigned to contracts for other homes that are of the same 19180
type and size and serve individuals with similar needs, except 19181
that if an initial contract is the result of a change of 19182
contractor or ownership, the payment amount assigned to the 19183
contract shall be the lesser of the amount assigned to the 19184
previous contract or the contract's total adjusted predicted 19185
funding need calculated under division (I) of this section. 19186

(2) A renewed contract shall be assigned a payment amount in 19187
accordance with division (K) of this section. 19188

(3) When a contractor relocates a home to another site at 19189
which residential services are provided to the same individuals, 19190
the payment amount assigned to the contract for the new home shall 19191
be the payment amount assigned to the contract at the previous 19192
location. 19193

(F)(1) Annually, a contractor shall complete an assessment of 19194
each individual to whom the contractor provides residential 19195
services to predict the individual's need for routine direct 19196
services staff. The department shall establish by rule adopted in 19197
accordance with Chapter 119. of the Revised Code the assessment 19198
instrument to be used by contractors to make assessments. 19199

Assessments shall be submitted to the department not later than 19200
the thirty-first day of January of each year. 19201

A contractor shall submit a revised assessment for an 19202
individual if there is a substantial, long-term change in the 19203
nature of the individual's needs. A contractor shall submit 19204
revised assessments for all individuals receiving residential 19205
services if there is a change in the composition of the home's 19206
residents. 19207

(2) Annually, a contractor shall submit a cost report to the 19208
department specifying the costs incurred in providing residential 19209
services during the immediately preceding calendar year. Only 19210
costs actually incurred by a contractor shall be reported on a 19211
cost report. Cost reports shall be prepared according to a uniform 19212
chart of accounts approved by the department and shall be 19213
submitted on forms prescribed by the department. 19214

(3) The department shall not renew the contract held by a 19215
contractor who fails to submit the assessments or cost reports 19216
required under this division. 19217

(4) The department shall adopt rules as necessary regarding 19218
the submission of assessments and cost reports under this 19219
division. The rules shall be adopted in accordance with Chapter 19220
119. of the Revised Code. 19221

(G) Prior to renewing a contract entered into under this 19222
section, the department shall compute the contract's total 19223
predicted funding need and total adjusted predicted funding need. 19224
The department shall also compute the contract's unmet funding 19225
need if the payment amount assigned to the contract is less than 19226
the total adjusted predicted funding need. The results of these 19227
calculations shall be used to determine the payment amount 19228
assigned to the renewed contract. 19229

(H)(1) A contract's total predicted funding need is an amount 19230

equal to the sum of the predicted funding needs for the following 19231
cost categories: 19232

(a) Routine direct services staff; 19233

(b) Dietary, program supplies, and specialized staff; 19234

(c) Facility and general services; 19235

(d) Administration. 19236

(2) Based on the assessments submitted by the contractor, the 19237
department shall compute the contract's predicted funding need for 19238
the routine direct services staff cost category by multiplying the 19239
number of direct services staff predicted to be necessary for the 19240
home by the sum of the following: 19241

(a) Entry level wages paid during the immediately preceding 19242
cost reporting period to comparable staff employed by the county 19243
board of ~~mental-retardation-and~~ developmental disabilities of the 19244
county in which the home is located; 19245

(b) Fringe benefits and payroll taxes as determined by the 19246
department using state civil service statistics from the same 19247
period as the cost reporting period. 19248

(3) The department shall establish by rule adopted in 19249
accordance with Chapter 119. of the Revised Code the method to be 19250
used to compute the predicted funding need for the dietary, 19251
program supplies, and specialized staff cost category; the 19252
facility and general services cost category; and the 19253
administration cost category. The rules shall not establish a 19254
maximum amount that may be attributed to the dietary, program 19255
supplies, and specialized staff cost category. The rules shall 19256
establish a process for determining the combined maximum amount 19257
that may be attributed to the facility and general services cost 19258
category and the administration cost category. 19259

(I)(1) A contract's total adjusted predicted funding need is 19260

the contract's total predicted funding need with adjustments made 19261
for the following: 19262

(a) Inflation, as provided under division (I)(2) of this 19263
section; 19264

(b) The predicted cost of complying with new requirements 19265
established under federal or state law that were not taken into 19266
consideration when the total predicted funding need was computed; 19267

(c) Changes in needs based on revised assessments submitted 19268
by the contractor. 19269

(2) In adjusting the total predicted funding need for 19270
inflation, the department shall use either the consumer price 19271
index compound annual inflation rate calculated by the United 19272
States department of labor for all items or another index or 19273
measurement of inflation designated in rules that the department 19274
shall adopt in accordance with Chapter 119. of the Revised Code. 19275

When a contract is being renewed for the first time, and the 19276
contract is to begin on the first day of July, the inflation 19277
adjustment applied to the contract's total predicted funding need 19278
shall be the estimated rate of inflation for the calendar year in 19279
which the contract is renewed. If the consumer price index is 19280
being used, the department shall base its estimate on the rate of 19281
inflation calculated for the three-month period ending the 19282
thirty-first day of March of that calendar year. If another index 19283
or measurement is being used, the department shall base its 19284
estimate on the most recent calculations of the rate of inflation 19285
available under the index or measurement. Each year thereafter, 19286
the inflation adjustment shall be estimated in the same manner, 19287
except that if the estimated rate of inflation for a year is 19288
different from the actual rate of inflation for that year, the 19289
difference shall be added to or subtracted from the rate of 19290
inflation estimated for the next succeeding year. 19291

If a contract begins at any time other than July first, the 19292
inflation adjustment applied to the contract's total predicted 19293
funding need shall be determined by a method comparable to that 19294
used for contracts beginning July first. The department shall 19295
adopt rules in accordance with Chapter 119. of the Revised Code 19296
establishing the method to be used. 19297

(J) A contract's unmet funding need is the difference between 19298
the payment amount assigned to the contract and the total adjusted 19299
predicted funding need, if the payment amount assigned is less 19300
than the total adjusted predicted funding need. 19301

(K) The payment amount to be assigned to a contract being 19302
renewed shall be determined by comparing the total adjusted 19303
predicted funding need with the payment amount assigned to the 19304
current contract. 19305

(1) If the payment amount assigned to the current contract 19306
equals or exceeds the total adjusted predicted funding need, the 19307
payment amount assigned to the renewed contract shall be the same 19308
as that assigned to the current contract, unless a reduction is 19309
made pursuant to division (L) of this section. 19310

(2) If the payment amount assigned to the current contract is 19311
less than the total adjusted predicted funding need, the payment 19312
amount assigned to the renewed contract shall be increased if the 19313
department determines that funds are available for such increases. 19314
The amount of a contract's increase shall be the same percentage 19315
of the available funds that the contract's unmet funding need is 19316
of the total of the unmet funding need for all contracts. 19317

(L) When renewing a contract provided for in division (B) of 19318
this section other than a companion home contract, the department 19319
may reduce the payment amount assigned to a renewed contract if 19320
the sum of the contractor's allowable reported costs and the 19321
maximum efficiency incentive is less than ninety-one and one-half 19322

per cent of the amount received pursuant to this section during 19323
the immediately preceding contract year. 19324

The department shall adopt rules in accordance with Chapter 19325
119. of the Revised Code establishing a formula to be used in 19326
computing the maximum efficiency incentive, which shall be at 19327
least four per cent of the weighted average payment amount to be 19328
made to all contractors during the contract year. The maximum 19329
efficiency incentive shall be computed annually. 19330

(M) The department may increase the payment amount assigned 19331
to a contract based on the contract's unmet funding need at times 19332
other than when the contract is renewed. The department may 19333
develop policies for determining priorities in making such 19334
increases. 19335

(N)(1) In addition to the contracts provided for in division 19336
(B) of this section, the department may enter into the following 19337
contracts: 19338

(a) A contract to pay the cost of beginning operation of a 19339
new home that is to be funded under a companion home contract, 19340
agency-operated companion home contract, community home contract, 19341
or combined agency-operated companion home and community home 19342
contract. 19343

(b) A contract to pay the cost associated with increasing the 19344
number of individuals served by a home funded under a companion 19345
home contract, agency-operated companion home contract, community 19346
home contract, or combined agency-operated companion home and 19347
community home contract. 19348

(2) The department shall adopt rules as necessary regarding 19349
contracts entered into under this division. The rules shall be 19350
adopted in accordance with Chapter 119. of the Revised Code. 19351

(O) Except for companion home contracts, the department shall 19352
conduct a reconciliation of the amount earned under a contract and 19353

the actual costs incurred by the contractor. An amount is 19354
considered to have been earned for delivering a service at the 19355
time the service is delivered. The department shall adopt rules in 19356
accordance with Chapter 119. of the Revised Code establishing 19357
procedures for conducting reconciliations. 19358

A reconciliation shall be based on the annual cost report 19359
submitted by the contractor. If a reconciliation reveals that a 19360
contractor owes money to the state, the amount owed shall be 19361
collected in accordance with section 5123.051 of the Revised Code. 19362

When conducting reconciliations, the department shall review 19363
all reported costs that may be affected by transactions required 19364
to be reported under division (B)(3) of section 5123.172 of the 19365
Revised Code. If the department determines that such transactions 19366
have increased the cost reported by a contractor, the department 19367
may disallow or adjust the cost allowable for payment. The 19368
department shall adopt rules in accordance with Chapter 119. of 19369
the Revised Code establishing standards for disallowances or 19370
adjustments. 19371

(P) The department may audit the contracts it enters into 19372
under this section. Audits may be conducted by the department or 19373
an entity with which the department contracts to perform the 19374
audits. The department shall adopt rules in accordance with 19375
Chapter 119. of the Revised Code establishing procedures for 19376
conducting audits. 19377

An audit may include the examination of a contractor's 19378
financial books and records, the costs incurred by a contractor in 19379
providing residential services, and any other relevant information 19380
specified by the department. An audit shall not be commenced more 19381
than four years after the expiration of the contract to be 19382
audited, except in cases where the department has reasonable cause 19383
to believe that a contractor has committed fraud. 19384

If an audit reveals that a contractor owes money to the 19385
state, the amount owed, subject to an adjudication hearing under 19386
this division, shall be collected in accordance with section 19387
5123.051 of the Revised Code. If an audit reveals that a 19388
reconciliation conducted under this section resulted in the 19389
contractor erroneously paying money to the state, the department 19390
shall refund the money to the contractor, or, in lieu of making a 19391
refund, the department may offset the erroneous payment against 19392
any money determined as a result of the audit to be owed by the 19393
contractor to the state. The department is not required to pay 19394
interest on any money refunded under this division. 19395

In conducting audits or making determinations of amounts owed 19396
by a contractor and amounts to be refunded or offset, the 19397
department shall not be bound by the results of reconciliations 19398
conducted under this section, except with regard to cases 19399
involving claims that have been certified pursuant to section 19400
5123.051 of the Revised Code to the attorney general for 19401
collection for which a full and final settlement has been reached 19402
or a final judgment has been made from which all rights of appeal 19403
have expired or been exhausted. 19404

Not later than ninety days after an audit's completion, the 19405
department shall provide the contractor a copy of a report of the 19406
audit. The report shall state the findings of the audit, including 19407
the amount of any money the contractor is determined to owe the 19408
state. 19409

(Q) The department shall adopt rules specifying the amount 19410
that will be allowed under a reconciliation or audit for the cost 19411
incurred by a contractor for compensation of owners, 19412
administrators, and other personnel. The rules shall be adopted in 19413
accordance with Chapter 119. of the Revised Code. 19414

(R) Each contractor shall, for at least seven years, maintain 19415
fiscal records related to payments received pursuant to this 19416

section. 19417

(S) The department may enter into shared funding agreements 19418
with other government agencies to fund contracts entered into 19419
under this section. The amount of each agency's share of the cost 19420
shall be determined through negotiations with the department. The 19421
department's share shall not exceed the amount it would have paid 19422
without entering into the shared funding agreement, nor shall it 19423
be reduced by any amounts contributed by the other parties to the 19424
agreement. 19425

(T) Except as provided in section 5123.194 of the Revised 19426
Code, an individual who receives residential services pursuant to 19427
divisions (A) through (U) of this section and the individual's 19428
liable relatives or guardians shall pay support charges in 19429
accordance with Chapter 5121. of the Revised Code. 19430

(U) The department may make reimbursements or payments for 19431
any of the following pursuant to rules adopted under this 19432
division: 19433

(1) Unanticipated, nonrecurring costs associated with the 19434
health or habilitation of a person who resides in a home funded 19435
under a contract provided for in division (B) of this section; 19436

(2) The cost of staff development training for contractors if 19437
the director of ~~mental retardation and~~ developmental disabilities 19438
has given prior approval for the training; 19439

(3) Fixed costs that the department, pursuant to the rules, 19440
determines relate to the continued operation of a home funded 19441
under a contract provided for in division (B) of this section when 19442
a short term vacancy occurs and the contractor has diligently 19443
attempted to fill the vacancy. 19444

The department shall adopt rules in accordance with Chapter 19445
119. of the Revised Code establishing standards for use in 19446
determining which costs it may make payment or reimbursements for 19447

under this division. 19448

(V) In addition to the rules required or authorized to be 19449
adopted under this section, the department may adopt any other 19450
rules necessary to implement divisions (A) through (U) of this 19451
section. The rules shall be adopted in accordance with Chapter 19452
119. of the Revised Code. 19453

(W) The department may delegate to county boards of ~~mental~~ 19454
~~retardation and~~ developmental disabilities its authority under 19455
this section to negotiate and enter into contracts or subcontracts 19456
for residential services. In the event that it elects to delegate 19457
its authority, the department shall adopt rules in accordance with 19458
Chapter 119. of the Revised Code for the boards' administration of 19459
the contracts or subcontracts. In administering the contracts or 19460
subcontracts, the boards shall be subject to all applicable 19461
provisions of Chapter 5126. of the Revised Code and shall not be 19462
subject to the provisions of divisions (A) to (V) of this section. 19463

Subject to the department's rules, a board may require the 19464
following to contribute to the cost of the residential services an 19465
individual receives pursuant to this division: the individual or 19466
the individual's estate, the individual's spouse, the individual's 19467
guardian, and, if the individual is under age eighteen, either or 19468
both of the individual's parents. Chapter 5121. of the Revised 19469
Code shall not apply to individuals or entities that are subject 19470
to making contributions under this division. In calculating 19471
contributions to be made under this division, a board, subject to 19472
the department's rules, may allow an amount to be kept for meeting 19473
the personal needs of the individual who receives residential 19474
services. 19475

Sec. 5123.181. The director of ~~mental retardation and~~ 19476
developmental disabilities and the director of job and family 19477
services shall, in concert with each other, eliminate all double 19478

billings and double payments for services on behalf of persons 19479
with mental retardation or another developmental disability in 19480
intermediate care facilities. The department of ~~mental retardation~~ 19481
~~and~~ developmental disabilities may enter into contracts with 19482
providers of services for the purpose of making payments to the 19483
providers for services rendered to eligible clients who are 19484
persons with mental retardation or a developmental disability over 19485
and above the services authorized and paid under Chapter 5111. of 19486
the Revised Code. Payments authorized under this section and 19487
section 5123.18 of the Revised Code shall not be subject to audit 19488
findings pursuant to Chapter 5111. of the Revised Code, unless an 19489
audit determines that payment was made to the provider for 19490
services that were not rendered in accordance with the provisions 19491
of the provider agreement entered into with the department of job 19492
and family services or the department of ~~mental retardation and~~ 19493
developmental disabilities pursuant to this section. 19494

Sec. 5123.19. (A) As used in this section and in sections 19495
5123.191, 5123.194, 5123.196, 5123.198, and 5123.20 of the Revised 19496
Code: 19497

(1)(a) "Residential facility" means a home or facility in 19498
which a mentally retarded or developmentally disabled person 19499
resides, except the home of a relative or legal guardian in which 19500
a mentally retarded or developmentally disabled person resides, a 19501
respite care home certified under section 5126.05 of the Revised 19502
Code, a county home or district home operated pursuant to Chapter 19503
5155. of the Revised Code, or a dwelling in which the only 19504
mentally retarded or developmentally disabled residents are in an 19505
independent living arrangement or are being provided supported 19506
living. 19507

(b) "Intermediate care facility for the mentally retarded" 19508
means a residential facility that is considered an intermediate 19509

care facility for the mentally retarded for the purposes of 19510
Chapter 5111. of the Revised Code. 19511

(2) "Political subdivision" means a municipal corporation, 19512
county, or township. 19513

(3) "Independent living arrangement" means an arrangement in 19514
which a mentally retarded or developmentally disabled person 19515
resides in an individualized setting chosen by the person or the 19516
person's guardian, which is not dedicated principally to the 19517
provision of residential services for mentally retarded or 19518
developmentally disabled persons, and for which no financial 19519
support is received for rendering such service from any 19520
governmental agency by a provider of residential services. 19521

(4) "Licensee" means the person or government agency that has 19522
applied for a license to operate a residential facility and to 19523
which the license was issued under this section. 19524

(5) "Related party" has the same meaning as in section 19525
5123.16 of the Revised Code except that "provider" as used in the 19526
definition of "related party" means a person or government entity 19527
that held or applied for a license to operate a residential 19528
facility, rather than a person or government entity certified to 19529
provide supported living. 19530

(B) Every person or government agency desiring to operate a 19531
residential facility shall apply for licensure of the facility to 19532
the director of ~~mental retardation and~~ developmental disabilities 19533
unless the residential facility is subject to section 3721.02, 19534
3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding 19535
Chapter 3721. of the Revised Code, a nursing home that is 19536
certified as an intermediate care facility for the mentally 19537
retarded under Title XIX of the "Social Security Act," 79 Stat. 19538
286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 19539
licensure of the portion of the home that is certified as an 19540

intermediate care facility for the mentally retarded. 19541

(C) Subject to section 5123.196 of the Revised Code, the 19542
director of ~~mental retardation and~~ developmental disabilities 19543
shall license the operation of residential facilities. An initial 19544
license shall be issued for a period that does not exceed one 19545
year, unless the director denies the license under division (D) of 19546
this section. A license shall be renewed for a period that does 19547
not exceed three years, unless the director refuses to renew the 19548
license under division (D) of this section. The director, when 19549
issuing or renewing a license, shall specify the period for which 19550
the license is being issued or renewed. A license remains valid 19551
for the length of the licensing period specified by the director, 19552
unless the license is terminated, revoked, or voluntarily 19553
surrendered. 19554

(D) If it is determined that an applicant or licensee is not 19555
in compliance with a provision of this chapter that applies to 19556
residential facilities or the rules adopted under such a 19557
provision, the director may deny issuance of a license, refuse to 19558
renew a license, terminate a license, revoke a license, issue an 19559
order for the suspension of admissions to a facility, issue an 19560
order for the placement of a monitor at a facility, issue an order 19561
for the immediate removal of residents, or take any other action 19562
the director considers necessary consistent with the director's 19563
authority under this chapter regarding residential facilities. In 19564
the director's selection and administration of the sanction to be 19565
imposed, all of the following apply: 19566

(1) The director may deny, refuse to renew, or revoke a 19567
license, if the director determines that the applicant or licensee 19568
has demonstrated a pattern of serious noncompliance or that a 19569
violation creates a substantial risk to the health and safety of 19570
residents of a residential facility. 19571

(2) The director may terminate a license if more than twelve 19572

consecutive months have elapsed since the residential facility was 19573
last occupied by a resident or a notice required by division (K) 19574
of this section is not given. 19575

(3) The director may issue an order for the suspension of 19576
admissions to a facility for any violation that may result in 19577
sanctions under division (D)(1) of this section and for any other 19578
violation specified in rules adopted under division (H)(2) of this 19579
section. If the suspension of admissions is imposed for a 19580
violation that may result in sanctions under division (D)(1) of 19581
this section, the director may impose the suspension before 19582
providing an opportunity for an adjudication under Chapter 119. of 19583
the Revised Code. The director shall lift an order for the 19584
suspension of admissions when the director determines that the 19585
violation that formed the basis for the order has been corrected. 19586

(4) The director may order the placement of a monitor at a 19587
residential facility for any violation specified in rules adopted 19588
under division (H)(2) of this section. The director shall lift the 19589
order when the director determines that the violation that formed 19590
the basis for the order has been corrected. 19591

(5) If the director determines that two or more residential 19592
facilities owned or operated by the same person or government 19593
entity are not being operated in compliance with a provision of 19594
this chapter that applies to residential facilities or the rules 19595
adopted under such a provision, and the director's findings are 19596
based on the same or a substantially similar action, practice, 19597
circumstance, or incident that creates a substantial risk to the 19598
health and safety of the residents, the director shall conduct a 19599
survey as soon as practicable at each residential facility owned 19600
or operated by that person or government entity. The director may 19601
take any action authorized by this section with respect to any 19602
facility found to be operating in violation of a provision of this 19603
chapter that applies to residential facilities or the rules 19604

adopted under such a provision. 19605

(6) When the director initiates license revocation 19606
proceedings, no opportunity for submitting a plan of correction 19607
shall be given. The director shall notify the licensee by letter 19608
of the initiation of the proceedings. The letter shall list the 19609
deficiencies of the residential facility and inform the licensee 19610
that no plan of correction will be accepted. The director shall 19611
also send a copy of the letter to the county board of ~~mental~~ 19612
~~retardation and~~ developmental disabilities. The county board shall 19613
send a copy of the letter to each of the following: 19614

(a) Each resident who receives services from the licensee; 19615

(b) The guardian of each resident who receives services from 19616
the licensee if the resident has a guardian; 19617

(c) The parent or guardian of each resident who receives 19618
services from the licensee if the resident is a minor. 19619

(7) Pursuant to rules which shall be adopted in accordance 19620
with Chapter 119. of the Revised Code, the director may order the 19621
immediate removal of residents from a residential facility 19622
whenever conditions at the facility present an immediate danger of 19623
physical or psychological harm to the residents. 19624

(8) In determining whether a residential facility is being 19625
operated in compliance with a provision of this chapter that 19626
applies to residential facilities or the rules adopted under such 19627
a provision, or whether conditions at a residential facility 19628
present an immediate danger of physical or psychological harm to 19629
the residents, the director may rely on information obtained by a 19630
county board of ~~mental retardation and~~ developmental disabilities 19631
or other governmental agencies. 19632

(9) In proceedings initiated to deny, refuse to renew, or 19633
revoke licenses, the director may deny, refuse to renew, or revoke 19634
a license regardless of whether some or all of the deficiencies 19635

that prompted the proceedings have been corrected at the time of 19636
the hearing. 19637

(E) The director shall establish a program under which public 19638
notification may be made when the director has initiated license 19639
revocation proceedings or has issued an order for the suspension 19640
of admissions, placement of a monitor, or removal of residents. 19641
The director shall adopt rules in accordance with Chapter 119. of 19642
the Revised Code to implement this division. The rules shall 19643
establish the procedures by which the public notification will be 19644
made and specify the circumstances for which the notification must 19645
be made. The rules shall require that public notification be made 19646
if the director has taken action against the facility in the 19647
eighteen-month period immediately preceding the director's latest 19648
action against the facility and the latest action is being taken 19649
for the same or a substantially similar violation of a provision 19650
of this chapter that applies to residential facilities or the 19651
rules adopted under such a provision. The rules shall specify a 19652
method for removing or amending the public notification if the 19653
director's action is found to have been unjustified or the 19654
violation at the residential facility has been corrected. 19655

(F)(1) Except as provided in division (F)(2) of this section, 19656
appeals from proceedings initiated to impose a sanction under 19657
division (D) of this section shall be conducted in accordance with 19658
Chapter 119. of the Revised Code. 19659

(2) Appeals from proceedings initiated to order the 19660
suspension of admissions to a facility shall be conducted in 19661
accordance with Chapter 119. of the Revised Code, unless the order 19662
was issued before providing an opportunity for an adjudication, in 19663
which case all of the following apply: 19664

(a) The licensee may request a hearing not later than ten 19665
days after receiving the notice specified in section 119.07 of the 19666
Revised Code. 19667

(b) If a timely request for a hearing that includes the 19668
licensee's current address is made, the hearing shall commence not 19669
later than thirty days after the department receives the request. 19670

(c) After commencing, the hearing shall continue 19671
uninterrupted, except for Saturdays, Sundays, and legal holidays, 19672
unless other interruptions are agreed to by the licensee and the 19673
director. 19674

(d) If the hearing is conducted by a hearing examiner, the 19675
hearing examiner shall file a report and recommendations not later 19676
than ten days after the last of the following: 19677

(i) The close of the hearing; 19678

(ii) If a transcript of the proceedings is ordered, the 19679
hearing examiner receives the transcript; 19680

(iii) If post-hearing briefs are timely filed, the hearing 19681
examiner receives the briefs. 19682

(e) A copy of the written report and recommendation of the 19683
hearing examiner shall be sent, by certified mail, to the licensee 19684
and the licensee's attorney, if applicable, not later than five 19685
days after the report is filed. 19686

(f) Not later than five days after the hearing examiner files 19687
the report and recommendations, the licensee may file objections 19688
to the report and recommendations. 19689

(g) Not later than fifteen days after the hearing examiner 19690
files the report and recommendations, the director shall issue an 19691
order approving, modifying, or disapproving the report and 19692
recommendations. 19693

(h) Notwithstanding the pendency of the hearing, the director 19694
shall lift the order for the suspension of admissions when the 19695
director determines that the violation that formed the basis for 19696
the order has been corrected. 19697

(G) Neither a person or government agency whose application 19698
for a license to operate a residential facility is denied nor a 19699
related party of the person or government agency may apply for a 19700
license to operate a residential facility before the date that is 19701
one year after the date of the denial. Neither a licensee whose 19702
residential facility license is revoked nor a related party of the 19703
licensee may apply for a residential facility license before the 19704
date that is five years after the date of the revocation. 19705

(H) In accordance with Chapter 119. of the Revised Code, the 19706
director shall adopt and may amend and rescind rules for licensing 19707
and regulating the operation of residential facilities, including 19708
intermediate care facilities for the mentally retarded. The rules 19709
for intermediate care facilities for the mentally retarded may 19710
differ from those for other residential facilities. The rules 19711
shall establish and specify the following: 19712

(1) Procedures and criteria for issuing and renewing 19713
licenses, including procedures and criteria for determining the 19714
length of the licensing period that the director must specify for 19715
each license when it is issued or renewed; 19716

(2) Procedures and criteria for denying, refusing to renew, 19717
terminating, and revoking licenses and for ordering the suspension 19718
of admissions to a facility, placement of a monitor at a facility, 19719
and the immediate removal of residents from a facility; 19720

(3) Fees for issuing and renewing licenses, which shall be 19721
deposited into the program fee fund created under section 5123.033 19722
of the Revised Code; 19723

(4) Procedures for surveying residential facilities; 19724

(5) Requirements for the training of residential facility 19725
personnel; 19726

(6) Classifications for the various types of residential 19727
facilities; 19728

(7) Certification procedures for licensees and management	19729
contractors that the director determines are necessary to ensure	19730
that they have the skills and qualifications to properly operate	19731
or manage residential facilities;	19732
(8) The maximum number of persons who may be served in a	19733
particular type of residential facility;	19734
(9) Uniform procedures for admission of persons to and	19735
transfers and discharges of persons from residential facilities;	19736
(10) Other standards for the operation of residential	19737
facilities and the services provided at residential facilities;	19738
(11) Procedures for waiving any provision of any rule adopted	19739
under this section.	19740
(I) Before issuing a license, the director of the department	19741
or the director's designee shall conduct a survey of the	19742
residential facility for which application is made. The director	19743
or the director's designee shall conduct a survey of each licensed	19744
residential facility at least once during the period the license	19745
is valid and may conduct additional inspections as needed. A	19746
survey includes but is not limited to an on-site examination and	19747
evaluation of the residential facility, its personnel, and the	19748
services provided there.	19749
In conducting surveys, the director or the director's	19750
designee shall be given access to the residential facility; all	19751
records, accounts, and any other documents related to the	19752
operation of the facility; the licensee; the residents of the	19753
facility; and all persons acting on behalf of, under the control	19754
of, or in connection with the licensee. The licensee and all	19755
persons on behalf of, under the control of, or in connection with	19756
the licensee shall cooperate with the director or the director's	19757
designee in conducting the survey.	19758
Following each survey, unless the director initiates a	19759

license revocation proceeding, the director or the director's 19760
designee shall provide the licensee with a report listing any 19761
deficiencies, specifying a timetable within which the licensee 19762
shall submit a plan of correction describing how the deficiencies 19763
will be corrected, and, when appropriate, specifying a timetable 19764
within which the licensee must correct the deficiencies. After a 19765
plan of correction is submitted, the director or the director's 19766
designee shall approve or disapprove the plan. A copy of the 19767
report and any approved plan of correction shall be provided to 19768
any person who requests it. 19769

The director shall initiate disciplinary action against any 19770
department employee who notifies or causes the notification to any 19771
unauthorized person of an unannounced survey of a residential 19772
facility by an authorized representative of the department. 19773

(J) In addition to any other information which may be 19774
required of applicants for a license pursuant to this section, the 19775
director shall require each applicant to provide a copy of an 19776
approved plan for a proposed residential facility pursuant to 19777
section 5123.042 of the Revised Code. This division does not apply 19778
to renewal of a license. 19779

(K) A licensee shall notify the owner of the building in 19780
which the licensee's residential facility is located of any 19781
significant change in the identity of the licensee or management 19782
contractor before the effective date of the change if the licensee 19783
is not the owner of the building. 19784

Pursuant to rules which shall be adopted in accordance with 19785
Chapter 119. of the Revised Code, the director may require 19786
notification to the department of any significant change in the 19787
ownership of a residential facility or in the identity of the 19788
licensee or management contractor. If the director determines that 19789
a significant change of ownership is proposed, the director shall 19790
consider the proposed change to be an application for development 19791

by a new operator pursuant to section 5123.042 of the Revised Code 19792
and shall advise the applicant within sixty days of the 19793
notification that the current license shall continue in effect or 19794
a new license will be required pursuant to this section. If the 19795
director requires a new license, the director shall permit the 19796
facility to continue to operate under the current license until 19797
the new license is issued, unless the current license is revoked, 19798
refused to be renewed, or terminated in accordance with Chapter 19799
119. of the Revised Code. 19800

(L) A county board of ~~mental retardation and~~ developmental 19801
disabilities, the legal rights service, and any interested person 19802
may file complaints alleging violations of statute or department 19803
rule relating to residential facilities with the department. All 19804
complaints shall be in writing and shall state the facts 19805
constituting the basis of the allegation. The department shall not 19806
reveal the source of any complaint unless the complainant agrees 19807
in writing to waive the right to confidentiality or until so 19808
ordered by a court of competent jurisdiction. 19809

The department shall adopt rules in accordance with Chapter 19810
119. of the Revised Code establishing procedures for the receipt, 19811
referral, investigation, and disposition of complaints filed with 19812
the department under this division. 19813

(M) The department shall establish procedures for the 19814
notification of interested parties of the transfer or interim care 19815
of residents from residential facilities that are closing or are 19816
losing their license. 19817

(N) Before issuing a license under this section to a 19818
residential facility that will accommodate at any time more than 19819
one mentally retarded or developmentally disabled individual, the 19820
director shall, by first class mail, notify the following: 19821

(1) If the facility will be located in a municipal 19822

corporation, the clerk of the legislative authority of the 19823
municipal corporation; 19824

(2) If the facility will be located in unincorporated 19825
territory, the clerk of the appropriate board of county 19826
commissioners and the fiscal officer of the appropriate board of 19827
township trustees. 19828

The director shall not issue the license for ten days after 19829
mailing the notice, excluding Saturdays, Sundays, and legal 19830
holidays, in order to give the notified local officials time in 19831
which to comment on the proposed issuance. 19832

Any legislative authority of a municipal corporation, board 19833
of county commissioners, or board of township trustees that 19834
receives notice under this division of the proposed issuance of a 19835
license for a residential facility may comment on it in writing to 19836
the director within ten days after the director mailed the notice, 19837
excluding Saturdays, Sundays, and legal holidays. If the director 19838
receives written comments from any notified officials within the 19839
specified time, the director shall make written findings 19840
concerning the comments and the director's decision on the 19841
issuance of the license. If the director does not receive written 19842
comments from any notified local officials within the specified 19843
time, the director shall continue the process for issuance of the 19844
license. 19845

(O) Any person may operate a licensed residential facility 19846
that provides room and board, personal care, habilitation 19847
services, and supervision in a family setting for at least six but 19848
not more than eight persons with mental retardation or a 19849
developmental disability as a permitted use in any residential 19850
district or zone, including any single-family residential district 19851
or zone, of any political subdivision. These residential 19852
facilities may be required to comply with area, height, yard, and 19853
architectural compatibility requirements that are uniformly 19854

imposed upon all single-family residences within the district or zone. 19855
19856

(P) Any person may operate a licensed residential facility 19857
that provides room and board, personal care, habilitation 19858
services, and supervision in a family setting for at least nine 19859
but not more than sixteen persons with mental retardation or a 19860
developmental disability as a permitted use in any multiple-family 19861
residential district or zone of any political subdivision, except 19862
that a political subdivision that has enacted a zoning ordinance 19863
or resolution establishing planned unit development districts may 19864
exclude these residential facilities from those districts, and a 19865
political subdivision that has enacted a zoning ordinance or 19866
resolution may regulate these residential facilities in 19867
multiple-family residential districts or zones as a conditionally 19868
permitted use or special exception, in either case, under 19869
reasonable and specific standards and conditions set out in the 19870
zoning ordinance or resolution to: 19871

(1) Require the architectural design and site layout of the 19872
residential facility and the location, nature, and height of any 19873
walls, screens, and fences to be compatible with adjoining land 19874
uses and the residential character of the neighborhood; 19875

(2) Require compliance with yard, parking, and sign 19876
regulation; 19877

(3) Limit excessive concentration of these residential 19878
facilities. 19879

(Q) This section does not prohibit a political subdivision 19880
from applying to residential facilities nondiscriminatory 19881
regulations requiring compliance with health, fire, and safety 19882
regulations and building standards and regulations. 19883

(R) Divisions (O) and (P) of this section are not applicable 19884
to municipal corporations that had in effect on June 15, 1977, an 19885

ordinance specifically permitting in residential zones licensed 19886
residential facilities by means of permitted uses, conditional 19887
uses, or special exception, so long as such ordinance remains in 19888
effect without any substantive modification. 19889

(S)(1) The director may issue an interim license to operate a 19890
residential facility to an applicant for a license under this 19891
section if either of the following is the case: 19892

(a) The director determines that an emergency exists 19893
requiring immediate placement of persons in a residential 19894
facility, that insufficient licensed beds are available, and that 19895
the residential facility is likely to receive a permanent license 19896
under this section within thirty days after issuance of the 19897
interim license. 19898

(b) The director determines that the issuance of an interim 19899
license is necessary to meet a temporary need for a residential 19900
facility. 19901

(2) To be eligible to receive an interim license, an 19902
applicant must meet the same criteria that must be met to receive 19903
a permanent license under this section, except for any differing 19904
procedures and time frames that may apply to issuance of a 19905
permanent license. 19906

(3) An interim license shall be valid for thirty days and may 19907
be renewed by the director for a period not to exceed one hundred 19908
fifty days. 19909

(4) The director shall adopt rules in accordance with Chapter 19910
119. of the Revised Code as the director considers necessary to 19911
administer the issuance of interim licenses. 19912

(T) Notwithstanding rules adopted pursuant to this section 19913
establishing the maximum number of persons who may be served in a 19914
particular type of residential facility, a residential facility 19915
shall be permitted to serve the same number of persons being 19916

served by the facility on the effective date of the rules or the 19917
number of persons for which the facility is authorized pursuant to 19918
a current application for a certificate of need with a letter of 19919
support from the department of ~~mental retardation and~~ 19920
developmental disabilities and which is in the review process 19921
prior to April 4, 1986. 19922

(U) The director or the director's designee may enter at any 19923
time, for purposes of investigation, any home, facility, or other 19924
structure that has been reported to the director or that the 19925
director has reasonable cause to believe is being operated as a 19926
residential facility without a license issued under this section. 19927

The director may petition the court of common pleas of the 19928
county in which an unlicensed residential facility is located for 19929
an order enjoining the person or governmental agency operating the 19930
facility from continuing to operate without a license. The court 19931
may grant the injunction on a showing that the person or 19932
governmental agency named in the petition is operating a 19933
residential facility without a license. The court may grant the 19934
injunction, regardless of whether the residential facility meets 19935
the requirements for receiving a license under this section. 19936

Sec. 5123.191. (A) The court of common pleas or a judge 19937
thereof in the judge's county, or the probate court, may appoint a 19938
receiver to take possession of and operate a residential facility 19939
licensed by the department of ~~mental retardation and~~ developmental 19940
disabilities, in causes pending in such courts respectively, when 19941
conditions existing at the facility present a substantial risk of 19942
physical or mental harm to residents and no other remedies at law 19943
are adequate to protect the health, safety, and welfare of the 19944
residents. Conditions at the facility that may present such risk 19945
of harm include, but are not limited to, instances when any of the 19946
following occur: 19947

(1) The residential facility is in violation of state or federal law or regulations.

(2) The facility has had its license revoked or procedures for revocation have been initiated, or the facility is closing or intends to cease operations.

(3) Arrangements for relocating residents need to be made.

(4) Insolvency of the operator, licensee, or landowner threatens the operation of the facility.

(5) The facility or operator has demonstrated a pattern and practice of repeated violations of state or federal laws or regulations.

(B) A court in which a petition is filed pursuant to this section shall notify the person holding the license for the facility and the department of ~~mental retardation and~~ developmental disabilities of the filing. The court shall order the department to notify the legal rights service, facility owner, facility operator, county board of ~~mental retardation and~~ developmental disabilities, facility residents, and residents' parents and guardians of the filing of the petition.

The court shall provide a hearing on the petition within five court days of the time it was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action. Following a hearing on the 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 and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility.

(2) Circumstances no longer exist at the facility that present a substantial risk of physical or mental harm to residents, and there is no deficiency in the facility that is likely to create a future risk of harm.

Notwithstanding division (F)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of ~~mental retardation and~~ developmental disabilities.

(G) The department of ~~mental retardation and~~ developmental disabilities may, upon its own initiative or at the request of an owner, operator, or resident of a residential facility, or at the request of a resident's guardian or relative, a county board of ~~mental retardation and~~ developmental disabilities, or the legal rights service, petition the court to appoint a receiver to take possession of and operate a residential facility. When the department has been requested to file a petition by any of the parties listed above, it shall, within forty-eight hours of such request, either file such a petition or notify the requesting party of its decision not to file. If the department refuses to file, the requesting party may file a petition with the court requesting the appointment of a receiver to take possession of and operate a residential facility.

Petitions filed pursuant to this division shall include the following:

(1) A description of the specific conditions existing at the facility which present a substantial risk of physical or mental harm to residents;

(2) A statement of the absence of other adequate remedies at law;

(3) The number of individuals residing at the facility;

(4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the

conditions, though remedied periodically, habitually exist at the 20042
facility as a pattern or practice; 20043

(5) The name and address of the person holding the license 20044
for the facility and the address of the department of ~~mental~~ 20045
~~retardation and~~ developmental disabilities. 20046

The court may award to an operator appropriate costs and 20047
expenses, including reasonable attorney's fees, if it determines 20048
that a petitioner has initiated a proceeding in bad faith or 20049
merely for the purpose of harassing or embarrassing the operator. 20050

(H) Except for the department of ~~mental-retardation and~~ 20051
developmental disabilities or a county board of ~~mental-retardation~~ 20052
~~and~~ developmental disabilities, no party or person interested in 20053
an action shall be appointed a receiver pursuant to this section. 20054

To assist the court in identifying persons qualified to be 20055
named as receivers, the director of ~~mental-retardation and~~ 20056
developmental disabilities or the director's designee shall 20057
maintain a list of the names of such persons. The director shall, 20058
in accordance with Chapter 119. of the Revised Code, establish 20059
standards for evaluating persons desiring to be included on such a 20060
list. 20061

(I) Before a receiver enters upon the duties of that person, 20062
the receiver must be sworn to perform the duties of receiver 20063
faithfully, and, with surety approved by the court, judge, or 20064
clerk, execute a bond to such person, and in such sum as the court 20065
or judge directs, to the effect that such receiver will faithfully 20066
discharge the duties of receiver in the action, and obey the 20067
orders of the court therein. 20068

(J) Under the control of the appointing court, a receiver may 20069
bring and defend actions in the receiver's own name as receiver 20070
and take and keep possession of property. 20071

The court shall authorize the receiver to do the following: 20072

(1) Collect payment for all goods and services provided to 20073
the residents or others during the period of the receivership at 20074
the same rate as was charged by the licensee at the time the 20075
petition for receivership was filed, unless a different rate is 20076
set by the court; 20077

(2) Honor all leases, mortgages, and secured transactions 20078
governing all buildings, goods, and fixtures of which the receiver 20079
has taken possession and continues to use, subject to the 20080
following conditions: 20081

(a) In the case of a rental agreement, only to the extent of 20082
payments that are for the use of the property during the period of 20083
the receivership; 20084

(b) In the case of a purchase agreement only to the extent of 20085
payments that come due during the period of the receivership; 20086

(c) If the court determines that the cost of the lease, 20087
mortgage, or secured transaction was increased by a transaction 20088
required to be reported under division (B)(3) of section 5123.172 20089
of the Revised Code, only to the extent determined by the court to 20090
be the fair market value for use of the property during the period 20091
of the receivership. 20092

(3) If transfer of residents is necessary, provide for the 20093
orderly transfer of residents by doing the following: 20094

(a) Cooperating with all appropriate state and local agencies 20095
in carrying out the transfer of residents to alternative community 20096
placements; 20097

(b) Providing for the transportation of residents' belongings 20098
and records; 20099

(c) Helping to locate alternative placements and develop 20100
discharge plans; 20101

(d) Preparing residents for the trauma of discharge; 20102

(e) Permitting residents or guardians to participate in	20103
transfer or discharge planning except when an emergency exists and	20104
immediate transfer is necessary.	20105
(4) Make periodic reports on the status of the residential	20106
program to the appropriate state agency, county board of mental	20107
retardation and developmental disabilities, parents, guardians,	20108
and residents;	20109
(5) Compromise demands or claims;	20110
(6) Generally do such acts respecting the residential	20111
facility as the court authorizes.	20112
(K) Neither the receiver nor the department of mental	20113
retardation and developmental disabilities is liable for debts	20114
incurred by the owner or operator of a residential facility for	20115
which a receiver has been appointed.	20116
(L) The department of mental retardation and developmental	20117
disabilities may contract for the operation of a residential	20118
facility in receivership. The department shall establish the	20119
conditions of a contract. A condition may be the same as, similar	20120
to, or different from a condition established by section 5123.18	20121
of the Revised Code and the rules adopted under that section for a	20122
contract entered into under that section. Notwithstanding any	20123
other provision of law, contracts that are necessary to carry out	20124
the powers and duties of the receiver need not be competitively	20125
bid.	20126
(M) The department of mental retardation and developmental	20127
disabilities, the department of job and family services, and the	20128
department of health shall provide technical assistance to any	20129
receiver appointed pursuant to this section.	20130
Sec. 5123.194. In the case of an individual who resides in a	20131
residential facility and is preparing to move into an independent	20132

living arrangement and the individual's liable relative, the 20133
department of ~~mental retardation and~~ developmental disabilities 20134
may waive the support collection requirements of sections 5121.04, 20135
5123.122, and 5123.18 of the Revised Code for the purpose of 20136
allowing income or resources to be used to acquire items necessary 20137
for independent living. The department shall adopt rules in 20138
accordance with section 111.15 of the Revised Code to implement 20139
this section, including rules that establish the method the 20140
department shall use to determine when an individual is preparing 20141
to move into an independent living arrangement. 20142

Sec. 5123.195. (A) Not later than sixty days after the end of 20143
calendar years 2003, 2004, and 2005, the director of ~~mental~~ 20144
~~retardation and~~ developmental disabilities shall submit a report 20145
to the president and minority leader of the senate and speaker and 20146
minority leader of the house of representatives regarding the 20147
implementation of section 5123.19 of the Revised Code since ~~the~~ 20148
~~effective date of this section~~ March 31, 2003. The director shall 20149
include in the report all of the following information: 20150

(1) A summary of any rules adopted under that section to 20151
implement the amendments to that section that go into effect on 20152
~~the effective date of this section~~ March 31, 2003; 20153

(2) The number of residential facility licenses issued, 20154
renewed, and denied under that section since the effective date of 20155
the amendments to section 5123.19 of the Revised Code that go into 20156
effect on ~~the effective date of this section~~ March 31, 2003 or, in 20157
the case of the reports due in 2005 and 2006, since the previous 20158
report was submitted; 20159

(3) The length of time for which residential facility 20160
licenses are issued and renewed under that section; 20161

(4) The sanctions imposed pursuant to division (D) of section 20162
5123.19 of the Revised Code and the kinds of violations that cause 20163

the sanctions; 20164

(5) Any other information the director determines is 20165
important to the implementation of the amendments to section 20166
5123.19 of the Revised Code that go into effect on ~~the effective~~ 20167
~~date of this section~~ March 31, 2003. 20168

(B) On submission of the report under division (A) of this 20169
section, the director shall inform each member of the general 20170
assembly that the report is available. 20171

Sec. 5123.196. (A) Except as provided in division (E) of this 20172
section, the director of ~~mental retardation and~~ developmental 20173
disabilities shall not issue a license under section 5123.19 of 20174
the Revised Code on or after July 1, 2003, if issuance will result 20175
in there being more beds in all residential facilities licensed 20176
under that section than is permitted under division (B) of this 20177
section. 20178

(B) The maximum number of beds for the purpose of division 20179
(A) of this section shall not exceed ten thousand eight hundred 20180
thirty-eight minus, except as provided in division (C) of this 20181
section, both of the following: 20182

(1) The number of such beds that cease to be residential 20183
facility beds on or after July 1, 2003, because a residential 20184
facility license is revoked, terminated, or not renewed for any 20185
reason or is surrendered in accordance with section 5123.19 of the 20186
Revised Code; 20187

(2) The number of such beds for which a licensee voluntarily 20188
converts to use for supported living on or after July 1, 2003. 20189

(C) The director is not required to reduce the maximum number 20190
of beds pursuant to division (B) of this section by a bed that 20191
ceases to be a residential facility bed if the director determines 20192
that the bed is needed to provide services to an individual with 20193

mental retardation or a developmental disability who resided in 20194
the residential facility in which the bed was located. 20195

(D) The director shall maintain an up-to-date written record 20196
of the maximum number of residential facility beds provided for by 20197
division (B) of this section. 20198

(E) The director may issue an interim license under division 20199
(S) of section 5123.19 of the Revised Code and issue, pursuant to 20200
rules adopted under division (H)(11) of that section, a waiver 20201
allowing a residential facility to admit more residents than the 20202
facility is licensed to admit regardless of whether the interim 20203
license or waiver will result in there being more beds in all 20204
residential facilities licensed under that section than is 20205
permitted under division (B) of this section. 20206

Sec. 5123.198. (A) As used in this section, "date of the 20207
commitment" means the date that an individual specified in 20208
division (B) of this section begins to reside in a state-operated 20209
intermediate care facility for the mentally retarded after being 20210
committed to the facility pursuant to sections 5123.71 to 5123.76 20211
of the Revised Code. 20212

(B) Except as provided in division (C) of this section, 20213
whenever a resident of a residential facility is committed to a 20214
state-operated intermediate care facility for the mentally 20215
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 20216
Code, the department of ~~mental retardation and~~ developmental 20217
disabilities, pursuant to an adjudication order issued in 20218
accordance with Chapter 119. of the Revised Code, shall reduce by 20219
one the number of residents for which the facility in which the 20220
resident resided is licensed. 20221

(C) The department shall not reduce under division (B) of 20222
this section the number of residents for which a residential 20223
facility is licensed if any of the following are the case: 20224

(1) The resident of the residential facility who is committed 20225
to a state-operated intermediate care facility for the mentally 20226
retarded resided in the residential facility because of the 20227
closure, on or after June 26, 2003, of another state-operated 20228
intermediate care facility for the mentally retarded; 20229

(2) The residential facility admits within ninety days of the 20230
date of the commitment an individual who resides on the date of 20231
the commitment in a state-operated intermediate care facility for 20232
the mentally retarded or another residential facility; 20233

(3) The department fails to do either of the following within 20234
ninety days of the date of the commitment: 20235

(a) Identify an individual to whom all of the following 20236
applies: 20237

(i) Resides on the date of the commitment in a state-operated 20238
intermediate care facility for the mentally retarded or another 20239
residential facility; 20240

(ii) Has indicated to the department an interest in 20241
relocating to the residential facility or has a parent or guardian 20242
who has indicated to the department an interest for the individual 20243
to relocate to the residential facility; 20244

(iii) The department determines the individual has needs that 20245
the residential facility can meet. 20246

(b) Provide the residential facility with information about 20247
the individual identified under division (C)(2)(a) of this section 20248
that the residential facility needs in order to determine whether 20249
the facility can meet the individual's needs. 20250

(4) If the department completes the actions specified in 20251
divisions (C)(3)(a) and (b) of this section not later than ninety 20252
days after the date of the commitment and except as provided in 20253
division (D) of this section, the residential facility does all of 20254

the following not later than ninety days after the date of the 20255
commitment: 20256

(a) Evaluates the information provided by the department; 20257

(b) Assesses the identified individual's needs; 20258

(c) Determines that the residential facility cannot meet the 20259
identified individual's needs. 20260

(5) If the department completes the actions specified in 20261
divisions (C)(3)(a) and (b) of this section not later than ninety 20262
days after the date of the commitment and the residential facility 20263
determines that the residential facility can meet the identified 20264
individual's needs, the individual, or a parent or guardian of the 20265
individual, refuses placement in the residential facility. 20266

(D) The department may reduce under division (B) of this 20267
section the number of residents for which a residential facility 20268
is licensed even though the residential facility completes the 20269
actions specified in division (C)(4) of this section not later 20270
than ninety days after the date of the commitment if all of the 20271
following are the case: 20272

(1) The department disagrees with the residential facility's 20273
determination that the residential facility cannot meet the 20274
identified individual's needs. 20275

(2) The department issues a written decision pursuant to the 20276
uniform procedures for admissions, transfers, and discharges 20277
established by rules adopted under division (H)(9) of section 20278
5123.19 of the Revised Code that the residential facility should 20279
admit the identified individual. 20280

(3) After the department issues the written decision 20281
specified in division (D)(2) of this section, the residential 20282
facility refuses to admit the identified individual. 20283

(E) A residential facility that admits, refuses to admit, 20284

transfers, or discharges a resident under this section shall 20285
comply with the uniform procedures for admissions, transfers, and 20286
discharges established by rules adopted under division (H)(9) of 20287
section 5123.19 of the Revised Code. 20288

(F) The department of ~~mental retardation and~~ developmental 20289
disabilities may notify the department of job and family services 20290
of any reduction under this section in the number of residents for 20291
which a residential facility that is an intermediate care facility 20292
for the mentally retarded is licensed. On receiving the notice, 20293
the department of job and family services may transfer to the 20294
department of ~~mental retardation and~~ developmental disabilities 20295
the savings in the nonfederal share of medicaid expenditures for 20296
each fiscal year after the year of the commitment to be used for 20297
costs of the resident's care in the state-operated intermediate 20298
care facility for the mentally retarded. In determining the amount 20299
saved, the department of job and family services shall consider 20300
medicaid payments for the remaining residents of the facility in 20301
which the resident resided. 20302

Sec. 5123.21. The director of ~~mental retardation and~~ 20303
developmental disabilities or the director's designee may transfer 20304
or authorize the transfer of an involuntary resident or a 20305
consenting voluntary resident from one public institution to 20306
another or to an institution other than a public institution or 20307
other facility, if the director determines that it would be 20308
consistent with the habilitation needs of the resident to do so. 20309

Before an involuntary resident may be transferred to a more 20310
restrictive setting, the managing officer of the institution shall 20311
file a motion with the court requesting the court to amend its 20312
order of placement issued under section 5123.76 of the Revised 20313
Code. At the resident's request, the court shall hold a hearing on 20314
the motion at which the resident has the same rights as at a full 20315

hearing under section 5123.76 of the Revised Code. 20316

Whenever a resident is transferred, the director shall give 20317
written notice of the transfer to the resident's legal guardian, 20318
parents, spouse, and counsel, or, if none is known, to the 20319
resident's nearest known relative or friend. If the resident is a 20320
minor, the department before making such a transfer shall make a 20321
minute of the order for the transfer and the reason for it upon 20322
its record and shall send a certified copy at least seven days 20323
prior to the transfer to the person shown by its record to have 20324
had the care or custody of the minor immediately prior to the 20325
minor's commitment. Whenever a consenting voluntary resident is 20326
transferred, the notification shall be given only at the 20327
resident's request. The managing officer shall advise a voluntary 20328
resident who is being transferred that the patient may decide if 20329
such a notification shall be given. In all such transfers, due 20330
consideration shall be given to the relationship of the resident 20331
to the resident's family, legal guardian, or friends, so as to 20332
maintain relationships and encourage visits beneficial to the 20333
resident. 20334

Sec. 5123.211. (A) As used in this section, "residential 20335
services" has the same meaning as in section 5126.01 of the 20336
Revised Code. 20337

(B) The department of ~~mental retardation and~~ developmental 20338
disabilities shall provide or arrange provision of residential 20339
services for each person who, on or after July 1, 1989, ceases to 20340
be a resident of a state institution because of closure of the 20341
institution or a reduction in the institution's population by 20342
forty per cent or more within a period of one year. The services 20343
shall be provided in the county in which the person chooses to 20344
reside and shall consist of one of the following as determined 20345
appropriate by the department in consultation with the county 20346

board of ~~mental retardation and~~ developmental disabilities of the 20347
county in which the services are to be provided: 20348

(1) Residential services provided pursuant to section 5123.18 20349
of the Revised Code; 20350

(2) Residential services for which reimbursement is made 20351
under the medical assistance program established under section 20352
5111.01 of the Revised Code; 20353

(3) Residential services provided in a manner or setting 20354
approved by the director of ~~mental retardation and~~ developmental 20355
disabilities. 20356

(C) Not less than six months prior to closing a state 20357
institution or reducing a state institution's population by forty 20358
per cent or more within a period of one year, the department shall 20359
identify those counties in which individuals leaving the 20360
institution have chosen to reside and notify the county boards of 20361
~~mental retardation and~~ developmental disabilities in those 20362
counties of the need to develop the services specified in division 20363
(B) of this section. The notice shall specify the number of 20364
individuals requiring services who plan to reside in the county 20365
and indicate the amount of funds the department will use to 20366
provide or arrange services for those individuals. 20367

(D) In each county in which one or more persons receive 20368
residential services pursuant to division (B) of this section, the 20369
department shall provide or arrange provision of residential 20370
services, or shall distribute moneys to the county board of ~~mental~~ 20371
~~retardation and~~ developmental disabilities to provide or arrange 20372
provision of residential services, for an equal number of persons 20373
with mental retardation or developmental disabilities in that 20374
county who the county board has determined need residential 20375
services but are not receiving them. 20376

Sec. 5123.22. When it is necessary for an institution under 20377
the jurisdiction of the department of ~~mental-retardation and~~ 20378
developmental disabilities to acquire any real estate, 20379
right-of-way, or easement in real estate in order to accomplish 20380
the purposes for which it was organized or is being conducted, and 20381
the department is unable to agree with the owner of such property 20382
upon the price to be paid therefor, such property may be 20383
appropriated in the manner provided for the appropriation of 20384
property for other state purposes. 20385

Any instrument by which real property is acquired pursuant to 20386
this section shall identify the agency of the state that has the 20387
use and benefit of the real property as specified in section 20388
5301.012 of the Revised Code. 20389

Sec. 5123.221. The department of ~~mental-retardation and~~ 20390
developmental disabilities shall determine and direct what lands 20391
belonging to institutions under its control shall be cultivated. 20392

The department of agriculture, the department of health, and 20393
the Ohio state university shall cooperate with the department of 20394
~~mental-retardation and~~ developmental disabilities, and the 20395
managing officer of each institution mentioned in section 5123.03 20396
of the Revised Code, in making such cooperative tests as are 20397
necessary to determine the quality, strength, and purity of 20398
supplies, the value and use of farm lands, or the conditions and 20399
needs of mechanical equipment. 20400

The department may direct the purchase of any materials, 20401
supplies, or other articles for any institution subject to its 20402
jurisdiction from any other such institution at the reasonable 20403
market value, such value to be fixed by the department, and 20404
payments therefor shall be made as between institutions in the 20405
manner provided for payment for supplies. 20406

Sec. 5123.23. The director of ~~mental retardation and~~ 20407
developmental disabilities may lease, for oil and gas, any real 20408
estate owned by the state and placed under the supervision of the 20409
department of ~~mental retardation and~~ developmental disabilities, 20410
to any person, upon such terms and for such number of years, not 20411
more than forty, as will be for the best interest of the state. No 20412
such lease shall be agreed upon or entered into before the 20413
proposal to lease the property has been advertised once each week 20414
for four weeks in a newspaper of general circulation in the county 20415
in which the property is located. The lease shall be made with the 20416
person offering the best terms to the state. 20417

The director, in such lease, may grant to the lessee the 20418
right to use so much of the surface of the land as may be 20419
reasonably necessary to carry on the work of prospecting for, 20420
extracting, piping, storing, and removing all oil or gas, and for 20421
depositing waste material and maintaining such buildings and 20422
constructions as are reasonably necessary for exploring or 20423
prospecting for such oil and gas. 20424

All leases made under this section shall be prepared by the 20425
attorney general and approved by the governor. All money received 20426
from any such leases shall be paid into the state treasury to the 20427
credit of the general revenue fund. 20428

Sec. 5123.24. A person, firm, or corporation may file a 20429
petition in the court of common pleas of the county in which an 20430
institution under the jurisdiction of the department of ~~mental~~ 20431
~~retardation and~~ developmental disabilities is located, in which 20432
petition the desire to erect or carry on at a less distance than 20433
that prescribed in section 3767.19 of the Revised Code shall be 20434
set forth, the business prohibited, the precise point of its 20435
establishment, and the reasons and circumstances, in its opinion, 20436
why the erection or carrying on thereof would not annoy or 20437

endanger the health, convenience, or recovery of the residents of 20438
such institution. The petitioner shall give notice in a newspaper 20439
of general circulation in the county of the pendency and prayer of 20440
the petition for at least six consecutive weeks before the day set 20441
for hearing the petition and serve a written notice upon the 20442
superintendent of the institution at least thirty days before the 20443
day set for hearing the petition. 20444

If, upon the hearing of the petition, it appears that the 20445
notice has been given as required and the court is of the opinion 20446
that no good reason exists why such establishment may not be 20447
erected or such business carried on and that by the erection or 20448
carrying on thereof at the point named, the institution will 20449
sustain no detriment, the court may issue an order granting the 20450
prayer of the petitioner. Thereafter the petitioner may locate 20451
such establishment or carry on such business at the point named in 20452
the petition. 20453

Sec. 5123.25. The department of administrative services shall 20454
purchase all supplies needed for the proper support and 20455
maintenance of the institutions under the control of the 20456
department of ~~mental retardation and~~ developmental disabilities in 20457
accordance with the competitive selection procedures of Chapter 20458
125. of the Revised Code and such rules as the department of 20459
administrative services adopts. All bids shall be publicly opened 20460
on the day and hour and at the place specified in the 20461
advertisement. 20462

Preference shall be given to bidders in localities wherein 20463
the institution is located, if the price is fair and reasonable 20464
and not greater than the usual price. 20465

The department of administrative services may require such 20466
security as it considers proper to accompany the bids and shall 20467
fix the security to be given by the contractor. 20468

The department of administrative services may reject any or 20469
all bids and secure new bids, if for any reason it is considered 20470
for the best interest of the state to do so, and it may authorize 20471
the managing officer of any institution to purchase perishable 20472
goods and supplies for use in cases of emergency, in which cases 20473
the managing officer shall certify such fact in writing and the 20474
department of administrative services shall record the reasons for 20475
the purchases. 20476

Sec. 5123.26. The treasurer of state shall have charge of all 20477
funds under the jurisdiction of the department of ~~mental~~ 20478
~~retardation and~~ developmental disabilities and shall pay out the 20479
same only in accordance with Chapter 5123. of the Revised Code. 20480

The department shall cause to be furnished a contract of 20481
indemnity to cover all moneys and funds received by it or by its 20482
managing officers, employees, or agents while such moneys or funds 20483
are in the possession of such managing officers, employees, or 20484
agents. Such funds are designated as follows: 20485

(A) Funds which are due and payable to the treasurer of state 20486
as provided by Chapter 131. of the Revised Code; 20487

(B) Those funds which are held in trust by the managing 20488
officers, employees, or agents of the institution as local funds 20489
or accounts under the jurisdiction of the department. 20490

Such contract of indemnity shall be made payable to the state 20491
and the premium for such contract of indemnity may be paid from 20492
any of the funds received for the use of the department under this 20493
chapter or Chapter 5121. of the Revised Code. 20494

Funds collected from various sources, such as the sale of 20495
goods, farm products, and all miscellaneous articles, shall be 20496
transmitted on or before Monday of each week to the treasurer of 20497
state and a detailed statement of such collections shall be made 20498

to the division of business administration by each managing 20499
officer. 20500

Sec. 5123.27. The director of ~~mental retardation and~~ 20501
developmental disabilities may accept, hold, and administer in 20502
trust on behalf of the state, if it is for the public interest, 20503
any grant, devise, gift, or bequest of money or property made to 20504
the state for the use or benefit of any institution under the 20505
jurisdiction of the department of ~~mental retardation and~~ 20506
developmental disabilities or for the use and benefit of persons 20507
with mental retardation or a developmental disability under the 20508
control of the department. If the trust so provides, the money or 20509
property may be used for any work which the department is 20510
authorized to undertake. 20511

The department shall keep such gift, grant, devise, or 20512
bequest as a distinct property or fund and, if it is in money, 20513
shall invest it in the manner provided by law. The department may 20514
deposit in a proper trust company or savings bank any money left 20515
in trust during a specified life or lives and shall adopt rules 20516
governing the deposit, transfer, withdrawal, or investment of the 20517
money and the income from it. 20518

The department shall, in the manner prescribed by the 20519
director of budget and management pursuant to section 126.21 of 20520
the Revised Code, account for all money or property received or 20521
expended under this section. The records, together with a 20522
statement certified by the depository showing the money deposited 20523
there to the credit of the trust, shall be open to public 20524
inspection. The director of budget and management may require the 20525
department to file a report with the director on any particular 20526
portion, or the whole, of any trust property received or expended 20527
by it. 20528

The department shall, upon the expiration of any trust 20529

according to its terms, dispose of the money or property held 20530
under the trust in the manner provided in the instrument creating 20531
the trust. If the instrument creating the trust failed to make any 20532
terms of disposition, or if no trust was in evidence, the decedent 20533
resident's money, saving or commercial deposits, dividends or 20534
distributions, bonds, or any other interest-bearing debt 20535
certificate or stamp issued by the United States government shall 20536
escheat to the state. All such unclaimed intangible personal 20537
property of a former resident shall be retained by the managing 20538
officer in such institution for the period of one year, during 20539
which time every possible effort shall be made to find the former 20540
resident or the former resident's legal representative. 20541

If after a period of one year from the time the resident has 20542
left the institution or has died, the managing officer has been 20543
unable to locate the person or the person's legal representative, 20544
then, upon proper notice of that fact, the director shall at that 20545
time formulate in writing a method of disposition on the minutes 20546
of the department authorizing the managing officer to convert such 20547
intangible personal property to cash to be paid into the state 20548
treasury to the credit of the general revenue fund. 20549

The department shall include in its annual report a statement 20550
of all such money and property and the terms and conditions 20551
relating to them. 20552

Sec. 5123.28. (A) Except as otherwise provided in this 20553
division, money or property deposited with managing officers of 20554
institutions under the jurisdiction of the department of ~~mental~~ 20555
~~retardation and~~ developmental disabilities by any resident under 20556
the department's control or by relatives, guardians, conservators, 20557
and others for the special benefit of such resident, as well as 20558
all other funds and all other income paid to the resident, to the 20559
resident's estate, or on the resident's behalf, or paid to the 20560

managing officer or to the institution as representative payee or 20561
otherwise paid on the resident's behalf, shall remain in the hands 20562
of such managing officers in appropriate accounts for use 20563
accordingly. Each such managing officer shall keep itemized book 20564
accounts of the receipt and disposition of such money and 20565
property, which book shall be open at all times to the inspection 20566
of the department. The director of ~~mental retardation and~~ 20567
developmental disabilities shall adopt rules governing the 20568
deposit, transfer, withdrawal, or investment of such funds and the 20569
income of the funds, as well as rules under which such funds and 20570
income shall be paid by managing officers, institutions, or 20571
district managers for the support of such residents pursuant to 20572
Chapter 5121. of the Revised Code, or for their other needs. 20573

This division does not require, and shall not be construed as 20574
requiring, the deposit of the principal or income of a trust 20575
created pursuant to section 5815.28 of the Revised Code with 20576
managing officers of institutions under the jurisdiction of the 20577
department. 20578

(B) Whenever any resident confined in a state institution 20579
under the jurisdiction of the department dies, escapes, or is 20580
discharged from the institution, any personal funds of the 20581
resident remain in the hands of the managing officer of the 20582
institution, and no demand is made upon the managing officer by 20583
the owner of the funds or the owner's legally appointed 20584
representative, the managing officer shall hold the funds in the 20585
personal deposit fund for a period of at least one year during 20586
which time the managing officer shall make every effort possible 20587
to locate the owner or the owner's legally appointed 20588
representative. If, at the end of this period, no demand has been 20589
made for the funds, the managing officer shall dispose of the 20590
funds as follows: 20591

(1) All money in a personal deposit fund in excess of ten 20592

dollars due for the support of a resident, shall be paid in 20593
accordance with Chapter 5121. of the Revised Code. 20594

(2) All money in a personal deposit fund in excess of ten 20595
dollars not due for the support of a resident, shall be placed to 20596
the credit of the institution's local account designated as the 20597
"industrial and entertainment" fund. 20598

(3) The first ten dollars to the credit of a resident shall 20599
be placed to the credit of the institution's local account 20600
designated as the "industrial and entertainment" fund. 20601

(C) Whenever any resident in any state institution subject to 20602
the jurisdiction of the department dies, escapes, or is discharged 20603
from the institution, any personal effects of the resident remain 20604
in the hands of the managing officer of the institution, and no 20605
demand is made upon the managing officer by the owner of the 20606
personal effects or the owner's legally appointed representative, 20607
the managing officer shall hold and dispose of the personal 20608
effects in the following manner. All the miscellaneous personal 20609
effects shall be held for a period of at least one year, during 20610
which time the managing officer shall make every effort possible 20611
to locate the owner or the owner's legal representative. If, at 20612
the end of this period, no demand has been made by the owner of 20613
the property or the owner's legal representative, the managing 20614
officer shall file with the county recorder of the county of 20615
commitment of such owner, all deeds, wills, contract mortgages, or 20616
assignments. The balance of the personal effects shall be sold at 20617
public auction after being duly advertised, and the funds turned 20618
over to the treasurer of state for credit to the general revenue 20619
fund. If any of the property is not of a type to be filed with the 20620
county recorder and is not salable at public auction, the managing 20621
officer of the institution shall destroy that property. 20622

Sec. 5123.29. Each managing officer of an institution under 20623

the jurisdiction of the department of ~~mental retardation and~~ 20624
developmental disabilities, with the approval of the director of 20625
~~mental retardation and~~ developmental disabilities, may establish 20626
funds in the institutions under the jurisdiction of the 20627
department, designated as follows: 20628

(A) Industrial and entertainment fund for the entertainment 20629
and welfare of the residents of the institution. 20630

(B) Commissary fund for the benefit of residents of the 20631
institution. Commissary revenue in excess of operating costs and 20632
reserve shall be considered profits. All profits from the 20633
commissary fund operations shall be paid into the industrial and 20634
entertainment fund, and used only for the entertainment and 20635
welfare of residents. 20636

The director shall establish rules for the operation of the 20637
industrial and entertainment and commissary funds. 20638

Sec. 5123.30. The department of ~~mental retardation and~~ 20639
developmental disabilities shall keep in its office a proper and 20640
complete set of books and accounts with each institution, which 20641
shall clearly show the nature and amount of every expenditure 20642
authorized and made at such institution, and which shall contain 20643
an account of all appropriations made by the general assembly and 20644
of all other funds, together with the disposition of such funds. 20645

The department shall prescribe the form of vouchers, records, 20646
and methods of keeping accounts at each of the institutions, which 20647
shall be as nearly uniform as possible. The department may examine 20648
the records of any institution at any time. 20649

The department may authorize any of its bookkeepers, 20650
accountants, or employees to examine the records, accounts, and 20651
vouchers or take an inventory of the property of any institution, 20652
or do whatever is necessary, and pay the actual and reasonable 20653

expenses incurred in such service when an itemized account is 20654
filed and approved. 20655

Sec. 5123.31. The department of ~~mental-retardation-and~~ 20656
developmental disabilities shall keep in its office, accessible 20657
only to its employees, except by the consent of the department or 20658
the order of the judge of a court of record, a record showing the 20659
name, residence, sex, age, nativity, occupation, condition, and 20660
date of entrance or commitment of every resident in the 20661
institutions governed by it, the date, cause, and terms of 20662
discharge and the condition of such person at the time of leaving, 20663
and also a record of all transfers from one institution to 20664
another, and, if such person dies while in the care or custody of 20665
the department, the date and cause of death. These and such other 20666
facts as the department requires shall be furnished by the 20667
managing officer of each institution within ten days after the 20668
commitment, entrance, death, or discharge of a resident. 20669

In case of an accident or injury or peculiar death of a 20670
resident the managing officer shall make a special report to the 20671
department within twenty-four hours thereafter, giving the 20672
circumstances as fully as possible. 20673

Sec. 5123.33. In its annual report, the department of ~~mental-~~ 20674
~~retardation-and~~ developmental disabilities shall include a list of 20675
the officers and agents employed, and complete financial statement 20676
of the various institutions under its control. The report shall 20677
describe the condition of each institution, and shall state, as to 20678
each institution, whether: 20679

(A) The moneys appropriated have been economically and 20680
judiciously expended; 20681

(B) The objects of the institutions have been accomplished; 20682

(C) The laws in relation to such institutions have been fully 20683

complied with; 20684

(D) All parts of the state are equally benefited by the 20685
institutions. 20686

Such annual report shall be accompanied by the reports of the 20687
managing officers, such other information as the department 20688
considers proper, and the department's recommendations for the 20689
more effective accomplishment of the general purpose of this 20690
chapter. 20691

Sec. 5123.34. This chapter attempts to do all of the 20692
following: 20693

(A) Provide humane and scientific treatment and care and the 20694
highest attainable degree of individual development for persons 20695
with mental retardation or a developmental disability; 20696

(B) Promote the study of the causes of mental retardation and 20697
developmental disabilities, with a view to ultimate prevention; 20698

(C) Secure by uniform and systematic management the highest 20699
attainable degree of economy in the administration of the 20700
institutions under the control of the department of ~~mental~~ 20701
~~retardation and~~ developmental disabilities. 20702

Sections 5123.02 to 5123.04, 5123.042, 5123.043, 5123.10, 20703
5123.21, 5123.221, 5123.25, and 5123.31 of the Revised Code shall 20704
be liberally construed to attain these purposes. 20705

Sec. 5123.35. (A) There is hereby created the Ohio 20706
developmental disabilities council, which shall serve as an 20707
advocate for all persons with developmental disabilities. The 20708
council shall act in accordance with the "Developmental 20709
Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 20710
(1984), 42 U.S.C. 6001, as amended. The governor shall appoint the 20711
members of the council in accordance with 42 U.S.C. 6024. 20712

(B) The Ohio developmental disabilities council shall develop the state plan required by federal law as a condition of receiving federal assistance under 42 U.S.C. 6021 to 6030. The department of ~~mental retardation and~~ developmental disabilities, as the state agency selected by the governor for purposes of receiving the federal assistance, shall receive, account for, and disburse funds based on the state plan and shall provide assurances and other administrative support services required as a condition of receiving the federal assistance.

(C) The federal funds may be disbursed through grants to or contracts with persons and government agencies for the provision of necessary or useful goods and services for developmentally disabled persons. The Ohio developmental disabilities council may award the grants or enter into the contracts.

(D) The Ohio developmental disabilities council may award grants to or enter into contracts with a member of the council or an entity that the member represents if all of the following apply:

(1) The member serves on the council as a representative of one of the principal state agencies concerned with services for persons with developmental disabilities as specified in 42 U.S.C. 6024(b)(3), a representative of a university affiliated program as defined in 42 U.S.C. 6001(18), or a representative of the legal rights service created under section 5123.60 of the Revised Code.

(2) The council determines that the member or the entity the member represents is capable of providing the goods or services specified under the terms of the grant or contract.

(3) The member has not taken part in any discussion or vote of the council related to awarding the grant or entering into the contract, including service as a member of a review panel established by the council to award grants or enter into contracts

or to make recommendations with regard to awarding grants or 20744
entering into contracts. 20745

(E) A member of the Ohio developmental disabilities council 20746
is not in violation of Chapter 102. or section 2921.42 of the 20747
Revised Code with regard to receiving a grant or entering into a 20748
contract under this section if the requirements of division (D) of 20749
this section have been met. 20750

Sec. 5123.351. The director of ~~mental retardation and~~ 20751
developmental disabilities, with respect to the eligibility for 20752
state reimbursement of expenses incurred by facilities and 20753
programs established and operated under Chapter 5126. of the 20754
Revised Code for persons with mental retardation or a 20755
developmental disability, shall do all of the following: 20756

(A) Make rules that may be necessary to carry out the 20757
purposes of Chapter 5126. and sections 5123.35, 5123.351, and 20758
5123.36 of the Revised Code; 20759

(B) Define minimum standards for qualifications of personnel, 20760
professional services, and in-service training and educational 20761
leave programs; 20762

(C) Review and evaluate community programs and make 20763
recommendations for needed improvements to county boards of ~~mental~~ 20764
~~retardation and~~ developmental disabilities and to program 20765
directors; 20766

(D) Withhold state reimbursement, in whole or in part, from 20767
any county or combination of counties for failure to comply with 20768
Chapter 5126. or section 5123.35 or 5123.351 of the Revised Code 20769
or rules of the department of ~~mental retardation and~~ developmental 20770
disabilities; 20771

(E) Withhold state funds from an agency, corporation, or 20772
association denying or rendering service on the basis of race, 20773

color, sex, religion, ancestry, national origin, disability as 20774
defined in section 4112.01 of the Revised Code, or inability to 20775
pay; 20776

(F) Provide consultative staff service to communities to 20777
assist in ascertaining needs and in planning and establishing 20778
programs. 20779

Sec. 5123.352. There is hereby created in the state treasury 20780
the community ~~mental retardation and~~ developmental disabilities 20781
trust fund. The director of ~~mental retardation and~~ developmental 20782
disabilities, not later than sixty days after the end of each 20783
fiscal year, shall certify to the director of budget and 20784
management the amount of all the unexpended, unencumbered balances 20785
of general revenue fund appropriations made to the department of 20786
~~mental retardation and~~ developmental disabilities for the fiscal 20787
year, excluding appropriations for rental payments to the Ohio 20788
public facilities commission, and the amount of any other funds 20789
held by the department in excess of amounts necessary to meet the 20790
department's operating costs and obligations pursuant to this 20791
chapter and Chapter 5126. of the Revised Code. On receipt of the 20792
certification, the director of budget and management shall 20793
transfer cash to the trust fund in an amount up to, but not 20794
exceeding, the total of the amounts certified by the director of 20795
~~mental retardation and~~ developmental disabilities, except in cases 20796
in which the transfer will involve more than twenty million 20797
dollars. In such cases, the director of budget and management 20798
shall notify the controlling board and must receive the board's 20799
approval of the transfer prior to making the transfer. 20800

All moneys in the trust fund shall be distributed in 20801
accordance with section 5126.19 of the Revised Code. 20802

Sec. 5123.36. (A) To the extent funds are available and on 20803

application by a county board of ~~mental retardation and~~ 20804
developmental disabilities or private nonprofit agency 20805
incorporated to provide mental retardation or developmental 20806
disability services, the director of ~~mental retardation and~~ 20807
developmental disabilities may enter into an agreement with the 20808
county board or agency to assist the county board or agency with a 20809
mental retardation or developmental disability construction 20810
project. Except as provided by division (B) of this section, the 20811
director may provide up to ninety per cent of the total project 20812
cost where circumstances warrant. The director may, where 20813
circumstances warrant, use existing facilities or other in-kind 20814
match for the local share of the communities' share of the cost. 20815

(B) Upon the recommendation of the director, for projects of 20816
the highest priority of the department of ~~mental retardation and~~ 20817
developmental disabilities, the controlling board may authorize 20818
the director to provide more than ninety per cent of the total 20819
cost of a project under this section. 20820

(C) A county board is eligible for funds under this section 20821
for a project bid on or after January 1, 1992, under either 20822
section 153.07 or 307.86 of the Revised Code, as long as all other 20823
applicable requirements were followed. 20824

(D) A private nonprofit agency that receives funds pursuant 20825
to this section for the construction of a single-family home, 20826
including, where appropriate, the acquisition and installation of 20827
a single-family home fabricated in an off-site facility, is not 20828
subject to the requirements of Chapter 153. of the Revised Code 20829
with respect to the construction project, notwithstanding any 20830
provision of that chapter to the contrary. 20831

(E) The director may not assist a project under this section 20832
unless the controlling board or director of budget and management 20833
also approves the project pursuant to section 126.14 of the 20834
Revised Code. 20835

Sec. 5123.37. A county board of ~~mental retardation and~~ 20836
developmental disabilities or private, nonprofit agency that 20837
receives state funds pursuant to an agreement with the director of 20838
~~mental retardation and~~ developmental disabilities under section 20839
5123.36 of the Revised Code to acquire a facility may apply to the 20840
director for approval to sell the facility before the terms of the 20841
agreement expire for the purpose of acquiring a replacement 20842
facility to be used to provide mental retardation or developmental 20843
disability services to individuals the county board or agency 20844
serves. The application shall be made on a form the director shall 20845
prescribe. The county board or agency shall include in the 20846
application the specific purpose for which the replacement 20847
facility is to be used. The director may refuse to approve the 20848
application if the director determines that any of the following 20849
apply: 20850

(A) The application is incomplete or indicates that the 20851
county board or agency is unable to purchase a replacement 20852
facility. 20853

(B) The replacement facility would not be used to continue to 20854
provide mental retardation or developmental disability services 20855
that the director determines are appropriate for the individuals 20856
the county board or agency serves. 20857

(C) The county board or agency has failed to comply with a 20858
provision of Chapter 5123. or 5126. of the Revised Code or a rule 20859
adopted by the director. 20860

(D) Approving the application would be inconsistent with the 20861
plans and priorities of the department of ~~mental retardation and~~ 20862
developmental disabilities. 20863

Sec. 5123.371. If the director of ~~mental retardation and~~ 20864
developmental disabilities approves an application submitted under 20865

section 5123.37 of the Revised Code, the county board of ~~mental~~ 20866
~~retardation and~~ developmental disabilities or private, nonprofit 20867
agency that submitted the application shall, after selling the 20868
facility for which the county board or agency received approval to 20869
sell, pay to the director the portion of the proceeds that equals 20870
the amount that the director determines the county board or agency 20871
owes the department of ~~mental retardation and~~ developmental 20872
disabilities, including the department's security interest in the 20873
facility, for the state funds used to acquire the facility. 20874

Sec. 5123.372. If the director of ~~mental retardation and~~ 20875
developmental disabilities approves an application submitted under 20876
section 5123.37 of the Revised Code, the director shall establish 20877
a deadline by which the county board of ~~mental retardation and~~ 20878
developmental disabilities or private, nonprofit agency that 20879
submitted the application must notify the director that the county 20880
board or agency is ready to acquire a replacement facility to be 20881
used for the purpose stated in the application. The director may 20882
extend the deadline as many times as the director determines 20883
necessary. 20884

Sec. 5123.373. If, on or before the deadline or, if any, the 20885
last extended deadline established under section 5123.372 of the 20886
Revised Code for a county board of ~~mental retardation and~~ 20887
developmental disabilities or private, nonprofit agency, the 20888
county board or agency notifies the director of ~~mental retardation~~ 20889
~~and~~ developmental disabilities that the county board or agency is 20890
ready to acquire the replacement facility, the director shall 20891
enter into an agreement with the county board or agency that 20892
provides for the director to pay to the county board or agency a 20893
percentage of the cost of acquiring the replacement facility. The 20894
agreement shall specify the amount that the director shall pay. 20895

The amount may be the amount of the security interest that the 20896
department of ~~mental retardation and~~ developmental disabilities 20897
had in the previous facility or a different amount. The agreement 20898
may provide for the department to hold a security interest in the 20899
replacement facility. 20900

Sec. 5123.374. (A) The director of ~~mental retardation and~~ 20901
developmental disabilities may rescind approval of an application 20902
submitted under section 5123.37 of the Revised Code if either of 20903
the following occurs: 20904

(1) The county board of ~~mental retardation and~~ developmental 20905
disabilities or private, nonprofit agency that submitted the 20906
application fails, on or before the deadline or, if any, the last 20907
extended deadline established under section 5123.372 of the 20908
Revised Code for the county board or agency, to notify the 20909
director that the county board or agency is ready to acquire the 20910
replacement facility. 20911

(2) The county board or agency at any time notifies the 20912
director that the county board or agency no longer intends to 20913
acquire a replacement facility. 20914

(B) If the director rescinds approval of an application, the 20915
director shall use any funds the county board or agency paid to 20916
the director under section 5123.371 of the Revised Code to assist 20917
mental retardation or developmental disabilities construction 20918
projects under section 5123.36 of the Revised Code. 20919

Sec. 5123.375. The ~~MR/DD~~ developmental disabilities community 20920
capital replacement facilities fund is hereby created in the state 20921
treasury. The director of ~~mental retardation and~~ developmental 20922
disabilities shall credit all amounts paid to the director under 20923
section 5123.371 of the Revised Code to the fund. The director 20924
shall use the money in the fund as follows: 20925

(A) To make payments to county boards of ~~mental retardation~~ 20926
~~and~~ developmental disabilities and private, nonprofit agencies 20927
pursuant to agreements entered into under section 5123.373 of the 20928
Revised Code; 20929

(B) To provide, pursuant to section 5123.374 of the Revised 20930
Code, assistance for mental retardation or developmental 20931
disabilities construction projects under section 5123.36 of the 20932
Revised Code. 20933

Sec. 5123.38. (A) Except as provided in division (B) and (C) 20934
of this section, if an individual receiving supported living or 20935
home and community-based services funded by a county board of 20936
~~mental retardation and~~ developmental disabilities is committed to 20937
a state-operated intermediate care facility for the mentally 20938
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 20939
Code, the department of ~~mental retardation and~~ developmental 20940
disabilities shall use the funds otherwise allocated to the county 20941
board as the nonfederal share of medicaid expenditures for the 20942
individual's care in the state-operated facility. 20943

(B) Division (A) of this section does not apply if the county 20944
board, not later than ninety days after the date of the commitment 20945
of a person receiving supported services, commences funding of 20946
supported living for an individual who resides in a state-operated 20947
intermediate care facility for the mentally retarded on the date 20948
of the commitment or another eligible individual designated by the 20949
department. 20950

(C) Division (A) of this section does not apply if the county 20951
board, not later than ninety days after the date of the commitment 20952
of a person receiving home and community-based services, commences 20953
funding of home and community-based services for an individual who 20954
resides in a state-operated intermediate care facility for the 20955
mentally retarded on the date of the commitment or another 20956

eligible individual designated by the department. 20957

Sec. 5123.40. There is hereby created in the state treasury 20958
the services fund for individuals with mental retardation and 20959
developmental disabilities. On the death of the beneficiary of a 20960
trust created pursuant to section 5815.28 of the Revised Code, the 20961
portion of the remaining assets of the trust specified in the 20962
trust instrument shall be deposited to the credit of the fund. 20963

Money credited to the fund shall be used for individuals with 20964
mental retardation and developmental disabilities. In accordance 20965
with Chapter 119. of the Revised Code, the department of ~~mental~~ 20966
~~retardation and~~ developmental disabilities may adopt any rules 20967
necessary to implement this section. 20968

Sec. 5123.41. As used in this section and sections 5123.42 to 20969
5123.47 of the Revised Code: 20970

(A) "Adult services" has the same meaning as in section 20971
5126.01 of the Revised Code. 20972

(B) "Certified supported living provider" means a person or 20973
government entity certified under section 5123.161 of the Revised 20974
Code. 20975

(C) "Drug" has the same meaning as in section 4729.01 of the 20976
Revised Code. 20977

(D) "Family support services" has the same meaning as in 20978
section 5126.01 of the Revised Code. 20979

(E) "Health-related activities" means the following: 20980

(1) Taking vital signs; 20981

(2) Application of clean dressings that do not require health 20982
assessment; 20983

(3) Basic measurement of bodily intake and output; 20984

(4) Oral suctioning;	20985
(5) Use of glucometers;	20986
(6) External urinary catheter care;	20987
(7) Emptying and replacing colostomy bags;	20988
(8) Collection of specimens by noninvasive means.	20989
(F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.	20990 20991 20992
(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:	20993 20994 20995 20996
(1) Through direct employment with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities;	20997 20998 20999
(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;	21000 21001 21002
(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities.	21003 21004 21005
(H) "Nursing delegation" means the process established in rules adopted by the board of nursing pursuant to Chapter 4723. of the Revised Code under which a registered nurse or licensed practical nurse acting at the direction of a registered nurse transfers the performance of a particular nursing activity or task to another person who is not otherwise authorized to perform the activity or task.	21006 21007 21008 21009 21010 21011 21012
(I) "Prescribed medication" means a drug that is to be administered according to the instructions of a licensed health	21013 21014

professional authorized to prescribe drugs. 21015

(J) "Residential facility" means a facility licensed under 21016
section 5123.19 of the Revised Code or subject to section 5123.192 21017
of the Revised Code. 21018

(K) "Specialized services" has the same meaning as in section 21019
5123.50 of the Revised Code. 21020

(L) "Tube feeding" means the provision of nutrition to an 21021
individual through a gastrostomy tube or a jejunostomy tube. 21022

Sec. 5123.42. (A) Beginning nine months after ~~the effective~~ 21023
~~date of this section~~ March 31, 2003, MR/DD personnel who are not 21024
specifically authorized by other provisions of the Revised Code to 21025
administer prescribed medications, perform health-related 21026
activities, or perform tube feedings may do so pursuant to this 21027
section as part of the specialized services the MR/DD personnel 21028
provide to individuals with mental retardation and developmental 21029
disabilities in the following categories: 21030

(1) Recipients of early intervention, preschool, and 21031
school-age services offered or provided pursuant to this chapter 21032
or Chapter 5126. of the Revised Code; 21033

(2) Recipients of adult services offered or provided pursuant 21034
to this chapter or Chapter 5126. of the Revised Code; 21035

(3) Recipients of family support services offered or provided 21036
pursuant to this chapter or Chapter 5126. of the Revised Code; 21037
21038

(4) Recipients of services from certified supported living 21039
providers, if the services are offered or provided pursuant to 21040
this chapter or Chapter 5126. of the Revised Code; 21041

(5) Recipients of residential support services from certified 21042
home and community-based services providers, if the services are 21043
received in a community living arrangement that includes not more 21044

than four individuals with mental retardation and developmental 21045
disabilities and the services are offered or provided pursuant to 21046
this chapter or Chapter 5126. of the Revised Code; 21047

(6) Recipients of services not included in divisions (A)(1) 21048
to (5) of this section that are offered or provided pursuant to 21049
this chapter or Chapter 5126. of the Revised Code; 21050

(7) Residents of a residential facility with five or fewer 21051
resident beds; 21052

(8) Residents of a residential facility with at least six but 21053
not more than sixteen resident beds; 21054

(9) Residents of a residential facility with seventeen or 21055
more resident beds who are on a field trip from the facility, if 21056
all of the following are the case: 21057

(a) The field trip is sponsored by the facility for purposes 21058
of complying with federal medicaid statutes and regulations, state 21059
medicaid statutes and rules, or other federal or state statutes, 21060
regulations, or rules that require the facility to provide 21061
habilitation, community integration, or normalization services to 21062
its residents. 21063

(b) Not more than five field trip participants are residents 21064
who have health needs requiring the administration of prescribed 21065
medications, excluding participants who self-administer prescribed 21066
medications or receive assistance with self-administration of 21067
prescribed medications. 21068

(c) The facility staffs the field trip with MR/DD personnel 21069
in such a manner that one person will administer prescribed 21070
medications, perform health-related activities, or perform tube 21071
feedings for not more than two participants if one or both of 21072
those participants have health needs requiring the person to 21073
administer prescribed medications through a gastrostomy or 21074
jejunostomy tube. 21075

(d) According to the instructions of a health care professional acting within the scope of the professional's practice, the health needs of the participants who require administration of prescribed medications by MR/DD personnel are such that the participants must receive the medications during the field trip to avoid jeopardizing their health and safety.

(B)(1) In the case of recipients of early intervention, preschool, and school-age services, as specified in division (A)(1) of this section, all of the following apply:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(2) In the case of recipients of adult services, as specified in division (A)(2) of this section, all of the following apply:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes

being used are stable and labeled. 21106

(3) In the case of recipients of family support services, as 21107
specified in division (A)(3) of this section, all of the following 21108
apply: 21109

(a) Without nursing delegation, MR/DD personnel may perform 21110
health-related activities. 21111

(b) Without nursing delegation, MR/DD personnel may 21112
administer oral and topical prescribed medications. 21113

(c) With nursing delegation, MR/DD personnel may administer 21114
prescribed medications through gastrostomy and jejunostomy tubes, 21115
if the tubes being used are stable and labeled. 21116

(d) With nursing delegation, MR/DD personnel may perform 21117
routine tube feedings, if the gastrostomy and jejunostomy tubes 21118
being used are stable and labeled. 21119

(e) With nursing delegation, MR/DD personnel may administer 21120
routine doses of insulin through subcutaneous injections and 21121
insulin pumps. 21122

(4) In the case of recipients of services from certified 21123
supported living providers, as specified in division (A)(4) of 21124
this section, all of the following apply: 21125

(a) Without nursing delegation, MR/DD personnel may perform 21126
health-related activities. 21127

(b) Without nursing delegation, MR/DD personnel may 21128
administer oral and topical prescribed medications. 21129

(c) With nursing delegation, MR/DD personnel may administer 21130
prescribed medications through gastrostomy and jejunostomy tubes, 21131
if the tubes being used are stable and labeled. 21132

(d) With nursing delegation, MR/DD personnel may perform 21133
routine tube feedings, if the gastrostomy and jejunostomy tubes 21134
being used are stable and labeled. 21135

(e) With nursing delegation, MR/DD personnel may administer 21136
routine doses of insulin through subcutaneous injections and 21137
insulin pumps. 21138

(5) In the case of recipients of residential support services 21139
from certified home and community-based services providers, as 21140
specified in division (A)(5) of this section, all of the following 21141
apply: 21142

(a) Without nursing delegation, MR/DD personnel may perform 21143
health-related activities. 21144

(b) Without nursing delegation, MR/DD personnel may 21145
administer oral and topical prescribed medications. 21146

(c) With nursing delegation, MR/DD personnel may administer 21147
prescribed medications through gastrostomy and jejunostomy tubes, 21148
if the tubes being used are stable and labeled. 21149

(d) With nursing delegation, MR/DD personnel may perform 21150
routine tube feedings, if the gastrostomy and jejunostomy tubes 21151
being used are stable and labeled. 21152

(e) With nursing delegation, MR/DD personnel may administer 21153
routine doses of insulin through subcutaneous injections and 21154
insulin pumps. 21155

(6) In the case of recipients of services not included in 21156
divisions (A)(1) to (5) of this section, as specified in division 21157
(A)(6) of this section, all of the following apply: 21158

(a) With nursing delegation, MR/DD personnel may perform 21159
health-related activities. 21160

(b) With nursing delegation, MR/DD personnel may administer 21161
oral and topical prescribed medications. 21162

(c) With nursing delegation, MR/DD personnel may administer 21163
prescribed medications through gastrostomy and jejunostomy tubes, 21164
if the tubes being used are stable and labeled. 21165

(d) With nursing delegation, MR/DD personnel may perform 21166
routine tube feedings, if the gastrostomy and jejunostomy tubes 21167
being used are stable and labeled. 21168

(7) In the case of residents of a residential facility with 21169
five or fewer beds, as specified in division (A)(7) of this 21170
section, all of the following apply: 21171

(a) Without nursing delegation, MR/DD personnel may perform 21172
health-related activities. 21173

(b) Without nursing delegation, MR/DD personnel may 21174
administer oral and topical prescribed medications. 21175

(c) With nursing delegation, MR/DD personnel may administer 21176
prescribed medications through gastrostomy and jejunostomy tubes, 21177
if the tubes being used are stable and labeled. 21178

(d) With nursing delegation, MR/DD personnel may perform 21179
routine tube feedings, if the gastrostomy and jejunostomy tubes 21180
being used are stable and labeled. 21181

(e) With nursing delegation, MR/DD personnel may administer 21182
routine doses of insulin through subcutaneous injections and 21183
insulin pumps. 21184

(8) In the case of residents of a residential facility with 21185
at least six but not more than sixteen resident beds, as specified 21186
in division (A)(8) of this section, all of the following apply: 21187

(a) With nursing delegation, MR/DD personnel may perform 21188
health-related activities. 21189

(b) With nursing delegation, MR/DD personnel may administer 21190
oral and topical prescribed medications. 21191

(c) With nursing delegation, MR/DD personnel may administer 21192
prescribed medications through gastrostomy and jejunostomy tubes, 21193
if the tubes being used are stable and labeled. 21194

(d) With nursing delegation, MR/DD personnel may perform 21195

routine tube feedings, if the gastrostomy and jejunostomy tubes 21196
being used are stable and labeled. 21197

(9) In the case of residents of a residential facility with 21198
seventeen or more resident beds who are on a field trip from the 21199
facility, all of the following apply during the field trip, 21200
subject to the limitations specified in division (A)(9) of this 21201
section: 21202

(a) With nursing delegation, MR/DD personnel may perform 21203
health-related activities. 21204

(b) With nursing delegation, MR/DD personnel may administer 21205
oral and topical prescribed medications. 21206

(c) With nursing delegation, MR/DD personnel may administer 21207
prescribed medications through gastrostomy and jejunostomy tubes, 21208
if the tubes being used are stable and labeled. 21209

(d) With nursing delegation, MR/DD personnel may perform 21210
routine tube feedings, if the gastrostomy and jejunostomy tubes 21211
being used are stable and labeled. 21212

(C) The authority of MR/DD personnel to administer prescribed 21213
medications, perform health-related activities, and perform tube 21214
feedings pursuant to this section is subject to all of the 21215
following: 21216

(1) To administer prescribed medications, perform 21217
health-related activities, or perform tube feedings for 21218
individuals in the categories specified under divisions (A)(1) to 21219
(8) of this section, MR/DD personnel shall obtain the certificate 21220
or certificates required by the department of ~~mental retardation~~ 21221
~~and~~ developmental disabilities and issued under section 5123.45 of 21222
the Revised Code. MR/DD personnel shall administer prescribed 21223
medication, perform health-related activities, and perform tube 21224
feedings only as authorized by the certificate or certificates 21225
held. 21226

(2) To administer prescribed medications, perform 21227
health-related activities, or perform tube feedings for 21228
individuals in the category specified under division (A)(9) of 21229
this section, MR/DD personnel shall successfully complete the 21230
training course or courses developed under section 5123.43 of the 21231
Revised Code for the MR/DD personnel. MR/DD personnel shall 21232
administer prescribed medication, perform health-related 21233
activities, and perform tube feedings only as authorized by the 21234
training completed. 21235

(3) If nursing delegation is required under division (B) of 21236
this section, MR/DD personnel shall not act without nursing 21237
delegation or in a manner that is inconsistent with the 21238
delegation. 21239

(4) The employer of MR/DD personnel shall ensure that MR/DD 21240
personnel have been trained specifically with respect to each 21241
individual for whom they administer prescribed medications, 21242
perform health-related activities, or perform tube feedings. MR/DD 21243
personnel shall not administer prescribed medications, perform 21244
health-related activities, or perform tube feedings for any 21245
individual for whom they have not been specifically trained. 21246

(5) If the employer of MR/DD personnel believes that MR/DD 21247
personnel have not or will not safely administer prescribed 21248
medications, perform health-related activities, or perform tube 21249
feedings, the employer shall prohibit the action from continuing 21250
or commencing. MR/DD personnel shall not engage in the action or 21251
actions subject to an employer's prohibition. 21252

(D) In accordance with section 5123.46 of the Revised Code, 21253
the department of ~~mental-retardation-and~~ developmental 21254
disabilities shall adopt rules governing its implementation of 21255
this section. The rules shall include the following: 21256

(1) Requirements for documentation of the administration of 21257

prescribed medications, performance of health-related activities, 21258
and performance of tube feedings by MR/DD personnel pursuant to 21259
the authority granted under this section; 21260

(2) Procedures for reporting errors that occur in the 21261
administration of prescribed medications, performance of 21262
health-related activities, and performance of tube feedings by 21263
MR/DD personnel pursuant to the authority granted under this 21264
section; 21265

(3) Other standards and procedures the department considers 21266
necessary for implementation of this section. 21267

Sec. 5123.421. The department of ~~mental retardation and~~ 21268
developmental disabilities shall accept complaints from any person 21269
or government entity regarding the administration of prescribed 21270
medications, performance of health-related activities, and 21271
performance of tube feedings by MR/DD personnel pursuant to the 21272
authority granted under section 5123.42 of the Revised Code. The 21273
department shall conduct investigations of complaints as it 21274
considers appropriate. The department shall adopt rules in 21275
accordance with section 5123.46 of the Revised Code establishing 21276
procedures for accepting complaints and conducting investigations 21277
under this section. 21278

Sec. 5123.43. (A) The department of ~~mental retardation and~~ 21279
developmental disabilities shall develop courses for the training 21280
of MR/DD personnel in the administration of prescribed 21281
medications, performance of health-related activities, and 21282
performance of tube feedings pursuant to the authority granted 21283
under section 5123.42 of the Revised Code. The department may 21284
develop separate or combined training courses for the 21285
administration of prescribed medications, performance of 21286
health-related activities, and performance of tube feedings. 21287

Training in the administration of prescribed medications through 21288
gastrostomy and jejunostomy tubes may be included in a course 21289
providing training in tube feedings. Training in the 21290
administration of insulin may be developed as a separate course or 21291
included in a course providing training in the administration of 21292
other prescribed medications. 21293

(B)(1) The department shall adopt rules in accordance with 21294
section 5123.46 of the Revised Code that specify the content and 21295
length of the training courses developed under this section. The 21296
rules may include any other standards the department considers 21297
necessary for the training courses. 21298

(2) In adopting rules that specify the content of a training 21299
course or part of a training course that trains MR/DD personnel in 21300
the administration of prescribed medications, the department shall 21301
ensure that the content includes all of the following: 21302

(a) Infection control and universal precautions; 21303

(b) Correct and safe practices, procedures, and techniques 21304
for administering prescribed medication; 21305

(c) Assessment of drug reaction, including known side 21306
effects, interactions, and the proper course of action if a side 21307
effect occurs; 21308

(d) The requirements for documentation of medications 21309
administered to each individual; 21310

(e) The requirements for documentation and notification of 21311
medication errors; 21312

(f) Information regarding the proper storage and care of 21313
medications; 21314

(g) Information about proper receipt of prescriptions and 21315
transcription of prescriptions into an individual's medication 21316
administration record, except when the MR/DD personnel being 21317

trained will administer prescribed medications only to residents 21318
of a residential facility with seventeen or more resident beds who 21319
are participating in a field trip, as specified in division (A)(9) 21320
of section 5123.42 of the Revised Code; 21321

(h) Course completion standards that require successful 21322
demonstration of proficiency in administering prescribed 21323
medications; 21324

(i) Any other material or course completion standards that 21325
the department considers relevant to the administration of 21326
prescribed medications by MR/DD personnel. 21327

Sec. 5123.44. The department of ~~mental retardation and~~ 21328
developmental disabilities shall develop courses that train 21329
registered nurses to provide the MR/DD personnel training courses 21330
developed under section 5123.43 of the Revised Code. The 21331
department may develop courses that train registered nurses to 21332
provide all of the courses developed under section 5123.43 of the 21333
Revised Code or any one or more of the courses developed under 21334
that section. 21335

The department shall adopt rules in accordance with section 21336
5123.46 of the Revised Code that specify the content and length of 21337
the training courses. The rules may include any other standards 21338
the department considers necessary for the training courses. 21339

Sec. 5123.45. (A) The department of ~~mental retardation and~~ 21340
developmental disabilities shall establish a program under which 21341
the department issues certificates to the following: 21342

(1) MR/DD personnel, for purposes of meeting the requirement 21343
of division (C)(1) of section 5123.42 of the Revised Code to 21344
obtain a certificate or certificates to administer prescribed 21345
medications, perform health-related activities, and perform tube 21346
feedings; 21347

(2) Registered nurses, for purposes of meeting the 21348
requirement of division (B)(1) of section 5123.441 of the Revised 21349
Code to obtain a certificate or certificates to provide the MR/DD 21350
personnel training courses developed under section 5123.43 of the 21351
Revised Code. 21352

(B)(1) Except as provided in division (B)(2) of this section, 21353
to receive a certificate issued under this section, MR/DD 21354
personnel and registered nurses shall successfully complete the 21355
applicable training course or courses and meet all other 21356
applicable requirements established in rules adopted pursuant to 21357
this section. The department shall issue the appropriate 21358
certificate or certificates to MR/DD personnel and registered 21359
nurses who meet the requirements for the certificate or 21360
certificates. 21361

(2) The department shall include provisions in the program 21362
for issuing certificates to the following: 21363

(a) MR/DD personnel who, on ~~the effective date of this~~ 21364
~~section~~ March 31, 2003, are authorized to provide care to 21365
individuals with mental retardation and developmental disabilities 21366
pursuant to section 5123.193 or sections 5126.351 to 5126.354 of 21367
the Revised Code. A person who receives a certificate under 21368
division (B)(2)(a) of this section shall not administer insulin 21369
until the person has been trained by a registered nurse who has 21370
received a certificate under this section that allows the 21371
registered nurse to provide training courses to MR/DD personnel in 21372
the administration of insulin. 21373

(b) Registered nurses who, on ~~the effective date of this~~ 21374
~~section~~ March 31, 2003, are authorized to train MR/DD personnel to 21375
provide care to individuals with mental retardation and 21376
developmental disabilities pursuant to section 5123.193 or 21377
sections 5126.351 to 5126.354 of the Revised Code. A registered 21378
nurse who receives a certificate under division (B)(2)(b) of this 21379

section shall not provide training courses to MR/DD personnel in 21380
the administration of insulin unless the registered nurse 21381
completes a course developed under section 5123.44 of the Revised 21382
Code that enables the registered nurse to receive a certificate to 21383
provide training courses to MR/DD personnel in the administration 21384
of insulin. 21385

(C) Certificates issued to MR/DD personnel are valid for one 21386
year and may be renewed. Certificates issued to registered nurses 21387
are valid for two years and may be renewed. 21388

To be eligible for renewal, MR/DD personnel and registered 21389
nurses shall meet the applicable continued competency requirements 21390
and continuing education requirements specified in rules adopted 21391
under division (D) of this section. In the case of registered 21392
nurses, continuing nursing education completed in compliance with 21393
the license renewal requirements established under Chapter 4723. 21394
of the Revised Code may be counted toward meeting the continuing 21395
education requirements established in the rules adopted under 21396
division (D) of this section. 21397

(D) In accordance with section 5123.46 of the Revised Code, 21398
the department shall adopt rules that establish all of the 21399
following: 21400

(1) Requirements that MR/DD personnel and registered nurses 21401
must meet to be eligible to take a training course; 21402

(2) Standards that must be met to receive a certificate, 21403
including requirements pertaining to an applicant's criminal 21404
background; 21405

(3) Procedures to be followed in applying for a certificate 21406
and issuing a certificate; 21407

(4) Standards and procedures for renewing a certificate, 21408
including requirements for continuing education and, in the case 21409
of MR/DD personnel who administer prescribed medications, 21410

standards that require successful demonstration of proficiency in 21411
administering prescribed medications; 21412

(5) Standards and procedures for suspending or revoking a 21413
certificate; 21414

(6) Standards and procedures for suspending a certificate 21415
without a hearing pending the outcome of an investigation; 21416

(7) Any other standards or procedures the department 21417
considers necessary to administer the certification program. 21418

Sec. 5123.451. The department of ~~mental retardation and~~ 21419
developmental disabilities shall establish and maintain a registry 21420
that lists all MR/DD personnel and registered nurses holding valid 21421
certificates issued under section 5123.45 of the Revised Code. The 21422
registry shall specify the type of certificate held and any 21423
limitations that apply to a certificate holder. The department 21424
shall make the information in the registry available to the public 21425
in computerized form or any other manner that provides continuous 21426
access to the information in the registry. 21427

Sec. 5123.47. (A) As used in this section: 21428

(1) "In-home care" means the supportive services provided 21429
within the home of an individual with mental retardation or a 21430
developmental disability who receives funding for the services 21431
through a county board of ~~mental retardation and~~ developmental 21432
disabilities, including any recipient of residential services 21433
funded as home and community-based services, family support 21434
services provided under section 5126.11 of the Revised Code, or 21435
supported living provided in accordance with sections 5126.41 to 21436
5126.47 of the Revised Code. "In-home care" includes care that is 21437
provided outside an individual's home in places incidental to the 21438
home, and while traveling to places incidental to the home, except 21439
that "in-home care" does not include care provided in the 21440

facilities of a county board of mental retardation and	21441
developmental disabilities or care provided in schools.	21442
(2) "Parent" means either parent of a child, including an	21443
adoptive parent but not a foster parent.	21444
(3) "Unlicensed in-home care worker" means an individual who	21445
provides in-home care but is not a health care professional.	21446
(4) "Family member" means a parent, sibling, spouse, son,	21447
daughter, grandparent, aunt, uncle, cousin, or guardian of the	21448
individual with mental retardation or a developmental disability	21449
if the individual with mental retardation or developmental	21450
disabilities lives with the person and is dependent on the person	21451
to the extent that, if the supports were withdrawn, another living	21452
arrangement would have to be found.	21453
(5) "Health care professional" means any of the following:	21454
(a) A dentist who holds a valid license issued under Chapter	21455
4715. of the Revised Code;	21456
(b) A registered or licensed practical nurse who holds a	21457
valid license issued under Chapter 4723. of the Revised Code;	21458
(c) An optometrist who holds a valid license issued under	21459
Chapter 4725. of the Revised Code;	21460
(d) A pharmacist who holds a valid license issued under	21461
Chapter 4729. of the Revised Code;	21462
(e) A person who holds a valid certificate issued under	21463
Chapter 4731. of the Revised Code to practice medicine and	21464
surgery, osteopathic medicine and surgery, podiatric medicine and	21465
surgery, or a limited brand of medicine;	21466
(f) A physician assistant who holds a valid certificate	21467
issued under Chapter 4730. of the Revised Code;	21468
(g) An occupational therapist or occupational therapy	21469
assistant or a physical therapist or physical therapist assistant	21470

who holds a valid license issued under Chapter 4755. of the 21471
Revised Code; 21472

(h) A respiratory care professional who holds a valid license 21473
issued under Chapter 4761. of the Revised Code. 21474

(6) "Health care task" means a task that is prescribed, 21475
ordered, delegated, or otherwise directed by a health care 21476
professional acting within the scope of the professional's 21477
practice. 21478

(B) Except as provided in division (E) of this section, a 21479
family member of an individual with mental retardation or a 21480
developmental disability may authorize an unlicensed in-home care 21481
worker to administer oral and topical prescribed medications or 21482
perform other health care tasks as part of the in-home care the 21483
worker provides to the individual, if all of the following apply: 21484

(1) The family member is the primary supervisor of the care. 21485

(2) The unlicensed in-home care worker has been selected by 21486
the family member or the individual receiving care and is under 21487
the direct supervision of the family member. 21488

(3) The unlicensed in-home care worker is providing the care 21489
through an employment or other arrangement entered into directly 21490
with the family member and is not otherwise employed by or under 21491
contract with a person or government entity to provide services to 21492
individuals with mental retardation and developmental 21493
disabilities. 21494

(C) A family member shall obtain a prescription, if 21495
applicable, and written instructions from a health care 21496
professional for the care to be provided to the individual. The 21497
family member shall authorize the unlicensed in-home care worker 21498
to provide the care by preparing a written document granting the 21499
authority. The family member shall provide the unlicensed in-home 21500
care worker with appropriate training and written instructions in 21501

accordance with the instructions obtained from the health care professional. 21502
21503

(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. 21504
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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. 21515
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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 21522
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opportunity to file a complaint under section 5126.06 of the Revised Code.

Sec. 5123.50. As used in this section and sections 5123.51, 5123.52, and 5123.541 of the Revised Code:

(A) "Abuse" means all of the following:

(1) The use of physical force that can reasonably be expected to result in physical harm or serious physical harm;

(2) Sexual abuse;

(3) Verbal abuse.

(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.

(C) "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~~ developmental disabilities;

(3) An employee in a position that includes providing specialized services to an individual with mental retardation or another developmental disability.

(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.

(E) "Physical harm" and "serious physical harm" have the same meanings as in section 2901.01 of the Revised Code.

(F) "Sexual abuse" means unlawful sexual conduct or sexual

contact. 21562

(G) "Specialized services" means any program or service 21563
designed and operated to serve primarily individuals with mental 21564
retardation or a developmental disability, including a program or 21565
service provided by an entity licensed or certified by the 21566
department of ~~mental retardation and~~ developmental disabilities. A 21567
program or service available to the general public is not a 21568
specialized service. 21569

(H) "Verbal abuse" means purposely using words to threaten, 21570
coerce, intimidate, harass, or humiliate an individual. 21571

(I) "Sexual conduct," "sexual contact," and "spouse" have the 21572
same meanings as in section 2907.01 of the Revised Code. 21573

Sec. 5123.51. (A) In addition to any other action required by 21574
sections 5123.61 and 5126.31 of the Revised Code, the department 21575
of ~~mental retardation and~~ developmental disabilities shall review 21576
each report the department receives of abuse or neglect of an 21577
individual with mental retardation or a developmental disability 21578
or misappropriation of an individual's property that includes an 21579
allegation that an MR/DD employee committed or was responsible for 21580
the abuse, neglect, or misappropriation. The department shall 21581
review a report it receives from a public children services agency 21582
only after the agency completes its investigation pursuant to 21583
section 2151.421 of the Revised Code. On receipt of a notice under 21584
section 2930.061 or 5123.541 of the Revised Code, the department 21585
shall review the notice. 21586

(B) The department shall do both of the following: 21588

(1) Investigate the allegation or adopt the findings of an 21589
investigation or review of the allegation conducted by another 21590
person or government entity and determine whether there is a 21591

reasonable basis for the allegation; 21592

(2) If the department determines that there is a reasonable 21593
basis for the allegation, conduct an adjudication pursuant to 21594
Chapter 119. of the Revised Code. 21595

(C)(1) The department shall appoint an independent hearing 21596
officer to conduct any hearing conducted pursuant to division 21597
(B)(2) of this section, except that, if the hearing is regarding 21598
an employee of the department who is represented by a union, the 21599
department and a representative of the union shall jointly select 21600
the hearing officer. 21601

(2)(a) Except as provided in division (C)(2)(b) of this 21602
section, no hearing shall be conducted under division (B)(2) of 21603
this section until any criminal proceeding or collective 21604
bargaining arbitration concerning the same allegation has 21605
concluded. 21606

(b) The department may conduct a hearing pursuant to division 21607
(B)(2) of this section before a criminal proceeding concerning the 21608
same allegation is concluded if both of the following are the 21609
case: 21610

(i) The department notifies the prosecutor responsible for 21611
the criminal proceeding that the department proposes to conduct a 21612
hearing. 21613

(ii) The prosecutor consents to the hearing. 21614

(3) In conducting a hearing pursuant to division (B)(2) of 21615
this section, the hearing officer shall do all of the following: 21616

(a) Determine whether there is clear and convincing evidence 21617
that the MR/DD employee has done any of the following: 21618

(i) Misappropriated property of one or more individuals with 21619
mental retardation or a developmental disability that has a value, 21620
either separately or taken together, of one hundred dollars or 21621

more; 21622

(ii) Misappropriated property of an individual with mental 21623
retardation or a developmental disability that is designed to be 21624
used as a check, draft, negotiable instrument, credit card, charge 21625
card, or device for initiating an electronic fund transfer at a 21626
point of sale terminal, automated teller machine, or cash 21627
dispensing machine; 21628

(iii) Knowingly abused such an individual; 21629

(iv) Recklessly abused or neglected such an individual, with 21630
resulting physical harm; 21631

(v) Negligently abused or neglected such an individual, with 21632
resulting serious physical harm; 21633

(vi) Recklessly neglected such an individual, creating a 21634
substantial risk of serious physical harm; 21635

(vii) Engaged in sexual conduct or had sexual contact with an 21636
individual with mental retardation or another developmental 21637
disability who was not the MR/DD employee's spouse and for whom 21638
the MR/DD employee was employed or under a contract to provide 21639
care; 21640

(viii) Unreasonably failed to make a report pursuant to 21641
division (C) of section 5123.61 of the Revised Code when the 21642
employee knew or should have known that the failure would result 21643
in a substantial risk of harm to an individual with mental 21644
retardation or a developmental disability. 21645

(b) Give weight to the decision in any collective bargaining 21646
arbitration regarding the same allegation; 21647

(c) Give weight to any relevant facts presented at the 21648
hearing. 21649

(D)(1) Unless the director of ~~mental retardation and~~ 21650
developmental disabilities determines that there are extenuating 21651

circumstances and except as provided in division (E) of this 21652
section, if the director, after considering all of the factors 21653
listed in division (C)(3) of this section, finds that there is 21654
clear and convincing evidence that an MR/DD employee has done one 21655
or more of the things described in division (C)(3)(a) of this 21656
section the director shall include the name of the employee in the 21657
registry established under section 5123.52 of the Revised Code. 21658

(2) Extenuating circumstances the director must consider 21659
include the use of physical force by an MR/DD employee that was 21660
necessary as self-defense. 21661

(3) If the director includes an MR/DD employee in the 21662
registry established under section 5123.52 of the Revised Code, 21663
the director shall notify the employee, the person or government 21664
entity that employs or contracts with the employee, the individual 21665
with mental retardation or a developmental disability who was the 21666
subject of the report and that individual's legal guardian, if 21667
any, the attorney general, and the prosecuting attorney or other 21668
law enforcement agency. If the MR/DD employee holds a license, 21669
certificate, registration, or other authorization to engage in a 21670
profession issued pursuant to Title XLVII of the Revised Code, the 21671
director shall notify the appropriate agency, board, department, 21672
or other entity responsible for regulating the employee's 21673
professional practice. 21674

(4) If an individual whose name appears on the registry is 21675
involved in a court proceeding or arbitration arising from the 21676
same facts as the allegation resulting in the individual's 21677
placement on the registry, the disposition of the proceeding or 21678
arbitration shall be noted in the registry next to the 21679
individual's name. 21680

(E) In the case of an allegation concerning an employee of 21681
the department, after the hearing conducted pursuant to division 21682
(B)(2) of this section, the director of health or that director's 21683

designee shall review the decision of the hearing officer to 21684
determine whether the standard described in division (C)(3) of 21685
this section has been met. If the director or designee determines 21686
that the standard has been met and that no extenuating 21687
circumstances exist, the director or designee shall notify the 21688
director of ~~mental retardation and~~ developmental disabilities that 21689
the MR/DD employee is to be included in the registry established 21690
under section 5123.52 of the Revised Code. If the director of 21691
~~mental retardation and~~ developmental disabilities receives such 21692
notification, the director shall include the MR/DD employee in the 21693
registry and shall provide the notification described in division 21694
(D)(3) of this section. 21695

(F) If the department is required by Chapter 119. of the 21696
Revised Code to give notice of an opportunity for a hearing and 21697
the MR/DD employee subject to the notice does not timely request a 21698
hearing in accordance with section 119.07 or 5123.0414 of the 21699
Revised Code, the department is not required to hold a hearing. 21700

(G) Files and records of investigations conducted pursuant to 21701
this section are not public records as defined in section 149.43 21702
of the Revised Code, but, on request, the department shall provide 21703
copies of those files and records to the attorney general, a 21704
prosecuting attorney, or a law enforcement agency. 21705

Sec. 5123.52. (A) The department of ~~mental retardation and~~ 21706
developmental disabilities shall establish a registry of MR/DD 21707
employees consisting of the names of MR/DD employees included in 21708
the registry pursuant to section 5123.51 of the Revised Code. 21709

(B) Before a person or government entity hires, contracts 21710
with, or employs an individual as an MR/DD employee, the person or 21711
government entity shall inquire whether the individual is included 21712
in the registry. 21713

(C) When it receives an inquiry regarding whether an 21714

individual is included in the registry, the department shall 21715
inform the person making the inquiry whether the individual is 21716
included in the registry. 21717

(D)(1) Except as otherwise provided in a collective 21718
bargaining agreement entered into under Chapter 4117. of the 21719
Revised Code that is in effect on ~~the effective date of this~~ 21720
~~section~~ November 22, 2000, no person or government entity shall 21721
hire, contract with, or employ as an MR/DD employee an individual 21722
who is included in the registry. Notwithstanding sections 4117.08 21723
and 4117.10 of the Revised Code, no agreement entered into under 21724
Chapter 4117. of the Revised Code after ~~the effective date of this~~ 21725
~~section~~ November 22, 2000, may contain any provision that in any 21726
way limits the effect or operation of this section. 21727

(2) Neither the department nor any county board of ~~mental~~ 21728
~~retardation and~~ developmental disabilities may enter into a new 21729
contract or renew a contract with a person or government entity 21730
that fails to comply with division (D)(1) of this section until 21731
the department or board is satisfied that the person or government 21732
entity will comply. 21733

(3) A person or government entity that fails to hire or 21734
retain as an MR/DD employee a person because the person is 21735
included in the registry shall not be liable in damages in a civil 21736
action brought by the employee or applicant for employment. 21737
Termination of employment pursuant to division (D)(1) of this 21738
section constitutes a discharge for just cause for the purposes of 21739
section 4141.29 of the Revised Code. 21740

(E) Information contained in the registry is a public record 21741
for the purposes of section 149.43 of the Revised Code and is 21742
subject to inspection and copying under section 1347.08 of the 21743
Revised Code. 21744

Sec. 5123.53. An individual who is included in the registry 21745

may petition the director of ~~mental retardation and~~ developmental 21746
disabilities for removal from the registry. If the director 21747
determines that good cause exists, the director shall remove the 21748
individual from the registry and may properly reply to an inquiry 21749
that the individual is not included in the registry. Good cause 21750
includes meeting rehabilitation standards established in rules 21751
adopted under section 5123.54 of the Revised Code. 21752

Sec. 5123.54. The director of ~~mental retardation and~~ 21753
developmental disabilities shall adopt rules under Chapter 119. of 21754
the Revised Code to implement sections 5123.51, 5123.52, and 21755
5123.53 of the Revised Code. The rules shall establish 21756
rehabilitation standards for the purposes of section 5123.53 of 21757
the Revised Code and specify circumstances, other than meeting the 21758
standards, that constitute good cause for the purposes of that 21759
section. 21760

Sec. 5123.541. (A) No MR/DD employee shall engage in any 21761
sexual conduct or have any sexual contact with an individual with 21762
mental retardation or another developmental disability for whom 21763
the MR/DD employee is employed or under a contract to provide care 21764
unless the individual is the MR/DD employee's spouse. 21765

(B) Any MR/DD employee who violates division (A) of this 21766
section shall be eligible to be included in the registry regarding 21767
misappropriation, abuse, neglect, or other specified misconduct by 21768
MR/DD employees established under section 5123.52 of the Revised 21769
Code, in addition to any other sanction or penalty authorized or 21770
required by law. 21771

(C)(1) Any person listed in division (C)(2) of section 21772
5123.61 of the Revised Code who has reason to believe that an 21773
MR/DD employee has violated division (A) of this section shall 21774
immediately report that belief to the department of ~~mental~~ 21775

~~retardation and~~ developmental disabilities. 21776

(2) Any person who has reason to believe that an MR/DD 21777
employee has violated division (A) of this section may report that 21778
belief to the department of ~~mental retardation and~~ developmental 21779
disabilities. 21780

Sec. 5123.542. (A) Each of the following shall annually 21781
provide a written notice to each of its MR/DD employees explaining 21782
the conduct for which an MR/DD employee may be included in the 21783
registry established under section 5123.52 of the Revised Code: 21784

(1) The department of ~~mental retardation and~~ developmental 21785
disabilities; 21786

(2) Each county board of ~~mental retardation and~~ developmental 21787
disabilities; 21788

(3) Each contracting entity, as defined in section 5126.281 21789
of the Revised Code; 21790

(4) Each owner, operator, or administrator of a residential 21791
facility, as defined in section 5123.19 of the Revised Code; 21792

(5) Each owner, operator, or administrator of a program 21793
certified by the department to provide supported living. 21794

(B) The notice described in division (A) of this section 21795
shall be in a form and provided in a manner prescribed by the 21796
department of ~~mental retardation and~~ developmental disabilities. 21797
The form shall be the same for all persons and entities required 21798
to provide notice under division (A) of this section. 21799

(C) The fact that an MR/DD employee does not receive the 21800
notice required by this section does not exempt the employee from 21801
inclusion in the registry established under section 5123.52 of the 21802
Revised Code. 21803

Sec. 5123.55. As used in sections 5123.55 to 5123.59 of the 21804

Revised Code: 21805

(A) "Guardian" means a guardian of the person, limited 21806
guardian, interim guardian, or emergency guardian pursuant to 21807
appointment by the probate court under Chapter 2111. of the 21808
Revised Code. 21809

(B) "Trustee" means a trustee appointed by and accountable to 21810
the probate court, in lieu of a guardian and without a judicial 21811
determination of incompetency, with respect to an estate of ten 21812
thousand dollars or less. 21813

(C) "Protector" means an agency under contract with the 21814
department of ~~mental retardation and~~ developmental disabilities 21815
acting with or without court appointment to provide guidance, 21816
service, and encouragement in the development of maximum 21817
self-reliance to a person with mental retardation or a 21818
developmental disability, independent of any determination of 21819
incompetency. 21820

(D) "Protective service" means performance of the duties of a 21821
guardian, trustee, or conservator, or acting as a protector, with 21822
respect to a person with mental retardation or a developmental 21823
disability. 21824

(E) "Conservator" means a conservator of the person pursuant 21825
to an appointment by a probate court under Chapter 2111. of the 21826
Revised Code. 21827

Sec. 5123.56. The department of ~~mental retardation and~~ 21828
developmental disabilities shall develop a statewide system of 21829
protective service in accordance with rules and standards 21830
established by the department. With respect to this program, the 21831
department may enter into a contract with any responsible public 21832
or private agency for provision of protective service by the 21833
agency, and the contract may permit the agency to charge the 21834

person receiving services fees for services provided. 21835

No costs or fees shall be charged by a probate court for the 21836
filing of a petition for guardianship, trusteeship, protectorship, 21837
or conservatorship under sections 5123.55 to 5123.59 of the 21838
Revised Code, or for any service performed by a probate court, or 21839
by any state agency in the course of petitioning for protective 21840
services, or for any protective services provided under those 21841
sections. 21842

An agency that provides protective services pursuant to a 21843
contract with another agency or a court may charge the agency or 21844
court fees for the services provided. 21845

Sec. 5123.57. No guardianship or trusteeship appointment 21846
shall be made under sections 5123.55 to 5123.59 of the Revised 21847
Code and no person shall be accepted for service by a protector 21848
under those sections unless a comprehensive evaluation has been 21849
made in a clinic or other facility approved by the department of 21850
~~mental retardation and~~ developmental disabilities. The evaluation 21851
shall include a medical, psychological, social, and educational 21852
evaluation, and a copy of the evaluation shall be filed with the 21853
department. 21854

Any agency that is appointed as a guardian, trustee, or 21855
conservator under sections 5123.55 to 5123.59 of the Revised Code 21856
or accepted as a protector under those sections shall provide for 21857
a review at least once each year in writing of the physical, 21858
mental, and social condition of each mentally retarded or 21859
developmentally disabled person for whom it is acting as guardian, 21860
trustee, or protector. An agency providing protective services 21861
under contract with the department shall file these reports with 21862
the department of ~~mental retardation and~~ developmental 21863
disabilities. Any record of the department or agency pertaining to 21864
a mentally retarded or developmentally disabled person shall not 21865

be a public record under section 149.43 of the Revised Code. 21866
Information contained in those records shall not be disclosed 21867
publicly in such a manner as to identify individuals, but may be 21868
made available to persons approved by the director of ~~mental~~ 21869
~~retardation and~~ developmental disabilities or the court. 21870

Sec. 5123.58. An agency providing protective services under 21871
contract with the department of ~~mental retardation and~~ 21872
developmental disabilities may be nominated under any of the 21873
following conditions as guardian, trustee, protector, conservator, 21874
or as trustee and protector of a mentally retarded or 21875
developmentally disabled person: 21876

(A) The person who needs or believes ~~he~~ the person needs 21877
protective service may make application in writing. 21878

(B) Any interested person may make application in writing on 21879
behalf of a mentally retarded or developmentally disabled person. 21880

(C) A parent may name the department or agency as guardian or 21881
successor guardian in a will. 21882

(D) A parent may name the department or agency as guardian, 21883
trustee, or protector, to assume such duties during the parent's 21884
lifetime. 21885

If the results of the comprehensive evaluation required under 21886
section 5123.57 of the Revised Code indicate that the person named 21887
in the nomination is in need of protective services, the agency or 21888
service either shall reject or accept the nomination as guardian, 21889
trustee, or conservator, subject to appointment by the probate 21890
court, or reject or accept the nomination as protector, or trustee 21891
and protector. 21892

At the time the nomination is accepted or when an appointment 21893
is made by the court, the mentally retarded or developmentally 21894
disabled person and any person who made application for service on 21895

~~his~~ the mentally retarded or developmentally disabled person's 21896
behalf under this section shall be informed by the agency, 21897
service, or court of the procedure for terminating the appointment 21898
or service. The agency or service shall cease to provide 21899
protective service as a protector pursuant to nomination under 21900
division (A), (B), or (D) of this section when a written request 21901
for termination is received by the agency from or on behalf of the 21902
mentally retarded or developmentally disabled person. If the 21903
agency or service believes the person to be in need of protective 21904
service, the agency or service may file an application for 21905
guardianship, trusteeship, or protectorship with the probate 21906
court. Termination of any court appointment as guardian, trustee, 21907
or protector shall be by order of the probate court. 21908

Sec. 5123.59. Before entering upon the duties of trustee, an 21909
agency under contract with the department of ~~mental retardation~~ 21910
~~and~~ developmental disabilities may require any of its employees 21911
having custody or control of funds or property to give bond to the 21912
probate court with sufficient surety, conditioned upon the full 21913
and faithful accounting of all trust funds which ~~he~~ the employee 21914
holds. The amount of the bond shall be determined by the court and 21915
may be modified by the court. 21916

Sec. 5123.60. (A) A legal rights service is hereby created 21917
and established to protect and advocate the rights of mentally ill 21918
persons, mentally retarded persons, developmentally disabled 21919
persons, and other disabled persons who may be represented by the 21920
service pursuant to division (L) of this section; to receive and 21921
act upon complaints concerning institutional and hospital 21922
practices and conditions of institutions for mentally retarded or 21923
developmentally disabled persons and hospitals for the mentally 21924
ill; and to assure that all persons detained, hospitalized, 21925
discharged, or institutionalized, and all persons whose detention, 21926

hospitalization, discharge, or institutionalization is sought or 21927
has been sought under this chapter or Chapter 5122. of the Revised 21928
Code are fully informed of their rights and adequately represented 21929
by counsel in proceedings under this chapter or Chapter 5122. of 21930
the Revised Code and in any proceedings to secure the rights of 21931
those persons. Notwithstanding the definitions of "mentally 21932
retarded person" and "developmentally disabled person" in section 21933
5123.01 of the Revised Code, the legal rights service shall 21934
determine who is a mentally retarded or developmentally disabled 21935
person for purposes of this section and sections 5123.601 to 21936
5123.604 of the Revised Code. 21937

(B)(1) In regard to those persons detained, hospitalized, or 21938
institutionalized under Chapter 5122. of the Revised Code, the 21939
legal rights service shall undertake formal representation only of 21940
those persons who are involuntarily detained, hospitalized, or 21941
institutionalized pursuant to sections 5122.10 to 5122.15 of the 21942
Revised Code, and those voluntarily detained, hospitalized, or 21943
institutionalized who are minors, who have been adjudicated 21944
incompetent, who have been detained, hospitalized, or 21945
institutionalized in a public hospital, or who have requested 21946
representation by the legal rights service. 21947

(2) If a person referred to in division (A) of this section 21948
voluntarily requests in writing that the legal rights service 21949
terminate participation in the person's case, such involvement 21950
shall cease. 21951

(3) Persons described in divisions (A) and (B)(1) of this 21952
section who are represented by the legal rights service are 21953
clients of the legal rights service. 21954

(C) Any person voluntarily hospitalized or institutionalized 21955
in a public hospital under division (A) of section 5122.02 of the 21956
Revised Code, after being fully informed of the person's rights 21957
under division (A) of this section, may, by written request, waive 21958

assistance by the legal rights service if the waiver is knowingly 21959
and intelligently made, without duress or coercion. 21960

The waiver may be rescinded at any time by the voluntary 21961
patient or resident, or by the voluntary patient's or resident's 21962
legal guardian. 21963

(D)(1) The legal rights service commission is hereby created 21964
for the purposes of appointing an administrator of the legal 21965
rights service, advising the administrator, assisting the 21966
administrator in developing a budget, advising the administrator 21967
in establishing and annually reviewing a strategic plan, creating 21968
a procedure for filing and determination of grievances against the 21969
legal rights service, and establishing general policy guidelines, 21970
including guidelines for the commencement of litigation, for the 21971
legal rights service. The commission may adopt rules to carry 21972
these purposes into effect and may receive and act upon appeals of 21973
personnel decisions by the administrator. 21974

(2) The commission shall consist of seven members. One 21975
member, who shall serve as chairperson, shall be appointed by the 21976
chief justice of the supreme court, three members shall be 21977
appointed by the speaker of the house of representatives, and 21978
three members shall be appointed by the president of the senate. 21979
At least two members shall have experience in the field of 21980
developmental disabilities, and at least two members shall have 21981
experience in the field of mental health. No member shall be a 21982
provider or related to a provider of services to mentally 21983
retarded, developmentally disabled, or mentally ill persons. 21984

(3) Terms of office of the members of the commission shall be 21985
for three years, each term ending on the same day of the month of 21986
the year as did the term which it succeeds. Each member shall 21987
serve subsequent to the expiration of the member's term until a 21988
successor is appointed and qualifies, or until sixty days has 21989
elapsed, whichever occurs first. No member shall serve more than 21990

two consecutive terms. 21991

All vacancies in the membership of the commission shall be 21992
filled in the manner prescribed for regular appointments to the 21993
commission and shall be limited to the unexpired terms. 21994

(4) The commission shall meet at least four times each year. 21995
Members shall be reimbursed for their necessary and actual 21996
expenses incurred in the performance of their official duties. 21997

(5) The administrator of the legal rights service shall serve 21998
at the pleasure of the commission. 21999

The administrator shall be an attorney admitted to practice 22000
law in this state. The salary of the administrator shall be 22001
established in accordance with section 124.14 of the Revised Code. 22002

(E) The legal rights service shall be completely independent 22003
of the department of mental health and the department of ~~mental~~ 22004
~~retardation and~~ developmental disabilities and, notwithstanding 22005
section 109.02 of the Revised Code, shall also be independent of 22006
the office of the attorney general. The administrator of the legal 22007
rights service, staff, and attorneys designated by the 22008
administrator to represent persons detained, hospitalized, or 22009
institutionalized under this chapter or Chapter 5122. of the 22010
Revised Code shall have ready access to the following: 22011

(1) During normal business hours and at other reasonable 22012
times, all records, except records of community residential 22013
facilities and records of contract agencies of county boards of 22014
~~mental retardation and~~ developmental disabilities and boards of 22015
alcohol, drug addiction and mental health services, relating to 22016
expenditures of state and federal funds or to the commitment, 22017
care, treatment, and habilitation of all persons represented by 22018
the legal rights service, including those who may be represented 22019
pursuant to division (L) of this section, or persons detained, 22020
hospitalized, institutionalized, or receiving services under this 22021

chapter or Chapter 340., 5119., 5122., or 5126. of the Revised 22022
Code that are records maintained by the following entities 22023
providing services for those persons: departments; institutions; 22024
hospitals; boards of alcohol, drug addiction, and mental health 22025
services; county boards of ~~mental retardation and~~ developmental 22026
disabilities; and any other entity providing services to persons 22027
who may be represented by the service pursuant to division (L) of 22028
this section; 22029

(2) Any records maintained in computerized data banks of the 22030
departments or boards or, in the case of persons who may be 22031
represented by the service pursuant to division (L) of this 22032
section, any other entity that provides services to those persons; 22033

(3) During their normal working hours, personnel of the 22034
departments, facilities, boards, agencies, institutions, 22035
hospitals, and other service-providing entities; 22036

(4) At any time, all persons detained, hospitalized, or 22037
institutionalized; persons receiving services under this chapter 22038
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 22039
persons who may be represented by the service pursuant to division 22040
(L) of this section. 22041

(5) Records of a community residential facility, a contract 22042
agency of a board of alcohol, drug addiction, and mental health 22043
services, or a contract agency of a county board of ~~mental~~ 22044
~~retardation and~~ developmental disabilities with one of the 22045
following consents: 22046

(a) The consent of the person, including when the person is a 22047
minor or has been adjudicated incompetent; 22048

(b) The consent of the person's guardian of the person, if 22049
any, or the parent if the person is a minor; 22050

(c) No consent, if the person is unable to consent for any 22051
reason, and the guardian of the person, if any, or the parent of 22052

the minor, has refused to consent or has not responded to a 22053
request for consent and either of the following has occurred: 22054

(i) A complaint regarding the person has been received by the 22055
legal rights service; 22056

(ii) The legal rights service has determined that there is 22057
probable cause to believe that such person has been subjected to 22058
abuse or neglect. 22059

(F) The administrator of the legal rights service shall do 22060
the following: 22061

(1) Administer and organize the work of the legal rights 22062
service and establish administrative or geographic divisions as 22063
the administrator considers necessary, proper, and expedient; 22064

(2) Adopt and promulgate rules that are not in conflict with 22065
rules adopted by the commission and prescribe duties for the 22066
efficient conduct of the business and general administration of 22067
the legal rights service; 22068

(3) Appoint and discharge employees, and hire experts, 22069
consultants, advisors, or other professionally qualified persons 22070
as the administrator considers necessary to carry out the duties 22071
of the legal rights service; 22072

(4) Apply for and accept grants of funds, and accept 22073
charitable gifts and bequests; 22074

(5) Prepare and submit a budget to the general assembly for 22075
the operation of the legal rights service. At least thirty days 22076
prior to submitting the budget to the general assembly, the 22077
administrator shall provide a copy of the budget to the commission 22078
for review and comment. When submitting the budget to the general 22079
assembly, the administrator shall include a copy of any written 22080
comments returned by the commission to the administrator. 22081

(6) Enter into contracts and make expenditures necessary for 22082

the efficient operation of the legal rights service; 22083

(7) Annually prepare a report of activities and submit copies 22084
of the report to the governor, the chief justice of the supreme 22085
court, the president of the senate, the speaker of the house of 22086
representatives, the director of mental health, and the director 22087
of ~~mental retardation and~~ developmental disabilities, and make the 22088
report available to the public; 22089

(8) Upon request of the commission or of the chairperson of 22090
the commission, report to the commission on specific litigation 22091
issues or activities. 22092

(G)(1) The legal rights service may act directly or contract 22093
with other organizations or individuals for the provision of the 22094
services envisioned under this section. 22095

(2) Whenever possible, the administrator shall attempt to 22096
facilitate the resolution of complaints through administrative 22097
channels. Subject to division (G)(3) of this section, if attempts 22098
at administrative resolution prove unsatisfactory, the 22099
administrator may pursue any legal, administrative, and other 22100
appropriate remedies or approaches that may be necessary to 22101
accomplish the purposes of this section. 22102

(3) The administrator may not pursue a class action lawsuit 22103
under division (G)(2) of this section when attempts at 22104
administrative resolution of a complaint prove unsatisfactory 22105
under that division unless both of the following have first 22106
occurred: 22107

(a) At least four members of the commission, by their 22108
affirmative vote, have consented to the pursuit of the class 22109
action lawsuit; 22110

(b) At least five members of the commission are present at 22111
the meeting of the commission at which that consent is obtained. 22112

(4) All records received or maintained by the legal rights service in connection with any investigation, representation, or other activity under this section shall be confidential and shall not be disclosed except as authorized by the person represented by the legal rights service or, subject to any privilege, a guardian of the person or parent of the minor. Subject to division (G)(5) of this section, relationships between personnel and the agents of the legal rights service and its clients shall be fiduciary relationships, and all communications shall be privileged as if between attorney and client.

(5) Any person who has been represented by the legal rights service or who has applied for and been denied representation and who files a grievance with the service concerning the representation or application may appeal the decision of the service on the grievance to the commission. The person may appeal notwithstanding any objections of the person's legal guardian. The commission may examine any records relevant to the appeal and shall maintain the confidentiality of any records that are required to be kept confidential.

(H) The legal rights service, on the order of the administrator, with the approval by an affirmative vote of at least four members of the commission, may compel by subpoena the appearance and sworn testimony of any person the administrator reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties. On the refusal of any person to produce or authenticate any requested documents, the legal rights service may apply to the Franklin county court of common pleas to compel the production or authentication of requested documents. If the court finds that failure to produce or authenticate any requested documents was improper, the court may hold the person in contempt as in the case of disobedience of the

requirements of a subpoena issued from the court, or a refusal to 22145
testify in the court. 22146

(I) The legal rights service may conduct public hearings. 22147

(J) The legal rights service may request from any 22148
governmental agency any cooperation, assistance, services, or data 22149
that will enable it to perform its duties. 22150

(K) In any malpractice action filed against the administrator 22151
of the legal rights service, a member of the staff of the legal 22152
rights service, or an attorney designated by the administrator to 22153
perform legal services under division (E) of this section, the 22154
state shall, when the administrator, member, or attorney has acted 22155
in good faith and in the scope of employment, indemnify the 22156
administrator, member, or attorney for any judgment awarded or 22157
amount negotiated in settlement, and for any court costs or legal 22158
fees incurred in defense of the claim. 22159

This division does not limit or waive, and shall not be 22160
construed to limit or waive, any defense that is available to the 22161
legal rights service, its administrator or employees, persons 22162
under a personal services contract with it, or persons designated 22163
under division (E) of this section, including, but not limited to, 22164
any defense available under section 9.86 of the Revised Code. 22165

(L) In addition to providing services to mentally ill, 22166
mentally retarded, or developmentally disabled persons, when a 22167
grant authorizing the provision of services to other individuals 22168
is accepted pursuant to division (F)(4) of this section, the legal 22169
rights service and its ombudsperson section may provide advocacy 22170
or ombudsperson services to those other individuals and exercise 22171
any other authority granted by this section or sections 5123.601 22172
to 5123.604 of the Revised Code on behalf of those individuals. 22173
Determinations of whether an individual is eligible for services 22174
under this division shall be made by the legal rights service. 22175

Sec. 5123.601. (A) As used in sections 5123.601 to 5123.604 22176
of the Revised Code, "provider" means any person or governmental 22177
agency that furnishes one or more services to one or more mentally 22178
retarded, developmentally disabled, or mentally ill persons. 22179

(B) There is hereby created within the legal rights service 22180
the ~~ombudsman~~ ombudsperson section. The administrator of the legal 22181
rights service shall adopt rules in accordance with Chapter 119. 22182
of the Revised Code establishing procedures for receiving 22183
complaints and conducting investigations for the purposes of 22184
resolving and mediating complaints from mentally retarded, 22185
developmentally disabled, or mentally ill persons, their 22186
relatives, their guardians, and interested citizens, public 22187
officials, and governmental agencies or any deficiencies which 22188
come to its attention concerning any activity, practice, policy, 22189
or procedure it determines is adversely affecting or may adversely 22190
affect the health, safety, welfare, and civil or human rights of 22191
any mentally retarded, developmentally disabled, or mentally ill 22192
persons. After initial investigation, the section may decline to 22193
accept any complaint it determines is frivolous, vexatious, or not 22194
made in good faith. The section shall attempt to resolve the 22195
complaint at the lowest appropriate administrative level, unless 22196
otherwise provided by law. The procedures shall require the 22197
section to: 22198

(1) Acknowledge the receipt of a complaint by sending written 22199
notice to the complainant no more than seven days after it 22200
receives the complaint; 22201

(2) When appropriate, provide written notice to the 22202
department of ~~mental retardation and~~ developmental disabilities or 22203
the department of mental health and any other appropriate agency 22204
within seven days after receiving the complaint; 22205

(3) Immediately refer a complaint made under this section to 22206

the department of ~~mental retardation and~~ developmental 22207
disabilities and to any other appropriate governmental agency, 22208
whenever the complaint involves an immediate and substantial 22209
threat to the health or safety of a mentally retarded or 22210
developmentally disabled person, or to the department of mental 22211
health and to any other appropriate governmental agency, whenever 22212
the complaint involves an immediate and substantial threat to the 22213
health or safety of a mentally ill person. The department or an 22214
agency designated by the department shall report its findings and 22215
actions no later than forty-eight hours following its receipt of 22216
the complaint. 22217

(4) Within seven days after identifying a deficiency in the 22218
treatment of a mentally retarded, developmentally disabled, or 22219
mentally ill person that pertains to misconduct, breach of duty, 22220
or noncompliance with state or federal laws, local ordinances, or 22221
rules or regulations adopted under those laws or ordinances that 22222
are administered by a governmental agency, refer the matter in 22223
writing to the appropriate state agency. The state agency shall 22224
report on its actions and findings within seven days of receiving 22225
the matter. 22226

(5) Advise the complainant and any mentally retarded, 22227
developmentally disabled, or mentally ill person mentioned in the 22228
complaint, no more than thirty days after it receives the 22229
complaint, of any action it has taken and of any opinions and 22230
recommendations it has with respect to the complaint. 22231

(6) Attempt to resolve the complaint by using informal 22232
techniques of mediation, conciliation, and persuasion. If the 22233
complaint cannot be resolved by the use of these informal 22234
techniques or if the act, practice, policy, or procedure that is 22235
the subject of the complaint adversely affects the health, safety, 22236
welfare, or civil or human rights of a mentally retarded, 22237
developmentally disabled, or mentally ill person, the section may 22238

recommend to the appropriate authorities or the administrator of 22239
the legal rights service that appropriate actions be taken. 22240

(7) Report its opinions or recommendations to the parties 22241
involved after attempting to resolve a complaint through informal 22242
techniques of mediation, conciliation, or persuasion. The section 22243
may request any party affected by the opinions or recommendations 22244
to notify the section, within a time period specified by the 22245
section, of any action the party has taken on the section's 22246
recommendations. 22247

(C) The section may make public any of its opinions or 22248
recommendations concerning a complaint, the responses of persons 22249
and governmental agencies to its opinions or recommendations, and 22250
any act, practice, policy, or procedure that adversely affects or 22251
may adversely affect the health, safety, welfare, or civil or 22252
human rights of a mentally retarded, developmentally disabled, or 22253
mentally ill person. 22254

(D) The section shall at all times maintain confidentiality 22255
under sections 5123.601 to 5123.604 of the Revised Code concerning 22256
the identities of mentally retarded, developmentally disabled, or 22257
mentally ill persons, complainants, witnesses, and other involved 22258
parties who provide it with information unless the person, in 22259
writing, authorizes the release of the information. 22260

Nothing in this section shall prohibit the legal rights 22261
service from taking appropriate action when the administrator 22262
determines it is necessary. 22263

(E) Whenever information is disclosed indicating the 22264
commission of a crime or a violation of standards of professional 22265
conduct, the legal rights service shall, within seven days of 22266
receiving the complaint or identifying the information during its 22267
investigation, refer the matter to the attorney general, county 22268
prosecutor, other law enforcement official, or regulatory board, 22269

as appropriate, to investigate the crime or violation. The section 22270
may disclose any information permitted by law that is necessary to 22271
resolve the matter referred. The section shall monitor and 22272
maintain records on every matter it refers under this division. 22273

Sec. 5123.602. (A) Except as provided in division (B) of this 22274
section, the ombudsperson section of the legal rights service may, 22275
in order to carry out its duties under this chapter, make 22276
necessary inquiries and obtain information it considers necessary. 22277
Upon receiving a complaint and in the course of conducting an 22278
investigation in accordance with division (B) of section 5123.601 22279
of the Revised Code, the section shall have ready access to the 22280
premises and records of all providers of services to mentally 22281
retarded, developmentally disabled, or mentally ill persons and 22282
shall have the right to communicate in a private and confidential 22283
setting with any mentally retarded, developmentally disabled, or 22284
mentally ill persons, with their parents, guardians, or advocates, 22285
and with employees of any provider. 22286

(B) Records held by community residential facilities, 22288
contract agencies of boards of alcohol, drug addiction, and mental 22289
health services, and contract agencies of county boards of ~~mental~~ 22290
~~retardation and~~ developmental disabilities shall only be 22291
accessible by the ombudsperson section of the legal rights service 22292
in a situation as described in division (E)(5) of section 5123.60 22293
of the Revised Code. 22294

Sec. 5123.604. (A) No one shall take a discriminatory, 22295
disciplinary, or retaliatory action against any officer or 22296
employee of a provider, any mentally retarded, developmentally 22297
disabled, or mentally ill person, the parents or guardian of a 22298
mentally retarded, developmentally disabled, or mentally ill 22299
person, or any volunteer or advocate for a mentally retarded, 22300

developmentally disabled, or mentally ill person, for any 22301
communication these persons make or information they disclose in 22302
good faith to the ombudsperson section of the legal rights 22303
service. 22304

(B) No person shall knowingly interfere with lawful actions 22305
of the ombudsperson section, refuse entry to its representatives, 22306
fail to comply with its lawful demands, or offer any compensation, 22307
gratuity, or promise thereof in an effort to influence the outcome 22308
of any matter being considered by the section. 22309

(C) The department of ~~mental retardation and~~ developmental 22310
disabilities shall immediately notify the ombudsperson section of 22311
all investigations of major unusual incidents or life-threatening 22312
situations, as defined in rules adopted by the department, 22313
involving mentally retarded and developmentally disabled persons, 22314
and shall furnish copies of all relevant reports within 22315
forty-eight hours after receipt. The department of mental health 22316
shall notify the ombudsperson section of all major unusual 22317
incidents or life-threatening situations, as defined in rules 22318
adopted by the department, involving mentally ill persons within 22319
forty-eight hours after receipt of the report of the incident or 22320
situation. The departments of health and job and family services 22321
shall notify the department of ~~mental retardation and~~ 22322
developmental disabilities of all allegations and investigations 22323
of abuse, neglect, or life-threatening situations involving 22324
mentally retarded or developmentally disabled persons. Any other 22325
state agency with information concerning abuse, neglect, or 22326
life-threatening situations involving mentally retarded or 22327
developmentally disabled persons shall report that information 22328
immediately to the department of ~~mental retardation and~~ 22329
developmental disabilities. 22330

Nothing in this section or section 5123.60, 5123.601, or 22331
5123.602 of the Revised Code shall preclude any department or 22332

board, its contract agencies, a community residential facility, or 22333
other governmental entity from carrying out its responsibility as 22334
prescribed by law. 22335

Sec. 5123.61. (A) As used in this section: 22336

(1) "Law enforcement agency" means the state highway patrol, 22337
the police department of a municipal corporation, or a county 22338
sheriff. 22339

(2) "Abuse" has the same meaning as in section 5123.50 of the 22340
Revised Code, except that it includes a misappropriation, as 22341
defined in that section. 22342

(3) "Neglect" has the same meaning as in section 5123.50 of 22343
the Revised Code. 22344

(B) The department of ~~mental retardation and~~ developmental 22345
disabilities shall establish a registry office for the purpose of 22346
maintaining reports of abuse, neglect, and other major unusual 22347
incidents made to the department under this section and reports 22348
received from county boards of ~~mental retardation and~~ 22349
developmental disabilities under section 5126.31 of the Revised 22350
Code. The department shall establish committees to review reports 22351
of abuse, neglect, and other major unusual incidents. 22352

(C)(1) Any person listed in division (C)(2) of this section, 22353
having reason to believe that a person with mental retardation or 22354
a developmental disability has suffered or faces a substantial 22355
risk of suffering any wound, injury, disability, or condition of 22356
such a nature as to reasonably indicate abuse or neglect of that 22357
person, shall immediately report or cause reports to be made of 22358
such information to the entity specified in this division. Except 22359
as provided in section 5120.173 of the Revised Code or as 22360
otherwise provided in this division, the person making the report 22361
shall make it to a law enforcement agency or to the county board 22362

of ~~mental retardation and~~ developmental disabilities. If the 22363
report concerns a resident of a facility operated by the 22364
department of ~~mental retardation and~~ developmental disabilities 22365
the report shall be made either to a law enforcement agency or to 22366
the department. If the report concerns any act or omission of an 22367
employee of a county board of ~~mental retardation and~~ developmental 22368
disabilities, the report immediately shall be made to the 22369
department and to the county board. 22370

(2) All of the following persons are required to make a 22371
report under division (C)(1) of this section: 22372

(a) Any physician, including a hospital intern or resident, 22373
any dentist, podiatrist, chiropractor, practitioner of a limited 22374
branch of medicine as specified in section 4731.15 of the Revised 22375
Code, hospital administrator or employee of a hospital, nurse 22376
licensed under Chapter 4723. of the Revised Code, employee of an 22377
ambulatory health facility as defined in section 5101.61 of the 22378
Revised Code, employee of a home health agency, employee of an 22379
adult care facility licensed under Chapter 3722. of the Revised 22380
Code, or employee of a community mental health facility; 22381

(b) Any school teacher or school authority, social worker, 22382
psychologist, attorney, peace officer, coroner, or residents' 22383
rights advocate as defined in section 3721.10 of the Revised Code; 22384

(c) A superintendent, board member, or employee of a county 22385
board of ~~mental retardation and~~ developmental disabilities; an 22386
administrator, board member, or employee of a residential facility 22387
licensed under section 5123.19 of the Revised Code; an 22388
administrator, board member, or employee of any other public or 22389
private provider of services to a person with mental retardation 22390
or a developmental disability, or any MR/DD employee, as defined 22391
in section 5123.50 of the Revised Code; 22392

(d) A member of a citizen's advisory council established at 22393

an institution or branch institution of the department of ~~mental~~ 22394
~~retardation and~~ developmental disabilities under section 5123.092 22395
of the Revised Code; 22396

(e) A clergyman who is employed in a position that includes 22397
providing specialized services to an individual with mental 22398
retardation or another developmental disability, while acting in 22399
an official or professional capacity in that position, or a person 22400
who is employed in a position that includes providing specialized 22401
services to an individual with mental retardation or another 22402
developmental disability and who, while acting in an official or 22403
professional capacity, renders spiritual treatment through prayer 22404
in accordance with the tenets of an organized religion. 22405

(3)(a) The reporting requirements of this division do not 22406
apply to members of the legal rights service commission or to 22407
employees of the legal rights service. 22408

(b) An attorney or physician is not required to make a report 22409
pursuant to division (C)(1) of this section concerning any 22410
communication the attorney or physician receives from a client or 22411
patient in an attorney-client or physician-patient relationship, 22412
if, in accordance with division (A) or (B) of section 2317.02 of 22413
the Revised Code, the attorney or physician could not testify with 22414
respect to that communication in a civil or criminal proceeding, 22415
except that the client or patient is deemed to have waived any 22416
testimonial privilege under division (A) or (B) of section 2317.02 22417
of the Revised Code with respect to that communication and the 22418
attorney or physician shall make a report pursuant to division 22419
(C)(1) of this section, if both of the following apply: 22420

(i) The client or patient, at the time of the communication, 22421
is a person with mental retardation or a developmental disability. 22422

(ii) The attorney or physician knows or suspects, as a result 22423
of the communication or any observations made during that 22424

communication, that the client or patient has suffered or faces a 22425
substantial risk of suffering any wound, injury, disability, or 22426
condition of a nature that reasonably indicates abuse or neglect 22427
of the client or patient. 22428

(4) Any person who fails to make a report required under 22429
division (C) of this section and who is an MR/DD employee, as 22430
defined in section 5123.50 of the Revised Code, shall be eligible 22431
to be included in the registry regarding misappropriation, abuse, 22432
neglect, or other specified misconduct by MR/DD employees 22433
established under section 5123.52 of the Revised Code. 22434

(D) The reports required under division (C) of this section 22435
shall be made forthwith by telephone or in person and shall be 22436
followed by a written report. The reports shall contain the 22437
following: 22438

(1) The names and addresses of the person with mental 22439
retardation or a developmental disability and the person's 22440
custodian, if known; 22441

(2) The age of the person with mental retardation or a 22442
developmental disability; 22443

(3) Any other information that would assist in the 22444
investigation of the report. 22445

(E) When a physician performing services as a member of the 22446
staff of a hospital or similar institution has reason to believe 22447
that a person with mental retardation or a developmental 22448
disability has suffered injury, abuse, or physical neglect, the 22449
physician shall notify the person in charge of the institution or 22450
that person's designated delegate, who shall make the necessary 22451
reports. 22452

(F) Any person having reasonable cause to believe that a 22453
person with mental retardation or a developmental disability has 22454
suffered or faces a substantial risk of suffering abuse or neglect 22455

may report or cause a report to be made of that belief to the 22456
entity specified in this division. Except as provided in section 22457
5120.173 of the Revised Code or as otherwise provided in this 22458
division, the person making the report shall make it to a law 22459
enforcement agency or the county board of ~~mental retardation and~~ 22460
developmental disabilities. If the person is a resident of a 22461
facility operated by the department of ~~mental retardation and~~ 22462
developmental disabilities, the report shall be made to a law 22463
enforcement agency or to the department. If the report concerns 22464
any act or omission of an employee of a county board of ~~mental~~ 22465
~~retardation and~~ developmental disabilities, the report immediately 22466
shall be made to the department and to the county board. 22467

(G)(1) Upon the receipt of a report concerning the possible 22468
abuse or neglect of a person with mental retardation or a 22469
developmental disability, the law enforcement agency shall inform 22470
the county board of ~~mental retardation and~~ developmental 22471
disabilities or, if the person is a resident of a facility 22472
operated by the department of ~~mental retardation and~~ developmental 22473
disabilities, the director of the department or the director's 22474
designee. 22475

(2) On receipt of a report under this section that includes 22476
an allegation of action or inaction that may constitute a crime 22477
under federal law or the law of this state, the department of 22478
~~mental retardation and~~ developmental disabilities shall notify the 22479
law enforcement agency. 22480

(3) When a county board of ~~mental retardation and~~ 22481
developmental disabilities receives a report under this section 22482
that includes an allegation of action or inaction that may 22483
constitute a crime under federal law or the law of this state, the 22484
superintendent of the board or an individual the superintendent 22485
designates under division (H) of this section shall notify the law 22486
enforcement agency. The superintendent or individual shall notify 22487

the department of ~~mental retardation and~~ developmental 22488
disabilities when it receives any report under this section. 22489

(4) When a county board of ~~mental retardation and~~ 22490
developmental disabilities receives a report under this section 22491
and believes that the degree of risk to the person is such that 22492
the report is an emergency, the superintendent of the board or an 22493
employee of the board the superintendent designates shall attempt 22494
a face-to-face contact with the person with mental retardation or 22495
a developmental disability who allegedly is the victim within one 22496
hour of the board's receipt of the report. 22497

(H) The superintendent of the board may designate an 22498
individual to be responsible for notifying the law enforcement 22499
agency and the department when the county board receives a report 22500
under this section. 22501

(I) An adult with mental retardation or a developmental 22502
disability about whom a report is made may be removed from the 22503
adult's place of residence only by law enforcement officers who 22504
consider that the adult's immediate removal is essential to 22505
protect the adult from further injury or abuse or in accordance 22506
with the order of a court made pursuant to section 5126.33 of the 22507
Revised Code. 22508

(J) A law enforcement agency shall investigate each report of 22509
abuse or neglect it receives under this section. In addition, the 22510
department, in cooperation with law enforcement officials, shall 22511
investigate each report regarding a resident of a facility 22512
operated by the department to determine the circumstances 22513
surrounding the injury, the cause of the injury, and the person 22514
responsible. The investigation shall be in accordance with the 22515
memorandum of understanding prepared under section 5126.058 of the 22516
Revised Code. The department shall determine, with the registry 22517
office which shall be maintained by the department, whether prior 22518
reports have been made concerning an adult with mental retardation 22519

or a developmental disability or other principals in the case. If 22520
the department finds that the report involves action or inaction 22521
that may constitute a crime under federal law or the law of this 22522
state, it shall submit a report of its investigation, in writing, 22523
to the law enforcement agency. If the person with mental 22524
retardation or a developmental disability is an adult, with the 22525
consent of the adult, the department shall provide such protective 22526
services as are necessary to protect the adult. The law 22527
enforcement agency shall make a written report of its findings to 22528
the department. 22529

If the person is an adult and is not a resident of a facility 22530
operated by the department, the county board of ~~mental retardation~~ 22531
~~and~~ developmental disabilities shall review the report of abuse or 22532
neglect in accordance with sections 5126.30 to 5126.33 of the 22533
Revised Code and the law enforcement agency shall make the written 22534
report of its findings to the county board. 22535

(K) Any person or any hospital, institution, school, health 22536
department, or agency participating in the making of reports 22537
pursuant to this section, any person participating as a witness in 22538
an administrative or judicial proceeding resulting from the 22539
reports, or any person or governmental entity that discharges 22540
responsibilities under sections 5126.31 to 5126.33 of the Revised 22541
Code shall be immune from any civil or criminal liability that 22542
might otherwise be incurred or imposed as a result of such actions 22543
except liability for perjury, unless the person or governmental 22544
entity has acted in bad faith or with malicious purpose. 22545

(L) No employer or any person with the authority to do so 22546
shall discharge, demote, transfer, prepare a negative work 22547
performance evaluation, reduce pay or benefits, terminate work 22548
privileges, or take any other action detrimental to an employee or 22549
retaliate against an employee as a result of the employee's having 22550
made a report under this section. This division does not preclude 22551

an employer or person with authority from taking action with 22552
regard to an employee who has made a report under this section if 22553
there is another reasonable basis for the action. 22554

(M) Reports made under this section are not public records as 22555
defined in section 149.43 of the Revised Code. Information 22556
contained in the reports on request shall be made available to the 22557
person who is the subject of the report, to the person's legal 22558
counsel, and to agencies authorized to receive information in the 22559
report by the department or by a county board of ~~mental~~ 22560
~~retardation and~~ developmental disabilities. 22561

(N) Notwithstanding section 4731.22 of the Revised Code, the 22562
physician-patient privilege shall not be a ground for excluding 22563
evidence regarding the injuries or physical neglect of a person 22564
with mental retardation or a developmental disability or the cause 22565
thereof in any judicial proceeding resulting from a report 22566
submitted pursuant to this section. 22567

Sec. 5123.611. (A) As used in this section, "MR/DD employee" 22568
means all of the following: 22569

(1) An employee of the department of ~~mental retardation and~~ 22570
developmental disabilities; 22571

(2) An employee of a county board of ~~mental retardation and~~ 22572
developmental disabilities; 22573

(3) An employee in a position that includes providing 22574
specialized services, as defined in section 5123.50 of the Revised 22575
Code, to an individual with mental retardation or a developmental 22576
disability. 22577

(B) At the conclusion of a review of a report of abuse, 22578
neglect, or a major unusual incident that is conducted by a review 22579
committee established pursuant to section 5123.61 of the Revised 22580
Code, the committee shall issue recommendations to the department. 22581

The department shall review the committee's recommendations and 22582
issue a report of its findings. The department shall make the 22583
report available to all of the following: 22584

(1) The individual with mental retardation or a developmental 22585
disability who is the subject of the report; 22586

(2) That individual's guardian or legal counsel; 22587

(3) The licensee, as defined in section 5123.19 of the 22588
Revised Code, of a residential facility in which the individual 22589
resides; 22590

(4) The employer of any MR/DD employee who allegedly 22591
committed or was responsible for the abuse, neglect, or major 22592
unusual incident. 22593

(C) Except as provided in this section, the department shall 22594
not disclose its report to any person or government entity that is 22595
not authorized to investigate reports of abuse, neglect, or other 22596
major unusual incidents, unless the individual with mental 22597
retardation or a developmental disability who is the subject of 22598
the report or the individual's guardian gives the department 22599
written consent. 22600

Sec. 5123.612. The director of ~~mental retardation and~~ 22601
developmental disabilities shall adopt rules in accordance with 22602
Chapter 119. of the Revised Code regarding the reporting of major 22603
unusual incidents and unusual incidents concerning persons with 22604
mental retardation or a developmental disability. The rules shall 22605
specify what constitutes a major unusual incident or an unusual 22606
incident. 22607

Sec. 5123.613. (A) When a person who is the subject of a 22608
report under section 5123.61 of the Revised Code dies, the 22609
department of ~~mental retardation and~~ developmental disabilities or 22610
the county board of ~~mental retardation and~~ developmental 22611

disabilities, whichever is applicable, shall, on written request, 22612
provide to both of the following persons the report and any 22613
records relating to the report: 22614

(1) If the report or records are necessary to administer the 22615
estate of the person who is the subject of the report, to the 22616
executor or administrator of the person's estate; 22617

(2) To the guardian of the person who is the subject of the 22618
report or, if the individual had no guardian at the time of death, 22619
to a person in the first applicable of the following categories: 22620

(a) The person's spouse; 22621

(b) The person's children; 22622

(c) The person's parents; 22623

(d) The person's brothers or sisters; 22624

(e) The person's uncles or aunts; 22625

(f) The person's closest relative by blood or adoption; 22626

(g) The person's closest relative by marriage. 22627

(B) The department or county board shall provide the report 22628
and related records as required by this section not later than 22629
thirty days after receipt of the request. 22630

Sec. 5123.614. (A) Subject to division (B) of this section, 22631
on receipt of a report of a major unusual incident made pursuant 22632
to section 5123.61 or 5126.31 of the Revised Code or rules adopted 22633
under section 5123.612 of the Revised Code, the department of 22634
~~mental retardation and~~ developmental disabilities may do either of 22635
the following: 22636

(1) Conduct an independent review or investigation of the 22637
incident; 22638

(2) Request that an independent review or investigation of 22639

the incident be conducted by a county board of ~~mental retardation~~ 22640
~~and~~ developmental disabilities that is not implicated in the 22641
report, a regional council of government, or any other entity 22642
authorized to conduct such investigations. 22643

(B) If a report described in division (A) of this section 22644
concerning the health or safety of a person with mental 22645
retardation or a developmental disability involves an allegation 22646
that an employee of a county board of ~~mental retardation and~~ 22647
developmental disabilities has created a substantial risk of 22648
serious physical harm to a person with mental retardation or a 22649
developmental disability, the department shall do one of the 22650
following: 22651

(1) Conduct an independent investigation regarding the 22652
incident; 22653

(2) Request that an independent review or investigation of 22654
the incident be conducted by a county board of ~~mental retardation~~ 22655
~~and~~ developmental disabilities that is not implicated in the 22656
report, a regional council of government, or any other entity 22657
authorized to conduct such investigations. 22658

Sec. 5123.63. Every state agency, county board of ~~mental~~ 22659
~~retardation and~~ developmental disabilities, or political 22660
subdivision that provides services, either directly or through a 22661
contract, to persons with mental retardation or a developmental 22662
disability shall give each provider a copy of the list of rights 22663
contained in section 5123.62 of the Revised Code. Each public and 22664
private provider of services shall carry out the requirements of 22665
this section in addition to any other posting or notification 22666
requirements imposed by local, state, or federal law or rules. 22667

The provider shall make copies of the list of rights and 22668
shall be responsible for an initial distribution of the list to 22669
each individual receiving services from the provider. If the 22670

individual is unable to read the list, the provider shall 22671
communicate the contents of the list to the individual to the 22672
extent practicable in a manner that the individual understands. 22673
The individual receiving services or the parent, guardian, or 22674
advocate of the individual shall sign an acknowledgement of 22675
receipt of a copy of the list of rights, and a copy of the signed 22676
acknowledgement shall be placed in the individual's file. The 22677
provider shall also be responsible for answering any questions and 22678
giving any explanations necessary to assist the individual to 22679
understand the rights enumerated. Instruction in these rights 22680
shall be documented. 22681

Each provider shall make available to all persons receiving 22682
services and all employees and visitors a copy of the list of 22683
rights and the addresses and telephone numbers of the legal rights 22684
service, the department of ~~mental retardation and~~ developmental 22685
disabilities, and the county board of ~~mental retardation and~~ 22686
developmental disabilities of the county in which the provider 22687
provides services. 22688

Sec. 5123.64. (A) Every provider of services to persons with 22689
mental retardation or a developmental disability shall establish 22690
policies and programs to ensure that all staff members are 22691
familiar with the rights enumerated in section 5123.62 of the 22692
Revised Code and observe those rights in their contacts with 22693
persons receiving services. Any policy, procedure, or rule of the 22694
provider that conflicts with any of the rights enumerated shall be 22695
null and void. Every provider shall establish written procedures 22696
for resolving complaints of violations of those rights. A copy of 22697
the procedures shall be provided to any person receiving services 22698
or to any parent, guardian, or advocate of a person receiving 22699
services. 22700

(B) Any person with mental retardation or a developmental 22701

disability who believes that the person's rights as enumerated in 22702
section 5123.62 of the Revised Code have been violated may: 22703

(1) Bring the violation to the attention of the provider for 22704
resolution; 22705

(2) Report the violation to the department of ~~mental~~ 22706
~~retardation and~~ developmental disabilities, the ombudsperson 22707
section of the legal rights service, or the appropriate county 22708
board of ~~mental retardation and~~ developmental disabilities; 22709

(3) Take any other appropriate action to ensure compliance 22710
with sections 5123.60 to 5123.64 of the Revised Code, including 22711
the filing of a legal action to enforce rights or to recover 22712
damages for violation of rights. 22713

Sec. 5123.65. In addition to the rights specified in section 22714
5123.62 of the Revised Code, individuals with mental retardation 22715
and developmental disabilities who can safely self-administer 22716
medication or receive assistance with self-administration of 22717
medication have the right to self-administer medication or receive 22718
assistance with the self-administration of medication. The 22719
department of ~~mental retardation and~~ developmental disabilities 22720
shall adopt rules as it considers necessary to implement and 22721
enforce this section. The rules shall be adopted in accordance 22722
with Chapter 119. of the Revised Code. 22723

Sec. 5123.71. (A)(1) Proceedings for the involuntary 22724
institutionalization of a person pursuant to sections 5123.71 to 22725
5123.76 of the Revised Code shall be commenced by the filing of an 22726
affidavit with the probate division of the court of common pleas 22727
of the county where the person resides or where the person is 22728
institutionalized, in the manner and form prescribed by the 22729
department of ~~mental retardation and~~ developmental disabilities 22730
either on information or actual knowledge, whichever is determined 22731

to be proper by the court. The affidavit may be filed only by a 22732
person who has custody of the individual as a parent, guardian, or 22733
service provider or by a person acting on behalf of the department 22734
or a county board of ~~mental retardation and~~ developmental 22735
disabilities. This section does not apply regarding the 22736
institutionalization of a person pursuant to section 2945.39, 22737
2945.40, 2945.401, or 2945.402 of the Revised Code. 22738

The affidavit shall contain an allegation setting forth the 22739
specific category or categories under division (O) of section 22740
5123.01 of the Revised Code upon which the commencement of 22741
proceedings is based and a statement of the factual ground for the 22742
belief that the person is a mentally retarded person subject to 22743
institutionalization by court order. Except as provided in 22744
division (A)(2) of this section, the affidavit shall be 22745
accompanied by both of the following: 22746

(a) A comprehensive evaluation report prepared by the 22747
person's evaluation team that includes a statement by the members 22748
of the team certifying that they have performed a comprehensive 22749
evaluation of the person and that they are of the opinion that the 22750
person is a mentally retarded person subject to 22751
institutionalization by court order; 22752

(b) An assessment report prepared by the county board of 22753
~~mental retardation and~~ developmental disabilities under section 22754
5123.711 of the Revised Code specifying that the individual is in 22755
need of services on an emergency or priority basis. 22756

(2) In lieu of the comprehensive evaluation report, the 22757
affidavit may be accompanied by a written and sworn statement that 22758
the person or the guardian of a person adjudicated incompetent has 22759
refused to allow a comprehensive evaluation and county board 22760
assessment and assessment reports. Immediately after accepting an 22761
affidavit that is not accompanied by the reports of a 22762
comprehensive evaluation and county board assessment, the court 22763

shall cause a comprehensive evaluation and county board assessment 22764
of the person named in the affidavit to be performed. The 22765
evaluation shall be conducted in the least restrictive environment 22766
possible and the assessment shall be conducted in the same manner 22767
as assessments conducted under section 5123.711 of the Revised 22768
Code. The evaluation and assessment must be completed before a 22769
probable cause hearing or full hearing may be held under section 22770
5123.75 or 5123.76 of the Revised Code. 22771

A written report of the evaluation team's findings and the 22772
county board's assessment shall be filed with the court. The 22773
reports shall, consistent with the rules of evidence, be accepted 22774
as probative evidence in any proceeding under section 5123.75 or 22775
5123.76 of the Revised Code. If the counsel for the person who is 22776
evaluated or assessed is known, the court shall send to the 22777
counsel a copy of the reports as soon as possible after they are 22778
filed and prior to any proceedings under section 5123.75 or 22779
5123.76 of the Revised Code. 22780

(B) Any person who is involuntarily detained in an 22781
institution or otherwise is in custody under this chapter shall be 22782
informed of the right to do the following: 22783

(1) Immediately make a reasonable number of telephone calls 22784
or use other reasonable means to contact an attorney, a physician, 22785
or both, to contact any other person or persons to secure 22786
representation by counsel, or to obtain medical assistance, and be 22787
provided assistance in making calls if the assistance is needed 22788
and requested; 22789

(2) Retain counsel and have independent expert evaluation 22790
and, if the person is an indigent person, be represented by 22791
court-appointed counsel and have independent expert evaluation at 22792
court expense; 22793

(3) Upon request, have a hearing to determine whether there 22794

is probable cause to believe that the person is a mentally 22795
retarded person subject to institutionalization by court order. 22796

(C) No person who is being treated by spiritual means through 22797
prayer alone in accordance with a recognized religious method of 22798
healing may be ordered detained or involuntarily committed unless 22799
the court has determined that the person represents a very 22800
substantial risk of self-impairment, self-injury, or impairment or 22801
injury to others. 22802

Sec. 5123.711. (A) As used in this section: 22803

(1) "Emergency" means either of the following that creates a 22804
risk of substantial harm to an individual or others if action is 22805
not taken within thirty days: 22806

(a) Health and safety conditions that pose a serious risk of 22807
immediate harm or death to the individual or others; 22808

(b) Changes in the emotional or physical condition of an 22809
individual that necessitates substantial accommodation that cannot 22810
reasonably be provided by the individual's existing caretaker. 22811

(2) "Priority" means a situation creating a risk of 22812
substantial harm to an individual or others, but for which action 22813
within thirty days is not necessary. 22814

(3) "Resources" has the same meaning as in section 5126.01 of 22815
the Revised Code. 22816

(B) Prior to filing an affidavit under section 5123.71 of the 22817
Revised Code for the involuntary institutionalization of an 22818
individual, a person who is eligible to file under that section 22819
and intends to do so shall request that the county board of ~~mental~~ 22820
~~retardation and~~ developmental disabilities conduct an assessment 22821
of the individual's needs. Not later than thirty days after the 22822
date a request is received, the board shall complete the 22823
assessment and provide to the person a report of its findings and 22824

recommendations. The report shall be delivered by certified mail. 22825

Within three working days after receiving a request for an 22826
assessment, the board shall notify the department of ~~mental~~ 22827
~~retardation and~~ developmental disabilities that the request has 22828
been made and that there is the potential for court-ordered 22829
institutionalization of an individual. The department may provide 22830
assistance to the board in the performance of the assessment. 22831

(C) The board's assessment of an individual's needs shall 22832
include the following: 22833

(1) A determination of the current needs of the individual, 22834
including an appropriate plan for services; 22835

(2) A determination of whether the community is the least 22836
restrictive environment in which the individual may be 22837
appropriately served; 22838

(3) A determination of whether the individual meets the 22839
conditions for assistance on an emergency or priority basis; 22840

(4) Identification of available resources to meet the 22841
individual's needs, including service providers with the 22842
capability of appropriately meeting those needs, special ancillary 22843
services, and moneys to pay for the services necessary to meet the 22844
individual's needs within the community rather than in a state 22845
institution. 22846

(D) If the board's assessment of an individual identifies 22847
that county resources are available to meet the individual's needs 22848
in the community, the board shall provide services to the 22849
individual or arrange for the provision of services. If county 22850
resources are not available, the board shall petition the 22851
department of ~~mental retardation and~~ developmental disabilities 22852
for necessary resources that may be available from the department. 22853

Sec. 5123.72. ~~Except as provided in division (B) of this~~ 22854

~~section, the~~ The director of ~~mental retardation and~~ developmental disabilities shall designate a person to present the case on behalf of the state at the hearings provided for in sections 5123.75 and 5123.76 of the Revised Code. The designee of the director also may present the case on behalf of the state in any other hearing provided for in this chapter.

Sec. 5123.73. (A) After receipt of the affidavit required by section 5123.71 of the Revised Code, the court shall cause written notice, by mail or otherwise, of any hearing the court directs, to be given to all of the following persons:

(1) The respondent;

(2) The respondent's legal guardian, if any;

(3) The respondent's spouse, if address is known;

(4) The person filing the affidavit;

(5) Any one person designated by the respondent, except that if the respondent does not make a selection, the notice shall be sent to the adult next of kin other than the person who filed the affidavit, if that person's address is known to the court;

(6) The respondent's counsel;

(7) The director of ~~mental retardation and~~ developmental disabilities or the director's designee under section 5123.72 of the Revised Code.

(B) All persons entitled to notice under this section may waive that notice.

(C) A copy of the affidavit and of any temporary order shall be served with a notice under this section.

Sec. 5123.74. (A) On receipt of an affidavit under section 5123.71 of the Revised Code, the probate division of the court of

common pleas may, if it has probable cause to believe that the 22883
person named in the affidavit is a mentally retarded person 22884
subject to institutionalization by court order and that emergency 22885
institutionalization is required, do any of the following: 22886

(1) Issue a temporary order of detention ordering any health 22887
or police officer or sheriff to take into custody and transport 22888
such person to an institution or other place as designated in 22889
section 5123.77 of the Revised Code; 22890

(2) Order the county board of ~~mental retardation and~~ 22891
developmental disabilities to provide services to the individual 22892
in the community if the board's assessment of the individual 22893
conducted under section 5123.711 of the Revised Code identifies 22894
that resources are available to meet the individual's needs in an 22895
appropriate manner within the community as an alternative to 22896
institutionalization; 22897

(3) Set the matter for further hearing. 22898

(B) A managing officer of a nonpublic institution may, and 22899
the managing officer of a public institution shall, receive for 22900
observation, diagnosis, habilitation, and care any person whose 22901
admission is ordered pursuant to division (A)(1) of this section. 22902

The alternatives to institutionalization that may be ordered 22903
under division (A)(2) of this section are limited to those that 22904
are necessary to remediate the emergency condition; necessary for 22905
the person's health, safety or welfare; and necessary for the 22906
protection of society, if applicable. 22907

(C) A person detained under this section may be observed and 22908
habilitated until the probable cause hearing provided for in 22909
section 5123.75 of the Revised Code. If no probable cause hearing 22910
is requested or held, the person may be evaluated and shall be 22911
provided with habilitative services until the full hearing is held 22912
pursuant to section 5123.76 of the Revised Code. 22913

Sec. 5123.75. A respondent who is involuntarily placed in an institution or other place as designated in section 5123.77 of the Revised Code or with respect to whom proceedings have been instituted under section 5123.71 of the Revised Code shall, on request of the respondent, ~~his~~ the respondent's guardian, or ~~his~~ the respondent's counsel, or upon the court's own motion, be afforded a hearing to determine whether there is probable cause to believe that the respondent is a mentally retarded person subject to institutionalization by court order.

(A) The probable cause hearing shall be conducted within two court days from the day on which the request is made. Failure to conduct the probable cause hearing within this time shall effect an immediate discharge of the respondent. If the proceedings are not reinstituted within thirty days, records of the proceedings shall be expunged.

(B) The respondent shall be informed that ~~he~~ the respondent may retain counsel and have independent expert evaluation and, if ~~he~~ the respondent is an indigent person, be represented by court appointed counsel and have independent expert evaluation at court expense.

(C) The probable cause hearing shall be conducted in a manner consistent with the procedures set forth in division (A) of section 5123.76 of the Revised Code, except divisions (A)(10) and (14) of that section, and the designee of the director of ~~mental retardation and~~ developmental disabilities shall present evidence for the state.

(D) If the court does not find probable cause to believe that the respondent is a mentally retarded person subject to institutionalization by court order, it shall order immediate release of the respondent and dismiss and expunge all record of the proceedings under this chapter.

(E) On motion of the respondent or ~~his~~ the respondent's 22945
counsel and for good cause shown, the court may order a 22946
continuance of the hearing. 22947

(F) If the court finds probable cause to believe that the 22948
respondent is a mentally retarded person subject to 22949
institutionalization by court order, the court may issue an 22950
interim order of placement and, where proceedings under section 22951
5123.71 of the Revised Code have been instituted, shall order a 22952
full hearing as provided in section 5123.76 of the Revised Code to 22953
be held on the question of whether the respondent is a mentally 22954
retarded person subject to institutionalization by court order. 22955
Unless specifically waived by the respondent or the respondent's 22956
counsel, the court shall schedule said hearing to be held as soon 22957
as possible within ten days from the probable cause hearing. A 22958
waiver of such full hearing at this point shall not preclude the 22959
respondent from asserting the respondent's right to such hearing 22960
under section 5123.76 of the Revised Code at any time prior to the 22961
mandatory hearing provided in division (H) of section 5123.76 of 22962
the Revised Code. In any case, if the respondent has waived ~~his~~ 22963
the right to the full hearing, a mandatory hearing shall be held 22964
under division (H) of section 5123.76 of the Revised Code between 22965
the ninetieth and the one hundredth day after the original 22966
involuntary detention of the person unless the respondent has been 22967
discharged. 22968

(G) Whenever possible, the probable cause hearing shall be 22969
held before the respondent is taken into custody. 22970

Sec. 5123.76. (A) The full hearing shall be conducted in a 22971
manner consistent with the procedures outlined in this chapter and 22972
with due process of law. The hearing shall be held by a judge of 22973
the probate division or, upon transfer by the judge of the probate 22974
division, by another judge of the court of common pleas, or a 22975

referee designated by the judge of the probate division. Any 22976
referee designated by the judge of the probate division must be an 22977
attorney. 22978

(1) The following shall be made available to counsel for the 22979
respondent: 22980

(a) All relevant documents, information, and evidence in the 22981
custody or control of the state or prosecutor; 22982

(b) All relevant documents, information, and evidence in the 22983
custody or control of the institution, facility, or program in 22984
which the respondent currently is held or in which the respondent 22985
has been held pursuant to these proceedings; 22986

(c) With the consent of the respondent, all relevant 22987
documents, information, and evidence in the custody or control of 22988
any institution or person other than the state. 22989

(2) The respondent has the right to be represented by counsel 22990
of the respondent's choice and has the right to attend the hearing 22991
except if unusual circumstances of compelling medical necessity 22992
exist that render the respondent unable to attend and the 22993
respondent has not expressed a desire to attend. 22994

(3) If the respondent is not represented by counsel and the 22995
court determines that the conditions specified in division (A)(2) 22996
of this section justify the respondent's absence and the right to 22997
counsel has not been validly waived, the court shall appoint 22998
counsel forthwith to represent the respondent at the hearing, 22999
reserving the right to tax costs of appointed counsel to the 23000
respondent unless it is shown that the respondent is indigent. If 23001
the court appoints counsel, or if the court determines that the 23002
evidence relevant to the respondent's absence does not justify the 23003
absence, the court shall continue the case. 23004

(4) The respondent shall be informed of the right to retain 23005
counsel, to have independent expert evaluation, and, if an 23006

indigent person, to be represented by court appointed counsel and 23007
have expert independent evaluation at court expense. 23008

(5) The hearing may be closed to the public unless counsel 23009
for the respondent requests that the hearing be open to the 23010
public. 23011

(6) Unless objected to by the respondent, the respondent's 23012
counsel, or the designee of the director of ~~mental retardation and~~ 23013
developmental disabilities, the court, for good cause shown, may 23014
admit persons having a legitimate interest in the proceedings. 23015

(7) The affiant under section 5123.71 of the Revised Code 23016
shall be subject to subpoena by either party. 23017

(8) The court shall examine the sufficiency of all documents 23018
filed and shall inform the respondent, if present, and the 23019
respondent's counsel of the nature of the content of the documents 23020
and the reason for which the respondent is being held or for which 23021
the respondent's placement is being sought. 23022

(9) The court shall receive only relevant, competent, and 23023
material evidence. 23024

(10) The designee of the director shall present the evidence 23025
for the state. In proceedings under this chapter, the attorney 23026
general shall present the comprehensive evaluation, assessment, 23027
diagnosis, prognosis, record of habilitation and care, if any, and 23028
less restrictive habilitation plans, if any. The attorney general 23029
does not have a similar presentation responsibility in connection 23030
with a person who has been found not guilty by reason of insanity 23031
and who is the subject of a hearing under section 2945.40 of the 23032
Revised Code to determine whether the person is a mentally 23033
retarded person subject to institutionalization by court order. 23034

(11) The respondent has the right to testify and the 23035
respondent or the respondent's counsel has the right to subpoena 23036
witnesses and documents and to present and cross-examine 23037

witnesses. 23038

(12) The respondent shall not be compelled to testify and 23039
shall be so advised by the court. 23040

(13) On motion of the respondent or the respondent's counsel 23041
for good cause shown, or upon the court's own motion, the court 23042
may order a continuance of the hearing. 23043

(14) To an extent not inconsistent with this chapter, the 23044
Rules of Civil Procedure shall be applicable. 23045

(B) Unless, upon completion of the hearing, the court finds 23046
by clear and convincing evidence that the respondent named in the 23047
affidavit is a mentally retarded person subject to 23048
institutionalization by court order, it shall order the 23049
respondent's discharge forthwith. 23050

(C) If, upon completion of the hearing, the court finds by 23051
clear and convincing evidence that the respondent is a mentally 23052
retarded person subject to institutionalization by court order, 23053
the court may order the respondent's discharge or order the 23054
respondent, for a period not to exceed ninety days, to any of the 23055
following: 23056

(1) A public institution, provided that commitment of the 23057
respondent to the institution will not cause the institution to 23058
exceed its licensed capacity determined in accordance with section 23059
5123.19 of the Revised Code and provided that such a placement is 23060
indicated by the comprehensive evaluation report filed pursuant to 23061
section 5123.71 of the Revised Code; 23062

(2) A private institution; 23063

(3) A county mental retardation program; 23064

(4) Receive private habilitation and care; 23065

(5) Any other suitable facility, program, or the care of any 23066
person consistent with the comprehensive evaluation, assessment, 23067

diagnosis, prognosis, and habilitation needs of the respondent. 23068

(D) Any order made pursuant to division (C)(2), (4), or (5) 23069
of this section shall be conditional upon the receipt by the court 23070
of consent by the facility, program, or person to accept the 23071
respondent. 23072

(E) In determining the place to which, or the person with 23073
whom, the respondent is to be committed, the court shall consider 23074
the comprehensive evaluation, assessment, diagnosis, and projected 23075
habilitation plan for the respondent, and shall order the 23076
implementation of the least restrictive alternative available and 23077
consistent with habilitation goals. 23078

(F) If, at any time it is determined by the director of the 23079
facility or program to which, or the person to whom, the 23080
respondent is committed that the respondent could be equally well 23081
habilitated in a less restrictive environment that is available, 23082
the following shall occur: 23083

(1) The respondent shall be released by the director of the 23084
facility or program or by the person forthwith and referred to the 23085
court together with a report of the findings and recommendations 23086
of the facility, program, or person. 23087

(2) The director of the facility or program or the person 23088
shall notify the respondent's counsel and the designee of the 23089
director of ~~mental retardation and~~ developmental disabilities. 23090

(3) The court shall dismiss the case or order placement in 23091
the less restrictive environment. 23092

(G)(1) Except as provided in divisions (G)(2) and (3) of this 23093
section, any person who has been committed under this section may 23094
apply at any time during the ninety-day period for voluntary 23095
admission to an institution under section 5123.69 of the Revised 23096
Code. Upon admission of a voluntary resident, the managing officer 23097
immediately shall notify the court, the respondent's counsel, and 23098

the designee of the director in writing of that fact by mail or 23099
otherwise, and, upon receipt of the notice, the court shall 23100
dismiss the case. 23101

(2) A person who is found incompetent to stand trial or not 23102
guilty by reason of insanity and who is committed pursuant to 23103
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 23104
Code shall not be voluntarily admitted to an institution pursuant 23105
to division (G)(1) of this section until after the termination of 23106
the commitment, as described in division (J) of section 2945.401 23107
of the Revised Code. 23108

(H) If, at the end of any commitment period, the respondent 23109
has not already been discharged or has not requested voluntary 23110
admission status, the director of the facility or program, or the 23111
person to whose care the respondent has been committed, shall 23112
discharge the respondent forthwith, unless at least ten days 23113
before the expiration of that period the designee of the director 23114
of ~~mental retardation and~~ developmental disabilities or the 23115
prosecutor files an application with the court requesting 23116
continued commitment. 23117

(1) An application for continued commitment shall include a 23118
written report containing a current comprehensive evaluation and 23119
assessment, a diagnosis, a prognosis, an account of progress and 23120
past habilitation, and a description of alternative habilitation 23121
settings and plans, including a habilitation setting that is the 23122
least restrictive setting consistent with the need for 23123
habilitation. A copy of the application shall be provided to 23124
respondent's counsel. The requirements for notice under section 23125
5123.73 of the Revised Code and the provisions of divisions (A) to 23126
(E) of this section apply to all hearings on such applications. 23127

(2) A hearing on the first application for continued 23128
commitment shall be held at the expiration of the first ninety-day 23129
period. The hearing shall be mandatory and may not be waived. 23130

(3) Subsequent periods of commitment not to exceed one 23131
hundred eighty days each may be ordered by the court if the 23132
designee of the director of ~~mental retardation and~~ developmental 23133
disabilities files an application for continued commitment, after 23134
a hearing is held on the application or without a hearing if no 23135
hearing is requested and no hearing required under division (H)(4) 23136
of this section is waived. Upon the application of a person 23137
involuntarily committed under this section, supported by an 23138
affidavit of a licensed physician alleging that the person is no 23139
longer a mentally retarded person subject to institutionalization 23140
by court order, the court for good cause shown may hold a full 23141
hearing on the person's continued commitment prior to the 23142
expiration of any subsequent period of commitment set by the 23143
court. 23144

(4) A mandatory hearing shall be held at least every two 23145
years after the initial commitment. 23146

(5) If the court, after a hearing upon a request to continue 23147
commitment, finds that the respondent is a mentally retarded 23148
person subject to institutionalization by court order, the court 23149
may make an order pursuant to divisions (C), (D), and (E) of this 23150
section. 23151

(I) Notwithstanding the provisions of division (H) of this 23152
section, no person who is found to be a mentally retarded person 23153
subject to institutionalization by court order pursuant to 23154
division (O)(2) of section 5123.01 of the Revised Code shall be 23155
held under involuntary commitment for more than five years. 23156

(J) The managing officer admitting a person pursuant to a 23157
judicial proceeding, within ten working days of the admission, 23158
shall make a report of the admission to the department. 23159

Sec. 5123.801. If neither a discharged resident, nor a 23160
resident granted trial visit, nor the persons requesting the 23161

resident's trial visit or discharge are financially able to bear 23162
the expense of the resident's trial visit or discharge, the 23163
managing officer of an institution under the control of the 23164
department of ~~mental retardation and~~ developmental disabilities 23165
may then provide actual traveling and escort expenses to the 23166
township of which the resident resided at the time of 23167
institutionalization. The amount payable shall be charged to the 23168
current expense fund of the institution. 23169

The expense of the return of a resident on trial visit from 23170
an institution, if it cannot be paid by the responsible relatives, 23171
shall be borne by the county of institutionalization. 23172

The managing officer of the institution shall provide 23173
sufficient and proper clothing for traveling if neither the 23174
resident nor the persons requesting the resident's trial visit or 23175
discharge are financially able to provide that clothing. 23176

Sec. 5123.81. When an involuntarily committed resident of an 23177
institution for the mentally retarded is absent without leave, an 23178
order shall be issued within five days after ~~his~~ the resident's 23179
absence requiring the resident to be taken into custody by any 23180
health or police officer, or sheriff and transported to the 23181
institution from which the resident is absent. The order may be 23182
issued by the director of ~~mental retardation and~~ developmental 23183
disabilities, the managing officer of the institution from which 23184
the resident is absent, or the probate judge of the county from 23185
which the resident was ordered institutionalized or in which he is 23186
found. The officer who takes the resident into custody shall 23187
immediately notify the issuer of the order. 23188

Sec. 5123.811. The managing officer of an institution under 23189
the control of the department of ~~mental retardation and~~ 23190
developmental disabilities shall immediately report the removal, 23191

death, absence without leave, discharge, or trial visit of any 23192
resident, or return of an absent without leave or visiting 23193
resident to the department, the probate judge of the county from 23194
which such resident was institutionalized, and the probate judge 23195
of the county of the residence of such resident. In case of death, 23196
the managing officer shall also notify one or more of the nearest 23197
relatives of the deceased resident, if known to ~~him~~ the managing 23198
officer, by letter, telegram, or telephone. If the place of 23199
residence of such relative is unknown to the managing officer, 23200
immediately upon receiving notification, the probate judge shall 23201
in the speediest manner possible notify such relatives, if known 23202
to ~~him~~ the probate judge. 23203

The managing officer of the institution shall, upon the 23204
request of the probate judge of the county from which such 23205
resident was institutionalized or the probate judge of the county 23206
of the residence of such resident, make a report to such judge of 23207
the condition of any resident under the care, treatment, custody, 23208
or control of such managing officer. 23209

Sec. 5123.82. (A) Any person who has been institutionalized 23210
under this chapter may, at any time after discharge from such 23211
institution, make application to the managing officer of any 23212
public institution for habilitation and care if such person feels 23213
~~he~~ the person is in need of such services. If the chief program 23214
director determines the applicant to be in need of such services, 23215
the managing officer may provide such services as are required by 23216
the applicant. 23217

(B) Any person may apply to the managing officer of any 23218
public institution for habilitation and care if such person feels 23219
~~he~~ the person is in need of such services. If ~~his~~ the person's 23220
condition warrants, ~~he~~ the person's may be enrolled as an 23221
outpatient and, during such enrollment, ~~he~~ the person may receive 23222

services subject to Chapter 5121. of the Revised Code. 23223

(C) The application prescribed in division (A) or (B) of this 23224
section may also be made on behalf of a minor by a parent, 23225
guardian, or custodian of a minor, and on behalf of an adult 23226
adjudicated incompetent by the guardian or custodian of the adult. 23227

(D) The managing officer of the public institution may refer 23228
any discharged resident who makes an application under this 23229
section to the director of any community mental retardation 23230
program serving the county in which such resident resides, or to 23231
such other facility as the director of ~~mental retardation and~~ 23232
developmental disabilities may designate. Upon notice of such 23233
referral, the director of such program may provide the services 23234
required by the applicant. 23235

Sec. 5123.85. (A) All residents institutionalized pursuant to 23236
this chapter shall receive, within thirty days of their admission, 23237
a comprehensive evaluation, a diagnosis, a prognosis, and a 23238
description of habilitation goals consistent therewith. 23239

(B) All such residents shall have a written habilitation plan 23240
consistent with the comprehensive evaluation, diagnosis, 23241
prognosis, and goals which shall be provided, upon request of 23242
resident or resident's counsel, to resident's counsel and to any 23243
private physician designated by the resident or the resident's 23244
counsel. 23245

(C) All such residents shall receive habilitation and care 23246
consistent with the habilitation plan. The department of ~~mental~~ 23247
~~retardation and~~ developmental disabilities shall set standards for 23248
habilitation and care provided to such residents, consistent 23249
wherever possible with standards set by the joint commission on 23250
accreditation of facilities for the mentally retarded. 23251

(D) All such residents shall receive periodic comprehensive 23252

re-evaluations of the habilitation plan by the professional staff 23253
of the institution at intervals not to exceed ninety days. 23254

(E) All such residents shall be provided with prompt and 23255
adequate medical treatment for any physical or mental disease or 23256
injury. 23257

Sec. 5123.86. (A) Except as provided in divisions (C), (D), 23258
(E), and (F) of this section, the chief medical officer shall 23259
provide all information, including expected physical and medical 23260
consequences, necessary to enable any resident of an institution 23261
for the mentally retarded to give a fully informed, intelligent, 23262
and knowing consent if any of the following procedures are 23263
proposed: 23264

(1) Surgery; 23265

(2) Convulsive therapy; 23266

(3) Major aversive interventions; 23267

(4) Sterilization; 23268

(5) Experimental procedures; 23269

(6) Any unusual or hazardous treatment procedures. 23270

(B) No resident shall be subjected to any of the procedures 23271
listed in division (A)(4), (5), or (6) of this section without the 23272
resident's informed consent. 23273

(C) If a resident is physically or mentally unable to receive 23274
the information required for surgery under division (A)(1) of this 23275
section, or has been adjudicated incompetent, the information may 23276
be provided to the resident's natural or court-appointed guardian, 23277
including an agency providing guardianship services under contract 23278
with the department of ~~mental retardation and~~ developmental 23279
disabilities under sections 5123.55 to 5123.59 of the Revised 23280
Code, who may give the informed, intelligent, and knowing written 23281

consent for surgery. Consent for surgery shall not be provided by 23282
a guardian who is an officer or employee of the department of 23283
mental health or the department of ~~mental retardation and~~ 23284
developmental disabilities. 23285

If a resident is physically or mentally unable to receive the 23286
information required for surgery under division (A)(1) of this 23287
section and has no guardian, then the information, the 23288
recommendation of the chief medical officer, and the concurring 23289
judgment of a licensed physician who is not a full-time employee 23290
of the state may be provided to the court in the county in which 23291
the institution is located, which may approve the surgery. Before 23292
approving the surgery, the court shall notify the legal rights 23293
service created by section 5123.60 of the Revised Code, and shall 23294
notify the resident of the resident's rights to consult with 23295
counsel, to have counsel appointed by the court if the resident is 23296
indigent, and to contest the recommendation of the chief medical 23297
officer. 23298

(D) If, in the judgment of two licensed physicians, delay in 23299
obtaining consent for surgery would create a grave danger to the 23300
health of a resident, emergency surgery may be performed without 23301
the consent of the resident if the necessary information is 23302
provided to the resident's guardian, including an agency providing 23303
guardianship services under contract with the department of ~~mental~~ 23304
~~retardation and~~ developmental disabilities under sections 5123.55 23305
to 5123.59 of the Revised Code, or to the resident's spouse or 23306
next of kin to enable that person or agency to give an informed, 23307
intelligent, and knowing written consent. 23308

If the guardian, spouse, or next of kin cannot be contacted 23309
through exercise of reasonable diligence, or if the guardian, 23310
spouse, or next of kin is contacted, but refuses to consent, then 23311
the emergency surgery may be performed upon the written 23312
authorization of the chief medical officer and after court 23313

approval has been obtained. However, if delay in obtaining court 23314
approval would create a grave danger to the life of the resident, 23315
the chief medical officer may authorize surgery, in writing, 23316
without court approval. If the surgery is authorized without court 23317
approval, the chief medical officer who made the authorization and 23318
the physician who performed the surgery shall each execute an 23319
affidavit describing the circumstances constituting the emergency 23320
and warranting the surgery and the circumstances warranting their 23321
not obtaining prior court approval. The affidavit shall be filed 23322
with the court with which the request for prior approval would 23323
have been filed within five court days after the surgery, and a 23324
copy of the affidavit shall be placed in the resident's file and 23325
shall be given to the guardian, spouse, or next of kin of the 23326
resident, to the hospital at which the surgery was performed, and 23327
to the legal rights service created by section 5123.60 of the 23328
Revised Code. 23329

(E)(1) If it is the judgment of two licensed physicians, as 23330
described in division (E)(2) of this section, that a medical 23331
emergency exists and delay in obtaining convulsive therapy creates 23332
a grave danger to the life of a resident who is both mentally 23333
retarded and mentally ill, convulsive therapy may be administered 23334
without the consent of the resident if the resident is physically 23335
or mentally unable to receive the information required for 23336
convulsive therapy and if the necessary information is provided to 23337
the resident's natural or court-appointed guardian, including an 23338
agency providing guardianship services under contract with the 23339
department of ~~mental retardation and~~ developmental disabilities 23340
under sections 5123.55 to 5123.59 of the Revised Code, or to the 23341
resident's spouse or next of kin to enable that person or agency 23342
to give an informed, intelligent, and knowing written consent. If 23343
neither the resident's guardian, spouse, nor next of kin can be 23344
contacted through exercise of reasonable diligence, or if the 23345
guardian, spouse, or next of kin is contacted, but refuses to 23346

consent, then convulsive therapy may be performed upon the written 23347
authorization of the chief medical officer and after court 23348
approval has been obtained. 23349

(2) The two licensed physicians referred to in division 23350
(E)(1) of this section shall not be associated with each other in 23351
the practice of medicine or surgery by means of a partnership or 23352
corporate arrangement, other business arrangement, or employment. 23353
At least one of the physicians shall be a psychiatrist as defined 23354
in division (E) of section 5122.01 of the Revised Code. 23355

(F) Major aversive interventions shall not be used unless a 23356
resident continues to engage in behavior destructive to self or 23357
others after other forms of therapy have been attempted. The 23358
director of the legal rights service created by section 5123.60 of 23359
the Revised Code shall be notified of any proposed major aversive 23360
intervention. Major aversive interventions shall not be applied to 23361
a voluntary resident without the informed, intelligent, and 23362
knowing written consent of the resident or the resident's 23363
guardian, including an agency providing guardianship services 23364
under contract with the department of ~~mental retardation and~~ 23365
developmental disabilities under sections 5123.55 to 5123.59 of 23366
the Revised Code. 23367

(G)(1) This chapter does not authorize any form of compulsory 23368
medical or psychiatric treatment of any resident who is being 23369
treated by spiritual means through prayer alone in accordance with 23370
a recognized religious method of healing. 23371

(2) For purposes of this section, "convulsive therapy" does 23372
not include defibrillation. 23373

Sec. 5123.89. (A) All certificates, applications, records, 23374
and reports made for the purpose of this chapter, other than court 23375
journal entries or court docket entries, which directly or 23376
indirectly identify a resident or former resident of an 23377

institution for the mentally retarded or person whose 23378
institutionalization has been sought under this chapter shall be 23379
kept confidential and shall not be disclosed by any person except 23380
in the following situations: 23381

(1) It is the judgment of the court for judicial records, and 23382
the managing officer for institution records, that disclosure is 23383
in the best interest of the person identified, and that person or 23384
that person's guardian or, if that person is a minor, that 23385
person's parent or guardian consents. 23386

(2) Disclosure is provided for in other sections of this 23387
chapter. 23388

(3) It is the judgment of the managing officer for 23389
institution records that disclosure to a mental health facility is 23390
in the best interest of the person identified. 23391

(B) The department of ~~mental retardation and~~ developmental 23392
disabilities shall adopt rules with respect to the systematic and 23393
periodic destruction of residents' records. 23394

(C)(1) As used in this division, "family" means a parent, 23395
brother, sister, spouse, son, daughter, grandparent, aunt, uncle, 23396
or cousin. 23397

(2) Upon the death of a resident or former resident of an 23398
institution for the mentally retarded or a person whose 23399
institutionalization was sought under this chapter, the managing 23400
officer of an institution shall provide access to the 23401
certificates, applications, records, and reports made for the 23402
purposes of this chapter to the resident's, former resident's, or 23403
person's guardian if the guardian makes a written request. If a 23404
deceased resident, former resident, or person whose 23405
institutionalization was sought under this chapter did not have a 23406
guardian at the time of death, the managing officer shall provide 23407
access to the certificates, applications, records, and reports 23408

made for purposes of this chapter to a member of the person's 23409
family, upon that family member's written request. 23410

(D) No person shall reveal the contents of a record of a 23411
resident except as authorized by this chapter. 23412

Sec. 5123.90. The attorney general shall attend to all suits 23413
instituted on behalf of or against any public institution under 23414
the jurisdiction of the department of ~~mental retardation and~~ 23415
developmental disabilities and the managing officer thereof. 23416

If a writ of habeas corpus is applied for, the clerk of the 23417
court shall give notice of the time and place of hearing to the 23418
attorney general. 23419

Sec. 5123.96. Costs, fees, and expenses of all proceedings 23420
held under this chapter shall be paid as follows: 23421

(A) To police and health officers, other than sheriffs or 23422
their deputies, the same fees allowed to constables, to be paid 23423
upon the approval of the probate judge; 23424

(B) To sheriffs or their deputies, the same fees allowed for 23425
similar services in the court of common pleas; 23426

(C) To physicians or licensed clinical psychologists acting 23427
as expert witnesses and to other expert witnesses designated by 23428
the court, an amount determined by the court; 23429

(D) To witnesses in an administrative proceeding, the same 23430
fees and mileage as are provided to witnesses by section 119.094 23431
of the Revised Code, and to witnesses in a judicial proceeding, 23432
the same fees and mileage as are provided to witnesses by section 23433
2335.06 of the Revised Code, to be paid upon the approval of the 23434
probate judge; 23435

(E) To a person, other than the sheriff or the sheriff's 23436
deputies, for taking a mentally retarded person to an institution 23437

or removing a mentally retarded person from an institution, the 23438
actual necessary expenses incurred, specifically itemized, and 23439
approved by the probate judge; 23440

(F) To assistants who convey mentally retarded persons to 23441
institutions when authorized by the probate judge, a fee set by 23442
the probate court, provided the assistants are not drawing a 23443
salary from the state or any political subdivision of the state, 23444
and their actual necessary expenses incurred, provided that the 23445
expenses are specifically itemized and approved by the probate 23446
judge; 23447

(G) To an attorney appointed by the probate division for an 23448
indigent who allegedly is a mentally retarded person pursuant to 23449
any section of this chapter, the fees that are determined by the 23450
probate division. When those indigent persons are before the 23451
court, all filing and recording fees shall be waived. 23452

(H) To a referee who is appointed to conduct proceedings 23453
under this chapter that involve a respondent whose domicile is or, 23454
before the respondent's institutionalization, was not the county 23455
in which the proceedings are held, compensation as fixed by the 23456
probate division, but not more than the compensation paid for 23457
similar proceedings for respondents whose domicile is in the 23458
county in which the proceedings are held; 23459

(I) To a court reporter appointed to make a transcript of 23460
proceedings under this chapter, the compensation and fees allowed 23461
in other cases under section 2101.08 of the Revised Code. 23462

All costs, fees, and expenses described in this section, 23463
after payment by the county from appropriations pursuant to 23464
section 2101.11 of the Revised Code, shall be certified by the 23465
county auditor to the department of ~~mental retardation and~~ 23466
developmental disabilities within two months of the date the 23467
costs, fees, and expenses are incurred by the county. Payment 23468

shall be provided for by the director of budget and management 23469
upon presentation of properly verified vouchers. The director of 23470
~~mental retardation and~~ developmental disabilities may adopt rules 23471
in accordance with Chapter 119. of the Revised Code to implement 23472
the payment of costs, fees, and expenses under this section. 23473

Sec. 5126.01. As used in this chapter: 23474

(A) As used in this division, "adult" means an individual who 23475
is eighteen years of age or over and not enrolled in a program or 23476
service under Chapter 3323. of the Revised Code and an individual 23477
sixteen or seventeen years of age who is eligible for adult 23478
services under rules adopted by the director of ~~mental retardation~~ 23479
~~and~~ developmental disabilities pursuant to Chapter 119. of the 23480
Revised Code. 23481

(1) "Adult services" means services provided to an adult 23482
outside the home, except when they are provided within the home 23483
according to an individual's assessed needs and identified in an 23484
individual service plan, that support learning and assistance in 23485
the area of self-care, sensory and motor development, 23486
socialization, daily living skills, communication, community 23487
living, social skills, or vocational skills. 23488

(2) "Adult services" includes all of the following: 23489

(a) Adult day habilitation services; 23490

(b) Adult day care; 23491

(c) Prevocational services; 23492

(d) Sheltered employment; 23493

(e) Educational experiences and training obtained through 23494
entities and activities that are not expressly intended for 23495
individuals with mental retardation and developmental 23496
disabilities, including trade schools, vocational or technical 23497
schools, adult education, job exploration and sampling, unpaid 23498

work experience in the community, volunteer activities, and 23499
spectator sports; 23500

(f) Community employment services and supported employment 23501
services. 23502

(B)(1) "Adult day habilitation services" means adult services 23503
that do the following: 23504

(a) Provide access to and participation in typical activities 23505
and functions of community life that are desired and chosen by the 23506
general population, including such activities and functions as 23507
opportunities to experience and participate in community 23508
exploration, companionship with friends and peers, leisure 23509
activities, hobbies, maintaining family contacts, community 23510
events, and activities where individuals without disabilities are 23511
involved; 23512

(b) Provide supports or a combination of training and 23513
supports that afford an individual a wide variety of opportunities 23514
to facilitate and build relationships and social supports in the 23515
community. 23516

(2) "Adult day habilitation services" includes all of the 23517
following: 23518

(a) Personal care services needed to ensure an individual's 23519
ability to experience and participate in vocational services, 23520
educational services, community activities, and any other adult 23521
day habilitation services; 23522

(b) Skilled services provided while receiving adult day 23523
habilitation services, including such skilled services as behavior 23524
management intervention, occupational therapy, speech and language 23525
therapy, physical therapy, and nursing services; 23526

(c) Training and education in self-determination designed to 23527
help the individual do one or more of the following: develop 23528

self-advocacy skills, exercise the individual's civil rights, 23529
acquire skills that enable the individual to exercise control and 23530
responsibility over the services received, and acquire skills that 23531
enable the individual to become more independent, integrated, or 23532
productive in the community; 23533

(d) Recreational and leisure activities identified in the 23534
individual's service plan as therapeutic in nature or assistive in 23535
developing or maintaining social supports; 23536

(e) Counseling and assistance provided to obtain housing, 23537
including such counseling as identifying options for either rental 23538
or purchase, identifying financial resources, assessing needs for 23539
environmental modifications, locating housing, and planning for 23540
ongoing management and maintenance of the housing selected; 23541

(f) Transportation necessary to access adult day habilitation 23542
services; 23543

(g) Habilitation management, as described in section 5126.14 23544
of the Revised Code. 23545

(3) "Adult day habilitation services" does not include 23546
activities that are components of the provision of residential 23547
services, family support services, or supported living services. 23548

(C) "Appointing authority" means the following: 23549

(1) In the case of a member of a county board of ~~mental~~ 23550
~~retardation and~~ developmental disabilities appointed by, or to be 23551
appointed by, a board of county commissioners, the board of county 23552
commissioners; 23553

(2) In the case of a member of a county board appointed by, 23554
or to be appointed by, a senior probate judge, the senior probate 23555
judge. 23556

(D) "Community employment services" or "supported employment 23557
services" means job training and other services related to 23558

employment outside a sheltered workshop. "Community employment 23559
services" or "supported employment services" include all of the 23560
following: 23561

(1) Job training resulting in the attainment of competitive 23562
work, supported work in a typical work environment, or 23563
self-employment; 23564

(2) Supervised work experience through an employer paid to 23565
provide the supervised work experience; 23566

(3) Ongoing work in a competitive work environment at a wage 23567
commensurate with workers without disabilities; 23568

(4) Ongoing supervision by an employer paid to provide the 23569
supervision. 23570

(E) As used in this division, "substantial functional 23571
limitation," "developmental delay," and "established risk" have 23572
the meanings established pursuant to section 5123.011 of the 23573
Revised Code. 23574

"Developmental disability" means a severe, chronic disability 23575
that is characterized by all of the following: 23576

(1) It is attributable to a mental or physical impairment or 23577
a combination of mental and physical impairments, other than a 23578
mental or physical impairment solely caused by mental illness as 23579
defined in division (A) of section 5122.01 of the Revised Code; 23580

(2) It is manifested before age twenty-two; 23581

(3) It is likely to continue indefinitely; 23582

(4) It results in one of the following: 23583

(a) In the case of a person under age three, at least one 23584
developmental delay or an established risk; 23585

(b) In the case of a person at least age three but under age 23586
six, at least two developmental delays or an established risk; 23587

(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 attained compulsory school age.

(G)(1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and without which the individual would require institutionalization.

(2) "Environmental modifications" includes such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of specialized electric and plumbing systems necessary to accommodate the individual's medical equipment and supplies.

(3) "Environmental modifications" does not include physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

(H) "Family support services" means the services provided 23619
under a family support services program operated under section 23620
5126.11 of the Revised Code. 23621

(I) "Habilitation" means the process by which the staff of 23622
the facility or agency assists an individual with mental 23623
retardation or other developmental disability in acquiring and 23624
maintaining those life skills that enable the individual to cope 23625
more effectively with the demands of the individual's own person 23626
and environment, and in raising the level of the individual's 23627
personal, physical, mental, social, and vocational efficiency. 23628
Habilitation includes, but is not limited to, programs of formal, 23629
structured education and training. 23630

(J) "Home and community-based services" means medicaid-funded 23631
home and community-based services specified in division (B)(1) of 23632
section 5111.87 of the Revised Code and provided under the 23633
medicaid waiver components the department of ~~mental retardation~~ 23634
~~and~~ developmental disabilities administers pursuant to section 23635
5111.871 of the Revised Code. 23636

(K) "Immediate family" means parents, grandparents, brothers, 23637
sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, 23638
fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and 23639
daughters-in-law. 23640

(L) "Medicaid" has the same meaning as in section 5111.01 of 23641
the Revised Code. 23642

(M) "Medicaid case management services" means case management 23643
services provided to an individual with mental retardation or 23644
other developmental disability that the state medicaid plan 23645
requires. 23646

(N) "Mental retardation" means a mental impairment manifested 23647
during the developmental period characterized by significantly 23648
subaverage general intellectual functioning existing concurrently 23649

with deficiencies in the effectiveness or degree with which an 23650
individual meets the standards of personal independence and social 23651
responsibility expected of the individual's age and cultural 23652
group. 23653

(O) "Residential services" means services to individuals with 23654
mental retardation or other developmental disabilities to provide 23655
housing, food, clothing, habilitation, staff support, and related 23656
support services necessary for the health, safety, and welfare of 23657
the individuals and the advancement of their quality of life. 23658
"Residential services" includes program management, as described 23659
in section 5126.14 of the Revised Code. 23660

(P) "Resources" means available capital and other assets, 23661
including moneys received from the federal, state, and local 23662
governments, private grants, and donations; appropriately 23663
qualified personnel; and appropriate capital facilities and 23664
equipment. 23665

(Q) "Senior probate judge" means the current probate judge of 23666
a county who has served as probate judge of that county longer 23667
than any of the other current probate judges of that county. If a 23668
county has only one probate judge, "senior probate judge" means 23669
that probate judge. 23670

(R) "Service and support administration" means the duties 23671
performed by a service and support administrator pursuant to 23672
section 5126.15 of the Revised Code. 23673

(S)(1) "Specialized medical, adaptive, and assistive 23674
equipment, supplies, and supports" means equipment, supplies, and 23675
supports that enable an individual to increase the ability to 23676
perform activities of daily living or to perceive, control, or 23677
communicate within the environment. 23678

(2) "Specialized medical, adaptive, and assistive equipment, 23679
supplies, and supports" includes the following: 23680

(a) Eating utensils, adaptive feeding dishes, plate guards, 23681
mylatex straps, hand splints, reaches, feeder seats, adjustable 23682
pointer sticks, interpreter services, telecommunication devices 23683
for the deaf, computerized communications boards, other 23684
communication devices, support animals, veterinary care for 23685
support animals, adaptive beds, supine boards, prone boards, 23686
wedges, sand bags, sidelayers, bolsters, adaptive electrical 23687
switches, hand-held shower heads, air conditioners, humidifiers, 23688
emergency response systems, folding shopping carts, vehicle lifts, 23689
vehicle hand controls, other adaptations of vehicles for 23690
accessibility, and repair of the equipment received. 23691

(b) Nondisposable items not covered by medicaid that are 23692
intended to assist an individual in activities of daily living or 23693
instrumental activities of daily living. 23694

(T) "Supportive home services" means a range of services to 23695
families of individuals with mental retardation or other 23696
developmental disabilities to develop and maintain increased 23697
acceptance and understanding of such persons, increased ability of 23698
family members to teach the person, better coordination between 23699
school and home, skills in performing specific therapeutic and 23700
management techniques, and ability to cope with specific 23701
situations. 23702

(U)(1) "Supported living" means services provided for as long 23703
as twenty-four hours a day to an individual with mental 23704
retardation or other developmental disability through any public 23705
or private resources, including moneys from the individual, that 23706
enhance the individual's reputation in community life and advance 23707
the individual's quality of life by doing the following: 23708

(a) Providing the support necessary to enable an individual 23709
to live in a residence of the individual's choice, with any number 23710
of individuals who are not disabled, or with not more than three 23711
individuals with mental retardation and developmental disabilities 23712

unless the individuals are related by blood or marriage;	23713
(b) Encouraging the individual's participation in the community;	23714 23715
(c) Promoting the individual's rights and autonomy;	23716
(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.	23717 23718 23719
(2) "Supported living" includes the provision of all of the following:	23720 23721
(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;	23722 23723 23724 23725
(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;	23726 23727 23728 23729 23730
(c) Personal care services and homemaker services;	23731
(d) Household maintenance that does not include modifications to the physical structure of the residence;	23732 23733
(e) Respite care services;	23734
(f) Program management, as described in section 5126.14 of the Revised Code.	23735 23736
<u>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.</u>	23737 23738 23739 23740 23741

Sec. 5126.02. (A) Each county shall ~~either~~ have its own 23742
county board of ~~mental retardation and~~ developmental disabilities 23743
~~or, pursuant to section 5126.021 or 5126.022 of the Revised Code,~~ 23744
~~be a member of a multicounty board of mental retardation and~~ 23745
~~developmental disabilities.~~ Subject to division (B) of this 23746
section: 23747

(1) A county board shall be operated as a separate 23748
administrative and service entity. 23749

(2) The functions of a county board shall not be combined 23750
with the functions of any other entity of county government. 23751

(B) Division (A) of this section does not prohibit or 23752
restrict any county board from sharing administrative functions or 23753
personnel with one or more other county boards, including entering 23754
into an arrangement authorized by division (B) of section 23755
~~5126.0226~~ 5126.0219 of the Revised Code. 23756

Sec. ~~5126.028~~ 5126.021. Each county board of ~~mental~~ 23757
~~retardation and~~ developmental disabilities shall consist of seven 23758
members. ~~In the case of a single county board, the~~ The board of 23759
county commissioners of the county shall appoint five members and 23760
the senior probate judge of the county shall appoint two members. 23761
~~In the case of a multicounty board, the membership shall be~~ 23762
~~appointed as follows:~~ 23763

~~(A) If there are five member counties, the board of county~~ 23764
~~commissioners of each of the member counties shall each appoint~~ 23765
~~one member and the senior probate judges of the member counties~~ 23766
~~with the largest and second largest population shall each appoint~~ 23767
~~one member.~~ 23768

~~(B) If there are four member counties, the board of county~~ 23769
~~commissioners of the member county with the largest population~~ 23770
~~shall appoint two members, the other three boards of county~~ 23771

~~commissioners shall each appoint one member, and the senior 23772~~
~~probate judges of the member counties with the largest and second 23773~~
~~largest population shall each appoint one member. 23774~~

~~(C) If there are three member counties, the boards of county 23775~~
~~commissioners of the member counties with the largest and second 23776~~
~~largest populations shall each appoint two members, the other 23777~~
~~board of county commissioners shall appoint one member, and the 23778~~
~~senior probate judges of the member counties with the largest and 23779~~
~~second largest population shall each appoint one member. 23780~~

~~(D) If there are two member counties, the board of county 23781~~
~~commissioners of the member county with the largest population 23782~~
~~shall appoint three members, the board of county commissioners of 23783~~
~~the other county shall appoint two members, and the senior probate 23784~~
~~judge of each county shall each appoint one member. 23785~~

Sec. 5126.029 5126.022. ~~(A)~~ When making appointments to a 23786
county board of ~~mental retardation and~~ developmental disabilities, 23787
an appointing authority shall do all of the following: 23788
23789

~~(1)~~(A) Appoint only individuals who are residents of the 23790
county the appointing authority serves, citizens of the United 23791
States, and interested and knowledgeable in the field of mental 23792
retardation and other allied fields; 23793

~~(2)~~(B) If the appointing authority is a board of county 23794
commissioners, appoint, ~~subject to division (B) of this section,~~ 23795
at least two individuals who are immediate family members of 23796
individuals eligible for services provided by the county board 23797
and, whenever possible, ensure that one of those two members is an 23798
immediate family member of an individual eligible for adult 23799
services and the other is an immediate family member of an 23800
individual eligible for early intervention services or services 23801
for preschool or school-age children; 23802

~~(3)(C)~~ If the appointing authority is a senior probate judge, 23804
appoint, ~~subject to division (B) of this section~~, at least one 23805
individual who is an immediate family member of an individual 23806
eligible for residential services or supported living;

~~(4)(D)~~ Appoint, to the maximum extent possible, individuals 23807
who have professional training and experience in business 23808
management, finance, law, health care practice, personnel 23809
administration, or government service; 23810

~~(5)(E)~~ Provide for the county board's membership to reflect, 23811
as nearly as possible, the composition of the county ~~or counties~~ 23812
that the county board serves. 23813

~~(B) The appointing authorities of a multicounty board shall 23814
coordinate their appointments to the extent necessary to satisfy 23815
the requirements of this section. The coordination may provide for 23816
one of the boards of county commissioners making one of the two 23817
appointments required by division (A)(2) of this section and 23818
another board of county commissioners making the other appointment 23819
required by that division. The coordination shall ensure that at 23820
least one of the senior probate judges satisfies the requirement 23821
of division (A)(3) of this section. 23822~~

Sec. ~~5126.0210~~ 5126.023. (A) None of the following 23823
individuals may serve as a member of a county board of ~~mental~~ 23824
~~retardation and~~ developmental disabilities: 23825

(1) An elected public official, except for a township 23826
trustee, township fiscal officer, or individual excluded from the 23827
definition of public official or employee in division (B) of 23828
section 102.01 of the Revised Code; 23829

(2) An immediate family member of another county board 23830
member; 23831

(3) A county board employee or immediate family member of a 23832

county board employee; 23833

(4) A former employee of the county board whose employment 23834
with the county board ceased less than one calendar year before 23835
the former employee would begin to serve as a member of the county 23836
board; 23837

(5) An individual who or whose immediate family member is a 23838
board member or an employee of an agency licensed or certified by 23839
the department of ~~mental retardation and~~ developmental 23840
disabilities to provide services to individuals with mental 23841
retardation or developmental disabilities; 23842

(6) An individual who or whose immediate family member is a 23843
board member or employee of an agency contracting with the county 23844
board that is not licensed or certified by the department of 23845
~~mental retardation and~~ developmental disabilities to provide 23846
services to individuals with mental retardation or developmental 23847
disabilities unless there is no conflict of interest; 23848

(7) An individual with an immediate family member who serves 23849
as a county commissioner of a county served by the county board 23850
unless the individual was a member of the county board before 23851
October 31, 1980. 23852

(B) All questions relating to the existence of a conflict of 23853
interest for the purpose of division (A)(6) of this section shall 23854
be submitted to the local prosecuting attorney for resolution. The 23855
Ohio ethics commission may examine any issues arising under 23856
Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the 23857
Revised Code. 23858

Sec. ~~5126.0211~~ 5126.024. (A) No individual may be appointed 23859
or reappointed to a county board of ~~mental retardation and~~ 23860
developmental disabilities unless the individual, before the 23861
appointment or reappointment, provides to the appointing authority 23862

a written declaration specifying both of the following: 23863

(1) That no circumstance described in section ~~5126.0210~~ 23864
5126.023 of the Revised Code exists that bars the individual from 23865
serving on the county board; 23866

(2) Whether the individual or an immediate family member of 23867
the individual has an ownership interest in or is under contract 23868
with an agency contracting with the county board, and, if such an 23869
ownership interest or contract exists, the identity of the agency 23870
and the nature of the relationship to that agency. 23871

(B) On appointment or reappointment of an individual to the 23872
county board, the appointing authority shall provide a copy of the 23873
individual's declaration to the superintendent of the county 23874
board. The declaration is a public record for the purpose of 23875
section 149.43 of the Revised Code. 23876

Sec. ~~5126.0212~~ 5126.025. Except for members appointed under 23877
section ~~5126.0214~~ 5126.027 of the Revised Code to fill a vacancy, 23878
members of a county board of ~~mental retardation and~~ developmental 23879
disabilities shall be appointed or reappointed not later than the 23880
last day of November, commence their terms on the date of the 23881
stated annual organizational meeting in the following January as 23882
provided under section ~~5126.0216~~ 5126.029 of the Revised Code, and 23883
serve terms of four years. The membership of an individual 23884
appointed as an immediate family member of a recipient of services 23885
shall not be terminated because the services are no longer 23886
received. 23887

Sec. ~~5126.0213~~ 5126.026. Except as otherwise provided in this 23888
section and section ~~5126.0225~~ 5126.0218 of the Revised Code, a 23889
member of a county board of ~~mental retardation and~~ developmental 23890
disabilities may be reappointed to the county board. Prior to 23891
making a reappointment, the appointing authority shall ascertain, 23892

through written communication with the board, that the member 23893
being considered for reappointment meets the requirements of 23894
sections ~~5126.029~~ 5126.022 and ~~5126.0225~~ 5126.0218 of the Revised 23895
Code. 23896

A member who has served during each of three consecutive 23897
terms shall not be reappointed for a subsequent term until two 23898
years after ceasing to be a member of the county board, except 23899
that a member who has served for ten years or less within three 23900
consecutive terms may be reappointed for a subsequent term before 23901
becoming ineligible for reappointment for two years. 23902

Sec. ~~5126.0214~~ 5126.027. Within sixty days after a vacancy on 23903
a county board of ~~mental retardation and~~ developmental 23904
disabilities occurs, including a vacancy created under section 23905
~~5126.0220~~ 5126.0213 of the Revised Code, the appointing authority 23906
shall fill the vacancy for the unexpired term. Before filling a 23907
vacancy, the appointing authority shall cause a notice of the 23908
vacancy to be published on at least two separate dates in one or 23909
more newspapers serving the county or counties the county board 23910
serves. 23911

A member appointed to fill a vacancy occurring before the 23912
expiration of the term for which the member's predecessor was 23913
appointed shall hold office for the remainder of that term. 23914

Sec. ~~5126.0215~~ 5126.028. Members of a county board of ~~mental~~ 23915
~~retardation and~~ developmental disabilities shall serve without 23916
compensation, but shall be reimbursed for necessary expenses 23917
incurred in the conduct of county board business, including 23918
expenses that are incurred in the member's county of residence in 23919
accordance with an established policy of the county board. 23920

Sec. ~~5126.0216~~ 5126.029. Each county board of ~~mental~~ 23921
~~retardation and~~ developmental disabilities shall hold an 23922

organizational meeting no later than the thirty-first day of 23923
January of each year and shall elect its officers, which shall 23924
include a president, vice-president, and recording secretary. 23925
After its annual organizational meeting, the board shall meet in 23926
such manner and at such times as prescribed by rules adopted by 23927
the board, but the board shall meet at least ten times annually in 23928
regularly scheduled sessions in accordance with section 121.22 of 23929
the Revised Code, not including in-service training sessions. A 23930
majority of the board constitutes a quorum. The board shall adopt 23931
rules for the conduct of its business and a record shall be kept 23932
of board proceedings, which shall be open for public inspection. 23933

Sec. ~~5126.0217~~ 5126.0210. Each year, each member of a county 23934
board of ~~mental retardation and~~ developmental disabilities shall 23935
attend at least four hours of in-service training provided or 23936
approved by the department of ~~mental retardation and~~ developmental 23937
disabilities. This training shall not be considered regularly 23938
scheduled meetings of the county board. 23939

Sec. ~~5126.0218~~ 5126.0211. A member of a county board of 23940
~~mental retardation and~~ developmental disabilities shall be 23941
considered present at an in-service training session even though 23942
the member is not physically present in the room in which the 23943
session is held if the member is connected to the session through 23944
a system that enables the member to communicate with the 23945
individuals participating in the session and such individuals to 23946
communicate with the member. 23947

Sec. ~~5126.0219~~ 5126.0212. In no circumstance shall a member 23948
of a county board of ~~mental retardation and~~ developmental 23949
disabilities participate in or vote on any matter before the 23950
county board concerning a contract agency of which the member or 23951
an immediate family member of the member is also a board member or 23952

an employee. 23953

Sec. ~~5126.0220~~ 5126.0213. (A) Subject to sections ~~5126.0221~~ 23954
~~5126.0214~~ and ~~5126.0223~~ 5126.0216 of the Revised Code, an 23955
appointing authority shall remove a member of a county board of 23956
~~mental retardation and~~ developmental disabilities for any of the 23957
following reasons: 23958

(1) Neglect of duty; 23959

(2) Misconduct; 23960

(3) Malfeasance; 23961

(4) Ineligibility to serve on the county board pursuant to 23962
section ~~5126.0210~~ 5126.023 of the Revised Code; 23963

(5) Failure to attend at least four hours of in-service 23964
training session each year; 23965

(6) Failure to attend within one year four regularly 23966
scheduled board meetings; 23967

(7) Failure to attend within one year two regularly scheduled 23968
board meetings if the member gave no prior notice of the member's 23969
absence; 23970

(8) Consistently poor performance on the county board, as 23971
demonstrated by documentation that the president of the county 23972
board provides to the appointing authority and the appointing 23973
authority determines is convincing evidence. 23974

(B) The removal provisions of divisions (A)(6) and (7) of 23975
this section do not apply to absences from special meetings or 23976
work sessions. 23977

Sec. ~~5126.0221~~ 5126.0214. An appointing authority shall not 23978
remove a member of a county board of ~~mental retardation and~~ 23979
developmental disabilities from the county board by reason of 23980

division (A)(5), (6), or (7) of section ~~5126.0220~~ 5126.0213 of the 23981
Revised Code if the director of ~~mental retardation and~~ 23982
developmental disabilities waives the requirement that the member 23983
be removed. The director may issue the waiver only if the 23984
appointing authority requests that the director issue the waiver 23985
and provides the director evidence that is satisfactory to the 23986
director that the member's absences from the in-service training 23987
sessions or regularly scheduled board meetings are due to a 23988
serious health problem of the member or a member of the member's 23989
immediate family. The director's decision on whether to issue the 23990
waiver is final and not subject to appeal. 23991

The county board on which the member serves may pass a 23992
resolution urging the appointing authority to request that the 23993
director issue the waiver. The member whose absences from the 23994
sessions or meetings are at issue may not vote on the resolution. 23995
The appointing authority may request the waiver regardless of 23996
whether the county board adopts the resolution. 23997

Sec. ~~5126.0222~~ 5126.0215. If there are grounds for the 23998
mandatory removal of a member of a county board of ~~mental~~ 23999
~~retardation and~~ developmental disabilities under section ~~5126.0220~~ 24000
5126.0213 of the Revised Code, the county board shall supply the 24001
board member and the member's appointing authority with written 24002
notice of the grounds. 24003

Sec. ~~5126.0223~~ 5126.0216. An appointing authority shall 24004
afford a member of a county board of ~~mental retardation and~~ 24005
developmental disabilities an opportunity for a hearing on the 24006
member's proposed removal in accordance with procedures the 24007
appointing authority shall establish, unless the appointing 24008
authority requested that the director of ~~mental retardation and~~ 24009
developmental disabilities waive the mandatory removal under 24010

section ~~5126.0221~~ 5126.0214 of the Revised Code and the director 24011
refused to issue the waiver. The appointing authority shall hold 24012
the hearing if the member requests the hearing not later than 24013
thirty days after the date that the county board sends the member 24014
the notice required by section ~~5126.0222~~ 5126.0215 of the Revised 24015
Code. 24016

Sec. ~~5126.0224~~ 5126.0217. If a member of a county board of 24017
~~mental retardation and~~ developmental disabilities requests a 24018
hearing within the time required by section ~~5126.0223~~ 5126.0216 of 24019
the Revised Code, the appointing authority may not remove the 24020
member from the board before the conclusion of the hearing. 24021

Sec. ~~5126.0225~~ 5126.0218. A member of a county board of 24022
~~mental retardation and~~ developmental disabilities who is removed 24023
from the county board is ineligible for reappointment to the board 24024
for not less than one year. The appointing authority shall specify 24025
the time during which the member is ineligible for reappointment. 24026
If the member is removed under division (A)(5) of section 24027
~~5126.0220~~ 5126.0213 of the Revised Code, the county board shall 24028
specify the training the member must complete before being 24029
eligible for reappointment. 24030

Sec. ~~5126.0226~~ 5126.0219. (A) Each county board of ~~mental~~ 24031
~~retardation and~~ developmental disabilities shall either employ a 24032
superintendent or obtain the services of the superintendent of 24033
another county board of ~~mental retardation and~~ developmental 24034
disabilities. The board shall provide for a superintendent who is 24035
qualified, as specified in rules adopted by the department of 24036
~~mental retardation and~~ developmental disabilities in accordance 24037
with Chapter 119. of the Revised Code. The superintendent shall 24038
have no voting privileges on the board. 24039

The board shall prescribe the duties of its superintendent 24040
and review the superintendent's performance. The superintendent 24041
may be removed, suspended, or demoted for cause pursuant to 24042
section 5126.23 of the Revised Code. The board shall fix the 24043
superintendent's compensation and reimburse the superintendent for 24044
actual and necessary expenses. 24045

Each county board that employs its own superintendent shall 24046
employ the superintendent under a contract. To enter into a 24047
contract, the board shall adopt a resolution agreeing to the 24048
contract. Each contract for employment or re-employment of a 24049
superintendent shall be for a term of not less than one and not 24050
more than five years. At the expiration of a superintendent's 24051
current term of employment, the superintendent may be re-employed. 24052
If the board intends not to re-employ the superintendent, the 24053
board shall give the superintendent written notification of its 24054
intention. The notice shall be given not less than ninety days 24055
prior to the expiration of the superintendent's contract. 24056

(B) Two or more county boards may enter into an arrangement 24057
under which the superintendent of one county board acts as the 24058
superintendent of another county board. To enter into such an 24059
arrangement, each board shall adopt a resolution agreeing to the 24060
arrangement. The resolutions shall specify the duration of the 24061
arrangement and the contribution each board is to make to the 24062
superintendent's compensation and reimbursement for expenses. 24063

(C) If a vacancy occurs in the position of superintendent, a 24064
county board may appoint a person who holds a valid 24065
superintendent's certificate issued under the rules of the 24066
department to work under a contract for an interim period not to 24067
exceed one hundred eighty days until a permanent superintendent 24068
can be employed or arranged for under division (A) or (B) of this 24069
section. The director of the department may approve additional 24070
periods of time for these types of interim appointments when so 24071

requested by a resolution adopted by a county board, if the 24072
director determines that the additional periods are warranted and 24073
the services of a permanent superintendent are not available. 24074

Sec. ~~5126.0227~~ 5126.0220. The superintendent of the county 24075
board of ~~mental retardation and~~ developmental disabilities shall: 24076

(A) Administer the work of the board, subject to the board's 24077
rules; 24078

(B) Recommend to the board the changes necessary to increase 24079
the effectiveness of the programs and services offered pursuant to 24080
Chapters 3323. and 5126. of the Revised Code; 24081

(C) Employ persons for all positions authorized by the board, 24082
approve contracts of employment for management employees that are 24083
for a term of one year or less, and approve personnel actions that 24084
involve employees in the classified civil service as may be 24085
necessary for the work of the board; 24086

(D) Approve compensation for employees within the limits set 24087
by the salary schedule and budget set by the board and in 24088
accordance with section 5126.26 of the Revised Code, and ensure 24089
that all employees and consultants are properly reimbursed for 24090
actual and necessary expenses incurred in the performance of 24091
official duties; 24092

(E) Provide consultation to public agencies as defined in 24093
division (C) of section 102.01 of the Revised Code, including 24094
other county boards of ~~mental retardation and~~ developmental 24095
disabilities, and to individuals, agencies, or organizations 24096
providing services supported by the board. 24097

The superintendent may authorize the payment of board 24098
obligations by the county auditor. 24099

Sec. ~~5126.0228~~ 5126.0221. (A) As used in this section, 24100

"specialized services" has the same meaning as in section 5126.281 24101
of the Revised Code. 24102

(B) Except as provided in division (C) of section 5126.033 of 24103
the Revised Code, none of the following individuals may be 24104
employed by a county board of ~~mental retardation and~~ developmental 24105
disabilities: 24106

(1) An employee of an agency contracting with the county 24107
board; 24108

(2) An immediate family member of an employee of an agency 24109
contracting with the county board unless the county board adopts a 24110
resolution authorizing the immediate family member's employment 24111
with the county board or the employment is consistent with a 24112
policy adopted by the board establishing parameters for such 24113
employment and the policy is consistent with Chapter 102. and 24114
sections 2921.42, 2921.421, and 2921.43 of the Revised Code; 24115

(3) An individual with an immediate family member who serves 24116
as a county commissioner of any of the counties served by the 24117
county board unless the individual was an employee of the county 24118
board before October 31, 1980; 24119

(4) An individual who is employed by, has an ownership 24120
interest in, performs or provides administrative duties for, or is 24121
a member of the governing board of an entity that provides 24122
specialized services, regardless of whether the entity contracts 24123
with the county board to provide specialized services. 24124

Sec. ~~5126.0229~~ 5126.0222. As used in this section, 24125
"specialized services" has the same meaning as in section 5126.281 24126
of the Revised Code. 24127

Notwithstanding any provision of the Revised Code to the 24128
contrary, including applicable provisions of sections 102.03, 24129
102.04, 2921.42, and 2921.43 of the Revised Code, an employee of a 24130

county board of ~~mental retardation and~~ developmental disabilities 24131
also may be a member of the governing board of a political 24132
subdivision, including the board of education of a school 24133
district, or an agency that does not provide specialized services. 24134
The county board may contract with such a governing board even 24135
though the governing board includes an individual who is an 24136
employee of the county board. That member of the governing board 24137
may not vote on any matter before the governing board concerning a 24138
contract with the county board or participate in any discussion or 24139
debate regarding such a contract. 24140

Sec. 5126.03. As used in this section and in sections 24141
5126.031 to 5126.034 of the Revised Code: 24142

(A) "Direct services contract" means any legally enforceable 24143
agreement with an individual, agency, or other entity that, 24144
pursuant to its terms or operation, may result in a payment from a 24145
county board of ~~mental retardation and~~ developmental disabilities 24146
to an eligible person or to a member of the immediate family of an 24147
eligible person for services rendered to the eligible person. 24148
"Direct services contract" includes a contract for supported 24149
living pursuant to sections 5126.40 to 5126.47 of the Revised 24150
Code, family support services under section 5126.11 of the Revised 24151
Code, and reimbursement for transportation expenses. 24152

(B) "Eligible person" means a person eligible to receive 24153
services from a county board or from an entity under contract with 24154
a county board. 24155

(C) "Former board member" means a person whose service on the 24156
county board ended less than one year prior to commencement of 24157
services under a direct services contract. 24158

(D) "Former employee" means a person whose employment by the 24159
county board ended less than one year prior to commencement of 24160
services under a direct services contract. 24161

Sec. 5126.031. (A) Except as provided in division (B) of this 24162
section, annually at the organizational meeting required by 24163
section ~~5126.0216~~ 5126.029 of the Revised Code, the chairperson of 24164
the county board of ~~mental retardation and~~ developmental 24165
disabilities shall appoint three members of the board to an ethics 24166
council to review all direct services contracts. The board's 24167
chairperson may be one of those appointed. The superintendent of 24168
the board shall be a nonvoting member of the council. The 24169
chairperson shall not appoint a person to the council if the 24170
person, or any member of the person's immediate family, will have 24171
any interest in any direct services contract under review by the 24172
council while the person serves on the council or during the 24173
twelve-month period after completing service on the council. If a 24174
council member or a member of the council member's immediate 24175
family has or will have such an interest, the chairperson shall 24176
replace the member by appointing another board member to the 24177
council. 24178

The council shall meet regularly as directed by the board to 24179
perform its duties. Minutes shall be kept of the actions of the 24180
council. The minutes shall be part of the public record of the 24181
county board. 24182

Any action taken by the council on direct services contracts 24183
under its review shall be in public. The council shall afford an 24184
affected party the opportunity to meet with the council on matters 24185
related to a direct services contract or any action taken by the 24186
council. 24187

(B) If a county board establishes a policy specifying that 24188
the board is not willing to enter into direct services contracts 24189
with any person who is a board member or former board member or a 24190
member of the immediate family of a board member or former board 24191
member, the board may assume the responsibilities and perform the 24192

duties of an ethics council specified in section 5126.032 of the Revised Code. The policy shall be established by resolution adopted by a majority of the members of the board in attendance at a meeting at which there is a quorum and shall be in effect for one year after its adoption, at which time the board shall, by resolution adopted in the same manner as the initial resolution, either renew the policy or establish a new one.

Sec. 5126.032. (A) The ethics council appointed for a county board of ~~mental retardation and~~ developmental disabilities shall review all direct services contracts, and approve or disapprove each contract in accordance with the standards in section 5126.033 of the Revised Code. The council shall develop, in consultation with the prosecuting attorney, and recommend to the board ethical standards, contract audit procedures, and grievance procedures with respect to the award and reconciliation of direct services contracts. The superintendent, or an employee of the county board designated by the superintendent, shall, in accordance with a policy established by the county board, certify to the council a copy of each proposed direct services contract or contract renewal at a reasonable time before the contract would take effect if entered into or renewed, if, at the time the contract or renewal is proposed, resources approved by the board for such purposes are available.

The council shall promptly review each direct services contract certified to it. If the contract does not meet the conditions specified in section 5126.033 of the Revised Code, the council shall recommend that the board not enter into the contract or suggest specified revisions. The superintendent shall provide all the information the council needs to make its determinations.

The council shall certify to the board its recommendation with regard to each contract. Except as provided in division (B)

of this section, the board, by resolution, shall enter into each 24224
direct services contract that the council recommends or recommends 24225
with specified revisions. The board shall not enter into any 24226
contract that is not recommended by the council or enter into any 24227
contract to which revisions are suggested if the contract does not 24228
include the specified revisions. 24229

(B) The prosecuting attorney, at the request of the board, 24230
shall prepare a legal review of any direct services contract that 24231
has been recommended, or recommended with revisions, by the 24232
council. The board shall enter into only those contracts submitted 24233
for review that are determined by the prosecuting attorney to be 24234
in compliance with state law. 24235

Sec. 5126.033. (A) A county board of ~~mental retardation and~~ 24236
developmental disabilities shall not enter into a direct services 24237
contract unless the contract is limited either to the actual 24238
amount of the expenses or to a reasonable and allowable amount 24239
projected by the board. 24240

(B) A county board shall not enter into a direct services 24241
contract that would result in payment to a board member, former 24242
board member, employee, former employee, or member of the 24243
immediate family of a board member, former board member, employee, 24244
or former employee if the person who would receive services under 24245
the contract stands to receive any preferential treatment or any 24246
unfair advantage over other eligible persons. 24247

(C) A county board shall not enter into a direct services 24248
contract for services provided in accordance with section 5126.11 24249
or sections 5126.40 to 5126.46 of the Revised Code under which an 24250
individual, agency, or other entity will employ an individual who 24251
is also an employee of that county board unless all of the 24252
following conditions are met: 24253

(1) The employee is not in a capacity to influence the award 24254

of the contract. 24255

(2) The employee has not attempted in any manner to secure 24256
the contract on behalf of the individual, agency, or other entity. 24257

(3) The employee is not employed in management level two or 24258
three according to rules adopted by the director of ~~mental~~ 24259
~~retardation and~~ developmental disabilities and does not provide 24260
service and support administration. 24261

(4) The employee is not employed by the board during the 24262
period when the contract is developed as an administrator or 24263
supervisor responsible for approving or supervising services to be 24264
provided under the contract and agrees not to take such a position 24265
while the contract is in effect, regardless of whether the 24266
position is related to the services provided under the contract. 24267

(5) The employee has not taken any actions that create the 24268
need for the services to be provided under the contract. 24269

(6) The individual, agency, or other entity seeks the 24270
services of the employee because of the employee's expertise and 24271
familiarity with the care and condition of one or more eligible 24272
persons and other individuals with such expertise and familiarity 24273
are unavailable, or an eligible person has requested to have the 24274
services provided by that employee. 24275

The superintendent of the county board shall notify the 24276
employee and the individual, agency, or other entity that seeks 24277
the employee's services of the ethics council's determination 24278
under section 5126.032 of the Revised Code regarding the contract. 24279
The council's determination shall be binding on all parties. 24280

The employee who is the subject of the contract shall inform 24281
the superintendent of the county board of any employment the 24282
employee has outside the county board that is with any individual, 24283
agency, or other entity that has a contract with the county board. 24284

Sec. 5126.034. (A) If the requirements of section 5126.033 of 24285
the Revised Code have been met for a particular direct services 24286
contract, a member or former member of a county board of ~~mental~~ 24287
~~retardation and~~ developmental disabilities, an employee or former 24288
employee of a county board, or an immediate family member of a 24289
member, former member, employee, or former employee of a county 24290
board is not in violation of the restrictions in Chapter 102. and 24291
sections 2921.42 and ~~5126.0210~~ 5126.023 of the Revised Code with 24292
regard to that contract. 24293

(B) Nothing in section 5126.033 of the Revised Code shall be 24294
construed to allow a member or employee of a county board to 24295
authorize, or use the authority of the member's or employee's 24296
office or employment to secure authorization of, a contract that 24297
could result in receipt by the county board member or employee or 24298
a member of the immediate family of the county board member or 24299
employee of payment for expenses incurred on behalf of an 24300
immediate family member who is an eligible person. 24301

Sec. 5126.037. No county board of ~~mental-retardation and~~ 24302
developmental disabilities shall contract with a nongovernmental 24303
agency whose board includes a county commissioner of any of the 24304
counties served by the county board. 24305

Sec. 5126.038. (A) As used in this section, "professional 24306
services" means all of the following services provided on behalf 24307
of a county board of ~~mental-retardation and~~ developmental 24308
disabilities, members or employees of a county board, or both: 24309

(1) Lobbying and other governmental affairs services; 24310

(2) Legal services other than the legal services provided by 24311
a county prosecutor or provided for the purpose of collective 24312
bargaining; 24313

(3) Public relation services;	24314
(4) Consulting services;	24315
(5) Personnel training services, not including tuition or	24316
professional growth reimbursement programs for county board	24317
members or employees.	24318
(B) Each county board of mental retardation and developmental	24319
disabilities shall submit to the board of county commissioners of	24320
each county that is served by the county board, in accordance with	24321
the normal budget process and as part of its budget request, a	24322
list identifying the total expenditures projected for any of the	24323
following:	24324
(1) Any membership dues of the members or employees of the	24325
county board, in any organization, association, or other entity;	24326
(2) Any professional services of the county board, its	24327
members or employees, or both;	24328
(3) Any training of the members or employees of the county	24329
board.	24330
Sec. 5126.04. (A) Each county board of mental retardation and	24331
developmental disabilities shall plan and set priorities based on	24332
available resources for the provision of facilities, programs, and	24333
other services to meet the needs of county residents who are	24334
individuals with mental retardation and other developmental	24335
disabilities, former residents of the county residing in state	24336
institutions or placed under purchase of service agreements under	24337
section 5123.18 of the Revised Code, and children subject to a	24338
determination made pursuant to section 121.38 of the Revised Code.	24339
Each county board shall assess the facility and service needs	24340
of the individuals with mental retardation and other developmental	24341
disabilities who are residents of the county or former residents	24342
of the county residing in state institutions or placed under	24343

purchase of service agreements under section 5123.18 of the 24344
Revised Code. 24345

Each county board shall require individual habilitation or 24346
service plans for individuals with mental retardation and other 24347
developmental disabilities who are being served or who have been 24348
determined eligible for services and are awaiting the provision of 24349
services. Each board shall ensure that methods of having their 24350
service needs evaluated are available. 24351

(B)(1) If a foster child is in need of assessment for 24352
eligible services or is receiving services from a county board of 24353
~~mental retardation and~~ developmental disabilities and that child 24354
is placed in a different county, the agency that placed the child, 24355
immediately upon placement, shall inform the county board in the 24356
new county all of the following: 24357

(a) That a foster child has been placed in that county; 24358

(b) The name and other identifying information of the foster 24359
child; 24360

(c) The name of the foster child's previous county of 24361
residence; 24362

(d) That the foster child was in need of assessment for 24363
eligible services or was receiving services from the county board 24364
of ~~mental retardation and~~ developmental disabilities in the 24365
previous county. 24366

(2) Upon receiving the notice described in division (B)(1) of 24367
this section or otherwise learning that the child was in need of 24368
assessment for eligible services or was receiving services from a 24369
county board of ~~mental retardation and~~ developmental disabilities 24370
in the previous county, the county board in the new county shall 24371
communicate with the county board of the previous county to 24372
determine how services for the foster child shall be provided in 24373
accordance with each board's plan and priorities as described in 24374

division (A) of this section. 24375

If the two county boards are unable to reach an agreement 24376
within ten days of the child's placement, the county board in the 24377
new county shall send notice to the Ohio department of ~~mental~~ 24378
~~retardation and~~ developmental disabilities of the failure to 24379
agree. The department shall decide how services shall be provided 24380
for the foster child within ten days of receiving notice that the 24381
county boards could not reach an agreement. The department may 24382
decide that one, or both, of the county boards shall provide 24383
services. The services shall be provided in accordance with the 24384
board's plan and priorities as described in division (A) of this 24385
section. 24386

(C) The department of ~~mental retardation and~~ developmental 24387
disabilities may adopt rules in accordance with Chapter 119. of 24388
the Revised Code as necessary to implement this section. To the 24389
extent that rules adopted under this section apply to the 24390
identification and placement of children with disabilities under 24391
Chapter 3323. of the Revised Code, the rules shall be consistent 24392
with the standards and procedures established under sections 24393
3323.03 to 3323.05 of the Revised Code. 24394

(D) The responsibility or authority of a county board to 24395
provide services under this chapter does not affect the 24396
responsibility of any other entity of state or local government to 24397
provide services to individuals with mental retardation and 24398
developmental disabilities. 24399

(E) On or before the first day of February prior to a school 24400
year, a county board of ~~mental retardation and~~ developmental 24401
disabilities may elect not to participate during that school year 24402
in the provision of or contracting for educational services for 24403
children ages six through twenty-one years of age, provided that 24404
on or before that date the board gives notice of this election to 24405
the superintendent of public instruction, each school district in 24406

the county, and the educational service center serving the county. 24407
If a board makes this election, it shall not have any 24408
responsibility for or authority to provide educational services 24409
that school year for children ages six through twenty-one years of 24410
age. If a board does not make an election for a school year in 24411
accordance with this division, the board shall be deemed to have 24412
elected to participate during that school year in the provision of 24413
or contracting for educational services for children ages six 24414
through twenty-one years of age. 24415

(F) If a county board of ~~mental retardation and~~ developmental 24416
disabilities elects to provide educational services during a 24417
school year to individuals six through twenty-one years of age who 24418
have multiple disabilities, the board may provide these services 24419
to individuals who are appropriately identified and determined 24420
eligible pursuant to Chapter 3323. of the Revised Code, and in 24421
accordance with applicable rules of the state board of education. 24422
The county board may also provide related services to individuals 24423
six through twenty-one years of age who have one or more disabling 24424
conditions, in accordance with section 3317.20 and Chapter 3323. 24425
of the Revised Code and applicable rules of the state board of 24426
education. 24427

Sec. 5126.041. (A) As used in this section: 24428

(1) "Biological risk" and "environmental risk" have the 24429
meanings established pursuant to section 5123.011 of the Revised 24430
Code. 24431

(2) "Preschool child with a disability" has the same meaning 24432
as in section 3323.01 of the Revised Code. 24433

(3) "State institution" means all or part of an institution 24434
under the control of the department of ~~mental retardation and~~ 24435
developmental disabilities pursuant to section 5123.03 of the 24436
Revised Code and maintained for the care, treatment, and training 24437

of the mentally retarded. 24438

(B) Except as provided in division (C) of this section, each 24439
county board of ~~mental retardation and~~ developmental disabilities 24440
shall make eligibility determinations in accordance with the 24441
definition of "developmental disability" in section 5126.01 of the 24442
Revised Code. Pursuant to rules the department of ~~mental~~ 24443
~~retardation and~~ developmental disabilities shall adopt in 24444
accordance with Chapter 119. of the Revised Code, a county board 24445
may establish eligibility for programs and services for either of 24446
the following: 24447

(1) Individuals under age six who have a biological risk or 24448
environmental risk of a developmental delay; 24449

(2) Any preschool child with a disability eligible for 24450
services under section 3323.02 of the Revised Code whose 24451
disability is not attributable solely to mental illness as defined 24452
in section 5122.01 of the Revised Code. 24453

(C)(1) A county board shall make determinations of 24454
eligibility for service and support administration in accordance 24455
with rules adopted under section 5126.08 of the Revised Code. 24456

(2) All persons who were eligible for services and enrolled 24457
in programs offered by a county board of ~~mental retardation and~~ 24458
developmental disabilities pursuant to this chapter on July 1, 24459
1991, shall continue to be eligible for those services and to be 24460
enrolled in those programs as long as they are in need of 24461
services. 24462

(3) A person who resided in a state institution on or before 24463
October 29, 1993, is eligible for programs and services offered by 24464
a county board of ~~mental retardation and~~ developmental 24465
disabilities, unless the person is determined by the county board 24466
not to be in need of those programs and services. 24467

(D) A county board shall refer a person who requests but is 24468

not eligible for programs and services offered by the board to 24469
other entities of state and local government or appropriate 24470
private entities that provide services. 24471

(E) Membership of a person on, or employment of a person by, 24472
a county board of ~~mental retardation and~~ developmental 24473
disabilities does not affect the eligibility of any member of that 24474
person's family for services provided by the board or by any 24475
entity under contract with the board. 24476

Sec. 5126.042. (A) As used in this section: 24477

(1) "Emergency" means any situation that creates for an 24478
individual with mental retardation or developmental disabilities a 24479
risk of substantial self-harm or substantial harm to others if 24480
action is not taken within thirty days. An "emergency" may include 24481
one or more of the following situations: 24482

(a) Loss of present residence for any reason, including legal 24483
action; 24484

(b) Loss of present caretaker for any reason, including 24485
serious illness of the caretaker, change in the caretaker's 24486
status, or inability of the caretaker to perform effectively for 24487
the individual; 24488

(c) Abuse, neglect, or exploitation of the individual; 24489

(d) Health and safety conditions that pose a serious risk to 24490
the individual or others of immediate harm or death; 24491

(e) Change in the emotional or physical condition of the 24492
individual that necessitates substantial accommodation that cannot 24493
be reasonably provided by the individual's existing caretaker. 24494

(2) "Service substitution list" means a service substitution 24495
list established by a county board of ~~mental retardation and~~ 24496
developmental disabilities before ~~the effective date of this~~ 24497
~~amendment~~ September 1, 2008, pursuant to division (B) of this 24498

section as this section existed on the day immediately before ~~the~~ 24499
~~effective date of this amendment~~ September 1, 2008. 24500

(B) If a county board of ~~mental retardation and~~ developmental 24501
disabilities determines that available resources are not 24502
sufficient to meet the needs of all individuals who request 24503
programs and services and may be offered the programs and 24504
services, it shall establish waiting lists for services. The board 24505
may establish priorities for making placements on its waiting 24506
lists according to an individual's emergency status and shall 24507
establish priorities in accordance with divisions (D) and (E) of 24508
this section. 24509

The individuals who may be placed on a waiting list include 24510
individuals with a need for services on an emergency basis and 24511
individuals who have requested services for which resources are 24512
not available. 24513

An individual placed on a county board's service substitution 24514
list before ~~the effective date of this amendment~~ September 1, 24515
2008, for the purpose of obtaining home and community-based 24516
services shall be deemed to have been placed on the county board's 24517
waiting list for home and community-based services on the date the 24518
individual made a request to the county board that the individual 24519
receive home and community-based services instead of the services 24520
the individual received at the time the request for home and 24521
community-based services was made to the county board. 24522

(C) A county board shall establish a separate waiting list 24523
for each of the following categories of services, and may 24524
establish separate waiting lists within the waiting lists: 24525

(1) Early childhood services; 24526

(2) Educational programs for preschool and school age 24527
children; 24528

(3) Adult services; 24529

(4) Service and support administration;	24530
(5) Residential services and supported living;	24531
(6) Transportation services;	24532
(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;	24533 24534 24535
(8) Family support services provided under section 5126.11 of the Revised Code.	24536 24537
(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:	24538 24539 24540 24541 24542
(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:	24543 24544 24545
(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:	24546 24547 24548 24549 24550 24551
(i) Is twenty-two years of age or older;	24552
(ii) Receives supported living or family support services.	24553
(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:	24554 24555 24556 24557 24558
(i) Resides in the individual's own home or the home of the	24559

individual's family and will continue to reside in that home after 24560
enrollment in home and community-based services; 24561

(ii) Receives adult services from the county board. 24562

(2) As federal medicaid funds become available pursuant to 24563
division (D)(1) of this section, give an individual who is 24564
eligible for home and community-based services and meets any of 24565
the following requirements priority for such services over any 24566
other individual on a waiting list established under division (C) 24567
of this section: 24568

(a) Does not receive residential services or supported 24569
living, either needs services in the individual's current living 24570
arrangement or will need services in a new living arrangement, and 24571
has a primary caregiver who is sixty years of age or older; 24572

(b) Is less than twenty-two years of age and has at least one 24573
of the following service needs that are unusual in scope or 24574
intensity: 24575

(i) Severe behavior problems for which a behavior support 24576
plan is needed; 24577

(ii) An emotional disorder for which anti-psychotic 24578
medication is needed; 24579

(iii) A medical condition that leaves the individual 24580
dependent on life-support medical technology; 24581

(iv) A condition affecting multiple body systems for which a 24582
combination of specialized medical, psychological, educational, or 24583
habilitation services are needed; 24584

(v) A condition the county board determines to be comparable 24585
in severity to any condition described in divisions (D)(2)(b)(i) 24586
to (iv) of this section and places the individual at significant 24587
risk of institutionalization. 24588

(c) Is twenty-two years of age or older, does not receive 24589

residential services or supported living, and is determined by the 24590
county board to have intensive needs for home and community-based 24591
services on an in-home or out-of-home basis. 24592

(E) Except as provided in division (G) of this section and 24593
for a number of years and beginning on a date specified in rules 24594
adopted under division (K) of this section, a county board shall 24595
give an individual who is eligible for home and community-based 24596
services, resides in a nursing facility, and chooses to move to 24597
another setting with the help of home and community-based 24598
services, priority over any other individual on a waiting list 24599
established under division (C) of this section for home and 24600
community-based services who does not meet these criteria. 24601

(F) If two or more individuals on a waiting list established 24602
under division (C) of this section for home and community-based 24603
services have priority for the services pursuant to division 24604
(D)(1) or (2) or (E) of this section, a county board may use 24605
criteria specified in rules adopted under division (K)(2) of this 24606
section in determining the order in which the individuals with 24607
priority will be offered the services. Otherwise, the county board 24608
shall offer the home and community-based services to such 24609
individuals in the order they are placed on the waiting list. 24610

(G) No individual may receive priority for services pursuant 24611
to division (D) or (E) of this section over an individual placed 24612
on a waiting list established under division (C) of this section 24613
on an emergency status. 24614

(H) Prior to establishing any waiting list under this 24615
section, a county board shall develop and implement a policy for 24616
waiting lists that complies with this section and rules adopted 24617
under division (K) of this section. 24618

Prior to placing an individual on a waiting list, the county 24619
board shall assess the service needs of the individual in 24620

accordance with all applicable state and federal laws. The county
board shall place the individual on the appropriate waiting list
and may place the individual on more than one waiting list. The
county board shall notify the individual of the individual's
placement and position on each waiting list on which the
individual is placed.

At least annually, the county board shall reassess the
service needs of each individual on a waiting list. If it
determines that an individual no longer needs a program or
service, the county board shall remove the individual from the
waiting list. If it determines that an individual needs a program
or service other than the one for which the individual is on the
waiting list, the county board shall provide the program or
service to the individual or place the individual on a waiting
list for the program or service in accordance with the board's
policy for waiting lists.

When a program or service for which there is a waiting list
becomes available, the county board shall reassess the service
needs of the individual next scheduled on the waiting list to
receive that program or service. If the reassessment demonstrates
that the individual continues to need the program or service, the
board shall offer the program or service to the individual. If it
determines that an individual no longer needs a program or
service, the county board shall remove the individual from the
waiting list. If it determines that an individual needs a program
or service other than the one for which the individual is on the
waiting list, the county board shall provide the program or
service to the individual or place the individual on a waiting
list for the program or service in accordance with the board's
policy for waiting lists. The county board shall notify the
individual of the individual's placement and position on the
waiting list on which the individual is placed.

(I) A child subject to a determination made pursuant to 24653
section 121.38 of the Revised Code who requires the home and 24654
community-based services provided through a medicaid component 24655
that the department of ~~mental retardation and~~ developmental 24656
disabilities administers under section 5111.871 of the Revised 24657
Code shall receive services through that medicaid component. For 24658
all other services, a child subject to a determination made 24659
pursuant to section 121.38 of the Revised Code shall be treated as 24660
an emergency by the county boards and shall not be subject to a 24661
waiting list. 24662

(J) Not later than the fifteenth day of March of each 24663
even-numbered year, each county board shall prepare and submit to 24664
the director of ~~mental retardation and~~ developmental disabilities 24665
its recommendations for the funding of services for individuals 24666
with mental retardation and developmental disabilities and its 24667
proposals for reducing the waiting lists for services. 24668

(K)(1) The department of ~~mental retardation and~~ developmental 24669
disabilities shall adopt rules in accordance with Chapter 119. of 24670
the Revised Code governing waiting lists established under this 24671
section. The rules shall include procedures to be followed to 24672
ensure that the due process rights of individuals placed on 24673
waiting lists are not violated. 24674

(2) As part of the rules adopted under this division, the 24675
department shall adopt rules establishing criteria a county board 24676
may use under division (F) of this section in determining the 24677
order in which individuals with priority for home and 24678
community-based services will be offered the services. The rules 24679
shall also specify conditions under which a county board, when 24680
there is no individual with priority for home and community-based 24681
services pursuant to division (D)(1) or (2) or (E) of this section 24682
available and appropriate for the services, may offer the services 24683
to an individual on a waiting list for the services but not given 24684

such priority for the services. 24685

(3) As part of the rules adopted under this division, the 24686
department shall adopt rules specifying both of the following for 24687
the priority category established under division (E) of this 24688
section: 24689

(a) The number of years, which shall not exceed five, that 24690
the priority category will be in effect; 24691

(b) The date that the priority category is to go into effect. 24692

(L) The following shall take precedence over the applicable 24693
provisions of this section: 24694

(1) Medicaid rules and regulations; 24695

(2) Any specific requirements that may be contained within a 24696
medicaid state plan amendment or waiver program that a county 24697
board has authority to administer or with respect to which it has 24698
authority to provide services, programs, or supports. 24699

Sec. 5126.044. (A) As used in this section, "eligible person" 24700
has the same meaning as in section 5126.03 of the Revised Code. 24701
24702

(B) Except as provided in division (D) of this section, no 24703
person shall disclose the identity of an individual who requests 24704
programs or services under this chapter or release a record or 24705
report regarding an eligible person that is maintained by a county 24706
board of ~~mental retardation and~~ developmental disabilities or an 24707
entity under contract with a county board unless one of the 24708
following circumstances exists: 24709

(1) The individual, eligible person, or the individual's 24710
guardian, or, if the individual is a minor, the individual's 24711
parent or guardian, makes a written request to the county board or 24712
entity for or approves in writing disclosure of the individual's 24713
identity or release of the record or report regarding the eligible 24714

person. 24715

(2) Disclosure of the identity of an individual is needed for 24716
approval of a direct services contract under section 5126.032 or 24717
5126.033 of the Revised Code. The county board shall release only 24718
the individual's name and the general nature of the services to be 24719
provided. 24720

(3) Disclosure of the identity of the individual is needed to 24721
ascertain that the county board's waiting lists for programs or 24722
services are being maintained in accordance with section 5126.042 24723
of the Revised Code and the rules adopted under that section. The 24724
county board shall release only the individual's name, the general 24725
nature of the programs or services to be provided the individual, 24726
the individual's rank on each waiting list that includes the 24727
individual, and any circumstances under which the individual was 24728
given priority when placed on a waiting list. 24729

(C) A board or entity that discloses an individual's identity 24730
or releases a record or report regarding an eligible person shall 24731
maintain a record of when and to whom the disclosure or release 24732
was made. 24733

(D)(1) At the request of an eligible person or the person's 24734
guardian or, if the eligible person is a minor, the person's 24735
parent or guardian, a county board or entity under contract with a 24736
county board shall provide the person who made the request access 24737
to records and reports regarding the eligible person. On written 24738
request, the county board or entity shall provide copies of the 24739
records and reports to the eligible person, guardian, or parent. 24740
The county board or entity may charge a reasonable fee to cover 24741
the costs of copying. The county board or entity may waive the fee 24742
in cases of hardship. 24743

(2) A county board shall provide access to any waiting list 24744
or record or report regarding an eligible person maintained by the 24745

board to any state agency responsible for monitoring and reviewing 24746
programs and services provided or arranged by the county board, 24747
any state agency involved in the coordination of services for an 24748
eligible person, and any agency under contract with the department 24749
of ~~mental retardation and~~ developmental disabilities for the 24750
provision of protective service pursuant to section 5123.56 of the 24751
Revised Code. 24752

(3) When an eligible person who requests programs or services 24753
under this chapter dies, the county board or entity under contract 24754
with the county board, shall, on written request, provide to both 24755
of the following persons any reports and records in the board or 24756
entity's possession concerning the eligible person: 24757

(a) If the report or records are necessary to administer the 24758
estate of the person who is the subject of the reports or records, 24759
to the executor or administrator of the person's estate; 24760

(b) To the guardian of the person who is the subject of the 24761
reports or records or, if the individual had no guardian at the 24762
time of death, to a person in the first applicable of the 24763
following categories: 24764

(i) The person's spouse; 24765

(ii) The person's children; 24766

(iii) The person's parents; 24767

(iv) The person's brothers or sisters; 24768

(v) The person's uncles or aunts; 24769

(vi) The person's closest relative by blood or adoption; 24770

(vii) The person's closest relative by marriage. 24771

The county board or entity shall provide the reports and 24772
records as required by division (D)(3) of this section not later 24773
than thirty days after receipt of the request. 24774

(E) A county board shall notify an eligible person, the 24775
person's guardian, or, if the eligible person is a minor, the 24776
person's parent or guardian, prior to destroying any record or 24777
report regarding the eligible person. 24778

Sec. 5126.045. (A) As used in this section, "eligible person" 24779
means a person eligible to receive services from a county board of 24780
~~mental retardation and~~ developmental disabilities or from an 24781
entity under contract with a county board. 24782

(B) A county board shall establish fees for services rendered 24783
to eligible persons if such fees are required by federal 24784
regulation and by rule adopted by the director of ~~mental~~ 24785
~~retardation and~~ developmental disabilities. 24786

A county board may provide services to a person who does not 24787
meet the standards for eligibility. The board may establish fees 24788
for these services, which may be paid for by the person, by 24789
another person on the person's behalf of the ineligible person, or 24790
by another governmental entity. 24791

Sec. 5126.046. (A) Each county board of ~~mental retardation~~ 24792
~~and~~ developmental disabilities that has medicaid local 24793
administrative authority under division (A) of section 5126.055 of 24794
the Revised Code for habilitation, vocational, or community 24795
employment services provided as part of home and community-based 24796
services shall create a list of all persons and government 24797
entities eligible to provide such habilitation, vocational, or 24798
community employment services. If the county board chooses and is 24799
eligible to provide such habilitation, vocational, or community 24800
employment services, the county board shall include itself on the 24801
list. The county board shall make the list available to each 24802
individual with mental retardation or other developmental 24803
disability who resides in the county and is eligible for such 24804

habilitation, vocational, or community employment services. The 24805
county board shall also make the list available to such 24806
individuals' families. 24807

An individual with mental retardation or other developmental 24808
disability who is eligible for habilitation, vocational, or 24809
community employment services may choose the provider of the 24810
services. 24811

(B) Each month, the department of ~~mental retardation and~~ 24812
developmental disabilities shall create a list of all persons and 24813
government entities eligible to provide residential services and 24814
supported living. The department shall include on the list all 24815
residential facilities licensed under section 5123.19 of the 24816
Revised Code and all supported living providers certified under 24817
section 5123.161 of the Revised Code. The department shall 24818
distribute the monthly lists to county boards that have local 24819
administrative authority under division (A) of section 5126.055 of 24820
the Revised Code for residential services and supported living 24821
provided as part of home and community-based services. A county 24822
board that receives a list shall make it available to each 24823
individual with mental retardation or other developmental 24824
disability who resides in the county and is eligible for such 24825
residential services or supported living. The county board shall 24826
also make the list available to the families of those individuals. 24827
24828

An individual who is eligible for residential services or 24829
supported living may choose the provider of the residential 24830
services or supported living. 24831

(C) If a county board that has medicaid local administrative 24832
authority under division (A) of section 5126.055 of the Revised 24833
Code for home and community-based services violates the right 24834
established by this section of an individual to choose a provider 24835
that is qualified and willing to provide services to the 24836

individual, the individual shall receive timely notice that the 24837
individual may request a hearing under section 5101.35 of the 24838
Revised Code. 24839

(D) The departments of ~~mental retardation and~~ developmental 24840
disabilities and job and family services shall adopt rules in 24841
accordance with Chapter 119. of the Revised Code governing the 24842
implementation of this section. The rules shall include procedures 24843
for individuals to choose their service providers. The rules shall 24844
not be limited by a provider selection system established under 24845
section 5126.42 of the Revised Code, including any pool of 24846
providers created pursuant to a provider selection system. 24847

Sec. 5126.05. (A) Subject to the rules established by the 24848
director of ~~mental retardation and~~ developmental disabilities 24849
pursuant to Chapter 119. of the Revised Code for programs and 24850
services offered pursuant to this chapter, and subject to the 24851
rules established by the state board of education pursuant to 24852
Chapter 119. of the Revised Code for programs and services offered 24853
pursuant to Chapter 3323. of the Revised Code, the county board of 24854
~~mental retardation and~~ developmental disabilities shall: 24855

(1) Administer and operate facilities, programs, and services 24856
as provided by this chapter and Chapter 3323. of the Revised Code 24857
and establish policies for their administration and operation; 24858

(2) Coordinate, monitor, and evaluate existing services and 24859
facilities available to individuals with mental retardation and 24860
developmental disabilities; 24861

(3) Provide early childhood services, supportive home 24862
services, and adult services, according to the plan and priorities 24863
developed under section 5126.04 of the Revised Code; 24864

(4) Provide or contract for special education services 24865
pursuant to Chapters 3317. and 3323. of the Revised Code and 24866

ensure that related services, as defined in section 3323.01 of the Revised Code, are available according to the plan and priorities developed under section 5126.04 of the Revised Code;

(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;

(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;

(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;

(8) Provide service and support administration in accordance with section 5126.15 of the Revised Code;

(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.

(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.

(C) Any county board may enter into contracts with other such

boards and with public or private, nonprofit, or profit-making 24898
agencies or organizations of the same or another county, to 24899
provide the facilities, programs, and services authorized or 24900
required, upon such terms as may be agreeable, and in accordance 24901
with this chapter and Chapter 3323. of the Revised Code and rules 24902
adopted thereunder and in accordance with sections 307.86 and 24903
5126.071 of the Revised Code. 24904

(D) A county board may combine transportation for children 24905
and adults enrolled in programs and services offered under section 24906
5126.12 with transportation for children enrolled in classes 24907
funded under section 3317.20 or units approved under section 24908
3317.05 of the Revised Code. 24909

(E) A county board may purchase all necessary insurance 24910
policies, may purchase equipment and supplies through the 24911
department of administrative services or from other sources, and 24912
may enter into agreements with public agencies or nonprofit 24913
organizations for cooperative purchasing arrangements. 24914

(F) A county board may receive by gift, grant, devise, or 24915
bequest any moneys, lands, or property for the benefit of the 24916
purposes for which the board is established and hold, apply, and 24917
dispose of the moneys, lands, and property according to the terms 24918
of the gift, grant, devise, or bequest. All money received by 24919
gift, grant, bequest, or disposition of lands or property received 24920
by gift, grant, devise, or bequest shall be deposited in the 24921
county treasury to the credit of such board and shall be available 24922
for use by the board for purposes determined or stated by the 24923
donor or grantor, but may not be used for personal expenses of the 24924
board members. Any interest or earnings accruing from such gift, 24925
grant, devise, or bequest shall be treated in the same manner and 24926
subject to the same provisions as such gift, grant, devise, or 24927
bequest. 24928

(G) The board of county commissioners shall levy taxes and 24929

make appropriations sufficient to enable the county board of 24930
~~mental retardation and~~ developmental disabilities to perform its 24931
functions and duties, and may utilize any available local, state, 24932
and federal funds for such purpose. 24933

Sec. 5126.051. (A) To the extent that resources are 24934
available, a county board of ~~mental retardation and~~ developmental 24935
disabilities shall provide for or arrange residential services and 24936
supported living for individuals with mental retardation and 24937
developmental disabilities. 24938

A county board may acquire, convey, lease, or sell property 24939
for residential services and supported living and enter into loan 24940
agreements, including mortgages, for the acquisition of such 24941
property. A county board is not required to comply with provisions 24942
of Chapter 307. of the Revised Code providing for competitive 24943
bidding or sheriff sales in the acquisition, lease, conveyance, or 24944
sale of property under this division, but the acquisition, lease, 24945
conveyance, or sale must be at fair market value determined by 24946
appraisal of one or more disinterested persons appointed by the 24947
board. 24948

Any action taken by a county board under this division that 24949
will incur debt on the part of the county shall be taken in 24950
accordance with Chapter 133. of the Revised Code. A county board 24951
shall not incur any debt on the part of the county without the 24952
prior approval of the board of county commissioners. 24953

(B)(1) To the extent that resources are available, in 24954
addition to sheltered employment and work activities provided as 24955
adult services pursuant to division (A)(3) of section 5126.05 of 24956
the Revised Code, a county board of ~~mental retardation and~~ 24957
developmental disabilities may provide or arrange for job 24958
training, vocational evaluation, and community employment services 24959
to mentally retarded and developmentally disabled individuals who 24960

are age eighteen and older and not enrolled in a program or 24961
service under Chapter 3323. of the Revised Code or age sixteen or 24962
seventeen and eligible for adult services under rules adopted by 24963
the director of ~~mental retardation and~~ developmental disabilities 24964
under Chapter 119. of the Revised Code. These services shall be 24965
provided in accordance with the individual's individual service or 24966
habilitation plan and shall include support services specified in 24967
the plan. 24968

(2) A county board may, in cooperation with the Ohio 24969
rehabilitation services commission, seek federal funds for job 24970
training and community employment. 24971

(3) A county board may contract with any agency, board, or 24972
other entity that is accredited by the commission on accreditation 24973
of rehabilitation facilities to provide services. A county board 24974
that is accredited by the commission on accreditation of 24975
rehabilitation facilities may provide services for which it is 24976
certified by the commission. 24977

(C) To the extent that resources are available, a county 24978
board may provide services to an individual with mental 24979
retardation or other developmental disability in addition to those 24980
provided pursuant to this section, section 5126.05 of the Revised 24981
Code, or any other section of this chapter. The services shall be 24982
provided in accordance with the individual's habilitation or 24983
service plan and may be provided in collaboration with other 24984
entities of state or local government. 24985

Sec. 5126.052. (A) The superintendent of a county board of 24986
~~mental retardation and~~ developmental disabilities providing 24987
transportation for pupils to special education programs under this 24988
chapter may establish a volunteer bus rider assistance program 24989
under which qualified persons may be authorized to ride with 24990
pupils to and from such programs. Volunteers shall not be 24991

compensated for their services and are not employees for purposes 24992
of Chapter 4117. or 4123. of the Revised Code. Nothing in this 24993
section authorizes a superintendent or board to adversely affect 24994
the employment of any employee of the board. 24995

Volunteers may be assigned duties or responsibilities by the 24996
superintendent, including but not limited to, assisting pupils in 24997
embarking and disembarking from buses and in crossing streets 24998
where necessary to ensure the safety of the pupil, assisting the 24999
bus driver, and such other activities as the superintendent 25000
determines will aid in the safe and efficient transportation of 25001
pupils. 25002

(B) The superintendent shall ensure that each pupil receiving 25003
transportation under this chapter is instructed in school bus 25004
safety, proper bus rider behavior, and the potential problems and 25005
hazards associated with school bus ridership. Such instruction 25006
shall occur within two weeks after the pupil first receives 25007
transportation under this chapter. 25008

Sec. 5126.054. (A) Each county board of ~~mental retardation~~ 25009
~~and~~ developmental disabilities shall, by resolution, develop a 25010
three-calendar year plan that includes the following three 25011
components: 25012

(1) An assessment component that includes all of the 25013
following: 25014

(a) The number of individuals with mental retardation or 25015
other developmental disability residing in the county who need the 25016
level of care provided by an intermediate care facility for the 25017
mentally retarded, may seek home and community-based services, are 25018
given priority for the services pursuant to division (D) of 25019
section 5126.042 of the Revised Code; the service needs of those 25020
individuals; and the projected annualized cost for services; 25021

(b) The source of funds available to the county board to pay 25022
the nonfederal share of medicaid expenditures that the county 25023
board is required by sections 5126.059 and 5126.0510 of the 25024
Revised Code to pay; 25025

(c) Any other applicable information or conditions that the 25026
department of ~~mental retardation and~~ developmental disabilities 25027
requires as a condition of approving the component under section 25028
5123.046 of the Revised Code. 25029

(2) ~~A~~ preliminary implementation component that specifies 25030
the number of individuals to be provided, during the first year 25031
that the plan is in effect, home and community-based services 25032
pursuant to the priority given to them under divisions (D)(1) and 25033
(2) of section 5126.042 of the Revised Code and the types of home 25034
and community-based services the individuals are to receive; 25035

(3) A component that provides for the implementation of 25036
medicaid case management services and home and community-based 25037
services for individuals who begin to receive the services on or 25038
after the date the plan is approved under section 5123.046 of the 25039
Revised Code. A county board shall include all of the following in 25040
the component: 25041

(a) If the department of ~~mental retardation and~~ developmental 25042
disabilities or department of job and family services requires, an 25043
agreement to pay the nonfederal share of medicaid expenditures 25044
that the county board is required by sections 5126.059 and 25045
5126.0510 of the Revised Code to pay; 25046

(b) How the services are to be phased in over the period the 25047
plan covers, including how the county board will serve individuals 25048
on a waiting list established under division (C) of section 25049
5126.042 who are given priority status under division (D)(1) of 25050
that section; 25051

(c) Any agreement or commitment regarding the county board's 25052

funding of home and community-based services that the county board 25053
has with the department at the time the county board develops the 25054
component; 25055

(d) Assurances adequate to the department that the county 25056
board will comply with all of the following requirements: 25057

(i) To provide the types of home and community-based services 25058
specified in the preliminary implementation component required by 25059
division (A)(2) of this section to at least the number of 25060
individuals specified in that component; 25061

(ii) To use any additional funds the county board receives 25062
for the services to improve the county board's resource 25063
capabilities for supporting such services available in the county 25064
at the time the component is developed and to expand the services 25065
to accommodate the unmet need for those services in the county; 25066

(iii) To employ a business manager who is either a new 25067
employee who has earned at least a bachelor's degree in business 25068
administration or a current employee who has the equivalent 25069
experience of a bachelor's degree in business administration. If 25070
the county board will employ a new employee, the county board 25071
shall include in the component a timeline for employing the 25072
employee. 25073

(iv) To employ or contract with a medicaid services manager 25074
who is either a new employee who has earned at least a bachelor's 25075
degree or a current employee who has the equivalent experience of 25076
a bachelor's degree. If the county board will employ a new 25077
employee, the county board shall include in the component a 25078
timeline for employing the employee. Two or three county boards 25079
that have a combined total enrollment in county board services not 25080
exceeding one thousand individuals as determined pursuant to 25081
certifications made under division (B) of section 5126.12 of the 25082
Revised Code may satisfy this requirement by sharing the services 25083

of a medicaid services manager or using the services of a medicaid 25084
services manager employed by or under contract with a regional 25085
council that the county boards establish under section 5126.13 of 25086
the Revised Code. 25087

(e) Programmatic and financial accountability measures and 25088
projected outcomes expected from the implementation of the plan; 25089

(f) Any other applicable information or conditions that the 25090
department requires as a condition of approving the component 25091
under section 5123.046 of the Revised Code. 25092

(B) A county board whose plan developed under division (A) of 25093
this section is approved by the department under section 5123.046 25094
of the Revised Code shall update and renew the plan in accordance 25095
with a schedule the department shall develop. 25096

Sec. 5126.055. (A) Except as provided in section 5126.056 of 25097
the Revised Code, a county board of ~~mental retardation and~~ 25098
developmental disabilities has medicaid local administrative 25099
authority to, and shall, do all of the following for an individual 25100
with mental retardation or other developmental disability who 25101
resides in the county that the county board serves and seeks or 25102
receives home and community-based services: 25103

(1) Perform assessments and evaluations of the individual. As 25104
part of the assessment and evaluation process, the county board 25105
shall do all of the following: 25106

(a) Make a recommendation to the department of ~~mental~~ 25107
~~retardation and~~ developmental disabilities on whether the 25108
department should approve or deny the individual's application for 25109
the services, including on the basis of whether the individual 25110
needs the level of care an intermediate care facility for the 25111
mentally retarded provides; 25112

(b) If the individual's application is denied because of the 25113

county board's recommendation and the individual requests a 25114
hearing under section 5101.35 of the Revised Code, present, with 25115
the department of ~~mental-retardation-and~~ developmental 25116
disabilities or department of job and family services, whichever 25117
denies the application, the reasons for the recommendation and 25118
denial at the hearing; 25119

(c) If the individual's application is approved, recommend to 25120
the departments of ~~mental-retardation-and~~ developmental 25121
disabilities and job and family services the services that should 25122
be included in the individual's individualized service plan and, 25123
if either department approves, reduces, denies, or terminates a 25124
service included in the individual's individualized service plan 25125
under section 5111.871 of the Revised Code because of the county 25126
board's recommendation, present, with the department that made the 25127
approval, reduction, denial, or termination, the reasons for the 25128
recommendation and approval, reduction, denial, or termination at 25129
a hearing under section 5101.35 of the Revised Code. 25130

(2) In accordance with the rules adopted under section 25131
5126.046 of the Revised Code, perform the county board's duties 25132
under that section regarding assisting the individual's right to 25133
choose a qualified and willing provider of the services and, at a 25134
hearing under section 5101.35 of the Revised Code, present 25135
evidence of the process for appropriate assistance in choosing 25136
providers; 25137

(3) If the county board is certified under section 5123.161 25138
of the Revised Code to provide the services and agrees to provide 25139
the services to the individual and the individual chooses the 25140
county board to provide the services, furnish, in accordance with 25141
the county board's medicaid provider agreement and for the 25142
authorized reimbursement rate, the services the individual 25143
requires; 25144

(4) Monitor the services provided to the individual and 25145

ensure the individual's health, safety, and welfare. The 25146
monitoring shall include quality assurance activities. If the 25147
county board provides the services, the department of ~~mental~~ 25148
~~retardation~~ and developmental disabilities shall also monitor the 25149
services. 25150

(5) Develop, with the individual and the provider of the 25151
individual's services, an effective individualized service plan 25152
that includes coordination of services, recommend that the 25153
departments of ~~mental retardation~~ and developmental disabilities 25154
and job and family services approve the plan, and implement the 25155
plan unless either department disapproves it; 25156

(6) Have an investigative agent conduct investigations under 25157
section 5126.313 of the Revised Code that concern the individual; 25158

(7) Have a service and support administrator perform the 25159
duties under division (B)(9) of section 5126.15 of the Revised 25160
Code that concern the individual. 25161

(B) A county board shall perform its medicaid local 25162
administrative authority under this section in accordance with all 25163
of the following: 25164

(1) The county board's plan that the department of ~~mental~~ 25165
~~retardation~~ and developmental disabilities approves under section 25166
5123.046 of the Revised Code; 25167

(2) All applicable federal and state laws; 25168

(3) All applicable policies of the departments of ~~mental~~ 25169
~~retardation~~ and developmental disabilities and job and family 25170
services and the United States department of health and human 25171
services; 25172

(4) The department of job and family services' supervision 25173
under its authority under section 5111.01 of the Revised Code to 25174
act as the single state medicaid agency; 25175

(5) The department of ~~mental retardation and~~ developmental 25176
disabilities' oversight. 25177

(C) The departments of ~~mental retardation and~~ developmental 25178
disabilities and job and family services shall communicate with 25179
and provide training to county boards regarding medicaid local 25180
administrative authority granted by this section. The 25181
communication and training shall include issues regarding audit 25182
protocols and other standards established by the United States 25183
department of health and human services that the departments 25184
determine appropriate for communication and training. County 25185
boards shall participate in the training. The departments shall 25186
assess the county board's compliance against uniform standards 25187
that the departments shall establish. 25188

(D) A county board may not delegate its medicaid local 25189
administrative authority granted under this section but may 25190
contract with a person or government entity, including a council 25191
of governments, for assistance with its medicaid local 25192
administrative authority. A county board that enters into such a 25193
contract shall notify the director of ~~mental retardation and~~ 25194
developmental disabilities. The notice shall include the tasks and 25195
responsibilities that the contract gives to the person or 25196
government entity. The person or government entity shall comply in 25197
full with all requirements to which the county board is subject 25198
regarding the person or government entity's tasks and 25199
responsibilities under the contract. The county board remains 25200
ultimately responsible for the tasks and responsibilities. 25201

(E) A county board that has medicaid local administrative 25202
authority under this section shall, through the departments of 25203
~~mental retardation and~~ developmental disabilities and job and 25204
family services, reply to, and cooperate in arranging compliance 25205
with, a program or fiscal audit or program violation exception 25206
that a state or federal audit or review discovers. The department 25207

of job and family services shall timely notify the department of 25208
~~mental retardation and~~ developmental disabilities and the county 25209
board of any adverse findings. After receiving the notice, the 25210
county board, in conjunction with the department of ~~mental~~ 25211
~~retardation and~~ developmental disabilities, shall cooperate fully 25212
with the department of job and family services and timely prepare 25213
and send to the department a written plan of correction or 25214
response to the adverse findings. The county board is liable for 25215
any adverse findings that result from an action it takes or fails 25216
to take in its implementation of medicaid local administrative 25217
authority. 25218

(F) If the department of ~~mental retardation and~~ developmental 25219
disabilities or department of job and family services determines 25220
that a county board's implementation of its medicaid local 25221
administrative authority under this section is deficient, the 25222
department that makes the determination shall require that county 25223
board do the following: 25224

(1) If the deficiency affects the health, safety, or welfare 25225
of an individual with mental retardation or other developmental 25226
disability, correct the deficiency within twenty-four hours; 25227

(2) If the deficiency does not affect the health, safety, or 25228
welfare of an individual with mental retardation or other 25229
developmental disability, receive technical assistance from the 25230
department or submit a plan of correction to the department that 25231
is acceptable to the department within sixty days and correct the 25232
deficiency within the time required by the plan of correction. 25233

Sec. 5126.056. (A) The department of ~~mental retardation and~~ 25234
developmental disabilities shall take action under division (B) of 25235
this section against a county board of ~~mental retardation and~~ 25236
developmental disabilities if any of the following are the case: 25237

(1) The county board fails to submit to the department all 25238

the components of its three-year plan required by section 5126.054 25239
of the Revised Code. 25240

(2) The department disapproves the county board's three-year 25241
plan under section 5123.046 of the Revised Code. 25242

(3) The county board fails, as required by division (B) of 25243
section 5126.054 of the Revised Code, to update and renew its 25244
three-year plan in accordance with a schedule the department 25245
develops under that section. 25246

(4) The county board fails to implement its initial or 25247
renewed three-year plan approved by the department. 25248

(5) The county board fails to correct a deficiency within the 25249
time required by division (F) of section 5126.055 of the Revised 25250
Code to the satisfaction of the department. 25251

(6) The county board fails to submit an acceptable plan of 25252
correction to the department within the time required by division 25253
(F)(2) of section 5126.055 of the Revised Code. 25254

(B) If required by division (A) of this section to take 25255
action against a county board, the department shall issue an order 25256
terminating the county board's medicaid local administrative 25257
authority over all or part of home and community-based services, 25258
medicaid case management services, or all or part of both of those 25259
services. The department shall provide a copy of the order to the 25260
board of county commissioners, senior probate judge, county 25261
auditor, and president and superintendent of the county board. The 25262
department shall specify in the order the medicaid local 25263
administrative authority that the department is terminating, the 25264
reason for the termination, and the county board's option and 25265
responsibilities under this division. 25266

A county board whose medicaid local administrative authority 25267
is terminated may, not later than thirty days after the department 25268
issues the termination order, recommend to the department that 25269

another county board that has not had any of its medicaid local 25270
administrative authority terminated or another entity the 25271
department approves administer the services for which the county 25272
board's medicaid local administrative authority is terminated. The 25273
department may contract with the other county board or entity to 25274
administer the services. If the department enters into such a 25275
contract, the county board shall adopt a resolution giving the 25276
other county board or entity full medicaid local administrative 25277
authority over the services that the other county board or entity 25278
is to administer. The other county board or entity shall be known 25279
as the contracting authority. 25280

If the department rejects the county board's recommendation 25281
regarding a contracting authority, the county board may appeal the 25282
rejection under section 5123.043 of the Revised Code. 25283

If the county board does not submit a recommendation to the 25284
department regarding a contracting authority within the required 25285
time or the department rejects the county board's recommendation 25286
and the rejection is upheld pursuant to an appeal, if any, under 25287
section 5123.043 of the Revised Code, the department shall appoint 25288
an administrative receiver to administer the services for which 25289
the county board's medicaid local administrative authority is 25290
terminated. To the extent necessary for the department to appoint 25291
an administrative receiver, the department may utilize employees 25292
of the department, management personnel from another county board, 25293
or other individuals who are not employed by or affiliated with in 25294
any manner a person that provides home and community-based 25295
services or medicaid case management services pursuant to a 25296
contract with any county board. The administrative receiver shall 25297
assume full administrative responsibility for the county board's 25298
services for which the county board's medicaid local 25299
administrative authority is terminated. 25300

The contracting authority or administrative receiver shall 25301

develop and submit to the department a plan of correction to 25302
remediate the problems that caused the department to issue the 25303
termination order. If, after reviewing the plan, the department 25304
approves it, the contracting authority or administrative receiver 25305
shall implement the plan. 25306

The county board shall transfer control of state and federal 25307
funds it is otherwise eligible to receive for the services for 25308
which the county board's medicaid local administrative authority 25309
is terminated and funds the county board may use under division 25310
(A) of section 5126.0511 of the Revised Code to pay the nonfederal 25311
share of the services that the county board is required by 25312
sections 5126.059 and 5126.0510 of the Revised Code to pay. The 25313
county board shall transfer control of the funds to the 25314
contracting authority or administrative receiver administering the 25315
services. The amount the county board shall transfer shall be the 25316
amount necessary for the contracting authority or administrative 25317
receiver to fulfill its duties in administering the services, 25318
including its duties to pay its personnel for time worked, travel, 25319
and related matters. If the county board fails to make the 25320
transfer, the department may withhold the state and federal funds 25321
from the county board and bring a mandamus action against the 25322
county board in the court of common pleas of the county served by 25323
the county board or in the Franklin county court of common pleas. 25324
The mandamus action may not require that the county board transfer 25325
any funds other than the funds the county board is required by 25326
division (B) of this section to transfer. 25327

The contracting authority or administrative receiver has the 25328
right to authorize the payment of bills in the same manner that 25329
the county board may authorize payment of bills under this chapter 25330
and section 319.16 of the Revised Code. 25331

Sec. 5126.058. (A) Each county board of ~~mental retardation~~ 25332

and developmental disabilities shall prepare a memorandum of 25333
understanding that is developed by all of the following and that 25334
is signed by the persons identified in divisions (A)(2) to (7) of 25335
this section: 25336

(1) The senior probate judge of the county or the senior 25337
probate judge's representative; 25338

(2) The county peace officer; 25339

(3) All chief municipal peace officers within the county; 25340

(4) Other law enforcement officers handling abuse, neglect, 25341
and exploitation of mentally retarded and developmentally disabled 25342
persons in the county; 25343

(5) The prosecuting attorney of the county; 25344

(6) The public children services agency; 25345

(7) The coroner of the county. 25346

(B) A memorandum of understanding shall set forth the normal 25347
operating procedure to be employed by all concerned officials in 25348
the execution of their respective responsibilities under this 25349
section and sections 313.12, 2151.421, 2903.16, 5126.31, and 25350
5126.33 of the Revised Code and shall have as its primary goal the 25351
elimination of all unnecessary interviews of persons who are the 25352
subject of reports made pursuant to this section. A failure to 25353
follow the procedure set forth in the memorandum by the concerned 25354
officials is not grounds for, and shall not result in, the 25355
dismissal of any charge or complaint arising from any reported 25356
case of abuse, neglect, or exploitation or the suppression of any 25357
evidence obtained as a result of any reported abuse, neglect, or 25358
exploitation and does not give any rights or grounds for appeal or 25359
post-conviction relief to any person. 25360

(C) A memorandum of understanding shall include, but is not 25361
limited to, all of the following: 25362

(1) The roles and responsibilities for handling emergency and 25363
nonemergency cases of abuse, neglect, or exploitation; 25364

(2) The roles and responsibilities for handling and 25365
coordinating investigations of reported cases of abuse, neglect, 25366
or exploitation and methods to be used in interviewing the person 25367
who is the subject of the report and who allegedly was abused, 25368
neglected, or exploited; 25369

(3) The roles and responsibilities for addressing the 25370
categories of persons who may interview the person who is the 25371
subject of the report and who allegedly was abused, neglected, or 25372
exploited; 25373

(4) The roles and responsibilities for providing victim 25374
services to mentally retarded and developmentally disabled persons 25375
pursuant to Chapter 2930. of the Revised Code; 25376

(5) The roles and responsibilities for the filing of criminal 25377
charges against persons alleged to have abused, neglected, or 25378
exploited mentally retarded or developmentally disabled persons. 25379

(D) A memorandum of understanding may be signed by victim 25380
advocates, municipal court judges, municipal prosecutors, and any 25381
other person whose participation furthers the goals of a 25382
memorandum of understanding, as set forth in this section. 25383

Sec. 5126.059. A county board of ~~mental retardation and~~ 25384
developmental disabilities shall pay the nonfederal share of 25385
medicaid expenditures for medicaid case management services the 25386
county board provides to an individual with mental retardation or 25387
other developmental disability who the county board determines 25388
under section 5126.041 of the Revised Code is eligible for county 25389
board services. 25390

Sec. 5126.0510. (A) Except as otherwise provided in an 25391
agreement entered into under section 5123.048 of the Revised Code 25392

and subject to divisions (B), (C), and (D) of this section, a 25393
county board of ~~mental retardation and~~ developmental disabilities 25394
shall pay the nonfederal share of medicaid expenditures for the 25395
following home and community-based services provided to an 25396
individual with mental retardation or other developmental 25397
disability who the county board determines under section 5126.041 25398
of the Revised Code is eligible for county board services: 25399

(1) Home and community-based services provided by the county 25400
board to such an individual; 25401

(2) Home and community-based services provided by a provider 25402
other than the county board to such an individual who is enrolled 25403
as of June 30, 2007, in the medicaid waiver component under which 25404
the services are provided; 25405

(3) Home and community-based services provided by a provider 25406
other than the county board to such an individual who, pursuant to 25407
a request the county board makes, enrolls in the medicaid waiver 25408
component under which the services are provided after June 30, 25409
2007; 25410

(4) Home and community-based services provided by a provider 25411
other than the county board to such an individual for whom there 25412
is in effect an agreement entered into under division (E) of this 25413
section between the county board and director of ~~mental~~ 25414
~~retardation and~~ developmental disabilities. 25415

(B) In the case of medicaid expenditures for home and 25416
community-based services for which division (A)(2) of this section 25417
requires a county board to pay the nonfederal share, the following 25418
shall apply to such services provided during fiscal year 2008 25419
under the individual options medicaid waiver component: 25420

(1) The county board shall pay no less than the total amount 25421
the county board paid as the nonfederal share for home and 25422
community-based services provided in fiscal year 2007 under the 25423

individual options medicaid waiver component; 25424

(2) The county board shall pay no more than the sum of the 25425
following: 25426

(a) The total amount the county board paid as the nonfederal 25427
share for home and community-based services provided in fiscal 25428
year 2007 under the individual options medicaid waiver component; 25429

(b) An amount equal to one per cent of the total amount the 25430
department of ~~mental retardation and~~ developmental disabilities 25431
and county board paid as the nonfederal share for home and 25432
community-based services provided in fiscal year 2007 under the 25433
individual options medicaid waiver component to individuals the 25434
county board determined under section 5126.041 of the Revised Code 25435
are eligible for county board services. 25436

(C) A county board is not required to pay the nonfederal 25437
share of home and community-based services provided after June 30, 25438
2008, that the county board is otherwise required by division 25439
(A)(2) of this section to pay if the department of ~~mental~~ 25440
~~retardation and~~ developmental disabilities fails to comply with 25441
division (A) of section 5123.0416 of the Revised Code. 25442

(D) A county board is not required to pay the nonfederal 25443
share of home and community-based services that the county board 25444
is otherwise required by division (A)(3) of this section to pay if 25445
both of the following apply: 25446

(1) The services are provided to an individual who enrolls in 25447
the medicaid waiver component under which the services are 25448
provided as the result of an order issued following a state 25449
hearing, administrative appeal, or appeal to a court of common 25450
pleas made under section 5101.35 of the Revised Code; 25451

(2) There are more individuals who are eligible for services 25452
from the county board enrolled in the medicaid waiver component 25453
than is required by section 5126.0512 of the Revised Code. 25454

(E) A county board may enter into an agreement with the 25455
director of ~~mental retardation and~~ developmental disabilities 25456
under which the county board agrees to pay the nonfederal share of 25457
medicaid expenditures for one or more home and community-based 25458
services that the county board is not otherwise required by 25459
division (A)(1), (2), or (3) of this section to pay and that are 25460
provided to an individual the county board determines under 25461
section 5126.041 of the Revised Code is eligible for county board 25462
services. The agreement shall specify which home and 25463
community-based services the agreement covers. The county board 25464
shall pay the nonfederal share of medicaid expenditures for the 25465
home and community-based services that the agreement covers as 25466
long as the agreement is in effect. 25467

Sec. 5126.0511. (A) A county board of ~~mental retardation and~~ 25468
developmental disabilities may use the following funds to pay the 25469
nonfederal share of the medicaid expenditures that the county 25470
board is required by sections 5126.059 and 5126.0510 of the 25471
Revised Code to pay: 25472

(1) To the extent consistent with the levy that generated the 25473
taxes, the following taxes: 25474

(a) Taxes levied pursuant to division (L) of section 5705.19 25475
of the Revised Code and section 5705.222 of the Revised Code; 25476

(b) Taxes levied under section 5705.191 of the Revised Code 25477
that the board of county commissioners allocates to the county 25478
board. 25479

(2) Funds that the department of ~~mental retardation and~~ 25480
developmental disabilities distributes to the county board under 25481
sections 5126.11 and 5126.18 of the Revised Code; 25482

(3) Earned federal revenue funds the county board receives 25483
for medicaid services the county board provides pursuant to the 25484

county board's valid medicaid provider agreement; 25485

(4) Funds that the department of ~~mental retardation and~~ 25486
developmental disabilities distributes to the county board as 25487
subsidy payments; 25488

(5) In the case of medicaid expenditures for home and 25489
community-based services, funds allocated to or otherwise made 25490
available for the county board under section 5123.0416 of the 25491
Revised Code to pay the nonfederal share of such medicaid 25492
expenditures. 25493

Each year, each county board shall adopt a resolution 25494
specifying the amount of funds it will use in the next year to pay 25495
the nonfederal share of the medicaid expenditures that the county 25496
board is required by sections 5126.059 and 5126.0510 of the 25497
Revised Code to pay. The amount specified shall be adequate to 25498
assure that the services for which the medicaid expenditures are 25499
made will be available in the county in a manner that conforms to 25500
all applicable state and federal laws. A county board shall state 25501
in its resolution that the payment of the nonfederal share 25502
represents an ongoing financial commitment of the county board. A 25503
county board shall adopt the resolution in time for the county 25504
auditor to make the determination required by division (C) of this 25505
section. 25506

(C) Each year, a county auditor shall determine whether the 25507
amount of funds a county board specifies in the resolution it 25508
adopts under division (B) of this section will be available in the 25509
following year for the county board to pay the nonfederal share of 25510
the medicaid expenditures that the county board is required by 25511
sections 5126.059 and 5126.0510 of the Revised Code to pay. The 25512
county auditor shall make the determination not later than the 25513
last day of the year before the year in which the funds are to be 25514
used. 25515

Sec. 5126.0512. (A) As used in this section, "medicaid waiver component" means a medicaid waiver component as defined in section 5111.85 of the Revised Code under which home and community-based services are provided.

(B) Effective July 1, 2007, each county board of ~~mental retardation and~~ developmental disabilities shall ensure, for each medicaid waiver component, that the number of individuals eligible under section 5126.041 of the Revised Code for services from the county board who are enrolled in a medicaid waiver component is no less than the sum of the following:

(1) The number of individuals eligible for services from the county board who are enrolled in the medicaid waiver component on June 30, 2007;

(2) The number of medicaid waiver component slots the county board requested before July 1, 2007, that were assigned to the county board before that date but in which no individual was enrolled before that date.

(C) An individual enrolled in a medicaid waiver component after March 1, 2007, due to an emergency reserve capacity waiver assignment shall not be counted in determining the number of individuals a county board must ensure under division (B) of this section are enrolled in a medicaid waiver component.

(D) An individual who is enrolled in a medicaid waiver component to comply with the terms of the consent order filed March 5, 2007, in *Martin v. Strickland*, Case No. 89-CV-00362, in the United States district court for the southern district of Ohio, eastern division, shall be excluded in determining whether a county board has complied with division (B) of this section.

(E) A county board shall make as many requests for individuals to be enrolled in a medicaid waiver component as

necessary for the county board to comply with division (B) of this 25546
section. 25547

Sec. 5126.06. (A) Except as provided in division (B) of this 25548
section, any person who has a complaint involving any of the 25549
programs, services, policies, or administrative practices of a 25550
county board of ~~mental-retardation-and~~ developmental disabilities 25551
or any of the entities under contract with the county board, may 25552
file a complaint with the board. Prior to commencing a civil 25553
action regarding the complaint, a person shall attempt to have the 25554
complaint resolved through the administrative resolution process 25555
established in the rules adopted under section 5123.043 of the 25556
Revised Code. After exhausting the administrative resolution 25557
process, the person may commence a civil action if the complaint 25558
is not settled to the person's satisfaction. 25559

(B) An employee of a county board may not file under this 25560
section a complaint related to the terms and conditions of 25561
employment of the employee. 25562

Sec. 5126.07. No county board of ~~mental-retardation-and~~ 25563
developmental disabilities or any agency, corporation, or 25564
association under contract with a county board of ~~mental-~~ 25565
~~retardation-and~~ developmental disabilities shall discriminate in 25566
the provision of services under its authority or contract on the 25567
basis of race, color, sex, creed, disability, national origin, or 25568
the inability to pay. 25569

Each county board of ~~mental-retardation-and~~ developmental 25570
disabilities shall provide a plan of affirmative action describing 25571
its goals and methods for the provision of equal employment 25572
opportunities for all persons under its authority and shall ensure 25573
nondiscrimination in employment under its authority or contract on 25574
the basis of race, color, sex, creed, disability, or national 25575

origin. 25576

Sec. 5126.071. (A) As used in this section, "minority 25577
business enterprise" has the meaning given in division (E)(1) of 25578
section 122.71 of the Revised Code. 25579

(B) Any minority business enterprise that desires to bid on a 25580
contract under division (C) or (D) of this section shall first 25581
apply to the equal employment opportunity coordinator in the 25582
department of administrative services for certification as a 25583
minority business enterprise. The coordinator shall approve the 25584
application of any minority business enterprise that complies with 25585
the rules adopted under section 122.71 of the Revised Code. The 25586
coordinator shall prepare and maintain a list of minority business 25587
enterprises certified under this section. 25588

(C) From the contracts to be awarded for the purchases of 25589
equipment, materials, supplies, insurance, and nonprogram 25590
services, other than contracts entered into and exempt under 25591
sections 307.86 and 5126.05 of the Revised Code, each county board 25592
of ~~mental retardation and~~ developmental disabilities shall select 25593
a number of contracts with an aggregate value of approximately 25594
fifteen per cent of the total estimated value of such contracts to 25595
be awarded in the current calendar year. The board shall set aside 25596
the contracts so selected for bidding by minority business 25597
enterprises only. The bidding procedures for such contracts shall 25598
be the same as for all other contracts awarded under section 25599
307.86 of the Revised Code, except that only minority business 25600
enterprises certified and listed under division (B) of this 25601
section shall be qualified to submit bids. Contracts set aside and 25602
awarded under this section shall not include contracts for the 25603
purchase of services such as direct and ancillary services, 25604
service and support administration, residential services, and 25605
family support services. 25606

(D) To the extent that a board is authorized to enter into 25607
contracts for construction which are not exempt from the 25608
competitive bidding requirements of section 307.86 of the Revised 25609
Code, the board shall set aside a number of contracts the 25610
aggregate value of which equals approximately five per cent of the 25611
aggregate value of construction contracts for the current calendar 25612
year for bidding by minority business enterprises only. The 25613
bidding procedures for the contracts set aside for minority 25614
business enterprises shall be the same as for all other contracts 25615
awarded by the board, except that only minority business 25616
enterprises certified and listed under division (B) of this 25617
section shall be qualified to submit bids. 25618

Any contractor awarded a construction contract pursuant to 25619
this section shall make every effort to ensure that certified 25620
minority business subcontractors and materials suppliers 25621
participate in the contract. In the case of contracts specified in 25622
this division, the total value of subcontracts awarded to and 25623
materials and services purchased from minority businesses shall be 25624
at least ten per cent of the total value of the contract, wherever 25625
possible and whenever the contractor awards subcontracts or 25626
purchases materials or services. 25627

(E) In the case of contracts set aside under divisions (C) 25628
and (D) of this section, if no bid is submitted by a minority 25629
business enterprise, the contract shall be awarded according to 25630
normal bidding procedures. The board shall from time to time set 25631
aside such additional contracts as are necessary to replace those 25632
contracts previously set aside on which no minority business 25633
enterprise bid. 25634

(F) This section does not preclude any minority business 25635
enterprise from bidding on any other contract not specifically set 25636
aside for minority business enterprises. 25637

(G) Within ninety days after the beginning of each calendar 25638

year, each county board of ~~mental retardation and~~ developmental 25639
disabilities shall file a report with the department of ~~mental~~ 25640
~~retardation and~~ developmental disabilities that shows for that 25641
calendar year the name of each minority business enterprise with 25642
which the board entered into a contract, the value and type of 25643
each such contract, the total value of contracts awarded under 25644
divisions (C) and (D) of this section, the total value of 25645
contracts awarded for the purchases of equipment, materials, 25646
supplies, or services, other than contracts entered into under the 25647
exemptions of sections 307.86 and 5126.05 of the Revised Code, and 25648
the total value of contracts entered into for construction. 25649

(H) Any person who intentionally misrepresents that person as 25650
owning, controlling, operating, or participating in a minority 25651
business enterprise for the purpose of obtaining contracts or any 25652
other benefits under this section shall be guilty of theft by 25653
deception as provided for in section 2913.02 of the Revised Code. 25654

Sec. 5126.08. (A) The director of ~~mental retardation and~~ 25655
developmental disabilities shall adopt rules in accordance with 25656
Chapter 119. of the Revised Code for all programs and services 25657
offered by a county board of ~~mental retardation and~~ developmental 25658
disabilities. Such rules shall include, but are not limited to, 25659
the following: 25660

(1) Determination of what constitutes a program or service; 25661

(2) Standards to be followed by a board in administering, 25662
providing, arranging, or operating programs and services; 25663

(3) Standards for determining the nature and degree of mental 25664
retardation, including mild mental retardation, or developmental 25665
disability; 25666

(4) Standards for determining eligibility for programs and 25667
services under sections 5126.042 and 5126.15 of the Revised Code; 25668

(5) Procedures for obtaining consent for the arrangement of 25669
services under section 5126.31 of the Revised Code and for 25670
obtaining signatures on individual service plans under that 25671
section; 25672

(6) Specification of the service and support administration 25673
to be provided by a county board and standards for resolving 25674
grievances in connection with service and support administration; 25675

(7) Standards for the provision of environmental 25676
modifications, including standards that require adherence to all 25677
applicable state and local building codes; 25678

(8) Standards for the provision of specialized medical, 25679
adaptive, and assistive equipment, supplies, and supports. 25680

(B) The director shall be the final authority in determining 25681
the nature and degree of mental retardation or developmental 25682
disability. 25683

Sec. 5126.081. (A) In addition to the rules adopted under 25684
division (A)(2) of section 5126.08 of the Revised Code 25685
establishing standards for the administration, provision, 25686
arrangement, and operation of programs and services by county 25687
boards of ~~mental retardation and~~ developmental disabilities, the 25688
department of ~~mental retardation and~~ developmental disabilities 25689
shall establish a system of accreditation for county boards of 25690
~~mental retardation and~~ developmental disabilities to ensure that 25691
the boards are in compliance with federal and state statutes and 25692
rules. The department shall adopt rules in accordance with Chapter 25693
119. of the Revised Code governing the system of accreditation. 25694
The rules shall include appropriate timelines for compliance when 25695
a board is found to be not in compliance and appropriate actions 25696
to be taken by boards in complying with the accreditation 25697
requirements. 25698

(B) Prior to accrediting a board, the department shall 25699
conduct a comprehensive, on-site review of the board. During the 25700
review, the department shall document the board's compliance with 25701
the department's accreditation requirements. After completing the 25702
review, the department shall conduct an exit conference with the 25703
president of the board, the superintendent of the board, and any 25704
other officials the board asks to have present. The department 25705
shall discuss its findings from the review with the board's 25706
representatives and provide a written report of its findings not 25707
later than thirty days following the exit conference. If the 25708
department finds that the board is in compliance with the 25709
requirements for accreditation, the department shall issue 25710
evidence of accreditation to the board. 25711

Accreditation may be granted for periods of up to five years 25712
and may be renewed. Not less than once prior to the date a board's 25713
accreditation is scheduled to expire, the department shall conduct 25714
a comprehensive, on-site review of the board. 25715

Each board shall conduct an annual audit of itself to 25716
evaluate its compliance with the requirements for accreditation. 25717
The department may conduct an interim review of any new program or 25718
service initiated by a board after its last comprehensive review. 25719
The department may conduct other reviews and investigations as 25720
necessary to enforce this section. 25721

(C) If the department determines through its review of a 25722
board that the board is not in compliance with the requirements 25723
for accreditation, the department shall, except as provided in 25724
division (F) of this section, grant the board an opportunity to 25725
correct the matters in which it is not in compliance. The 25726
department shall grant the board an appropriate length of time to 25727
comply with the requirements prior to taking any action to deny 25728
accreditation to the board. To avoid denial of accreditation, the 25729
board superintendent shall prepare a plan of correction to 25730

remediate the matters specified in the department's written report 25731
as not being in compliance with the requirements for 25732
accreditation. The superintendent shall submit the plan to the 25733
board for review, and the board shall review the plan. If the 25734
board believes that the plan is sufficient to correct the matters, 25735
the board shall approve the plan by resolution and submit the plan 25736
to the department for its review. The department shall review the 25737
plan of correction. If the department approves the plan, the board 25738
shall commence action to implement the plan. The department shall, 25739
as necessary, conduct follow-up reviews of the board to determine 25740
whether it has met the requirements for accreditation. If the plan 25741
of correction submitted by a board is disapproved, the department 25742
shall inform the board of the reasons for disapproval and may 25743
grant the board an opportunity to submit a revised plan of 25744
correction. 25745

A board may request technical assistance from the department, 25746
other boards, or professional organizations in preparing plans of 25747
correction and in implementing plans of correction. 25748

(D) If, after being given the opportunity to implement a plan 25749
of correction, a board continues to fail to meet the requirements 25750
for accreditation, the department shall issue an order denying 25751
accreditation to the board. The department may deny accreditation 25752
to the board for all or part of the programs or services offered 25753
by the board. 25754

The department shall simultaneously notify all of the 25755
following officials in the county: the members of the board of 25756
county commissioners, the senior probate judge, the county 25757
auditor, and the president and superintendent of the county board 25758
of ~~mental retardation and~~ developmental disabilities. The notice 25759
shall identify the programs and services that have been denied 25760
accreditation, the requirements for accreditation with which the 25761
board is not in compliance, and the responsibilities of the county 25762

officials to contract under division (E)(1) of this section to 25763
have the board's programs and services administered by another 25764
party or become subject to administrative receivership under 25765
division (E)(2) of this section. 25766

(E)(1) When a board is denied accreditation, the department 25767
shall first give the board the option of contracting to have the 25768
board's programs and services that were denied accreditation 25769
administered by an accredited county board of ~~mental retardation~~ 25770
~~and~~ developmental disabilities or another qualified entity subject 25771
to the approval of the department. The board may contract with 25772
more than one board that has been accredited. When a board enters 25773
into a contract, the board shall, by resolution, give the 25774
contractor full administrative authority over the programs and 25775
services that the contractor will administer. 25776

(2) If a board fails to exercise its option of entering into 25777
a contract under division (E)(1) of this section sooner than 25778
thirty days after the department denies accreditation, the 25779
department shall appoint an administrative receiver of the board's 25780
programs and services that were denied accreditation. The 25781
department may appoint employees of the department, management 25782
personnel from county boards of ~~mental retardation and~~ 25783
developmental disabilities, or individuals from other entities as 25784
necessary to meet its needs for appointing an administrative 25785
receiver, except that individuals from other entities may be 25786
appointed only when qualified department employees or board 25787
management personnel are unavailable. The department may not 25788
appoint an individual who is employed by or affiliated with an 25789
entity that is under contract with the board. The administrative 25790
receiver shall assume full administrative responsibility for the 25791
board's programs and services that were denied accreditation. 25792

(3) The board or entity that contracts with a board under 25793
division (E)(1) of this section, or the administrative receiver 25794

appointed under division (E)(2) of this section, shall develop and 25795
implement a plan of correction to remediate the matters that 25796
caused the department to deny accreditation. The contractor or 25797
administrative receiver shall submit the plan to the department, 25798
and the department shall review the plan. If the plan is approved 25799
by the department, the contractor or administrative receiver shall 25800
commence action to implement the plan. The contractor or 25801
administrative receiver shall report to the department any 25802
findings it can make pertaining to issues or circumstances that 25803
are beyond the control of the board and result in the unlikelihood 25804
that compliance with the requirements for accreditation can be 25805
achieved unless the issues or circumstances are remediated. 25806

(4) For purposes of divisions (E)(1) and (2) of this section, 25807
the department shall require the board that has been denied 25808
accreditation to transfer control of state and federal funds it is 25809
eligible to receive for the board's programs and services that 25810
have been denied accreditation in an amount necessary for the 25811
contractor or administrative receiver to fulfill its duties in 25812
administering the programs and services for the board. The 25813
transfer of control of funds does not cause any programs and 25814
services of the board that are accredited to lose their 25815
accreditation. If the board refuses to transfer control of funds, 25816
the department may withhold state and federal funds from the board 25817
in an amount necessary for the contractor or administrative 25818
receiver to fulfill its duties. The amount transferred or withheld 25819
from a board shall include reimbursements for the personnel of the 25820
contractor or administrative receiver, including amounts for time 25821
worked, travel, and related expenses. 25822

A contractor or administrative receiver that has assumed the 25823
administration of a board's programs and services has the right to 25824
authorize the payment of bills in the same manner that a board may 25825
authorize payment of bills under this chapter and section 319.16 25826

of the Revised Code. 25827

(F) When the department's review of a board reveals serious 25828
health and safety issues within the programs and services offered 25829
by the board, the department shall order the board to correct the 25830
violations immediately or appoint an administrative receiver. 25831

(G) At any time a board can demonstrate that it is capable of 25832
assuming its duties in compliance with the department's 25833
requirements for accreditation, the department shall reverse its 25834
order denying accreditation and issue evidence of accreditation to 25835
the board. 25836

A board may appeal the department's denial of accreditation 25837
or refusal to reverse a denial of accreditation only by filing a 25838
complaint under section 5123.043 of the Revised Code. If in its 25839
appeal the board can demonstrate that it is capable of assuming 25840
its duties in compliance with the department's requirements for 25841
accreditation, the department shall reverse its order denying 25842
accreditation and shall issue evidence of accreditation to the 25843
board. 25844

(H) All notices issued to a board by the department under 25845
this section shall be delivered to the board's president and 25846
superintendent. 25847

(I) A board's president may designate another member of the 25848
board as the individual to be responsible for fulfilling all or 25849
part of the president's responsibilities established under this 25850
section. 25851

Sec. 5126.082. (A) In addition to the rules adopted under 25852
division (A)(2) of section 5126.08 of the Revised Code 25853
establishing standards to be followed by county boards of ~~mental~~ 25854
~~retardation and~~ developmental disabilities in administering, 25855
providing, arranging, and operating programs and services and in 25856

addition to the board accreditation system established under 25857
section 5126.081 of the Revised Code, the director of ~~mental~~ 25858
~~retardation and~~ developmental disabilities shall adopt rules in 25859
accordance with Chapter 119. of the Revised Code establishing 25860
standards for promoting and advancing the quality of life of 25861
individuals with mental retardation and developmental disabilities 25862
receiving any of the following: 25863

(1) Early childhood services pursuant to section 5126.05 of 25864
the Revised Code for children under age three; 25865

(2) Adult services pursuant to section 5126.05 and division 25866
(B) of section 5126.051 of the Revised Code for individuals age 25867
sixteen or older; 25868

(3) Family support services pursuant to section 5126.11 of 25869
the Revised Code. 25870

(B) The rules adopted under this section shall specify the 25871
actions county boards of ~~mental retardation and~~ developmental 25872
disabilities and the agencies with which they contract should take 25873
to do the following: 25874

(1) Offer individuals with mental retardation and 25875
developmental disabilities, and their families when appropriate, 25876
choices in programs and services that are centered on the needs 25877
and desires of those individuals; 25878

(2) Maintain infants with their families whenever possible by 25879
collaborating with other agencies that provide services to infants 25880
and their families and taking other appropriate actions; 25881

(3) Provide families that have children with mental 25882
retardation and developmental disabilities under age eighteen 25883
residing in their homes the resources necessary to allow the 25884
children to remain in their homes; 25885

(4) Create and implement community employment services based 25886

on the needs and desires of adults with mental retardation and 25887
developmental disabilities; 25888

(5) Create, in collaboration with other agencies, 25889
transportation systems that provide safe and accessible 25890
transportation within the county to individuals with disabilities; 25891

(6) Provide services that allow individuals with disabilities 25892
to be integrated into the community by engaging in educational, 25893
vocational, and recreational activities with individuals who do 25894
not have disabilities; 25895

(7) Provide age-appropriate retirement services for 25896
individuals age sixty-five and older with mental retardation and 25897
developmental disabilities; 25898

(8) Establish residential services and supported living for 25899
individuals with mental retardation and developmental disabilities 25900
in accordance with their needs. 25901

(C) To assist in funding programs and services that meet the 25902
standards established under this section, each county board of 25903
~~mental retardation and~~ developmental disabilities shall make a 25904
good faith effort to acquire available federal funds, including 25905
reimbursements under Title XIX of the "Social Security Act," 79 25906
Stat. 286 (1965), 42 U.S.C.A. 1396, as amended. 25907

(D) Each county board of ~~mental retardation and~~ developmental 25908
disabilities shall work toward full compliance with the standards 25909
established under this section, based on its available resources. 25910
Funds received under this chapter shall be used to comply with the 25911
standards. Annually, each board shall conduct a self audit to 25912
evaluate the board's progress in complying fully with the 25913
standards. 25914

(E) The department shall complete a program quality review of 25915
each county board of ~~mental retardation and~~ developmental 25916
disabilities to determine the extent to which the board has 25917

complied with the standards. The review shall be conducted in 25918
conjunction with the comprehensive accreditation review of the 25919
board that is conducted under section 5126.081 of the Revised 25920
Code. 25921

Notwithstanding any provision of this chapter or Chapter 25922
5123. of the Revised Code requiring the department to distribute 25923
funds to county boards of ~~mental retardation and~~ developmental 25924
disabilities, the department may withhold funds from a board if it 25925
finds that the board is not in substantial compliance with the 25926
standards established under this section. 25927

(F) When the standards for accreditation from the commission 25928
on accreditation of rehabilitation facilities, or another 25929
accrediting agency, meet or exceed the standards established under 25930
this section, the director may accept accreditation from the 25931
commission or other agency as evidence that the board is in 25932
compliance with all or part of the standards established under 25933
this section. Programs and services accredited by the commission 25934
or agency are exempt from the program quality reviews required by 25935
division (E) of this section. 25936

Sec. 5126.09. A county board of ~~mental retardation and~~ 25937
developmental disabilities may procure a policy or policies of 25938
insurance insuring board members or employees of the board or 25939
agencies with which the board contracts or volunteer bus rider 25940
assistants authorized by section 5126.061 of the Revised Code 25941
against liability arising from the performance of their official 25942
duties. 25943

Sec. 5126.10. The director of ~~mental retardation and~~ 25944
developmental disabilities shall adopt rules in accordance with 25945
Chapter 119. of the Revised Code establishing standard cost 25946
allocation procedures and shall require county boards of ~~mental~~ 25947

~~retardation and~~ developmental disabilities to use such procedures 25948
to allocate all indirect costs to services provided pursuant to 25949
Chapters 3323. and 5126. of the Revised Code. 25950

Sec. 5126.11. (A) As used in this section, "respite care" 25951
means appropriate, short-term, temporary care that is provided to 25952
a mentally retarded or developmentally disabled person to sustain 25953
the family structure or to meet planned or emergency needs of the 25954
family. 25955

(B) Subject to rules adopted by the director of ~~mental~~ 25956
~~retardation and~~ developmental disabilities, and subject to the 25957
availability of money from state and federal sources, the county 25958
board of ~~mental retardation and~~ developmental disabilities shall 25959
establish a family support services program. Under such a program, 25960
the board shall make payments to an individual with mental 25961
retardation or other developmental disability or the family of an 25962
individual with mental retardation or other developmental 25963
disability who desires to remain in and be supported in the family 25964
home. Payments shall be made for all or part of costs incurred or 25965
estimated to be incurred for services that would promote 25966
self-sufficiency and normalization, prevent or reduce 25967
inappropriate institutional care, and further the unity of the 25968
family by enabling the family to meet the special needs of the 25969
individual and to live as much like other families as possible. 25970
Payments may be made in the form of reimbursement for expenditures 25971
or in the form of vouchers to be used to purchase services. 25972

(C) Payment shall not be made under this section to an 25973
individual or the individual's family if the individual is living 25974
in a residential facility that is providing residential services 25975
under contract with the department of ~~mental retardation and~~ 25976
developmental disabilities or a county board. 25977

(D) Payments may be made for the following services: 25978

(1) Respite care, in or out of the home;	25979
(2) Counseling, supervision, training, and education of the individual, the individual's caregivers, and members of the individual's family that aid the family in providing proper care for the individual, provide for the special needs of the family, and assist in all aspects of the individual's daily living;	25980 25981 25982 25983 25984
(3) Special diets, purchase or lease of special equipment, or modifications of the home, if such diets, equipment, or modifications are necessary to improve or facilitate the care and living environment of the individual;	25985 25986 25987 25988
(4) Providing support necessary for the individual's continued skill development, including such services as development of interventions to cope with unique problems that may occur within the complexity of the family, enrollment of the individual in special summer programs, provision of appropriate leisure activities, and other social skills development activities;	25989 25990 25991 25992 25993 25994 25995
(5) Any other services that are consistent with the purposes specified in division (B) of this section and specified in the individual's service plan.	25996 25997 25998
(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and the individual must be in need of habilitation. Payments shall be adjusted for income in accordance with the payment schedule established in rules adopted under this section. Payments shall be made only after the county board has taken into account all other available assistance for which the individual or family is eligible.	25999 26000 26001 26002 26003 26004 26005 26006 26007
(F) Before incurring expenses for a service for which payment will be sought under a family support services program, the	26008 26009

individual or family shall apply to the county board for a 26010
determination of eligibility and approval of the service. The 26011
service need not be provided in the county served by the county 26012
board. After being determined eligible and receiving approval for 26013
the service, the individual or family may incur expenses for the 26014
service or use the vouchers received from the county board for the 26015
purchase of the service. 26016

If the county board refuses to approve a service, an appeal 26017
may be made in accordance with rules adopted by the department 26018
under this section. 26019

(G) To be reimbursed for expenses incurred for approved 26020
services, the individual or family shall submit to the county 26021
board a statement of the expenses incurred accompanied by any 26022
evidence required by the board. To redeem vouchers used to 26023
purchase approved services, the entity that provided the service 26024
shall submit to the county board evidence that the service was 26025
provided and a statement of the charges. The county board shall 26026
make reimbursements and redeem vouchers no later than forty-five 26027
days after it receives the statements and evidence required by 26028
this division. 26029

(H) A county board shall consider the following objectives in 26030
carrying out a family support services program: 26031

(1) Enabling individuals to return to their families from an 26032
institution under the jurisdiction of the department of ~~mental~~ 26033
~~retardation and~~ developmental disabilities; 26034

(2) Enabling individuals found to be subject to 26035
institutionalization by court order under section 5123.76 of the 26036
Revised Code to remain with their families with the aid of 26037
payments provided under this section; 26038

(3) Providing services to eligible children and adults 26039
currently residing in the community; 26040

(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board. 26041
26042

(I) The director shall adopt, and may amend and rescind, rules for the implementation of family support services programs by county boards. Such rules shall include the following: 26043
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(1) A payment schedule adjusted for income; 26046

(2) A formula for distributing to county boards the money appropriated for family support services; 26047
26048

(3) Standards for supervision, training, and quality control in the provision of respite care services; 26049
26050

(4) Eligibility standards and procedures for providing temporary emergency respite care; 26051
26052

(5) Procedures for hearing and deciding appeals made under division (F) of this section; 26053
26054

(6) Requirements to be followed by county boards regarding reports submitted under division (K) of this section. 26055
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Rules adopted under divisions (I)(1) and (2) of this section shall be adopted in accordance with section 111.15 of the Revised Code. Rules adopted under divisions (I)(3) to (6) of this section shall be adopted in accordance with Chapter 119. of the Revised Code. 26057
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(J) All individuals certified by the superintendent of the county board as eligible for temporary emergency respite care in accordance with rules adopted under this section shall be considered eligible for temporary emergency respite care for not more than five days to permit the determination of eligibility for family support services. The requirements of divisions (E) and (F) of this section do not apply to temporary emergency respite care. 26062
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(K) The department of ~~mental retardation and~~ developmental disabilities shall distribute to county boards money appropriated 26069
26070

for family support services in quarterly installments of equal 26071
amounts. The installments shall be made not later than the 26072
thirtieth day of September, the thirty-first day of December, the 26073
thirty-first day of March, and the thirtieth day of June. A county 26074
board shall use no more than seven per cent of the funds for 26075
administrative costs. Each county board shall submit reports to 26076
the department on payments made under this section. The reports 26077
shall be submitted at those times and in the manner specified in 26078
rules adopted under this section. 26079

(L) The county board shall not be required to make payments 26080
for family support services at a level that exceeds available 26081
state and federal funds for such payments. 26082

Sec. 5126.12. (A) As used in this section: 26083

(1) "Approved school age class" means a class operated by a 26084
county board of ~~mental retardation and~~ developmental disabilities 26085
and funded by the department of education under section 3317.20 of 26086
the Revised Code. 26087

(2) "Approved preschool unit" means a class or unit operated 26088
by a county board of ~~mental retardation and~~ developmental 26089
disabilities and approved under division (B) of section 3317.05 of 26090
the Revised Code. 26091

(3) "Active treatment" means a continuous treatment program, 26092
which includes aggressive, consistent implementation of a program 26093
of specialized and generic training, treatment, health services, 26094
and related services, that is directed toward the acquisition of 26095
behaviors necessary for an individual with mental retardation or 26096
other developmental disability to function with as much 26097
self-determination and independence as possible and toward the 26098
prevention of deceleration, regression, or loss of current optimal 26099
functional status. 26100

(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.
286 (1965), 42 U.S.C. 1396, as amended; resides in a state
institution operated by the department of ~~mental retardation and~~
developmental disabilities; or is enrolled in home and
community-based services.

(5) "Traditional adult services" means vocational and
nonvocational activities conducted within a sheltered workshop or
adult activity center or supportive home services.

(B) Each county board of ~~mental retardation and~~ developmental
disabilities shall certify to the director of ~~mental retardation~~
~~and~~ developmental disabilities all of the following:

(1) On or before the fifteenth day of October, the average
daily membership for the first full week of programs and services
during October receiving:

(a) Early childhood services provided pursuant to section
5126.05 of the Revised Code for children who are less than three
years of age on the thirtieth day of September of the academic
year;

(b) Special education for children with disabilities in
approved school age classes;

(c) Adult services for persons sixteen years of age and older
operated pursuant to section 5126.05 and division (B) of section
5126.051 of the Revised Code. Separate counts shall be made for
the following:

(i) Persons enrolled in traditional adult services who are
eligible for but not enrolled in active treatment;

(ii) Persons enrolled in traditional adult services who are

eligible for and enrolled in active treatment; 26131

(iii) Persons enrolled in traditional adult services but who 26132
are not eligible for active treatment; 26133

(iv) Persons participating in community employment services. 26134
To be counted as participating in community employment services, a 26135
person must have spent an average of no less than ten hours per 26136
week in that employment during the preceding six months. 26137

(d) Other programs in the county for individuals with mental 26138
retardation and developmental disabilities that have been approved 26139
for payment of subsidy by the department of ~~mental retardation and~~ 26140
developmental disabilities. 26141

The membership in each such program and service in the county 26142
shall be reported on forms prescribed by the department of ~~mental~~ 26143
~~retardation and~~ developmental disabilities. 26144

The department of ~~mental retardation and~~ developmental 26145
disabilities shall adopt rules defining full-time equivalent 26146
enrollees and for determining the average daily membership 26147
therefrom, except that certification of average daily membership 26148
in approved school age classes shall be in accordance with rules 26149
adopted by the state board of education. The average daily 26150
membership figure shall be determined by dividing the amount 26151
representing the sum of the number of enrollees in each program or 26152
service in the week for which the certification is made by the 26153
number of days the program or service was offered in that week. No 26154
enrollee may be counted in average daily membership for more than 26155
one program or service. 26156

(2) By the fifteenth day of December, the number of children 26157
enrolled in approved preschool units on the first day of December; 26158

(3) On or before the thirtieth day of April, an itemized 26159
report of all income and operating expenditures for the 26160
immediately preceding calendar year, in the format specified by 26161

the department of ~~mental retardation and~~ developmental 26162
disabilities; 26163

(4) That each required certification and report is in 26164
accordance with rules established by the department of ~~mental~~ 26165
~~retardation and~~ developmental disabilities and the state board of 26166
education for the operation and subsidization of the programs and 26167
services. 26168

Sec. 5126.121. Each county board of ~~mental retardation and~~ 26169
developmental disabilities may be eligible to receive a subsidy 26170
from the department of ~~mental retardation and~~ developmental 26171
disabilities for the employment of a business manager as provided 26172
in this section. The department shall adopt rules in accordance 26173
with Chapter 119. of the Revised Code specifying standards for the 26174
employment of such a business manager. The rules shall include the 26175
minimum education and experience requirements for the position of 26176
business manager and shall specify requirements for courses in 26177
fiscal and business management that are annually sponsored or 26178
certified by the department and that are applicable to the 26179
position and designed to teach effective business practices. Each 26180
county board of ~~mental retardation and~~ developmental disabilities 26181
that employs a business manager in accordance with the standards 26182
adopted under this section may receive a subsidy from the 26183
department. 26184

The department shall distribute this subsidy to eligible 26185
county boards in quarterly installments of equal amounts. The 26186
installments shall be made not later than the thirtieth day of 26187
September, the thirty-first day of December, the thirty-first day 26188
of March, and the thirtieth day of June. 26189

Sec. 5126.13. (A) A county board of ~~mental retardation and~~ 26190
developmental disabilities may enter into an agreement with one or 26191

more other county boards of ~~mental retardation and~~ developmental 26192
disabilities to establish a regional council in accordance with 26193
Chapter 167. of the Revised Code. The agreement shall specify the 26194
duties and functions to be performed by the council, which may 26195
include any duty or function a county board is required or 26196
authorized to perform under this chapter. If directed to do so by 26197
a resolution adopted by a county board that is a member of a 26198
regional council, the department of ~~mental retardation and~~ 26199
developmental disabilities shall make any distributions of money 26200
for that county for the duties or functions performed by the 26201
council pursuant to its agreement that are otherwise required to 26202
be made to the county board under this chapter to the fiscal 26203
officer of the council designated under section 167.04 of the 26204
Revised Code. 26205

A county board may also enter into an agreement with one or 26206
more school districts or other political subdivisions to establish 26207
a regional council in accordance with Chapter 167. of the Revised 26208
Code. 26209

(B) On or before the thirtieth day of March, the fiscal 26210
officer of a regional council described in this section shall 26211
report to the department of ~~mental retardation and~~ developmental 26212
disabilities, in the format specified by the department, all 26213
income and operating expenditures of the council for the 26214
immediately preceding calendar year. 26215

Sec. 5126.14. The entity responsible for the habilitation 26216
management included in adult day habilitation services, the 26217
program management included in residential services, and the 26218
program management included in supported living shall provide 26219
administrative oversight by doing all of the following: 26220

(A) Having available supervisory personnel to monitor and 26221
ensure implementation of all interventions in accordance with 26222

every individual service plan implemented by the staff who work 26223
with the individuals receiving the services; 26224

(B) Providing appropriate training and technical assistance 26225
for all staff who work with the individuals receiving services; 26226

(C) Communicating with service and support administration 26227
staff for the purpose of coordinating activities to ensure that 26228
services are provided to individuals in accordance with individual 26229
service plans and intended outcomes; 26230

(D) Monitoring for unusual and major unusual incidents and 26231
cases of abuse, neglect, exploitation, or misappropriation of 26232
funds involving the individual under the care of staff who are 26233
providing the services; taking immediate actions as necessary to 26234
maintain the health, safety, and welfare of the individuals 26235
receiving the services; and providing notice of unusual and major 26236
unusual incidents and suspected cases of abuse, neglect, 26237
exploitation, or misappropriation of funds to the county board of 26238
~~mental retardation and~~ developmental disabilities; 26239

(E) Performing other administrative duties as required by 26240
state or federal law or by the county board of ~~mental retardation~~ 26241
~~and~~ developmental disabilities through contracts with providers. 26242

Sec. 5126.15. (A) A county board of ~~mental retardation and~~ 26243
developmental disabilities shall provide service and support 26244
administration to each individual three years of age or older who 26245
is eligible for service and support administration if the 26246
individual requests, or a person on the individual's behalf 26247
requests, service and support administration. A board shall 26248
provide service and support administration to each individual 26249
receiving home and community-based services. A board may provide, 26250
in accordance with the service coordination requirements of 34 26251
C.F.R. 303.23, service and support administration to an individual 26252
under three years of age eligible for early intervention services 26253

under 34 C.F.R. part 303. A board may provide service and support
administration to an individual who is not eligible for other
services of the board. Service and support administration shall be
provided in accordance with rules adopted under section 5126.08 of
the Revised Code.

A board may provide service and support administration by
directly employing service and support administrators or by
contracting with entities for the performance of service and
support administration. Individuals employed or under contract as
service and support administrators shall not be in the same
collective bargaining unit as employees who perform duties that
are not administrative.

Individuals employed by a board as service and support
administrators shall not be assigned responsibilities for
implementing other services for individuals and shall not be
employed by or serve in a decision-making or policy-making
capacity for any other entity that provides programs or services
to individuals with mental retardation or developmental
disabilities. An individual employed as a conditional status
service and support administrator shall perform the duties of
service and support administration only under the supervision of a
management employee who is a service and support administration
supervisor.

(B) The individuals employed by or under contract with a
board to provide service and support administration shall do all
of the following:

(1) Establish an individual's eligibility for the services of
the county board of ~~mental retardation and~~ developmental
disabilities;

(2) Assess individual needs for services;

(3) Develop individual service plans with the active

participation of the individual to be served, other persons 26285
selected by the individual, and, when applicable, the provider 26286
selected by the individual, and recommend the plans for approval 26287
by the department of ~~mental retardation and~~ developmental 26288
disabilities when services included in the plans are funded 26289
through medicaid; 26290

(4) Establish budgets for services based on the individual's 26291
assessed needs and preferred ways of meeting those needs; 26292

(5) Assist individuals in making selections from among the 26293
providers they have chosen; 26294

(6) Ensure that services are effectively coordinated and 26295
provided by appropriate providers; 26296

(7) Establish and implement an ongoing system of monitoring 26297
the implementation of individual service plans to achieve 26298
consistent implementation and the desired outcomes for the 26299
individual; 26300

(8) Perform quality assurance reviews as a distinct function 26301
of service and support administration; 26302

(9) Incorporate the results of quality assurance reviews and 26303
identified trends and patterns of unusual incidents and major 26304
unusual incidents into amendments of an individual's service plan 26305
for the purpose of improving and enhancing the quality and 26306
appropriateness of services rendered to the individual; 26307

(10) Ensure that each individual receiving services has a 26308
designated person who is responsible on a continuing basis for 26309
providing the individual with representation, advocacy, advice, 26310
and assistance related to the day-to-day coordination of services 26311
in accordance with the individual's service plan. The service and 26312
support administrator shall give the individual receiving services 26313
an opportunity to designate the person to provide daily 26314
representation. If the individual declines to make a designation, 26315

the administrator shall make the designation. In either case, the 26316
individual receiving services may change at any time the person 26317
designated to provide daily representation. 26318

Sec. 5126.18. (A) As used in this section: 26319

(1) "County board" means a county board of ~~mental-retardation~~ 26320
~~and~~ developmental disabilities. 26321

(2) Notwithstanding section 5126.01 of the Revised Code, 26322
"adult services" means the following services, as they are 26323
identified on individual information forms submitted by county 26324
boards to the department of ~~mental-retardation-and~~ developmental 26325
disabilities, provided to an individual with mental retardation or 26326
other developmental disability who is at least twenty-two years of 26327
age: 26328

(a) Assessment; 26329

(b) Home service; 26330

(c) Adult program; 26331

(d) Community employment services; 26332

(e) Retirement. 26333

(3) "Adult services enrollment" means a county board's 26334
average daily membership in adult services, exclusive of such 26335
services provided to individuals served solely through service and 26336
support administration provided pursuant to section 5126.15 of the 26337
Revised Code or family support services provided pursuant to 26338
section 5126.11 of the Revised Code. 26339

(4) "Taxable value" means the taxable value of a county board 26340
certified under division (B)(1) of this section. 26341

(5) "Per-mill yield" of a county board means the quotient 26342
obtained by dividing (a) the taxable value of the county board by 26343
(b) one thousand. 26344

(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 expended for such services, as certified under section 5126.12 of the Revised Code.

(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.

(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.

(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.

(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.

(11) "Local tax effort for adult services" of a county board means one thousand multiplied by the quotient obtained by dividing (a) the local adult services cost of the county board by (b) the taxable value of the county board.

(12) "Funding percentage" for a fiscal year means the percentage that the amount appropriated to the department for the purpose of making payments under this section in the fiscal year is of the amount computed under division (C)(3) of this section for the fiscal year.

(13) "Funding-adjusted required millage" for a fiscal year means the statewide average millage multiplied by the funding percentage for that fiscal year.

(B)(1) On the request of the director of ~~mental retardation~~ 26376
~~and~~ developmental disabilities, the tax commissioner shall provide 26377
to the department of ~~mental retardation and~~ developmental 26378
disabilities information specifying the taxable value of property 26379
on each county's tax list of real and public utility property and 26380
tax list of personal property for the most recent tax year for 26381
which such information is available. The director may request any 26382
other tax information necessary for the purposes of this section. 26383

(2) On the request of the director, each county board shall 26384
report the county board's adult services enrollment and local 26385
adult services cost. 26386

(C) Each year, the department of ~~mental retardation and~~ 26387
developmental disabilities shall compute the following: 26388

(1) For each county board, the amount, if any, by which the 26389
statewide yield per enrollee exceeds the county yield per 26390
enrollee; 26391

(2) For each county board, the amount of any excess computed 26392
under division (C)(1) of this section multiplied by the adult 26393
services enrollment of the county board; 26394

(3) The sum of the amounts computed under division (C)(2) of 26395
this section for all county boards. 26396

(D) From money appropriated for the purpose, the department 26397
shall provide for payment to each county board of the amount 26398
computed for that county board under division (C)(2) of this 26399
section, subject to any reduction or adjustment under division 26400
(E), (F), or (G) of this section. The department shall make the 26401
payments in quarterly installments of equal amounts. The 26402
installments shall be made not later than the thirtieth day of 26403
September, thirty-first day of December, thirty-first day of 26404
March, and thirtieth day of June. 26405

(E) If a county board's local tax effort for adult services 26406

is less than the funding-adjusted required millage, the director 26407
shall reduce the amount of payment otherwise computed under 26408
division (C)(2) of this section so that the amount paid, after the 26409
reduction, is the same percentage of the amount computed under 26410
division (C)(2) of this section as the county board's local tax 26411
effort for adult services is of the funding-adjusted required 26412
millage. 26413

If the director reduces the amount of a county board's 26414
payment under this division, the department, not later than the 26415
fifteenth day of July, shall notify the county board of the 26416
reduction and the amount of the reduction. The notice shall 26417
include a statement that the county board may request to be 26418
exempted from the reduction by filing a request with the director, 26419
in the manner and form prescribed by the director, within 26420
twenty-one days after such notification is issued. The board may 26421
present evidence of its attempt to obtain passage of levies or any 26422
other extenuating circumstances the board considers relevant. If 26423
the county board requests a hearing before the director to present 26424
such evidence, the director shall conduct a hearing on the request 26425
unless the director exempts the board from the reduction on the 26426
basis of the evidence presented in the request filed by the board. 26427
Upon receiving a properly and timely filed request for exemption, 26428
but not later than the thirty-first day of August, the director 26429
shall determine whether the county board shall be exempted from 26430
all or a part of the reduction. The director may exempt the board 26431
from all or part of the reduction if the director finds that the 26432
board has made good faith efforts to obtain passage of tax levies 26433
or that there are extenuating circumstances. 26434

(F) If a payment is reduced under division (E) of this 26435
section and the director does not exempt the county board from the 26436
reduction, the amount of the reduction shall be apportioned among 26437
all county boards entitled to payments under this section for 26438

which payments were not so reduced. The amount apportioned to each 26439
county board shall be proportionate to the amount of the board's 26440
payment as computed under division (C)(2) of this section. 26441

(G) If, for any fiscal year, the amount appropriated to the 26442
department for the purpose of this section is less than the amount 26443
computed under division (C)(3) of this section for the fiscal 26444
year, the department shall adjust the amount of each payment as 26445
computed under divisions (C)(2), (E), and (F) of this section by 26446
multiplying that amount by the funding percentage. 26447

(H) The payments authorized by this section are supplemental 26448
to all other funds that may be received by a county board. A 26449
county board shall use the payments solely to pay the nonfederal 26450
share of medicaid expenditures that sections 5126.059 and 26451
5126.0510 of the Revised Code require the county board to pay. 26452

Sec. 5126.19. (A) The director of ~~mental retardation and~~ 26453
developmental disabilities may grant temporary funding from the 26454
community ~~mental retardation and~~ developmental disabilities trust 26455
fund based on allocations to county boards of ~~mental retardation~~ 26456
~~and~~ developmental disabilities. The director may distribute all or 26457
part of the funding directly to a county board, the persons who 26458
provide the services for which the funding is granted, or persons 26459
with mental retardation or developmental disabilities who are to 26460
receive those services. 26461

(B) Funding granted under division (A) of this section shall 26462
be granted according to the availability of moneys in the fund and 26463
priorities established by the director. Funding may be granted for 26464
any of the following purposes: 26465

(1) Behavioral or short-term interventions for persons with 26466
mental retardation or developmental disabilities that assist them 26467
in remaining in the community by preventing institutionalization; 26468

(2) Emergency respite care services, as defined in section 26469
5126.11 of the Revised Code; 26470

(3) Family support services provided under section 5126.11 of 26471
the Revised Code; 26472

(4) Supported living, as defined in section 5126.01 of the 26473
Revised Code; 26474

(5) Staff training for county board employees, employees of 26475
providers of residential services as defined in section 5126.01 of 26476
the Revised Code, and other personnel under contract with a county 26477
board, to provide the staff with necessary training in serving 26478
mentally retarded or developmentally disabled persons in the 26479
community; 26480

(6) Short-term provision of early childhood services provided 26481
under section 5126.05, adult services provided under sections 26482
5126.05 and 5126.051, and service and support administration 26483
provided under section 5126.15 of the Revised Code, when local 26484
moneys are insufficient to meet the need for such services due to 26485
the successive failure within a two-year period of three or more 26486
proposed levies for the services; 26487

(7) Contracts with providers of residential services to 26488
maintain persons with mental retardation and developmental 26489
disabilities in their programs and avoid institutionalization. 26490

(C) If the trust fund contains more than ten million dollars 26491
on the first day of July the director shall use one million 26492
dollars for payments under section 5126.18 of the Revised Code, 26493
two million dollars for subsidies to county boards for supported 26494
living, and one million dollars for subsidies to county boards for 26495
early childhood services and adult services provided under section 26496
5126.05 of the Revised Code. Distributions of funds under this 26497
division shall be made prior to August 31 of the state fiscal year 26498
in which the funds are available. The funds shall be allocated to 26499

a county board in an amount equal to the same percentage of the 26500
total amount allocated to the county board the immediately 26501
preceding state fiscal year. 26502

(D) In addition to making grants under division (A) of this 26503
section, the director may use money available in the trust fund 26504
for the same purposes that rules adopted under section 5123.0413 26505
of the Revised Code provide for money in the state ~~MR/DD~~ 26506
developmental disabilities risk fund and the state insurance 26507
against ~~MR/DD~~ developmental disabilities risk fund, both created 26508
under that section, to be used. 26509

Sec. 5126.20. As used in this section and sections 5126.21 to 26510
5126.29 of the Revised Code: 26511

(A) "Service employee" means a person employed by a county 26512
board of ~~mental-retardation-and~~ developmental disabilities in a 26513
position which may require evidence of registration under section 26514
5126.25 of the Revised Code but for which a bachelor's degree from 26515
an accredited college or university is not required, and includes 26516
employees in the positions listed in division (C) of section 26517
5126.22 of the Revised Code. 26518

(B)(1) "Professional employee" means both of the following: 26519

(a) A person employed by a board in a position for which 26520
either a bachelor's degree from an accredited college or 26521
university or a license or certificate issued under Title XLVII of 26522
the Revised Code is a minimum requirement; 26523

(b) A person employed by a board as a conditional status 26524
service and support administrator. 26525

(2) "Professional employee" includes employees in the 26526
positions listed in division (B) of section 5126.22 of the Revised 26527
Code. 26528

(C) "Management employee" means a person employed by a board 26529

in a position having supervisory or managerial responsibilities 26530
and duties, and includes employees in the positions listed in 26531
division (A) of section 5126.22 of the Revised Code. 26532

(D) "Limited contract" means a contract of limited duration 26533
which is renewable at the discretion of the superintendent. 26534

(E) "Continuing contract" means a contract of employment that 26535
was issued prior to June 24, 1988, to a classified employee under 26536
which the employee has completed the employee's probationary 26537
period and under which the employee retains employment until the 26538
employee retires or resigns, is removed pursuant to section 26539
5126.23 of the Revised Code, or is laid off. 26540

(F) "Supervisory responsibilities and duties" includes the 26541
authority to hire, transfer, suspend, lay off, recall, promote, 26542
discharge, assign, reward, or discipline other employees of the 26543
board; to responsibly direct them; to adjust their grievances; or 26544
to effectively recommend such action, if the exercise of that 26545
authority is not of a merely routine or clerical nature but 26546
requires the use of independent judgment. 26547

(G) "Managerial responsibilities and duties" includes 26548
formulating policy on behalf of the board, responsibly directing 26549
the implementation of policy, assisting in the preparation for the 26550
conduct of collective negotiations, administering collectively 26551
negotiated agreements, or having a major role in personnel 26552
administration. 26553

(H) "Investigative agent" means an individual who conducts 26554
investigations under section 5126.313 of the Revised Code. 26555

Sec. 5126.201. A person may be employed by a county board of 26556
~~mental retardation and~~ developmental disabilities as a conditional 26557
status service and support administrator only if either of the 26558
following is true: 26559

(A) The person has at least an appropriate associate degree; 26560

(B) The person meets both of the following requirements: 26561

(1) The person was employed by the county board and performed 26562
service and support administration duties on June 30, 2005; 26563

(2) The person holds a high school diploma or a general 26564
educational development certificate of high school equivalence. 26565

Sec. 5126.21. As used in this section, "management employee" 26566
does not include the superintendent of a county board of ~~mental~~ 26567
~~retardation and~~ developmental disabilities. 26568

(A)(1) Each management employee of a county board of ~~mental~~ 26569
~~retardation and~~ developmental disabilities shall hold a limited 26570
contract for a period of not less than one year and not more than 26571
five years, except that a management employee hired after the 26572
beginning of a program year may be employed under a limited 26573
contract expiring at the end of the program year. The board shall 26574
approve all contracts of employment for management employees that 26575
are for a term of more than one year. A management employee shall 26576
receive notice of the superintendent's intention not to rehire the 26577
employee at least ninety days prior to the expiration of the 26578
contract. If the superintendent fails to notify a management 26579
employee, the employee shall be reemployed under a limited 26580
contract of one year at the same salary plus any authorized salary 26581
increases. 26582

(2) During the term of a contract a management employee's 26583
salary may be increased, but shall not be reduced unless the 26584
reduction is part of a uniform plan affecting all employees of the 26585
board. 26586

(B) All management employees may be removed, suspended, or 26587
demoted for cause pursuant to section 5126.23 of the Revised Code. 26588

(C) All management employees shall receive employee benefits 26589

that shall include sick leave, vacation leave, holiday pay, and 26590
such other benefits as are established by the board. Sections 26591
124.38 and 325.19 of the Revised Code do not apply to management 26592
employees. 26593

(D) The superintendent of a county board of ~~mental~~ 26594
~~retardation and~~ developmental disabilities shall notify all 26595
management employees of the board of their salary no later than 26596
thirty days before the first day of the new contract year. 26597

(E) All management employees of a county board of ~~mental~~ 26598
~~retardation and~~ developmental disabilities who were given 26599
continuing contract status prior to the effective date of this 26600
section have continuing contract status so long as they maintain 26601
employment with the board. 26602

(F) All management employees who were probationary employees 26603
on the effective date of this section shall, upon completion of 26604
their probationary period, be granted continuing contract status 26605
if retained in employment. 26606

(G) Each county board of ~~mental retardation and~~ developmental 26607
disabilities shall establish a lay-off policy to be followed if it 26608
determines a reduction in the number of management employees is 26609
necessary. 26610

Sec. 5126.22. (A) Employees who hold the following positions 26611
in a county board of ~~mental retardation and~~ developmental 26612
disabilities are management employees: 26613

assistant superintendent 26614

director of business 26615

director of personnel 26616

adult services director 26617

workshop director 26618

habilitation manager	26619
director of residential services	26620
principal (director of children services)	26621
program or service supervisor	26622
plant manager	26623
production manager	26624
service and support administration supervisor	26625
investigative agent	26626
confidential employees as defined in section 4117.01 of the Revised Code	26627 26628
positions designated by the director of mental retardation and developmental disabilities as having managerial or supervisory responsibilities and duties	26629 26630 26631
positions designated by the county board in accordance with division (D) of this section.	26632 26633
(B) Employees who hold the following positions in a board are professional employees:	26634 26635
personnel certified pursuant to Chapter 3319. of the Revised Code	26636 26637
early intervention specialist	26638
physical development specialist	26639
habilitation specialist	26640
work adjustment specialist	26641
placement specialist	26642
vocational evaluator	26643
psychologist	26644
occupational therapist	26645

speech and language pathologist	26646
recreation specialist	26647
behavior management specialist	26648
physical therapist	26649
supportive home services specialist	26650
licensed practical nurse or registered nurse	26651
rehabilitation counselor	26652
doctor of medicine and surgery or of osteopathic medicine and surgery	26653 26654
dentist	26655
service and support administrator	26656
conditional status service and support administrator	26657
social worker	26658
any position that is not a management position and for which	26659
the standards for certification established by the director of	26660
mental retardation and developmental disabilities under section	26661
5126.25 of the Revised Code require a bachelor's or higher degree	26662
professional positions designated by the director	26663
professional positions designated by the county board in	26664
accordance with division (D) of this section.	26665
(C) Employees who hold positions in a board that are neither	26666
management positions nor professional positions are service	26667
employees. Service employee positions include:	26668
workshop specialist	26669
workshop specialist assistant	26670
contract procurement specialist	26671
community employment specialist	26672

any assistant to a professional employee certified to 26673
provide, or supervise the provision of, adult services or service 26674
and support administration 26675

service positions designated by the director 26676

service positions designated by a county board in accordance 26677
with division (D) of this section. 26678

(D) A county board may designate a position only if the 26679
position does not include directly providing, or supervising 26680
employees who directly provide, service or instruction to 26681
individuals with mental retardation or developmental disabilities. 26682

(E) If a county board desires to have a position established 26683
that is not specifically listed in this section that includes 26684
directly providing, or supervising employees who directly provide, 26685
services or instruction to individuals with mental retardation or 26686
developmental disabilities, the board shall submit to the director 26687
a written description of the position and request that the 26688
director designate the position as a management, professional, or 26689
service position under this section. The director shall consider 26690
each request submitted under this division and respond within 26691
thirty days. If the director approves the request, the director 26692
shall designate the position as a management, professional, or 26693
service position. 26694

(F) A county board shall not terminate its employment of any 26695
management, professional, or service employee solely because a 26696
position is added to or eliminated from those positions listed in 26697
this section or because a position is designated or no longer 26698
designated by the director or a county board. 26699

Sec. 5126.221. Each county board of ~~mental retardation and~~ 26700
developmental disabilities shall employ at least one investigative 26701
agent or contract with a person or government entity, including 26702

another county board of ~~mental retardation and~~ developmental 26703
disabilities or a regional council established under section 26704
5126.13 of the Revised Code, for the services of an investigative 26705
agent. Neither a county board nor a person or government entity 26706
with which a county board contracts for the services of an 26707
investigative agent shall assign any duties to an investigative 26708
agent other than conducting investigations under section 5126.313 26709
of the Revised Code. 26710

All investigative agents shall be trained in civil and 26711
criminal investigatory practices. The person responsible for 26712
supervising the work of the investigative agents shall report 26713
directly to a county board's superintendent regarding the 26714
investigative agents. 26715

No investigative agent shall do anything that interferes with 26716
the investigative agent's objectivity in conducting investigations 26717
under section 5126.313 of the Revised Code. 26718

Sec. 5126.23. (A) As used in this section, "employee" means a 26719
management employee or superintendent of a county board of ~~mental~~ 26720
~~retardation and~~ developmental disabilities. 26721

(B) An employee may be removed, suspended, or demoted in 26722
accordance with this section for violation of written rules set 26723
forth by the board or for incompetency, inefficiency, dishonesty, 26724
drunkenness, immoral conduct, insubordination, discourteous 26725
treatment of the public, neglect of duty, or other acts of 26726
misfeasance, malfeasance, or nonfeasance. 26727

(C) Prior to the removal, suspension, or demotion of an 26728
employee pursuant to this section, the employee shall be notified 26729
in writing of the charges against ~~him~~ the employee. Except as 26730
otherwise provided in division (H) of this section, not later than 26731
thirty days after receiving such notification, a predisciplinary 26732

conference shall be held to provide the employee an opportunity to 26733
refute the charges against ~~him~~ the employee. At least seventy-two 26734
hours prior to the conference, the employee shall be given a copy 26735
of the charges against ~~him~~ the employee. 26736

If the removal, suspension, or demotion action is directed 26737
against a management employee, the conference shall be held by the 26738
superintendent or a person ~~he~~ the superintendent designates, and 26739
the superintendent shall notify the management employee within 26740
fifteen days after the conference of the decision made with 26741
respect to the charges. If the removal, suspension, or demotion 26742
action is directed against a superintendent, the conference shall 26743
be held by the members of the board or their designees, and the 26744
board shall notify the superintendent within fifteen days after 26745
the conference of its decision with respect to the charges. 26746

(D) Within fifteen days after receiving notification of the 26747
results of the predisciplinary conference, an employee may file 26748
with the board a written demand for a hearing before the board or 26749
before a referee, and the board shall set a time for the hearing 26750
which shall be within thirty days from the date of receipt of the 26751
written demand, and the board shall give the employee at least 26752
twenty days notice in writing of the time and place of the 26753
hearing. 26754

(E) If a referee is demanded by an employee or a county 26755
board, the hearing shall be conducted by a referee selected in 26756
accordance with division (F) of this section; otherwise, it shall 26757
be conducted by a majority of the members of the board and shall 26758
be confined to the charges enumerated at the predisciplinary 26759
conference. 26760

(F) Referees for the hearings required by this section shall 26761
be selected from the list of names compiled by the superintendent 26762
of public instruction pursuant to section 3319.161 of the Revised 26763
Code. Upon receipt of notice that a referee has been demanded by 26764

an employee or a county board, the superintendent of public 26765
instruction shall immediately designate three persons from such 26766
list, from whom the referee for the hearing shall be chosen, and 26767
~~he~~ the superintendent of public instruction shall immediately 26768
notify the designees, the county board, and the employee. If 26769
within five days of receipt of the notice, the county board and 26770
employee are unable to agree upon one of the designees to serve as 26771
referee, the superintendent of public instruction shall appoint 26772
one of the designees to serve as referee. The appointment of the 26773
referee shall be entered in the minutes of the county board. The 26774
referee appointed shall be paid ~~his~~ the referee's usual and 26775
customary fee for attending the hearing which shall be paid from 26776
the general fund of the county board of ~~mental retardation and~~ 26777
developmental disabilities. 26778

(G) The board shall provide for a complete stenographic 26779
record of the proceedings, and a copy of the record shall be 26780
furnished to the employee. 26781

Both parties may be present at the hearing, be represented by 26782
counsel, require witnesses to be under oath, cross-examine 26783
witnesses, take a record of the proceedings, and require the 26784
presence of witnesses in their behalf upon subpoena to be issued 26785
by the county board. If any person fails to comply with a 26786
subpoena, a judge of the court of common pleas of the county in 26787
which the person resides, upon application of any interested 26788
party, shall compel attendance of the person by attachment 26789
proceedings as for contempt. Any member of the board or the 26790
referee may administer oaths to witnesses. After a hearing by a 26791
referee, the referee shall file ~~his~~ a report within ten days after 26792
the termination of the hearing. After consideration of the 26793
referee's report, the board, by a majority vote, may accept or 26794
reject the referee's recommendation. After a hearing by the board, 26795
the board, by majority vote, may enter its determination upon its 26796

minutes. If the decision, after hearing, is in favor of the 26797
employee, the charges and the record of the hearing shall be 26798
physically expunged from the minutes and, if the employee has 26799
suffered any loss of salary by reason of being suspended, ~~he~~ the 26800
employee shall be paid ~~his~~ the employee's full salary for the 26801
period of such suspension. 26802

Any employee affected by a determination of the board under 26803
this division may appeal to the court of common pleas of the 26804
county in which the board is located within thirty days after 26805
receipt of notice of the entry of such determination. The appeal 26806
shall be an original action in the court and shall be commenced by 26807
the filing of a complaint against the board, in which complaint 26808
the facts shall be alleged upon which the employee relies for a 26809
reversal or modification of such determination. Upon service or 26810
waiver of summons in that appeal, the board immediately shall 26811
transmit to the clerk of the court for filing a transcript of the 26812
original papers filed with the board, a certified copy of the 26813
minutes of the board into which the determination was entered, and 26814
a certified transcript of all evidence adduced at the hearing or 26815
hearings before the board or a certified transcript of all 26816
evidence adduced at the hearing or hearings before the referee, 26817
whereupon the cause shall be at issue without further pleading and 26818
shall be advanced and heard without delay. The court shall examine 26819
the transcript and record of the hearing and shall hold such 26820
additional hearings as it considers advisable, at which it may 26821
consider other evidence in addition to the transcript and record. 26822

Upon final hearing, the court shall grant or deny the relief 26823
prayed for in the complaint as may be proper in accordance with 26824
the evidence adduced in the hearing. Such an action is a special 26825
proceeding, and either the employee or the board may appeal from 26826
the decision of the court of common pleas pursuant to the Rules of 26827
Appellate Procedure and, to the extent not in conflict with those 26828

rules, Chapter 2505. of the Revised Code. 26829

(H) Notwithstanding divisions (C) to (G) of this section, a 26830
county board and an employee may agree to submit issues regarding 26831
the employee's removal, suspension, or demotion to binding 26832
arbitration. The terms of the submission, including the method of 26833
selecting the arbitrator or arbitrators and the responsibility for 26834
compensating the arbitrator, shall be provided for in the 26835
arbitration agreement. The arbitrator shall be selected within 26836
fifteen days of the execution of the agreement. Chapter 2711. of 26837
the Revised Code governs the arbitration proceedings. 26838

Sec. 5126.24. (A) As used in this section: 26839

(1) "License" means an educator license issued by the state 26840
board of education under section 3319.22 of the Revised Code or a 26841
certificate issued by the department of ~~mental retardation and~~ 26842
developmental disabilities. 26843

(2) "Teacher" means a person employed by a county board of 26844
~~mental retardation and~~ developmental disabilities in a position 26845
that requires a license. 26846

(3) "Nonteaching employee" means a person employed by a 26847
county board of ~~mental retardation and~~ developmental disabilities 26848
in a position that does not require a license. 26849

(4) "Years of service" includes all service described in 26850
division (A) of section 3317.13 of the Revised Code. 26851

(B) Subject to rules established by the director of ~~mental~~ 26852
~~retardation and~~ developmental disabilities pursuant to Chapter 26853
119. of the Revised Code, each county board of ~~mental retardation~~ 26854
~~and~~ developmental disabilities shall annually adopt separate 26855
salary schedules for teachers and nonteaching employees. 26856

(C) The teachers' salary schedule shall provide for 26857
increments based on training and years of service. The board may 26858

establish its own service requirements provided no teacher 26859
receives less than the salary the teacher would be paid under 26860
section 3317.13 of the Revised Code if the teacher were employed 26861
by a school district board of education and provided full credit 26862
for a minimum of five years of actual teaching and military 26863
experience as defined in division (A) of such section is given to 26864
each teacher. 26865

Each teacher who has completed training that would qualify 26866
the teacher for a higher salary bracket pursuant to this section 26867
shall file by the fifteenth day of September with the fiscal 26868
officer of the board, satisfactory evidence of the completion of 26869
such additional training. The fiscal officer shall then 26870
immediately place the teacher, pursuant to this section, in the 26871
proper salary bracket in accordance with training and years of 26872
service. No teacher shall be paid less than the salary to which 26873
the teacher would be entitled under section 3317.13 of the Revised 26874
Code if the teacher were employed by a school district board of 26875
education. 26876

The superintendent of each county board, on or before the 26877
fifteenth day of October of each year, shall certify to the state 26878
board of education the name of each teacher employed, on an annual 26879
salary, in each special education program operated pursuant to 26880
section 3323.09 of the Revised Code during the first full school 26881
week of October. The superintendent further shall certify, for 26882
each teacher, the number of years of training completed at a 26883
recognized college, the degrees earned from a college recognized 26884
by the state board, the type of license held, the number of months 26885
employed by the board, the annual salary, and other information 26886
that the state board may request. 26887

(D) The nonteaching employees' salary schedule established by 26888
the board shall be based on training, experience, and 26889
qualifications with initial salaries no less than salaries in 26890

effect on July 1, 1985. Each board shall prepare and may amend 26891
from time to time, specifications descriptive of duties, 26892
responsibilities, requirements, and desirable qualifications of 26893
the classifications of employees required to perform the duties 26894
specified in the salary schedule. All nonteaching employees shall 26895
be notified of the position classification to which they are 26896
assigned and the salary for the classification. The compensation 26897
of all nonteaching employees working for a particular board shall 26898
be uniform for like positions except as compensation would be 26899
affected by salary increments based upon length of service. 26900

On the fifteenth day of October of each year the nonteaching 26901
employees' salary schedule and list of job classifications and 26902
salaries in effect on that date shall be filed by each board with 26903
the superintendent of public instruction. If such salary schedule 26904
and classification plan is not filed, the superintendent of public 26905
instruction shall order the board to file such schedule and list 26906
forthwith. If this condition is not corrected within ten days 26907
after receipt of the order from the superintendent, no money shall 26908
be distributed to the district under Chapter 3317. of the Revised 26909
Code until the superintendent has satisfactory evidence of the 26910
board's full compliance with such order. 26911

Sec. 5126.25. (A) The director of ~~mental-retardation-and~~ 26912
developmental disabilities shall adopt rules in accordance with 26913
Chapter 119. of the Revised Code establishing uniform standards 26914
and procedures for the certification of persons for employment by 26915
county boards of ~~mental-retardation-and~~ developmental disabilities 26916
as superintendents, management employees, and professional 26917
employees and uniform standards and procedures for the 26918
registration of persons for employment by county boards as 26919
registered service employees. As part of the rules, the director 26920
may establish continuing education and professional training 26921
requirements for renewal of certificates and evidence of 26922

registration and shall establish such requirements for renewal of 26923
an investigative agent certificate. In the rules, the director 26924
shall establish certification standards for employment in the 26925
position of investigative agent that require an individual to have 26926
or obtain no less than an associate degree from an accredited 26927
college or university or have or obtain comparable experience or 26928
training. The director shall not adopt rules that require any 26929
service employee to have or obtain a bachelor's or higher degree. 26930

The director shall adopt the rules in a manner that provides 26931
for the issuance of certificates and evidence of registration 26932
according to categories, levels, and grades. The rules shall 26933
describe each category, level, and grade. 26934

The rules adopted under this division shall apply to persons 26935
employed or seeking employment in a position that includes 26936
directly providing, or supervising persons who directly provide, 26937
services or instruction to or on behalf of individuals with mental 26938
retardation or developmental disabilities, except that the rules 26939
shall not apply to persons who hold a valid license issued under 26940
Chapter 3319. of the Revised Code and perform no duties other than 26941
teaching or supervision of a teaching program or persons who hold 26942
a valid license or certificate issued under Title XLVII of the 26943
Revised Code and perform only those duties governed by the license 26944
or certificate. The rules shall specify the positions that require 26945
certification or registration. The rules shall specify that the 26946
position of investigative agent requires certification. 26947

(B) The director shall adopt rules in accordance with Chapter 26948
119. of the Revised Code establishing standards for approval of 26949
courses of study to prepare persons to meet certification 26950
requirements. The director shall approve courses of study meeting 26951
the standards and provide for the inspection of the courses to 26952
ensure the maintenance of satisfactory training procedures. The 26953
director shall approve courses of study only if given by a state 26954

university or college as defined in section 3345.32 of the Revised Code, a state university or college of another state, or an institution that has received a certificate of authorization to confer degrees from the board of regents pursuant to Chapter 1713. of the Revised Code or from a comparable agency of another state.

(C) Each applicant for a certificate for employment or evidence of registration for employment by a county board shall apply to the department of ~~mental retardation and~~ developmental disabilities on forms that the director of the department shall prescribe and provide. The application shall be accompanied by the application fee established in rules adopted under this section.

(D) The director shall issue a certificate for employment to each applicant who meets the standards for certification established under this section and shall issue evidence of registration for employment to each applicant who meets the standards for registration established under this section. Each certificate or evidence of registration shall state the category, level, and grade for which it is issued.

The director shall issue, renew, deny, suspend, or revoke certificates and evidence of registration in accordance with rules adopted under this section. The director shall deny, suspend, or revoke a certificate or evidence of registration if the director finds, pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code, that the applicant for or holder of the certificate or evidence of registration is guilty of intemperate, immoral, or other conduct unbecoming to the applicant's or holder's position, or is guilty of incompetence or negligence within the scope of the applicant's or holder's duties. The director shall deny or revoke a certificate or evidence of registration if the director finds, pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code, that the applicant for or holder of the certificate or evidence of

registration has been convicted of or pleaded guilty to any of the 26987
offenses described in division (E) of section 5126.28 of the 26988
Revised Code, unless the individual meets standards for 26989
rehabilitation that the director establishes in the rules adopted 26990
under that section. Evidence supporting such allegations shall be 26991
presented to the director in writing and the director shall 26992
provide prompt notice of the allegations to the person who is the 26993
subject of the allegations. A denial, suspension, or revocation 26994
may be appealed in accordance with procedures the director shall 26995
establish in the rules adopted under this section. 26996

(E)(1) A person holding a valid certificate under this 26997
section on the effective date of any rules adopted under this 26998
section that increase certification standards shall have such 26999
period as the rules prescribe, but not less than one year after 27000
the effective date of the rules, to meet the new certification 27001
standards. 27002

A person who is registered under this section on the 27003
effective date of any rule that changes the standards adopted 27004
under this section shall have such period as the rules prescribe, 27005
but not less than one year, to meet the new registration 27006
standards. 27007

(2) If an applicant for a certificate for employment has not 27008
completed the courses of instruction necessary to meet the 27009
department's standards for certification, the department shall 27010
inform the applicant of the courses the applicant must 27011
successfully complete to meet the standards and shall specify the 27012
time within which the applicant must complete the courses. The 27013
department shall grant the applicant at least one year to complete 27014
the courses and shall not require the applicant to complete more 27015
than four courses in any one year. The applicant is not subject to 27016
any changes regarding the courses required for certification that 27017
are made after the department informs the applicant of the courses 27018

the applicant must complete, unless the applicant does not 27019
successfully complete the courses within the time specified by the 27020
department. 27021

(F) A person who holds a certificate or evidence of 27022
registration, other than one designated as temporary, is qualified 27023
to be employed according to that certificate or evidence of 27024
registration by any county board. 27025

(G) The director shall monitor county boards to ensure that 27026
their employees who must be certified or registered are 27027
appropriately certified or registered and performing those 27028
functions they are authorized to perform under their certificate 27029
or evidence of registration. 27030

(H) A county board superintendent or the superintendent's 27031
designee may certify to the director that county board employees 27032
who are required to meet continuing education or professional 27033
training requirements as a condition of renewal of certificates or 27034
evidence of registration have met the requirements. The 27035
superintendent or the superintendent's designee shall maintain in 27036
appropriate personnel files evidence acceptable to the director 27037
that the employees have met the requirements and permit 27038
representatives of the department access to the evidence on 27039
request. 27040

(I) All fees collected pursuant to this section shall be 27041
deposited in the state treasury to the credit of the program fee 27042
fund created under section 5123.033 of the Revised Code. 27043

(J) Employees of entities that contract with county boards of 27044
~~mental retardation and~~ developmental disabilities to operate 27045
programs and services for individuals with mental retardation and 27046
developmental disabilities are subject to the certification and 27047
registration requirements established under section 5123.082 of 27048
the Revised Code. 27049

Sec. 5126.251. On receipt of a notice pursuant to section 27050
3123.43 of the Revised Code, the director of ~~mental retardation~~ 27051
~~and~~ developmental disabilities shall comply with sections 3123.41 27052
to 3123.50 of the Revised Code and any applicable rules adopted 27053
under section 3123.63 of the Revised Code with respect to a 27054
certificate or evidence of registration issued pursuant to this 27055
chapter. 27056

Sec. 5126.252. Notwithstanding sections 5123.082, 5126.25, 27057
and 5126.26 of the Revised Code, the department of ~~mental~~ 27058
~~retardation and~~ developmental disabilities may authorize county 27059
boards of ~~mental retardation and~~ developmental disabilities to 27060
establish and administer in their counties programs for the 27061
certification and registration of persons for employment by the 27062
boards. A certificate or evidence of registration issued by a 27063
board participating in programs under this section shall have the 27064
same force and effect as a certificate or evidence of registration 27065
issued by the department under section 5123.082 or 5126.25 of the 27066
Revised Code. 27067

Sec. 5126.253. (A) As used in this section: 27068

(1) "Conduct unbecoming to the teaching profession" shall be 27069
as described in rules adopted by the state board of education. 27070

(2) "Intervention in lieu of conviction" means intervention 27071
in lieu of conviction under section 2951.041 of the Revised Code. 27072

(3) "License" has the same meaning as in section 3319.31 of 27073
the Revised Code. 27074

(4) "Pre-trial diversion program" means a pre-trial diversion 27075
program under section 2935.36 of the Revised Code or a similar 27076
diversion program under rules of a court. 27077

(B) The superintendent of each county board of ~~mental~~ 27078

~~retardation and~~ developmental disabilities or the president of the 27079
board, if division (C) of this section applies, shall promptly 27080
submit to the superintendent of public instruction the information 27081
prescribed in division (D) of this section when any of the 27082
following conditions applies to an employee of the board who holds 27083
a license issued by the state board of education: 27084

(1) The superintendent or president knows that the employee 27085
has pleaded guilty to, has been found guilty by a jury or court 27086
of, has been convicted of, has been found to be eligible for 27087
intervention in lieu of conviction for, or has agreed to 27088
participate in a pre-trial diversion program for an offense 27089
described in division (B)(2) or (C) of section 3319.31 or division 27090
(B)(1) of section 3319.39 of the Revised Code. 27091

(2) The board has initiated termination or nonrenewal 27092
proceedings against, has terminated, or has not renewed the 27093
contract of the employee because the board has reasonably 27094
determined that the employee has committed an act unbecoming to 27095
the teaching profession or an offense described in division (B)(2) 27096
or (C) of section 3319.31 or division (B)(1) of section 3319.39 of 27097
the Revised Code. 27098

(3) The employee has resigned under threat of termination or 27099
nonrenewal as described in division (B)(2) of this section. 27100

(4) The employee has resigned because of or in the course of 27101
an investigation by the board regarding whether the employee has 27102
committed an act unbecoming to the teaching profession or an 27103
offense described in division (B)(2) or (C) of section 3319.31 or 27104
division (B)(1) of section 3319.39 of the Revised Code. 27105

(C) If the employee to whom any of the conditions prescribed 27106
in divisions (B)(1) to (4) of this section applies is the 27107
superintendent of a county board of ~~mental retardation and~~ 27108
developmental disabilities, the president of the board shall make 27109

the report required under this section. 27110

(D) If a report is required under this section, the 27111
superintendent or president shall submit to the superintendent of 27112
public instruction the name and social security number of the 27113
employee about whom information is required and a factual 27114
statement regarding any of the conditions prescribed in divisions 27115
(B)(1) to (4) of this section that applies to the employee. 27116

(E) A determination made by the board as described in 27117
division (B)(2) of this section or a termination, nonrenewal, 27118
resignation, or other separation described in divisions (B)(2) to 27119
(4) of this section does not create a presumption of the 27120
commission or lack of the commission by the employee of an act 27121
unbecoming to the teaching profession or an offense described in 27122
division (B)(2) or (C) of section 3319.31 or division (B)(1) of 27123
section 3319.39 of the Revised Code. 27124

(F) No individual required to submit a report under division 27125
(B) of this section shall knowingly fail to comply with that 27126
division. 27127

(G) An individual who provides information to the 27128
superintendent of public instruction in accordance with this 27129
section in good faith shall be immune from any civil liability 27130
that otherwise might be incurred or imposed for injury, death, or 27131
loss to person or property as a result of the provision of that 27132
information. 27133

Sec. 5126.254. The superintendent of each county board of 27134
~~mental retardation and~~ developmental disabilities shall require 27135
that the reports of any investigation by the board of an employee 27136
regarding whether the employee has committed an act or offense for 27137
which the superintendent is required to make a report to the 27138
superintendent of public instruction under section 5126.253 of the 27139
Revised Code be kept in the employee's personnel file. If, after 27140

an investigation under division (A) of section 3319.311 of the Revised Code, the superintendent of public instruction determines that the results of that investigation do not warrant initiating action under section 3319.31 of the Revised Code, the superintendent of the county board shall require the reports of the board's investigation to be moved from the employee's personnel file to a separate public file.

Sec. 5126.26. Except as otherwise provided in this section and section 5126.27 of the Revised Code, no person shall be employed or compensated by a county board of ~~mental retardation~~ and developmental disabilities if ~~he~~ the person does not hold the certificate, evidence of registration, or license required for the position under the rules of the department or the department of education, but the superintendent of a county board may employ, and the board shall compensate, a person pending the issuance of an initial certificate or registration if ~~he~~ the person meets the requirements for certification or registration, ~~he~~ the person has applied for certification or registration, and the application has not been denied. A person's employment shall be terminated if a required license, certificate, or registration is denied, permanently revoked, or not renewed.

Sec. 5126.27. (A) A county board of ~~mental retardation and~~ developmental disabilities shall allow a professional employee hired by the board prior to July 17, 1990, who does not meet the standards for certification established under section 5126.25 of the Revised Code for the position he holds on July 17, 1990, to elect to do one of the following:

(1) Accept a position with the board, if such a position is available, for which ~~he~~ the employee meets the certification standards;

(2) Remain in the position ~~he~~ the employee holds on July 17, 27171
1990, and comply with the provisions of a professional development 27172
plan prescribed by the director of ~~mental retardation and~~ 27173
developmental disabilities under division (B) of this section. 27174

If the employee accepts a position under division (A)(1) of 27175
this section, ~~his~~ the employee's compensation shall be not less 27176
than the compensation ~~he~~ the employee received in the position ~~he~~ 27177
the employee held on July 17, 1990. 27178

(B) If an employee elects the option described in division 27179
(A)(2) of this section, the board shall notify the department. The 27180
director shall issue a temporary certificate to the employee for 27181
the position ~~he~~ the employee holds and develop a professional 27182
development plan for ~~him~~ the employee. The temporary certificate 27183
shall be valid only during the period required for completion of 27184
the professional development plan and only while the employee is 27185
employed by the board by which ~~he~~ the employee was employed on 27186
July 17, 1990. The plan shall specify the coursework the employee 27187
must successfully complete and any other requirements for 27188
certification and the schedule for completion of the plan, except: 27189

(1) The plan shall not require that the employee complete 27190
more than six semester hours, or the equivalent, of coursework in 27191
any twelve-month period; 27192

(2) All coursework must be completed at an accredited college 27193
or university recognized by the department; 27194

(3) The plan shall not require the employee to complete more 27195
than sixty semester hours, or the equivalent, of coursework, or to 27196
obtain a bachelor's or higher degree if a greater number of hours 27197
of coursework would be required to do so. 27198

Notwithstanding any standards for certification established 27199
by the director under section 5126.25 of the Revised Code, if the 27200
employee successfully completes the professional development plan 27201

within the time specified, the director shall grant ~~him~~ the 27202
employee the appropriate certificate for the position ~~he~~ the 27203
employer holds. 27204

Sec. 5126.28. (A) As used in this section: 27205

(1) "Applicant" means a person who is under final 27206
consideration for appointment to or employment in a position with 27207
a county board of ~~mental retardation and~~ developmental 27208
disabilities, including, but not limited to, a person who is being 27209
transferred to the county board and an employee who is being 27210
recalled or reemployed after a layoff. 27211

(2) "Criminal records check" has the same meaning as in 27212
section 109.572 of the Revised Code. 27213

(3) "Minor drug possession offense" has the same meaning as 27214
in section 2925.01 of the Revised Code. 27215

(B) The superintendent of a county board of ~~mental~~ 27216
~~retardation and~~ developmental disabilities shall request the 27217
superintendent of the bureau of criminal identification and 27218
investigation to conduct a criminal records check with respect to 27219
any applicant who has applied to the board for employment in any 27220
position, except that a county board superintendent is not 27221
required to request a criminal records check for an employee of 27222
the board who is being considered for a different position or is 27223
returning after a leave of absence or seasonal break in 27224
employment, as long as the superintendent has no reason to believe 27225
that the employee has committed any of the offenses listed or 27226
described in division (E) of this section. 27227

If the applicant does not present proof that the applicant 27228
has been a resident of this state for the five-year period 27229
immediately prior to the date upon which the criminal records 27230
check is requested, the county board superintendent shall request 27231

that the superintendent of the bureau obtain information from the 27232
federal bureau of investigation as a part of the criminal records 27233
check for the applicant. If the applicant presents proof that the 27234
applicant has been a resident of this state for that five-year 27235
period, the county board superintendent may request that the 27236
superintendent of the bureau include information from the federal 27237
bureau of investigation in the criminal records check. For 27238
purposes of this division, an applicant may provide proof of 27239
residency in this state by presenting, with a notarized statement 27240
asserting that the applicant has been a resident of this state for 27241
that five-year period, a valid driver's license, notification of 27242
registration as an elector, a copy of an officially filed federal 27243
or state tax form identifying the applicant's permanent residence, 27244
or any other document the superintendent considers acceptable. 27245

(C) The county board superintendent shall provide to each 27246
applicant a copy of the form prescribed pursuant to division 27247
(C)(1) of section 109.572 of the Revised Code, provide to each 27248
applicant a standard impression sheet to obtain fingerprint 27249
impressions prescribed pursuant to division (C)(2) of section 27250
109.572 of the Revised Code, obtain the completed form and 27251
impression sheet from each applicant, and forward the completed 27252
form and impression sheet to the superintendent of the bureau of 27253
criminal identification and investigation at the time the criminal 27254
records check is requested. 27255

Any applicant who receives pursuant to this division a copy 27256
of the form prescribed pursuant to division (C)(1) of section 27257
109.572 of the Revised Code and a copy of an impression sheet 27258
prescribed pursuant to division (C)(2) of that section and who is 27259
requested to complete the form and provide a set of fingerprint 27260
impressions shall complete the form or provide all the information 27261
necessary to complete the form and shall provide the impression 27262
sheet with the impressions of the applicant's fingerprints. If an 27263

applicant, upon request, fails to provide the information 27264
necessary to complete the form or fails to provide impressions of 27265
the applicant's fingerprints, the county board superintendent 27266
shall not employ that applicant. 27267

(D) A county board superintendent may request any other state 27268
or federal agency to supply the board with a written report 27269
regarding the criminal record of each applicant. With regard to an 27270
applicant who becomes a board employee, if the employee holds an 27271
occupational or professional license or other credentials, the 27272
superintendent may request that the state or federal agency that 27273
regulates the employee's occupation or profession supply the board 27274
with a written report of any information pertaining to the 27275
employee's criminal record that the agency obtains in the course 27276
of conducting an investigation or in the process of renewing the 27277
employee's license or other credentials. 27278

(E) Except as provided in division (K)(2) of this section and 27279
in rules adopted by the department of ~~mental retardation and~~ 27280
developmental disabilities in accordance with division (M) of this 27281
section, no county board of ~~mental retardation and~~ developmental 27282
disabilities shall employ a person to fill a position with the 27283
board who has been convicted of or pleaded guilty to any of the 27284
following: 27285

(1) A violation of section 2903.01, 2903.02, 2903.03, 27286
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 27287
2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 27288
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 27289
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 27290
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 27291
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 27292
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of 27293
section 2905.04 of the Revised Code as it existed prior to July 1, 27294
1996, a violation of section 2919.23 of the Revised Code that 27295

would have been a violation of section 2905.04 of the Revised Code 27296
as it existed prior to July 1, 1996, had the violation occurred 27297
prior to that date, a violation of section 2925.11 of the Revised 27298
Code that is not a minor drug possession offense, or felonious 27299
sexual penetration in violation of former section 2907.12 of the 27300
Revised Code; 27301

(2) A felony contained in the Revised Code that is not listed 27302
in this division, if the felony bears a direct and substantial 27303
relationship to the duties and responsibilities of the position 27304
being filled; 27305

(3) Any offense contained in the Revised Code constituting a 27306
misdemeanor of the first degree on the first offense and a felony 27307
on a subsequent offense, if the offense bears a direct and 27308
substantial relationship to the position being filled and the 27309
nature of the services being provided by the county board; 27310

(4) A violation of an existing or former municipal ordinance 27311
or law of this state, any other state, or the United States, if 27312
the offense is substantially equivalent to any of the offenses 27313
listed or described in division (E)(1), (2), or (3) of this 27314
section. 27315

(F) Prior to employing an applicant, the county board 27316
superintendent shall require the applicant to submit a statement 27317
with the applicant's signature attesting that the applicant has 27318
not been convicted of or pleaded guilty to any of the offenses 27319
listed or described in division (E) of this section. The 27320
superintendent also shall require the applicant to sign an 27321
agreement under which the applicant agrees to notify the 27322
superintendent within fourteen calendar days if, while employed by 27323
the board, the applicant is ever formally charged with, convicted 27324
of, or pleads guilty to any of the offenses listed or described in 27325
division (E) of this section. The agreement shall inform the 27326
applicant that failure to report formal charges, a conviction, or 27327

a guilty plea may result in being dismissed from employment. 27328

(G) A county board of ~~mental retardation and~~ developmental 27329
disabilities shall pay to the bureau of criminal identification 27330
and investigation the fee prescribed pursuant to division (C)(3) 27331
of section 109.572 of the Revised Code for each criminal records 27332
check requested and conducted pursuant to this section. 27333

(H)(1) Any report obtained pursuant to this section is not a 27334
public record for purposes of section 149.43 of the Revised Code 27335
and shall not be made available to any person, other than the 27336
applicant who is the subject of the records check or criminal 27337
records check or the applicant's representative, the board 27338
requesting the records check or criminal records check or its 27339
representative, the department of ~~mental retardation and~~ 27340
developmental disabilities, and any court, hearing officer, or 27341
other necessary individual involved in a case dealing with the 27342
denial of employment to the applicant or the denial, suspension, 27343
or revocation of a certificate or evidence of registration under 27344
section 5126.25 of the Revised Code. 27345

(2) An individual for whom a county board superintendent has 27346
obtained reports under this section may submit a written request 27347
to the county board to have copies of the reports sent to any 27348
state agency, entity of local government, or private entity. The 27349
individual shall specify in the request the agencies or entities 27350
to which the copies are to be sent. On receiving the request, the 27351
county board shall send copies of the reports to the agencies or 27352
entities specified. 27353

A county board may request that a state agency, entity of 27354
local government, or private entity send copies to the board of 27355
any report regarding a records check or criminal records check 27356
that the agency or entity possesses, if the county board obtains 27357
the written consent of the individual who is the subject of the 27358
report. 27359

(I) Each county board superintendent shall request the registrar of motor vehicles to supply the superintendent with a certified abstract regarding the record of convictions for violations of motor vehicle laws of each applicant who will be required by the applicant's employment to transport individuals with mental retardation or developmental disabilities or to operate the board's vehicles for any other purpose. For each abstract provided under this section, the board shall pay the amount specified in section 4509.05 of the Revised Code.

(J) The county board superintendent shall provide each applicant with a copy of any report or abstract obtained about the applicant under this section. At the request of the director of ~~mental retardation and~~ developmental disabilities, the superintendent also shall provide the director with a copy of a report or abstract obtained under this section.

(K)(1) The county board superintendent shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment in a position.

(2) A board may employ an applicant pending receipt of reports requested under this section. The board shall terminate employment of any such applicant if it is determined from the reports that the applicant failed to inform the county board that the applicant had been convicted of or pleaded guilty to any of the offenses listed or described in division (E) of this section.

(L) The board may charge an applicant a fee for costs it incurs in obtaining reports, abstracts, or fingerprint impressions under this section. A fee charged under this division shall not

exceed the amount of the fees the board pays under divisions (G) 27392
and (I) of this section. If a fee is charged under this division, 27393
the board shall notify the applicant of the amount of the fee at 27394
the time of the applicant's initial application for employment and 27395
that, unless the fee is paid, the board will not consider the 27396
applicant for employment. 27397

(M) The department of ~~mental retardation and~~ developmental 27398
disabilities shall adopt rules pursuant to Chapter 119. of the 27399
Revised Code to implement this section and section 5126.281 of the 27400
Revised Code, including rules specifying circumstances under which 27401
a county board or contracting entity may hire a person who has 27402
been convicted of or pleaded guilty to an offense listed or 27403
described in division (E) of this section but who meets standards 27404
in regard to rehabilitation set by the department. The rules may 27405
not authorize a county board or contracting entity to hire an 27406
individual who is included in the registry established under 27407
section 5123.52 of the Revised Code. 27408

Sec. 5126.281. (A) As used in this section: 27409

(1) "Contracting entity" means an entity under contract with 27410
a county board of ~~mental retardation and~~ developmental 27411
disabilities for the provision of specialized services to 27412
individuals with mental retardation or a developmental disability. 27413

(2) "Direct services position" means an employment position 27414
in which the employee has physical contact with, the opportunity 27415
to be alone with, or exercises supervision or control over one or 27416
more individuals with mental retardation or a developmental 27417
disability. 27418

(3) "Specialized services" means any program or service 27419
designed and operated to serve primarily individuals with mental 27420
retardation or a developmental disability, including a program or 27421
service provided by an entity licensed or certified by the 27422

department of ~~mental retardation and~~ developmental disabilities. 27423
If there is a question as to whether a contracting entity is 27424
providing specialized services, the contracting entity may request 27425
that the director of ~~mental retardation and~~ developmental 27426
disabilities make a determination. The director's determination is 27427
final. 27428

(B)(1) Except as provided in division (B)(2) of this section, 27429
each contracting entity shall conduct background investigations in 27430
the same manner county boards conduct investigations under section 27431
5126.28 of the Revised Code of all persons under final 27432
consideration for employment with the contracting entity in a 27433
direct services position. On request, the county board shall 27434
assist a contracting entity in obtaining reports from the bureau 27435
of criminal identification and investigation or any other state or 27436
federal agency and in obtaining abstracts from the registrar of 27437
motor vehicles. 27438

(2) A contracting entity is not required to request a 27439
criminal records check for either of the following: 27440

(a) An employee of the entity who is in a direct services 27441
position and being considered for a different direct services 27442
position or is returning after a leave of absence or seasonal 27443
break in employment, as long as the contracting entity has no 27444
reason to believe that the employee has committed any of the 27445
offenses listed or described in division (E) of section 5126.28 of 27446
the Revised Code; 27447

(b) A person who will provide only respite care under a 27448
family support services program established under section 5126.11 27449
of the Revised Code, if the person is selected by a family member 27450
of the individual with mental retardation or a developmental 27451
disability who is to receive the respite care. 27452

(C) No contracting entity shall place a person in a direct 27453

services position if the person has been convicted of or pleaded 27454
guilty to any offense listed or described in division (E) of 27455
section 5126.28 of the Revised Code, unless the person meets the 27456
standards for rehabilitation established by rules adopted under 27457
section 5126.28 of the Revised Code. 27458

(D) A contracting entity may place a person in a direct 27459
services position pending receipt of information concerning the 27460
person's background investigation from the bureau of criminal 27461
identification and investigation, the registrar of motor vehicles, 27462
or any other state or federal agency if the person submits to the 27463
contracting entity a statement with the person's signature that 27464
the person has not been convicted of or pleaded guilty to any of 27465
the offenses listed or described in division (E) of section 27466
5126.28 of the Revised Code. No contracting entity shall fail to 27467
terminate the placement of such person if the contracting entity 27468
is informed that the person has been convicted of or pleaded 27469
guilty to any of the offenses listed or described in division (E) 27470
of section 5126.28 of the Revised Code. 27471

(E) Prior to employing a person in a direct services 27472
position, the contracting entity shall require the person to 27473
submit a statement with the applicant's signature attesting that 27474
the applicant has not been convicted of or pleaded guilty to any 27475
of the offenses listed or described in division (E) of section 27476
5126.28 of the Revised Code. The contracting entity also shall 27477
require the person to sign an agreement to notify the contracting 27478
entity within fourteen calendar days if, while employed by the 27479
entity, the person is ever formally charged with, convicted of, or 27480
pleads guilty to any of the offenses listed or described in 27481
division (E) of section 5126.28 of the Revised Code. The agreement 27482
shall inform the person that failure to report formal charges, a 27483
conviction, or a guilty plea may result in being dismissed from 27484
employment. 27485

(F) A county board may take appropriate action against a 27486
contracting entity that violates this section, including 27487
terminating the contracting entity's contract with the board. 27488

Sec. 5126.29. (A) No professional or management employee in a 27489
position that requires a license issued by the state board of 27490
education under sections 3319.22 to 3319.31 of the Revised Code or 27491
a certificate issued by the director of ~~mental retardation and~~ 27492
developmental disabilities under section 5126.25 of the Revised 27493
Code shall terminate the employee's employment contract with a 27494
county board of ~~mental retardation and~~ developmental disabilities 27495
without obtaining the written consent of the board prior to the 27496
termination or giving the board written notice of the termination 27497
at least thirty days before its effective date. 27498

(B) Upon complaint by a county board of ~~mental retardation~~ 27499
~~and~~ developmental disabilities that a person holding a license 27500
issued under sections 3319.22 to 3319.31 of the Revised Code has 27501
violated division (A) of this section, the state board of 27502
education shall investigate the complaint. If the state board 27503
determines that the person did violate division (A) of this 27504
section, it may suspend the person's license for a period of time 27505
not exceeding one year as determined by the state board. 27506

(C) Upon complaint by a county board of ~~mental retardation~~ 27507
~~and~~ developmental disabilities that a person holding a certificate 27508
issued under section 5126.25 of the Revised Code has violated 27509
division (A) of this section, the director of ~~mental retardation~~ 27510
~~and~~ developmental disabilities shall investigate the complaint. If 27511
the director determines that the person did violate division (A) 27512
of this section, the director may suspend the person's certificate 27513
for a period of time not exceeding one year as determined by the 27514
director. 27515

Sec. 5126.30. As used in sections 5126.30 to 5126.34 of the 27516
Revised Code: 27517

(A) "Adult" means a person eighteen years of age or older 27518
with mental retardation or a developmental disability. 27519

(B) "Caretaker" means a person who is responsible for the 27520
care of an adult by order of a court, including an order of 27521
guardianship, or who assumes the responsibility for the care of an 27522
adult as a volunteer, as a family member, by contract, or by the 27523
acceptance of payment for care. 27524

(C) "Abuse" has the same meaning as in section 5123.50 of the 27525
Revised Code, except that it includes a misappropriation, as 27526
defined in that section. 27527

(D) "Neglect" has the same meaning as in section 5123.50 of 27528
the Revised Code. 27529

(E) "Exploitation" means the unlawful or improper act of a 27530
caretaker using an adult or an adult's resources for monetary or 27531
personal benefit, profit, or gain, including misappropriation, as 27532
defined in section 5123.50 of the Revised Code, of an adult's 27533
resources. 27534

(F) "Working day" means Monday, Tuesday, Wednesday, Thursday, 27535
or Friday, except when that day is a holiday as defined in section 27536
1.14 of the Revised Code. 27537

(G) "Incapacitated" means lacking understanding or capacity, 27538
with or without the assistance of a caretaker, to make and carry 27539
out decisions regarding food, clothing, shelter, health care, or 27540
other necessities, but does not include mere refusal to consent to 27541
the provision of services. 27542

(H) "Emergency protective services" means protective services 27543
furnished to a person with mental retardation or a developmental 27544
disability to prevent immediate physical harm. 27545

(I) "Protective services" means services provided by the 27546
county board of ~~mental retardation and~~ developmental disabilities 27547
to an adult with mental retardation or a developmental disability 27548
for the prevention, correction, or discontinuance of an act of as 27549
well as conditions resulting from abuse, neglect, or exploitation. 27550

(J) "Protective service plan" means an individualized plan 27551
developed by the county board of ~~mental retardation and~~ 27552
developmental disabilities to prevent the further abuse, neglect, 27553
or exploitation of an adult with mental retardation or a 27554
developmental disability. 27555

(K) "Substantial risk" has the same meaning as in section 27556
2901.01 of the Revised Code. 27557

(L) "Party" means all of the following: 27558

(1) An adult who is the subject of a probate proceeding under 27559
sections 5126.30 to 5126.33 of the Revised Code; 27560

(2) A caretaker, unless otherwise ordered by the probate 27561
court; 27562

(3) Any other person designated as a party by the probate 27563
court including but not limited to, the adult's spouse, custodian, 27564
guardian, or parent. 27565

(M) "Board" means a county board of ~~mental retardation and~~ 27566
developmental disabilities. 27567

Sec. 5126.31. (A) A county board of ~~mental retardation and~~ 27568
developmental disabilities shall review reports of abuse and 27569
neglect made under section 5123.61 of the Revised Code and reports 27570
referred to it under section 5101.611 of the Revised Code to 27571
determine whether the person who is the subject of the report is 27572
an adult with mental retardation or a developmental disability in 27573
need of services to deal with the abuse or neglect. The board 27574
shall give notice of each report to the registry office of the 27575

department of ~~mental retardation and~~ developmental disabilities 27576
established pursuant to section 5123.61 of the Revised Code on the 27577
first working day after receipt of the report. If the report 27578
alleges that there is a substantial risk to the adult of immediate 27579
physical harm or death, the board shall initiate review within 27580
twenty-four hours of its receipt of the report. If the board 27581
determines that the person is sixty years of age or older but does 27582
not have mental retardation or a developmental disability, it 27583
shall refer the case to the county department of job and family 27584
services. If the board determines that the person is an adult with 27585
mental retardation or a developmental disability, it shall 27586
continue its review of the case. 27587

(B) For each review over which the board retains 27588
responsibility under division (A) of this section, it shall do all 27589
of the following: 27590

(1) Give both written and oral notice of the purpose of the 27591
review to the adult and, if any, to the adult's legal counsel or 27592
caretaker, in simple and clear language; 27593

(2) Visit the adult, in the adult's residence if possible, 27594
and explain the notice given under division (B)(1) of this 27595
section; 27596

(3) Request from the registry office any prior reports 27597
concerning the adult or other principals in the case; 27598

(4) Consult, if feasible, with the person who made the report 27599
under section 5101.61 or 5123.61 of the Revised Code and with any 27600
agencies or persons who have information about the alleged abuse 27601
or neglect; 27602

(5) Cooperate fully with the law enforcement agency 27603
responsible for investigating the report and for filing any 27604
resulting criminal charges and, on request, turn over evidence to 27605
the agency; 27606

(6) Determine whether the adult needs services, and prepare a written report stating reasons for the determination. No adult shall be determined to be abused, neglected, or in need of services for the sole reason that, in lieu of medical treatment, the adult relies on or is being furnished spiritual treatment through prayer alone in accordance with the tenets and practices of a church or religious denomination of which the adult is a member or adherent.

(C) The board shall arrange for the provision of services for the prevention, correction or discontinuance of abuse or neglect or of a condition resulting from abuse or neglect for any adult who has been determined to need the services and consents to receive them. These services may include, but are not limited to, service and support administration, fiscal management, medical, mental health, home health care, homemaker, legal, and residential services and the provision of temporary accommodations and necessities such as food and clothing. The services do not include acting as a guardian, trustee, or protector as defined in section 5123.55 of the Revised Code. If the provision of residential services would require expenditures by the department of ~~mental retardation and~~ developmental disabilities, the board shall obtain the approval of the department prior to arranging the residential services.

To arrange services, the board shall:

(1) Develop an individualized service plan identifying the types of services required for the adult, the goals for the services, and the persons or agencies that will provide them;

(2) In accordance with rules established by the director of ~~mental retardation and~~ developmental disabilities, obtain the consent of the adult or the adult's guardian to the provision of any of these services and obtain the signature of the adult or guardian on the individual service plan. An adult who has been

found incompetent under Chapter 2111. of the Revised Code may 27639
consent to services. If the board is unable to obtain consent, it 27640
may seek, if the adult is incapacitated, a court order pursuant to 27641
section 5126.33 of the Revised Code authorizing the board to 27642
arrange these services. 27643

(D) The board shall ensure that the adult receives the 27644
services arranged by the board from the provider and shall have 27645
the services terminated if the adult withdraws consent. 27646

(E) On completion of a review, the board shall submit a 27647
written report to the registry office established under section 27648
5123.61 of the Revised Code. If the report includes a finding that 27649
a person with mental retardation or a developmental disability is 27650
a victim of action or inaction that may constitute a crime under 27651
federal law or the law of this state, the board shall submit the 27652
report to the law enforcement agency responsible for investigating 27653
the report. Reports prepared under this section are not public 27654
records as defined in section 149.43 of the Revised Code. 27655

Sec. 5126.311. (A) Notwithstanding the requirement of section 27656
5126.31 of the Revised Code that a county board of ~~mental~~ 27657
~~retardation and~~ developmental disabilities review reports of abuse 27658
and neglect, one of the following government entities, at the 27659
request of the county board or the department of ~~mental~~ 27660
~~retardation and~~ developmental disabilities, shall review the 27661
report instead of the county board if circumstances specified in 27662
rules adopted under division (B) of this section exist: 27663

(1) Another county board of ~~mental retardation and~~ 27664
developmental disabilities; 27665

(2) The department; 27666

(3) A regional council of government established pursuant to 27667
Chapter 167. of the Revised Code; 27668

(4) Any other government entity authorized to investigate 27669
reports of abuse and neglect. 27670

(B) The director of ~~mental retardation and~~ developmental 27671
disabilities shall adopt rules in accordance with Chapter 119. of 27672
the Revised Code specifying circumstances under which it is 27673
inappropriate for a county board to review reports of abuse and 27674
neglect. 27675

Sec. 5126.313. (A) After reviewing a report of abuse or 27676
neglect under section 5126.31 of the Revised Code or a report of a 27677
major unusual incident made in accordance with rules adopted under 27678
section 5123.612 of the Revised Code, a county board of ~~mental~~ 27679
~~retardation and~~ developmental disabilities shall conduct an 27680
investigation if circumstances specified in rules adopted under 27681
division (B) of this section exist. If the circumstances specified 27682
in the rules exist, the county board shall conduct the 27683
investigation in the manner specified by the rules. 27684

(B) The director of ~~mental retardation and~~ developmental 27685
disabilities shall adopt rules in accordance with Chapter 119. of 27686
the Revised Code specifying circumstances under which a county 27687
board shall conduct investigations under division (A) of this 27688
section and the manner in which the county board shall conduct the 27689
investigation. 27690

Sec. 5126.33. (A) A county board of ~~mental retardation and~~ 27691
developmental disabilities may file a complaint with the probate 27692
court of the county in which an adult with mental retardation or a 27693
developmental disability resides for an order authorizing the 27694
board to arrange services described in division (C) of section 27695
5126.31 of the Revised Code for that adult if the adult is 27696
eligible to receive services or support under section 5126.041 of 27697
the Revised Code and the board has been unable to secure consent. 27698

The complaint shall include: 27699

(1) The name, age, and address of the adult; 27700

(2) Facts describing the nature of the abuse, neglect, or 27701
exploitation and supporting the board's belief that services are 27702
needed; 27703

(3) The types of services proposed by the board, as set forth 27704
in the protective service plan described in division (J) of 27705
section 5126.30 of the Revised Code and filed with the complaint; 27706

(4) Facts showing the board's attempts to obtain the consent 27707
of the adult or the adult's guardian to the services. 27708

(B) The board shall give the adult notice of the filing of 27709
the complaint and in simple and clear language shall inform the 27710
adult of the adult's rights in the hearing under division (C) of 27711
this section and explain the consequences of a court order. This 27712
notice shall be personally served upon all parties, and also shall 27713
be given to the adult's legal counsel, if any, and the legal 27714
rights service. The notice shall be given at least twenty-four 27715
hours prior to the hearing, although the court may waive this 27716
requirement upon a showing that there is a substantial risk that 27717
the adult will suffer immediate physical harm in the twenty-four 27718
hour period and that the board has made reasonable attempts to 27719
give the notice required by this division. 27720

(C) Upon the filing of a complaint for an order under this 27721
section, the court shall hold a hearing at least twenty-four hours 27722
and no later than seventy-two hours after the notice under 27723
division (B) of this section has been given unless the court has 27724
waived the notice. All parties shall have the right to be present 27725
at the hearing, present evidence, and examine and cross-examine 27726
witnesses. The Ohio Rules of Evidence shall apply to a hearing 27727
conducted pursuant to this division. The adult shall be 27728
represented by counsel unless the court finds that the adult has 27729

made a voluntary, informed, and knowing waiver of the right to 27730
counsel. If the adult is indigent, the court shall appoint counsel 27731
to represent the adult. The board shall be represented by the 27732
county prosecutor or an attorney designated by the board. 27733

(D)(1) The court shall issue an order authorizing the board 27734
to arrange the protective services if it finds, on the basis of 27735
clear and convincing evidence, all of the following: 27736

(a) The adult has been abused, neglected, or exploited; 27737

(b) The adult is incapacitated; 27738

(c) There is a substantial risk to the adult of immediate 27739
physical harm or death; 27740

(d) The adult is in need of the services; 27741

(e) No person authorized by law or court order to give 27742
consent for the adult is available or willing to consent to the 27743
services. 27744

(2) The board shall develop a detailed protective service 27745
plan describing the services that the board will provide, or 27746
arrange for the provision of, to the adult to prevent further 27747
abuse, neglect, or exploitation. The board shall submit the plan 27748
to the court for approval. The protective service plan may be 27749
changed only by court order. 27750

(3) In formulating the order, the court shall consider the 27751
individual protective service plan and shall specifically 27752
designate the services that are necessary to deal with the abuse, 27753
neglect, or exploitation or condition resulting from abuse, 27754
neglect, or exploitation and that are available locally, and 27755
authorize the board to arrange for these services only. The court 27756
shall limit the provision of these services to a period not 27757
exceeding six months, renewable for an additional six-month period 27758
on a showing by the board that continuation of the order is 27759

necessary. 27760

(E) If the court finds that all other options for meeting the 27761
adult's needs have been exhausted, it may order that the adult be 27762
removed from the adult's place of residence and placed in another 27763
residential setting. Before issuing that order, the court shall 27764
consider the adult's choice of residence and shall determine that 27765
the new residential setting is the least restrictive alternative 27766
available for meeting the adult's needs and is a place where the 27767
adult can obtain the necessary requirements for daily living in 27768
safety. The court shall not order an adult to a hospital or public 27769
hospital as defined in section 5122.01 or a state institution as 27770
defined in section 5123.01 of the Revised Code. 27771

(F) The court shall not authorize a change in an adult's 27772
placement ordered under division (E) of this section unless it 27773
finds compelling reasons to justify a change. The parties to whom 27774
notice was given in division (B) of this section shall be given 27775
notice of a proposed change at least five working days prior to 27776
the change. 27777

(G) The adult, the board, or any other person who received 27778
notice of the petition may file a motion for modification of the 27779
court order at any time. 27780

(H) The county board shall pay court costs incurred in 27781
proceedings brought pursuant to this section. The adult shall not 27782
be required to pay for court-ordered services. 27783

(I)(1) After the filing of a complaint for an order under 27784
this section, the court, prior to the final disposition, may enter 27785
any temporary order that the court finds necessary to protect the 27786
adult with mental retardation or a developmental disability from 27787
abuse, neglect, or exploitation including, but not limited to, the 27788
following: 27789

(a) A temporary protection order; 27790

(b) An order requiring the evaluation of the adult; 27791

(c) An order requiring a party to vacate the adult's place of 27792
residence or legal settlement, provided that, subject to division 27793
(K)(1)(d) of this section, no operator of a residential facility 27794
licensed by the department may be removed under this division; 27795

(d) In the circumstances described in, and in accordance with 27796
the procedures set forth in, section 5123.191 of the Revised Code, 27797
an order of the type described in that section that appoints a 27798
receiver to take possession of and operate a residential facility 27799
licensed by the department. 27800

(2) The court may grant an ex parte order pursuant to this 27801
division on its own motion or if a party files a written motion or 27802
makes an oral motion requesting the issuance of the order and 27803
stating the reasons for it if it appears to the court that the 27804
best interest and the welfare of the adult require that the court 27805
issue the order immediately. The court, if acting on its own 27806
motion, or the person requesting the granting of an ex parte 27807
order, to the extent possible, shall give notice of its intent or 27808
of the request to all parties, the adult's legal counsel, if any, 27809
and the legal rights service. If the court issues an ex parte 27810
order, the court shall hold a hearing to review the order within 27811
seventy-two hours after it is issued or before the end of the next 27812
day after the day on which it is issued, whichever occurs first. 27813
The court shall give written notice of the hearing to all parties 27814
to the action. 27815

Sec. 5126.331. (A) A probate court, through a probate judge 27816
or magistrate, may issue by telephone an ex parte emergency order 27817
authorizing any of the actions described in division (B) of this 27818
section if all of the following are the case: 27819

(1) The court receives notice from the county board of ~~mental~~ 27820
~~retardation and~~ developmental disabilities, or an authorized 27821

employee of the board, that the board or employee believes an 27822
emergency order is needed as described in this section. 27823

(2) The adult who is the subject of the notice is eligible to 27824
receive services or support under section 5126.041 of the Revised 27825
Code. 27826

(3) There is reasonable cause to believe that the adult is 27827
incapacitated. 27828

(4) There is reasonable cause to believe that there is a 27829
substantial risk to the adult of immediate physical harm or death. 27830

(B) An order issued under this section may authorize the 27831
county board of ~~mental retardation and~~ developmental disabilities 27832
to do any of the following: 27833

(1) Provide, or arrange for the provision of, emergency 27834
protective services for the adult; 27835

(2) Remove the adult from the adult's place of residence or 27836
legal settlement; 27837

(3) Remove the adult from the place where the abuse, neglect, 27838
or exploitation occurred. 27839

(C) A court shall not issue an order under this section to 27840
remove an adult from a place described in division (B)(2) or (3) 27841
of this section until the court is satisfied that reasonable 27842
efforts have been made to notify the adult and any person with 27843
whom the adult resides of the proposed removal and the reasons for 27844
it, except that, the court may issue an order prior to giving the 27845
notice if one of the following is the case: 27846

(1) Notification could jeopardize the physical or emotional 27847
safety of the adult. 27848

(2) The notification could result in the adult being removed 27849
from the court's jurisdiction. 27850

(D) An order issued under this section shall be in effect for 27851

not longer than twenty-four hours, except that if the day 27852
following the day on which the order is issued is a weekend-day or 27853
legal holiday, the order shall remain in effect until the next 27854
business day. 27855

(E)(1) Except as provided in division (E)(2) of this section, 27856
not later than twenty-four hours after an order is issued under 27857
this section, the county board or employee that provided notice to 27858
the probate court shall file a complaint with the court in 27859
accordance with division (A) of section 5126.33 of the Revised 27860
Code. 27861

(2) If the day following the day on which the order was 27862
issued is a weekend-day or a holiday, the county board or employee 27863
shall file the complaint with the probate court on the next 27864
business day. 27865

(3) Except as provided in section 5126.332 of the Revised 27866
Code, proceedings on the complaint filed pursuant to this division 27867
shall be conducted in accordance with section 5126.33 of the 27868
Revised Code. 27869

Sec. 5126.333. Any person who has reason to believe that 27870
there is a substantial risk to an adult with mental retardation or 27871
a developmental disability of immediate physical harm or death and 27872
that the responsible county board of ~~mental retardation and~~ 27873
developmental disabilities has failed to seek an order pursuant to 27874
section 5126.33 or 5126.331 of the Revised Code may notify the 27875
department of ~~mental retardation and~~ developmental disabilities. 27876
Within twenty-four hours of receipt of such notice, the department 27877
shall cause an investigation to be conducted regarding the notice. 27878
The department shall provide assistance to the county board to 27879
provide for the health and safety of the adult as permitted by 27880
law. 27881

Sec. 5126.34. Each county board of ~~mental retardation and~~ 27882
developmental disabilities shall provide comprehensive, formal 27883
training for county board employees and other persons authorized 27884
to implement sections 5126.30 to 5126.34 of the Revised Code. 27885

The department of ~~mental retardation and~~ developmental 27886
disabilities shall adopt rules establishing minimum standards for 27887
the training provided by county boards pursuant to this section. 27888
The training provided by the county boards shall meet the minimum 27889
standards prescribed by the rules. 27890

Sec. 5126.36. (A) As used in this section, "health-related 27891
activities," "prescribed medication," and "tube feeding" have the 27892
same meanings as in section 5123.41 of the Revised Code. 27893

(B) In accordance with sections 5123.42 and 5123.651 of the 27894
Revised Code, an employee of a county board of ~~mental retardation~~ 27895
~~or~~ developmental disabilities or an entity under contract with the 27896
board who is not specifically authorized by other provisions of 27897
the Revised Code to administer prescribed medications, perform 27898
health-related activities, perform tube feedings, or provide 27899
assistance in the self-administration of prescribed medications 27900
may do so pursuant to the authority granted under those sections. 27901

Sec. 5126.40. (A) Sections 5126.40 to 5126.47 of the Revised 27902
Code do not apply to medicaid-funded supported living. 27903

(B) As used in sections 5126.40 to 5126.47 of the Revised 27904
Code, "provider" means a person or government entity certified by 27905
the director of ~~mental retardation and~~ developmental disabilities 27906
to provide supported living for individuals with mental 27907
retardation and developmental disabilities. 27908

(C) On and after July 1, 1995, each county board shall plan 27909
and develop supported living for individuals with mental 27910

retardation and developmental disabilities who are residents of 27911
the county in accordance with sections 5126.41 to 5126.47 of the 27912
Revised Code. 27913

Sec. 5126.41. The county board of ~~mental retardation and~~ 27914
developmental disabilities shall identify residents of the county 27915
for whom supported living is to be provided. Identification of the 27916
residents shall be made in accordance with the priorities set 27917
under section 5126.04 of the Revised Code and the waiting list 27918
policies developed under section 5126.042 of the Revised Code. The 27919
board shall assist the residents in identifying their individual 27920
service needs. 27921

To arrange supported living for an individual, the board 27922
shall assist the individual in developing an individual service 27923
plan. In developing the plan, the individual shall choose a 27924
residence that is appropriate according to local standards; the 27925
individuals, if any, with whom the individual will live in the 27926
residence; the services the individual needs to live in the 27927
individual's residence of choice; and the providers from which the 27928
services will be received. The choices available to an individual 27929
shall be based on available resources. 27930

The board shall obtain the consent of the individual or the 27931
individual's guardian and the signature of the individual or 27932
guardian on the individual service plan. The county board shall 27933
ensure that the individual receives from the provider the services 27934
contracted for under section 5126.45 of the Revised Code. 27935

An individual service plan for supported living shall be 27936
effective for a period of time agreed to by the county board and 27937
the individual. In determinating that period, the county board and 27938
the individual shall consider the nature of the services to be 27939
provided and the manner in which they are customarily provided. 27940

Sec. 5126.42. (A) A county board of ~~mental retardation and~~ 27941
developmental disabilities shall establish an advisory council 27942
composed of board members or employees of the board, providers, 27943
individuals receiving supported living, and advocates for 27944
individuals receiving supported living to provide on-going 27945
communication among all persons concerned with supported living. 27946

(B) The board shall develop procedures for the resolution of 27947
grievances between the board and providers or between the board 27948
and an entity with which it has a shared funding agreement. 27949

(C) The board shall develop and implement a provider 27950
selection system. Each system shall enable an individual to choose 27951
to continue receiving supported living from the same providers, to 27952
select additional providers, or to choose alternative providers. 27953
Annually, the board shall review its provider selection system to 27954
determine whether it has been implemented in a manner that allows 27955
individuals fair and equitable access to providers. 27956

In developing a provider selection system, the county board 27957
shall create a pool of providers for individuals to use in 27958
choosing their providers of supported living. The pool shall be 27959
created by placing in the pool all providers on record with the 27960
board or by placing in the pool all providers approved by the 27961
board through soliciting requests for proposals for supported 27962
living contracts. In either case, only providers that are 27963
certified by the director of ~~mental retardation and~~ developmental 27964
disabilities may be placed in the pool. 27965

If the board places all providers on record in the pool, the 27966
board shall review the pool at least annually to determine whether 27967
each provider has continued interest in being a provider and has 27968
maintained its certification by the department. At any time, an 27969
interested and certified provider may make a request to the board 27970
that it be added to the pool, and the board shall add the provider 27971

to the pool not later than seven days after receiving the request. 27972

If the board solicits requests for proposals for inclusion of 27973
providers in the pool, the board shall develop standards for 27974
selecting the providers to be included. Requests for proposals 27975
shall be solicited at least annually. When requests are solicited, 27976
the board shall cause legal notices to be published at least once 27977
each week for two consecutive weeks in a newspaper with general 27978
circulation within the county. The board's formal request for 27979
proposals shall include a description of any applicable contract 27980
terms, the standards that are used to select providers for 27981
inclusion in the pool, and the process the board uses to resolve 27982
disputes arising from the selection process. The board shall 27983
accept requests from any entity interested in being a provider of 27984
supported living for individuals served by the board. Requests 27985
shall be approved or denied according to the standards developed 27986
by the board. Providers that previously have been placed in the 27987
pool are not required to resubmit a request for proposal to be 27988
included in the pool, unless the board's standards have been 27989
changed. 27990

In assisting an individual in choosing a provider, the county 27991
board shall provide the individual with uniform and consistent 27992
information pertaining to each provider in the pool. An individual 27993
may choose to receive supported living from a provider that is not 27994
included in the pool, if the provider is certified by the director 27995
of ~~mental retardation and~~ developmental disabilities. 27996

Sec. 5126.43. (A) After receiving notice from the department 27997
of ~~mental retardation and~~ developmental disabilities of the amount 27998
of state funds to be distributed to it for planning, developing, 27999
contracting for, and providing supported living, the county board 28000
of ~~mental retardation and~~ developmental disabilities shall arrange 28001
for supported living on behalf of and with the consent of 28002

individuals based on their individual service plans developed 28003
under section 5126.41 of the Revised Code. With the state 28004
distribution and any other money designated by the board for 28005
supported living, the board shall arrange for supported living in 28006
one or more of the following ways: 28007

(1) By contracting under section 5126.45 of the Revised Code 28008
with providers selected by the individual to be served; 28009

(2) By entering into shared funding agreements with state 28010
agencies, local public agencies, or political subdivisions at 28011
rates negotiated by the board; 28012

(3) By providing direct payment or vouchers to be used to 28013
purchase supported living, pursuant to a written contract in an 28014
amount determined by the board, to the individual or a person 28015
providing the individual with protective services as defined in 28016
section 5123.55 of the Revised Code. 28017

(B) The board may arrange for supported living only with 28018
providers that are certified by the director of ~~mental retardation~~ 28019
~~and~~ developmental disabilities. 28020

When no certified provider is willing and able to provide 28021
supported living for an individual in accordance with the terms of 28022
the individual service plan for that individual, a county board 28023
may provide supported living directly if it is certified by the 28024
director of ~~mental retardation and~~ developmental disabilities to 28025
provide supported living. 28026

A county board may, for a period not to exceed ninety days, 28027
contract for or provide supported living without meeting the 28028
requirements of this section for an individual it determines to be 28029
in emergency need of supported living. Thereafter, the individual 28030
shall choose providers in accordance with sections 5126.41 and 28031
5126.42 of the Revised Code. 28032

Sec. 5126.45. (A) A contract between a county board of ~~mental~~ 28033
~~retardation and~~ developmental disabilities and a provider of 28034
supported living shall be in writing and shall be based on the 28035
individual service plan developed by the individual under section 28036
5126.41 of the Revised Code. The plan may be submitted as an 28037
addendum to the contract. An individual receiving services 28038
pursuant to a contract shall be considered a third-party 28039
beneficiary to the contract. 28040

(B) The contract shall be negotiated between the provider and 28041
the county board. The terms of the contract shall include at least 28042
the following: 28043

(1) The contract period and conditions for renewal; 28044

(2) The services to be provided pursuant to the individual 28045
service plan; 28046

(3) The rights and responsibilities of all parties to the 28047
contract; 28048

(4) The methods that will be used to evaluate the services 28049
delivered by the provider; 28050

(5) Procedures for contract modification that ensure all 28051
parties affected by the modification are involved and agree; 28052

(6) A process for resolving conflicts between individuals 28053
receiving services, the county board, and the provider, as 28054
applicable; 28055

(7) Procedures for the retention of applicable records; 28056

(8) Provisions for contract termination by any party involved 28057
that include requirements for an appropriate notice of intent to 28058
terminate the contract; 28059

(9) Methods to be used to document services provided; 28060

(10) Procedures for submitting reports required by the county 28061

board as a condition of receiving payment under the contract; 28062

(11) The method and schedule the board will use to make 28063
payments to the provider and whether periodic payment adjustments 28064
will be made to the provider; 28065

(12) Provisions for conducting fiscal reconciliations for 28066
payments made through methods other than a fee-for-service 28067
arrangement. 28068

(C) Payments to the provider under a supported living 28069
contract must be determined by the board to be reasonable in 28070
accordance with policies and procedures developed by the board. 28071
Goods or services provided without charge to the provider shall 28072
not be included as expenditures of the provider. 28073

(D) The board shall establish procedures for reconciling 28074
expenditures and payments, other than those made under a 28075
fee-for-service arrangement, for the prior contract year when a 28076
contract is not renewed and shall reconcile expenditures and 28077
payments in accordance with these procedures. 28078

(E) A provider or an entity with which the board has entered 28079
into a shared funding agreement may appeal a negotiated contract 28080
or proposed shared funding rate to the county board using the 28081
procedures established by the board under section 5126.42 of the 28082
Revised Code. 28083

Sec. 5126.46. (A) No county board of ~~mental retardation and~~ 28084
developmental disabilities shall be obligated to use any money 28085
other than money in the community ~~mental retardation and~~ 28086
developmental disabilities residential services fund to furnish 28087
residential services. 28088

(B) Except with respect to a child required to be provided 28089
services pursuant to section 121.38 of the Revised Code, no court 28090
or other entity of state or local government shall order or 28091

otherwise require a county board of ~~mental retardation and~~ 28092
developmental disabilities to use money from local sources for 28093
residential services for an individual with mental retardation or 28094
developmental disabilities or to arrange for residential services 28095
for such an individual unless a vacancy exists in an appropriate 28096
residential setting within the county. 28097

Sec. 5126.47. A county board of ~~mental retardation and~~ 28098
developmental disabilities may, pursuant to a resolution adopted 28099
by an affirmative vote of the majority of its members, establish, 28100
by agreement with one or more other county boards of ~~mental~~ 28101
~~retardation and~~ developmental disabilities, a residential services 28102
consortium to jointly provide residential services and supported 28103
living. The agreement shall designate one board to assume the 28104
fiscal responsibilities for the consortium. The county auditor of 28105
the designated county shall establish a community ~~mental~~ 28106
~~retardation and~~ developmental disabilities residential services 28107
fund for the consortium. Each board that is a member of the 28108
consortium shall cause to be deposited in the fund any state or 28109
federal money received for community residential services the 28110
county board has agreed to contribute to the consortium. 28111

Sec. 5126.49. The county board of ~~mental retardation and~~ 28112
developmental disabilities may adopt a resolution requesting the 28113
board of county commissioners to implement a residential facility 28114
linked deposit program under sections 5126.51 to 5126.62 of the 28115
Revised Code if the county board of ~~mental retardation and~~ 28116
developmental disabilities finds all of the following: 28117

(A) There is a shortage of residential facilities in the 28118
county for individuals with mental retardation or developmental 28119
disabilities. 28120

(B) Eligible organizations, otherwise willing and able to 28121

develop residential facilities in the county, have been unable to 28122
do so because of high interest rates. 28123

(C) Placement of residential facility linked deposits will 28124
assist in financing the development of residential facilities in 28125
the county that otherwise would not be developed because of high 28126
interest rates. 28127

The board shall transmit a certified copy of the resolution 28128
to the board of county commissioners. 28129

Sec. 5126.50. If the board of county commissioners adopts a 28130
resolution under sections 135.801 and 135.802 of the Revised Code 28131
implementing a residential facility linked deposit program, the 28132
county board of ~~mental retardation and~~ developmental disabilities 28133
shall adopt a resolution that does all of the following: 28134

(A) Establishes standards for its review of applications and 28135
its approval or disapproval of proposed residential facilities 28136
under section 5126.55 of the Revised Code; 28137

(B) Prescribes the form of applications under section 5126.54 28138
of the Revised Code; 28139

(C) Establishes standards for approval or disapproval of 28140
applications for linked deposit loans under section 5126.58 of the 28141
Revised Code. 28142

Sec. 5126.54. An eligible organization that seeks a 28143
residential facility linked deposit loan to finance all or part of 28144
the development of a residential facility shall obtain approval of 28145
the proposed project from the county board of ~~mental retardation~~ 28146
~~and~~ developmental disabilities of the county in which the facility 28147
will be developed. The application shall be in the form prescribed 28148
by the board and include all of the following: 28149

(A) The organization's name, business address, and telephone 28150

number; 28151

(B) The name of an officer or employee of the organization 28152
who may be contacted with regard to the application; 28153

(C) A description of the residential facility and a timetable 28154
showing the time at which each phase of its development is 28155
expected to be completed; 28156

(D) The amount of the loan to be applied for; 28157

(E) Any other information the board considers necessary to 28158
successfully review the application. 28159

Whoever knowingly makes a false statement on an application 28160
is guilty of the offense of falsification under section 2921.13 of 28161
the Revised Code. 28162

Sec. 5126.55. The county board of ~~mental retardation and~~ 28163
developmental disabilities shall review each application filed 28164
under section 5126.54 of the Revised Code and adopt a resolution 28165
approving or disapproving development of the proposed residential 28166
facility. The board shall not approve development of the proposed 28167
residential facility unless it finds, based upon the application 28168
and its evaluation of the applicant, that development of the 28169
residential facility is consistent with its plan and priorities, 28170
under section 5126.05 of the Revised Code, for the provision of 28171
residential facilities for individuals with mental retardation or 28172
developmental disabilities residing in the county. 28173

The resolution shall include specific findings of fact 28174
justifying the approval or disapproval. 28175

The board shall transmit a certified copy of the resolution 28176
to the applicant and to the board of county commissioners. 28177

Sec. 5126.57. In reviewing an application for a residential 28178
facility linked deposit loan, the eligible lending institution 28179

shall apply the same lending standards as it customarily applies 28180
to applications for loans for the development of residential 28181
property. The lending institution shall either approve or 28182
disapprove an application for a residential facility linked 28183
deposit loan within a reasonable time, in accordance with 28184
commercial practice. 28185

If the lending institution approves an application, it shall 28186
prepare and transmit each of the following to the county board of 28187
~~mental retardation and~~ developmental disabilities: 28188

(A) A certification that it is an eligible lending 28189
institution; 28190

(B) A statement that it has approved a residential facility 28191
linked deposit loan to the eligible organization and the amount of 28192
the loan; 28193

(C) A copy of the eligible organization's loan application 28194
and a copy of the resolution of the eligible organization's board 28195
of trustees included with the loan application; 28196

(D) Any other information the board of county commissioners 28197
requires in the resolution adopted under sections 135.801 and 28198
135.802 of the Revised Code. 28199

If the lending institution does not approve an application 28200
for a residential facility linked deposit loan, it shall promptly 28201
notify the county board of ~~mental retardation and~~ developmental 28202
disabilities of such disapproval. 28203

Sec. 5126.58. The county board of ~~mental retardation and~~ 28204
developmental disabilities shall adopt a resolution approving or 28205
disapproving an eligible organization's application for a 28206
residential facility linked deposit loan. The board shall 28207
disapprove an application unless it finds, based on the 28208
application and its evaluation of the applicant, each of the 28209

following: 28210

(A) The applicant has fully complied with sections 5126.54 28211
and 5126.56 of the Revised Code. 28212

(B) Development of the residential facility will materially 28213
contribute to alleviating the shortage of residential facilities 28214
in the county for individuals with mental retardation or 28215
developmental disabilities. 28216

(C) The applicant is ready to proceed with development of the 28217
residential facility, but is unable to do so because of high 28218
interest rates. 28219

(D) The board of county commissioners has certified that 28220
public moneys of the county are currently available for placement 28221
of the residential facility linked deposit necessary to provide 28222
low-cost financing to the applicant. 28223

(E) Placement of the residential facility linked deposit, 28224
considered in the aggregate with all other residential facility 28225
linked deposits under the county's residential facility linked 28226
deposit program, will not cause the total amount of the county's 28227
residential facility linked deposits to exceed an amount equal to 28228
ten per cent of the operating budget of the county board of ~~mental~~ 28229
~~retardation and~~ developmental disabilities for the current year. 28230
If placement of the residential facility linked deposit would 28231
cause the total amount of the county's residential facility linked 28232
deposits to exceed the maximum established by this division, the 28233
board may accept the application but limit the amount of the 28234
residential facility linked deposit accordingly. 28235

The resolution shall include specific findings of fact 28236
justifying acceptance or rejection of the application. If the 28237
board accepts the application, it shall specify the amount of the 28238
residential facility linked deposit in the resolution. 28239

The board shall transmit a certified copy of the resolution 28240

to the applicant, the eligible lending institution, and the 28241
county's investing authority. 28242

Sec. 5126.59. On acceptance of a residential facility linked 28243
deposit loan by the county board of ~~mental retardation and~~ 28244
developmental disabilities, the county's investing authority shall 28245
enter into a residential facility linked deposit agreement with 28246
the eligible lending institution. The agreement shall include all 28247
of the following terms: 28248

(A) An agreement by the investing authority to place 28249
certificates of deposit with the eligible lending institution, in 28250
the amount of the residential facility linked deposit specified in 28251
the resolution, at an interest rate of up to five per cent per 28252
year below current annual market rates, for a term considered 28253
appropriate by the investing authority, not to exceed five years, 28254
and to renew the certificates of deposit for up to four additional 28255
terms, each additional term not to exceed five years; 28256

(B) An agreement by the eligible lending institution to lend 28257
the value of the certificates of deposit placed with the 28258
institution to the eligible organization at an annual interest 28259
rate that is the same number of percentage points below the annual 28260
borrowing rate currently applicable to similar loans as the annual 28261
interest rate agreed to for certificates of deposit placed 28262
pursuant to division (A) of this section is below current annual 28263
market rates; 28264

(C) An agreement by the eligible lending institution to pay 28265
interest on the certificates of deposit at times determined by the 28266
investing authority; 28267

(D) The form in which the eligible lending institution is to 28268
make the certification required by section 5126.60 of the Revised 28269
Code; 28270

(E) Any other terms necessary to carry out the purpose of 28271
sections 5126.51 to 5126.62 of the Revised Code. 28272

The agreement may contain terms specifying the period of time 28273
during which the eligible lending institution is to lend funds 28274
upon placement of the residential facility linked deposit. 28275

The investing authority shall determine current market rates 28276
under the agreement. 28277

Sec. 5126.61. The county investing authority shall monitor 28278
the compliance with sections 5126.51 to 5126.62 of the Revised 28279
Code of eligible lending institutions and eligible organizations 28280
receiving residential facility linked deposits and loans. 28281

The investing authority shall annually report to the board of 28282
county commissioners and county board of ~~mental retardation and~~ 28283
developmental disabilities with regard to the operation of the 28284
county's residential facility linked deposit program. The report 28285
shall list the eligible organizations receiving residential 28286
facility linked deposit loans under the residential facility 28287
linked deposit program. 28288

Sec. 5126.62. The county, board of county commissioners, 28289
county board of ~~mental retardation and~~ developmental disabilities, 28290
and county investing authority are not liable to any eligible 28291
lending institution in any manner for payment of the principal or 28292
interest on a loan to an eligible organization. Delay in payment 28293
or default on the part of an eligible organization does not in any 28294
manner affect the residential facility linked deposit agreement 28295
between the county investing authority and the eligible lending 28296
institution. 28297

Sec. 5126.99. (A) Whoever violates division (B) of section 28298
5126.044 of the Revised Code is guilty of a misdemeanor of the 28299

first degree. 28300

(B) Whoever violates division (F) of section 5126.253 of the 28301
Revised Code shall be punished as follows: 28302

(1) Except as otherwise provided in division (B)(2) of this 28303
section, the person is guilty of a misdemeanor of the fourth 28304
degree. 28305

(2) The person is guilty of a misdemeanor of the first degree 28306
if both of the following conditions apply: 28307

(a) The employee who is the subject of the report that the 28308
person fails to submit was required to be reported for the 28309
commission or alleged commission of an act or offense involving 28310
the infliction on a child of any physical or mental wound, injury, 28311
disability, or condition of a nature that constitutes abuse or 28312
neglect of the child; 28313

(b) During the period between the violation of division (F) 28314
of section 5126.253 of the Revised Code and the conviction of or 28315
plea of guilty by the person for that violation, the employee who 28316
is the subject of the report that the person fails to submit 28317
inflicts on any child attending a school district, educational 28318
service center, public or nonpublic school, or county board of 28319
~~mental retardation and~~ developmental disabilities where the 28320
employee works any physical or mental wound, injury, disability, 28321
or condition of a nature that constitutes abuse or neglect of the 28322
child. 28323

Sec. 5139.08. The department of youth services may enter into 28324
an agreement with the director of rehabilitation and correction 28325
pursuant to which the department of youth services, in accordance 28326
with division (C)(2) of section 5139.06 and section 5120.162 of 28327
the Revised Code, may transfer to a correctional medical center 28328
established by the department of rehabilitation and correction, 28329

children who are within its custody for diagnosis or treatment of 28330
an illness, physical condition, or other medical problem. The 28331
department of youth services may enter into any other agreements 28332
with the director of job and family services, the director of 28333
mental health, the director of ~~mental retardation and~~ 28334
developmental disabilities, the director of rehabilitation and 28335
correction, with the courts having probation officers or other 28336
public officials, and with private agencies or institutions for 28337
separate care or special treatment of children subject to the 28338
control of the department of youth services. The department of 28339
youth services may, upon the request of a juvenile court not 28340
having a regular probation officer, provide probation services for 28341
such court. 28342

Upon request by the department of youth services, any public 28343
agency or group care facility established or administered by the 28344
state for the care and treatment of children and youth shall, 28345
consistent with its functions, accept and care for any child whose 28346
custody is vested in the department in the same manner as it would 28347
be required to do if custody had been vested by a court in such 28348
agency or group care facility. If the department has reasonable 28349
grounds to believe that any child or youth whose custody is vested 28350
in it is mentally ill or mentally retarded, the department may 28351
file an affidavit under section 5122.11 or 5123.76 of the Revised 28352
Code. The department's affidavit for admission of a child or youth 28353
to such institution shall be filed with the probate court of the 28354
county from which the child was committed to the department. Such 28355
court may request the probate court of the county in which the 28356
child is held to conduct the hearing on the application, in which 28357
case the court making such request shall bear the expenses of the 28358
proceeding. If the department files such an affidavit, the child 28359
or youth may be kept in such institution until a final decision on 28360
the affidavit is made by the appropriate court. 28361

Sec. 5139.34. (A) Funds may be appropriated to the department 28362
of youth services for the purpose of granting state subsidies to 28363
counties. A county or the juvenile court that serves a county 28364
shall use state subsidies granted to the county pursuant to this 28365
section only in accordance with divisions (B)(2)(a) and (3)(a) of 28366
section 5139.43 of the Revised Code and the rules pertaining to 28367
the state subsidy funds that the department adopts pursuant to 28368
division (D) of section 5139.04 of the Revised Code. The 28369
department shall not grant financial assistance pursuant to this 28370
section for the provision of care and services for children in a 28371
placement facility unless the facility has been certified, 28372
licensed, or approved by a state or national agency with 28373
certification, licensure, or approval authority, including, but 28374
not limited to, the department of job and family services, 28375
department of education, department of mental health, department 28376
of ~~mental retardation and~~ developmental disabilities, or American 28377
~~Correctional Association~~ correctional association. For the 28378
purposes of this section, placement facilities do not include a 28379
state institution or a county or district children's home. 28380

The department also shall not grant financial assistance 28381
pursuant to this section for the provision of care and services 28382
for children, including, but not limited to, care and services in 28383
a detention facility, in another facility, or in out-of-home 28384
placement, unless the minimum standards applicable to the care and 28385
services that the department prescribes in rules adopted pursuant 28386
to division (D) of section 5139.04 of the Revised Code have been 28387
satisfied. 28388

(B) The department of youth services shall apply the 28389
following formula to determine the amount of the annual grant that 28390
each county is to receive pursuant to division (A) of this 28391
section, subject to the appropriation for this purpose to the 28392
department made by the general assembly: 28393

(1) Each county shall receive a basic annual grant of fifty 28394
thousand dollars. 28395

(2) The sum of the basic annual grants provided under 28396
division (B)(1) of this section shall be subtracted from the total 28397
amount of funds appropriated to the department of youth services 28398
for the purpose of making grants pursuant to division (A) of this 28399
section to determine the remaining portion of the funds 28400
appropriated. The remaining portion of the funds appropriated 28401
shall be distributed on a per capita basis to each county that has 28402
a population of more than twenty-five thousand for that portion of 28403
the population of the county that exceeds twenty-five thousand. 28404

(C)(1) Prior to a county's receipt of an annual grant 28405
pursuant to this section, the juvenile court that serves the 28406
county shall prepare, submit, and file in accordance with division 28407
(B)(3)(a) of section 5139.43 of the Revised Code an annual grant 28408
agreement and application for funding that is for the combined 28409
purposes of, and that satisfies the requirements of, this section 28410
and section 5139.43 of the Revised Code. In addition to the 28411
subject matters described in division (B)(3)(a) of section 5139.43 28412
of the Revised Code or in the rules that the department adopts to 28413
implement that division, the annual grant agreement and 28414
application for funding shall address fiscal accountability and 28415
performance matters pertaining to the programs, care, and services 28416
that are specified in the agreement and application and for which 28417
state subsidy funds granted pursuant to this section will be used. 28418

(2) The county treasurer of each county that receives an 28419
annual grant pursuant to this section shall deposit the state 28420
subsidy funds so received into the county's felony delinquent care 28421
and custody fund created pursuant to division (B)(1) of section 28422
5139.43 of the Revised Code. Subject to exceptions prescribed in 28423
section 5139.43 of the Revised Code that may apply to the 28424
disbursement, the department shall disburse the state subsidy 28425

funds to which a county is entitled in a lump sum payment that 28426
shall be made in July of each calendar year. 28427

(3) Upon an order of the juvenile court that serves a county 28428
and subject to appropriation by the board of county commissioners 28429
of that county, a county treasurer shall disburse from the 28430
county's felony delinquent care and custody fund the state subsidy 28431
funds granted to the county pursuant to this section for use only 28432
in accordance with this section, the applicable provisions of 28433
section 5139.43 of the Revised Code, and the county's approved 28434
annual grant agreement and application for funding. 28435

(4) The moneys in a county's felony delinquent care and 28436
custody fund that represent state subsidy funds granted pursuant 28437
to this section are subject to appropriation by the board of 28438
county commissioners of the county; shall be disbursed by the 28439
county treasurer as required by division (C)(3) of this section; 28440
shall be used in the manners referred to in division (C)(3) of 28441
this section; shall not revert to the county general fund at the 28442
end of any fiscal year; shall carry over in the felony delinquent 28443
care and custody fund from the end of any fiscal year to the next 28444
fiscal year; shall be in addition to, and shall not be used to 28445
reduce, any usual annual increase in county funding that the 28446
juvenile court is eligible to receive or the current level of 28447
county funding of the juvenile court and of any programs, care, or 28448
services for alleged or adjudicated delinquent children, unruly 28449
children, or juvenile traffic offenders or for children who are at 28450
risk of becoming delinquent children, unruly children, or juvenile 28451
traffic offenders; and shall not be used to pay for the care and 28452
custody of felony delinquents who are in the care and custody of an 28453
institution pursuant to a commitment, recommitment, or revocation 28454
of a release on parole by the juvenile court of that county or who 28455
are in the care and custody of a community corrections facility 28456
pursuant to a placement by the department with the consent of the 28457

juvenile court as described in division (E) of section 5139.36 of the Revised Code. 28458
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(5) As a condition of the continued receipt of state subsidy funds pursuant to this section, each county and the juvenile court that serves each county that receives an annual grant pursuant to this section shall comply with divisions (B)(3)(b), (c), and (d) of section 5139.43 of the Revised Code. 28460
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Sec. 5145.18. Any printing or binding performed in a state correctional institution may be performed for the use of the institution, the departments of mental health, ~~mental retardation~~ ~~and~~ developmental disabilities, and rehabilitation and correction, the department of public safety in connection with the registration of motor vehicles, and for any other purpose authorized by division (B) of section 5145.03 and by sections 5145.16 and 5145.161 of the Revised Code. 28465
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Sec. 5153.16. (A) Except as provided in section 2151.422 of the Revised Code, in accordance with rules adopted under section 5153.166 of the Revised Code, 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 shall do all of the following: 28473
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(1) Make an investigation concerning any child alleged to be an abused, neglected, or dependent child; 28479
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(2) Enter into agreements with the parent, guardian, or other person having legal custody of any child, or with the department of job and family services, department of mental health, department of ~~mental retardation~~ ~~and~~ developmental disabilities, other department, any certified organization within or outside the county, or any agency or institution outside the state, having legal custody of any child, with respect to the custody, care, or 28481
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placement of any child, or with respect to any matter, in the 28488
interests of the child, provided the permanent custody of a child 28489
shall not be transferred by a parent to the public children 28490
services agency without the consent of the juvenile court; 28491

(3) Accept custody of children committed to the public 28492
children services agency by a court exercising juvenile 28493
jurisdiction; 28494

(4) Provide such care as the public children services agency 28495
considers to be in the best interests of any child adjudicated to 28496
be an abused, neglected, or dependent child the agency finds to be 28497
in need of public care or service; 28498

(5) Provide social services to any unmarried girl adjudicated 28499
to be an abused, neglected, or dependent child who is pregnant 28500
with or has been delivered of a child; 28501

(6) Make available to the bureau for children with medical 28502
handicaps of the department of health at its request any 28503
information concerning a crippled child found to be in need of 28504
treatment under sections 3701.021 to 3701.028 of the Revised Code 28505
who is receiving services from the public children services 28506
agency; 28507

(7) Provide temporary emergency care for any child considered 28508
by the public children services agency to be in need of such care, 28509
without agreement or commitment; 28510

(8) Find certified foster homes, within or outside the 28511
county, for the care of children, including handicapped children 28512
from other counties attending special schools in the county; 28513

(9) Subject to the approval of the board of county 28514
commissioners and the state department of job and family services, 28515
establish and operate a training school or enter into an agreement 28516
with any municipal corporation or other political subdivision of 28517
the county respecting the operation, acquisition, or maintenance 28518

of any children's home, training school, or other institution for 28519
the care of children maintained by such municipal corporation or 28520
political subdivision; 28521

(10) Acquire and operate a county children's home, establish, 28522
maintain, and operate a receiving home for the temporary care of 28523
children, or procure certified foster homes for this purpose; 28524

(11) Enter into an agreement with the trustees of any 28525
district children's home, respecting the operation of the district 28526
children's home in cooperation with the other county boards in the 28527
district; 28528

(12) Cooperate with, make its services available to, and act 28529
as the agent of persons, courts, the department of job and family 28530
services, the department of health, and other organizations within 28531
and outside the state, in matters relating to the welfare of 28532
children, except that the public children services agency shall 28533
not be required to provide supervision of or other services 28534
related to the exercise of parenting time rights granted pursuant 28535
to section 3109.051 or 3109.12 of the Revised Code or 28536
companionship or visitation rights granted pursuant to section 28537
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 28538
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 28539
a common pleas court, pursuant to division (E)(6) of section 28540
3113.31 of the Revised Code, requires the provision of supervision 28541
or other services related to the exercise of the parenting time 28542
rights or companionship or visitation rights; 28543

(13) Make investigations at the request of any superintendent 28544
of schools in the county or the principal of any school concerning 28545
the application of any child adjudicated to be an abused, 28546
neglected, or dependent child for release from school, where such 28547
service is not provided through a school attendance department; 28548

(14) Administer funds provided under Title IV-E of the 28549

"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 28550
amended, in accordance with rules adopted under section 5101.141 28551
of the Revised Code; 28552

(15) In addition to administering Title IV-E adoption 28553
assistance funds, enter into agreements to make adoption 28554
assistance payments under section 5153.163 of the Revised Code; 28555

(16) Implement a system of safety and risk assessment, in 28556
accordance with rules adopted by the director of job and family 28557
services, to assist the public children services agency in 28558
determining the risk of abuse or neglect to a child; 28559

(17) Enter into a plan of cooperation with the board of 28560
county commissioners under section 307.983 of the Revised Code and 28561
comply with each fiscal agreement the board enters into under 28562
section 307.98 of the Revised Code that include family services 28563
duties of public children services agencies and contracts the 28564
board enters into under sections 307.981 and 307.982 of the 28565
Revised Code that affect the public children services agency; 28566

(18) Make reasonable efforts to prevent the removal of an 28567
alleged or adjudicated abused, neglected, or dependent child from 28568
the child's home, eliminate the continued removal of the child 28569
from the child's home, or make it possible for the child to return 28570
home safely, except that reasonable efforts of that nature are not 28571
required when a court has made a determination under division 28572
(A)(2) of section 2151.419 of the Revised Code; 28573

(19) Make reasonable efforts to place the child in a timely 28574
manner in accordance with the permanency plan approved under 28575
division (E) of section 2151.417 of the Revised Code and to 28576
complete whatever steps are necessary to finalize the permanent 28577
placement of the child; 28578

(20) Administer a Title IV-A program identified under 28579
division (A)(4)(c) or (f) of section 5101.80 of the Revised Code 28580

that the department of job and family services provides for the 28581
public children services agency to administer under the 28582
department's supervision pursuant to section 5101.801 of the 28583
Revised Code; 28584

(21) Administer the kinship permanency incentive program 28585
created under section 5101.802 of the Revised Code under the 28586
supervision of the director of job and family services; 28587

(22) Provide independent living services pursuant to sections 28588
2151.81 to 2151.84 of the Revised Code. 28589

(B) The public children services agency shall use the system 28590
implemented pursuant to division (A)(16) of this section in 28591
connection with an investigation undertaken pursuant to division 28592
(F)(1) of section 2151.421 of the Revised Code to assess both of 28593
the following: 28594

(1) The ongoing safety of the child; 28595

(2) The appropriateness of the intensity and duration of the 28596
services provided to meet child and family needs throughout the 28597
duration of a case. 28598

(C) Except as provided in section 2151.422 of the Revised 28599
Code, in accordance with rules of the director of job and family 28600
services, and on behalf of children in the county whom the public 28601
children services agency considers to be in need of public care or 28602
protective services, the public children services agency may do 28603
the following: 28604

(1) Provide or find, with other child serving systems, 28605
specialized foster care for the care of children in a specialized 28606
foster home, as defined in section 5103.02 of the Revised Code, 28607
certified under section 5103.03 of the Revised Code; 28608

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 28609
this section, contract with the following for the purpose of 28610

assisting the agency with its duties:	28611
(i) County departments of job and family services;	28612
(ii) Boards of alcohol, drug addiction, and mental health services;	28613 28614
(iii) County boards of mental retardation and developmental disabilities;	28615 28616
(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;	28617 28618
(v) Private and government providers of services;	28619
(vi) Managed care organizations and prepaid health plans.	28620
(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 authorized by the department's rules.	28621 28622 28623 28624 28625
(c) Only a county children services board appointed under section 5153.03 of the Revised Code that is a public children services agency may contract under division (C)(2)(a) of this section. If an entity specified in division (B) or (C) of section 5153.02 of the Revised Code is the public children services agency for a county, the board of county commissioners may enter into contracts pursuant to section 307.982 of the Revised Code regarding the agency's duties.	28626 28627 28628 28629 28630 28631 28632 28633
Sec. 5153.99. Whoever violates division (F) of section 5153.176 of the Revised Code shall be punished as follows:	28634 28635
(A) Except as otherwise provided in division (B) of this section, the person is guilty of a misdemeanor of the fourth degree.	28636 28637 28638
(B) The person is guilty of a misdemeanor of the first degree	28639

if, during the period between the violation and the conviction of 28640
or plea of guilty by the person for that violation, the license 28641
holder who is the subject of the investigation about which the 28642
person fails to provide information inflicts on any child 28643
attending a school district, educational service center, public or 28644
nonpublic school, or county board of ~~mental retardation and~~ 28645
developmental disabilities where the license holder works any 28646
physical or mental wound, injury, disability, or condition of a 28647
nature that constitutes abuse or neglect of the child. 28648

Sec. 5511.03. The director of transportation shall examine 28649
the existing highway facilities serving the several hospitals, 28650
educational institutions, and correctional and other similar 28651
institutions belonging to the state, and located outside municipal 28652
corporations. Where ~~he~~ the director finds that any such state 28653
institution is not located on a state highway or connected with a 28654
highway by a suitable road, affording in its present condition 28655
adequate transportation facilities to those having occasion to 28656
visit such institution, ~~he~~ the director may establish a state 28657
highway leading to such institution from a convenient point on an 28658
existing highway. Where ~~he~~ the director finds that any such 28659
institution is not served by adequate highway facilities 28660
connecting it with the railroad delivery point from which it 28661
principally obtains fuel, provisions, and supplies, ~~he~~ the 28662
director may establish a highway connecting such institution and 28663
railroad delivery point. Limitations imposed on the mileage of 28664
state highways shall not apply to highways established under this 28665
section. 28666

The director may construct at state expense all highways 28667
established under authority of this section and pay the entire 28668
cost thereof from the state highway operating fund. Such highways 28669
shall be maintained by the department of transportation and the 28670
cost shall be paid from the highway operating fund of the 28671

department. 28672

The directors of transportation, mental health, ~~mental~~ 28673
~~retardation and~~ developmental disabilities, and rehabilitation and 28674
correction may cooperate in the establishment, construction, 28675
reconstruction, maintenance, and repair of roads within the limits 28676
of state institutions. The cost shall be paid from funds 28677
appropriated for highway purposes and from the funds appropriated 28678
to the department of mental health, department of ~~mental~~ 28679
~~retardation and~~ developmental disabilities, or the department of 28680
rehabilitation and correction for capital improvements or 28681
maintenance in such proportion as may be agreed upon by the 28682
directors of transportation, mental health, ~~mental retardation and~~ 28683
developmental disabilities, and rehabilitation and correction. 28684

Sec. 5543.011. A county engineer may sell directly to a 28685
county board of ~~mental retardation and~~ developmental disabilities 28686
gasoline and diesel fuel that has been purchased for the use of 28687
the county engineer's office. 28688

Sec. 5705.091. The board of county commissioners of each 28689
county shall establish a county ~~mental retardation and~~ 28690
developmental disabilities general fund. Notwithstanding section 28691
5705.10 of the Revised Code, proceeds from levies under section 28692
5705.222 and division (L) of section 5705.19 of the Revised Code 28693
shall be deposited to the credit of the county ~~mental retardation~~ 28694
~~and~~ developmental disabilities general fund. Accounts shall be 28695
established within the county ~~mental retardation and~~ developmental 28696
disabilities general fund for each of the several particular 28697
purposes of the levies as specified in the resolutions under which 28698
the levies were approved, and proceeds from different levies that 28699
were approved for the same particular purpose shall be credited to 28700
accounts for that purpose. Other money received by the county for 28701
the purposes of Chapters 3323. and 5126. of the Revised Code and 28702

not required by state or federal law to be deposited to the credit 28703
of a different fund shall also be deposited to the credit of the 28704
county ~~mental-retardation-and~~ developmental disabilities general 28705
fund, in an account appropriate to the particular purpose for 28706
which the money was received. Unless otherwise provided by law, an 28707
unexpended balance at the end of a fiscal year in any account in 28708
the county ~~mental-retardation-and~~ developmental disabilities 28709
general fund shall be appropriated the next fiscal year to the 28710
same fund. 28711

A county board of ~~mental-retardation-and~~ developmental 28712
disabilities may request, by resolution, that the board of county 28713
commissioners establish a county ~~mental-retardation-and~~ 28714
developmental disabilities capital fund for money to be used for 28715
acquisition, construction, or improvement of capital facilities or 28716
acquisition of capital equipment used in providing services to 28717
mentally retarded and developmentally disabled persons. The county 28718
board of ~~mental-retardation-and~~ developmental disabilities shall 28719
transmit a certified copy of the resolution to the board of county 28720
commissioners. Upon receiving the resolution, the board of county 28721
commissioners shall establish a county ~~mental-retardation-and~~ 28722
developmental disabilities capital fund. 28723

Sec. 5705.14. No transfer shall be made from one fund of a 28724
subdivision to any other fund, by order of the court or otherwise, 28725
except as follows: 28726

(A) The unexpended balance in a bond fund that is no longer 28727
needed for the purpose for which such fund was created shall be 28728
transferred to the sinking fund or bond retirement fund from which 28729
such bonds are payable. 28730

(B) The unexpended balance in any specific permanent 28731
improvement fund, other than a bond fund, after the payment of all 28732
obligations incurred in the acquisition of such improvement, shall 28733

be transferred to the sinking fund or bond retirement fund of the 28734
subdivision; provided that if such money is not required to meet 28735
the obligations payable from such funds, it may be transferred to 28736
a special fund for the acquisition of permanent improvements, or, 28737
with the approval of the court of common pleas of the county in 28738
which such subdivision is located, to the general fund of the 28739
subdivision. 28740

(C) The unexpended balance in the sinking fund or bond 28741
retirement fund of a subdivision, after all indebtedness, 28742
interest, and other obligations for the payment of which such fund 28743
exists have been paid and retired, shall be transferred, in the 28744
case of the sinking fund, to the bond retirement fund, and in the 28745
case of the bond retirement fund, to the sinking fund; provided 28746
that if such transfer is impossible by reason of the nonexistence 28747
of the fund to receive the transfer, such unexpended balance, with 28748
the approval of the court of common pleas of the county in which 28749
such division is located, may be transferred to any other fund of 28750
the subdivision. 28751

(D) The unexpended balance in any special fund, other than an 28752
improvement fund, existing in accordance with division (D), (F), 28753
or (G) of section 5705.09 or section 5705.12 of the Revised Code, 28754
may be transferred to the general fund or to the sinking fund or 28755
bond retirement fund after the termination of the activity, 28756
service, or other undertaking for which such special fund existed, 28757
but only after the payment of all obligations incurred and payable 28758
from such special fund. 28759

(E) Money may be transferred from the general fund to any 28760
other fund of the subdivision. 28761

(F) Moneys retained or received by a county under section 28762
4501.04 or division (A)(3) of section 5735.27 of the Revised Code 28763
may be transferred from the fund into which they were deposited to 28764
the sinking fund or bond retirement fund from which any principal, 28765

interest, or charges for which such moneys may be used is payable. 28766

(G) Moneys retained or received by a municipal corporation 28767
under section 4501.04 or division (A)(1) or (2) of section 5735.27 28768
of the Revised Code may be transferred from the fund into which 28769
they were deposited to the sinking fund or bond retirement fund 28770
from which any principal, interest, or charges for which such 28771
moneys may be used is payable. 28772

(H)(1) Money may be transferred from the county ~~mental~~ 28773
~~retardation and~~ developmental disabilities general fund to the 28774
county ~~mental-retardation and~~ developmental disabilities capital 28775
fund established under section 5705.091 of the Revised Code or to 28776
any other fund created for the purposes of the county board of 28777
~~mental-retardation and~~ developmental disabilities, so long as 28778
money in the fund to which the money is transferred can be spent 28779
for the particular purpose of the transferred money. The county 28780
board of ~~mental-retardation and~~ developmental disabilities may 28781
request, by resolution, that the board of county commissioners 28782
make the transfer. The county board of ~~mental-retardation and~~ 28783
developmental disabilities shall transmit a certified copy of the 28784
resolution to the board of county commissioners. Upon receiving 28785
the resolution, the board of county commissioners may make the 28786
transfer. Money transferred to a fund shall be credited to an 28787
account appropriate to its particular purpose. 28788

(2) An unexpended balance in an account in the county ~~mental~~ 28789
~~retardation and~~ developmental disabilities capital fund or any 28790
other fund created for the purposes of the county board of ~~mental~~ 28791
~~retardation and~~ developmental disabilities may be transferred back 28792
to the county ~~mental-retardation and~~ developmental disabilities 28793
general fund. The transfer may be made if the unexpended balance 28794
is no longer needed for its particular purpose and all outstanding 28795
obligations have been paid. Money transferred back to the county 28796
~~mental-retardation and~~ developmental disabilities general fund 28797

shall be credited to an account for current expenses within that 28798
fund. The county board of ~~mental retardation and~~ developmental 28799
disabilities may request, by resolution, that the board of county 28800
commissioners make the transfer. The county board of ~~mental~~ 28801
~~retardation and~~ developmental disabilities shall transmit a 28802
certified copy of the resolution to the board of county 28803
commissioners. Upon receiving the resolution, the board of county 28804
commissioners may make the transfer. 28805

Except in the case of transfer pursuant to division (E) of 28806
this section, transfers authorized by this section shall only be 28807
made by resolution of the taxing authority passed with the 28808
affirmative vote of two-thirds of the members. 28809

Sec. 5705.191. The taxing authority of any subdivision, other 28810
than the board of education of a school district or the taxing 28811
authority of a county school financing district, by a vote of 28812
two-thirds of all its members, may declare by resolution that the 28813
amount of taxes that may be raised within the ten-mill limitation 28814
by levies on the current tax duplicate will be insufficient to 28815
provide an adequate amount for the necessary requirements of the 28816
subdivision, and that it is necessary to levy a tax in excess of 28817
such limitation for any of the purposes in section 5705.19 of the 28818
Revised Code, or to supplement the general fund for the purpose of 28819
making appropriations for one or more of the following purposes: 28820
public assistance, human or social services, relief, welfare, 28821
hospitalization, health, and support of general hospitals, and 28822
that the question of such additional tax levy shall be submitted 28823
to the electors of the subdivision at a general, primary, or 28824
special election to be held at a time therein specified. Such 28825
resolution shall not include a levy on the current tax list and 28826
duplicate unless such election is to be held at or prior to the 28827
general election day of the current tax year. Such resolution 28828
shall conform to the requirements of section 5705.19 of the 28829

Revised Code, except that a levy to supplement the general fund 28830
for the purposes of public assistance, human or social services, 28831
relief, welfare, hospitalization, health, or the support of 28832
general or tuberculosis hospitals may not be for a longer period 28833
than ten years. All other levies under this section may not be for 28834
a longer period than five years unless a longer period is 28835
permitted by section 5705.19 of the Revised Code, and the 28836
resolution shall specify the date of holding such election, which 28837
shall not be earlier than seventy-five days after the adoption and 28838
certification of such resolution. The resolution shall go into 28839
immediate effect upon its passage and no publication of the same 28840
is necessary other than that provided for in the notice of 28841
election. A copy of such resolution, immediately after its 28842
passage, shall be certified to the board of elections of the 28843
proper county or counties in the manner provided by section 28844
5705.25 of the Revised Code, and such section shall govern the 28845
arrangements for the submission of such question and other matters 28846
with respect to such election, to which section 5705.25 of the 28847
Revised Code refers, excepting that such election shall be held on 28848
the date specified in the resolution, which shall be consistent 28849
with the requirements of section 3501.01 of the Revised Code, 28850
provided that only one special election for the submission of such 28851
question may be held in any one calendar year and provided that a 28852
special election may be held upon the same day a primary election 28853
is held. Publication of notice of that election shall be made in 28854
one or more newspapers of general circulation in the county once a 28855
week for two consecutive weeks prior to the election, and, if the 28856
board of elections operates and maintains a web site, the board of 28857
elections shall post notice of the election on its web site for 28858
thirty days prior to the election. 28859

If a majority of the electors voting on the question vote in 28860
favor thereof, the taxing authority of the subdivision may make 28861
the necessary levy within such subdivision at the additional rate 28862

or at any lesser rate outside the ten-mill limitation on the tax 28863
list and duplicate for the purpose stated in the resolution. Such 28864
tax levy shall be included in the next annual tax budget that is 28865
certified to the county budget commission. 28866

After the approval of such a levy by the electors, the taxing 28867
authority of the subdivision may anticipate a fraction of the 28868
proceeds of such levy and issue anticipation notes. In the case of 28869
a continuing levy that is not levied for the purpose of current 28870
expenses, notes may be issued at any time after approval of the 28871
levy in an amount not more than fifty per cent of the total 28872
estimated proceeds of the levy for the succeeding ten years, less 28873
an amount equal to the fraction of the proceeds of the levy 28874
previously anticipated by the issuance of anticipation notes. In 28875
the case of a levy for a fixed period that is not for the purpose 28876
of current expenses, notes may be issued at any time after 28877
approval of the levy in an amount not more than fifty per cent of 28878
the total estimated proceeds of the levy throughout the remaining 28879
life of the levy, less an amount equal to the fraction of the 28880
proceeds of the levy previously anticipated by the issuance of 28881
anticipation notes. In the case of a levy for current expenses, 28882
notes may be issued after the approval of the levy by the electors 28883
and prior to the time when the first tax collection from the levy 28884
can be made. Such notes may be issued in an amount not more than 28885
fifty per cent of the total estimated proceeds of the levy 28886
throughout the term of the levy in the case of a levy for a fixed 28887
period, or fifty per cent of the total estimated proceeds for the 28888
first ten years of the levy in the case of a continuing levy. 28889

No anticipation notes that increase the net indebtedness of a 28890
county may be issued without the prior consent of the board of 28891
county commissioners of that county. The notes shall be issued as 28892
provided in section 133.24 of the Revised Code, shall have 28893
principal payments during each year after the year of their 28894

issuance over a period not exceeding the life of the levy 28895
anticipated, and may have a principal payment in the year of their 28896
issuance. 28897

"Taxing authority" and "subdivision" have the same meanings 28898
as in section 5705.01 of the Revised Code. 28899

~~"Human or social services" includes a county's contributions 28900
to a multicounty board of mental retardation and developmental 28901
disabilities of which the county is a member. 28902~~

This section is supplemental to and not in derogation of 28903
sections 5705.20, 5705.21, and 5705.22 of the Revised Code. 28904

Sec. 5705.222. (A) At any time the board of county 28905
commissioners of any county by a majority vote of the full 28906
membership may declare by resolution and certify to the board of 28907
elections of the county that the amount of taxes which may be 28908
raised within the ten-mill limitation by levies on the current tax 28909
duplicate will be insufficient to provide the necessary 28910
requirements of the ~~single~~ county board of ~~mental retardation and~~ 28911
~~developmental disabilities established pursuant to Chapter 5126.~~ 28912
~~of the Revised Code, or the county's contribution to a multicounty~~ 28913
~~board created under that chapter of which the county is a member,~~ 28914
and that it is necessary to levy a tax in excess of such 28915
limitation for the operation of programs and services by county 28916
boards of ~~mental retardation and~~ developmental disabilities and 28917
for the acquisition, construction, renovation, financing, 28918
maintenance, and operation of mental retardation and developmental 28919
disabilities facilities. 28920

Such resolution shall conform to section 5705.19 of the 28921
Revised Code, except that the increased rate may be in effect for 28922
any number of years not exceeding ten or for a continuing period 28923
of time. 28924

The resolution shall be certified and submitted in the manner 28925
provided in section 5705.25 of the Revised Code, except that it 28926
may be placed on the ballot in any election, and shall be 28927
certified to the board of elections not less than seventy-five 28928
days before the election at which it will be voted upon. 28929

If the majority of the electors voting on a levy for the 28930
support of the programs and services of the county board of ~~mental~~ 28931
~~retardation and~~ developmental disabilities vote in favor of the 28932
levy, the board of county commissioners may levy a tax within the 28933
county at the additional rate outside the ten-mill limitation 28934
during the specified or continuing period, for the purpose stated 28935
in the resolution. The county board of ~~mental retardation and~~ 28936
developmental disabilities, within its budget and with the 28937
approval of the board of county commissioners through annual 28938
appropriations, shall use the proceeds of a levy approved under 28939
this section solely for the purposes authorized by this section. 28940

(B) When electors have approved a tax levy under this 28941
section, the county commissioners may anticipate a fraction of the 28942
proceeds of the levy and issue anticipation notes in accordance 28943
with section 5705.191 or 5705.193 of the Revised Code. 28944

(C) The county auditor, upon receipt of a resolution from the 28945
county board of ~~mental retardation and~~ developmental disabilities, 28946
shall establish a capital improvements account or a reserve 28947
balance account, or both, as specified in the resolution. The 28948
capital improvements account shall be a contingency account for 28949
the necessary acquisition, replacement, renovation, or 28950
construction of facilities and movable and fixed equipment. Upon 28951
the request of the county board of ~~mental retardation and~~ 28952
developmental disabilities, moneys not needed to pay for current 28953
expenses may be appropriated to this account, in amounts such that 28954
this account does not exceed twenty-five per cent of the 28955
replacement value of all capital facilities and equipment 28956

currently used by the county board of ~~mental retardation and~~ 28957
developmental disabilities for mental retardation and 28958
developmental disabilities programs and services. Other moneys 28959
available for current capital expenses from federal, state, or 28960
local sources may also be appropriated to this account. 28961

The reserve balance account shall contain those moneys that 28962
are not needed to pay for current operating expenses and not 28963
deposited in the capital improvements account but that will be 28964
needed to pay for operating expenses in the future. Upon the 28965
request of a county board of ~~mental retardation and~~ developmental 28966
disabilities, the board of county commissioners may appropriate 28967
moneys to the reserve balance account. 28968

Sec. 5705.28. (A) Except as provided in division (B)(1) or 28969
(2) of this section or in section 5705.281 of the Revised Code, 28970
the taxing authority of each subdivision or other taxing unit 28971
shall adopt a tax budget for the next succeeding fiscal year: 28972

(1) On or before the fifteenth day of January in the case of 28973
a school district; 28974

(2) On or before the fifteenth day of July in the case of all 28975
other subdivisions and taxing units. 28976

(B)(1) Before the first day of June in each year, the board 28977
of trustees of a school library district entitled to participate 28978
in any appropriation or revenue of a school district or to have a 28979
tax proposed by the board of education of a school district shall 28980
file with the board of education of the school district a tax 28981
budget for the ensuing fiscal year. On or before the fifteenth day 28982
of July in each year, the board of education of a school district 28983
to which a school library district tax budget was submitted under 28984
this division shall adopt such tax budget on behalf of the library 28985
district, but such budget shall not be part of the school 28986
district's tax budget. 28987

(2)(a) The taxing authority of a taxing unit that does not 28988
levy a tax is not required to adopt a tax budget pursuant to 28989
division (A) of this section. Instead, on or before the fifteenth 28990
day of July each year, such taxing authority shall adopt an 28991
operating budget for the taxing unit for the ensuing fiscal year. 28992
The operating budget shall include an estimate of receipts from 28993
all sources, a statement of all taxing unit expenses that are 28994
anticipated to occur, and the amount required for debt charges 28995
during the fiscal year. The operating budget is not required to be 28996
filed with the county auditor or the county budget commission. 28997

(b) Except for this section and sections 5705.36, 5705.38, 28998
5705.40, 5705.41, 5705.43, 5705.44, and 5705.45 of the Revised 28999
Code, a taxing unit that does not levy a tax is not a taxing unit 29000
for purposes of Chapter 5705. of the Revised Code. Documents 29001
prepared in accordance with such sections are not required to be 29002
filed with the county auditor or county budget commission. 29003

(c) The total appropriations from each fund of a taxing unit 29004
that does not levy a tax shall not exceed the total estimated 29005
revenue available for expenditures from the fund, and 29006
appropriations shall be made from each fund only for the purposes 29007
for which the fund is established. 29008

(C)(1) To assist in the preparation of the tax budget, the 29009
head of each department, board, commission, and district authority 29010
entitled to participate in any appropriation or revenue of a 29011
subdivision shall file with the taxing authority, or in the case 29012
of a municipal corporation, with its chief executive officer, 29013
before the forty-fifth day prior to the date on which the budget 29014
must be adopted, an estimate of contemplated revenue and 29015
expenditures for the ensuing fiscal year, in such form as is 29016
prescribed by the taxing authority of the subdivision or by the 29017
auditor of state. The taxing authority shall include in its budget 29018
of expenditures the full amounts requested by district 29019

authorities, not to exceed the amount authorized by law, if such 29020
authorities may fix the amount of revenue they are to receive from 29021
the subdivision. In a municipal corporation in which a special 29022
levy for a municipal university has been authorized to be levied 29023
in excess of the ten-mill limitation, or is required by the 29024
charter of the municipal corporation, the taxing authority shall 29025
include an amount not less than the estimated yield of such levy, 29026
if such amount is requested by the board of directors of the 29027
municipal university. 29028

(2) A county board of ~~mental retardation and~~ developmental 29029
disabilities may include within its estimate of contemplated 29030
revenue and expenditures a reserve balance account in the 29031
community ~~mental retardation and~~ developmental disabilities 29032
residential services fund. The account shall contain money that is 29033
not needed to pay for current expenses for residential services 29034
and supported living but will be needed to pay for expenses for 29035
such services in the future or may be needed for unanticipated 29036
emergency expenses. On the request of the county board of ~~mental~~ 29037
~~retardation and~~ developmental disabilities, the board of county 29038
commissioners shall include such an account in its budget of 29039
expenditures and appropriate money to the account from residential 29040
service moneys for the county board. 29041

(D) The board of trustees of any public library desiring to 29042
participate in the distribution of the county public library fund 29043
shall adopt appropriate rules extending the benefits of the 29044
library service of such library to all the inhabitants of the 29045
county on equal terms, unless such library service is by law 29046
available to all such inhabitants, and shall certify a copy of 29047
such rules to the taxing authority with its estimate of 29048
contemplated revenue and expenditures. Where such rules have been 29049
so certified or where the adoption of such rules is not required, 29050
the taxing authority shall include in its budget of receipts such 29051

amounts as are specified by such board as contemplated revenue 29052
from the county public library fund, and in its budget of 29053
expenditures the full amounts requested therefrom by such board. 29054
No library association, incorporated or unincorporated, is 29055
entitled to participate in the proceeds of the county public 29056
library fund unless such association both was organized and 29057
operating prior to January 1, 1968, and participated in the 29058
distribution of the proceeds of the county public library fund 29059
prior to December 31, 2005. 29060

Sec. 5705.44. When contracts or leases run beyond the 29061
termination of the fiscal year in which they are made, the fiscal 29062
officer of the taxing authority shall make a certification for the 29063
amount required to meet the obligation of such contract or lease 29064
maturing in such fiscal year. The amount of the obligation under 29065
such contract or lease remaining unfulfilled at the end of a 29066
fiscal year, and which will become payable during the next fiscal 29067
year, shall be included in the annual appropriation measure for 29068
the next year as a fixed charge. 29069

The certificate required by section 5705.41 of the Revised 29070
Code as to money in the treasury shall not be required for 29071
contracts on which payments are to be made from the earnings of a 29072
publicly operated water works or public utility, but in the case 29073
of any such contract made without such certification, no payment 29074
shall be made on account thereof, and no claim or demand thereon 29075
shall be recoverable, except out of such earnings. That 29076
certificate also shall not be required if requiring the 29077
certificate makes it impossible for a county board of ~~mental~~ 29078
~~retardation and~~ developmental disabilities to pay the nonfederal 29079
share of medicaid expenditures that the county board is required 29080
by sections 5126.059 and 5126.0510 of the Revised Code to pay. 29081

Sec. 5735.142. (A)(1) Any person who uses any motor fuel, on 29082

which the tax imposed by sections 5735.05, 5735.25, and 5735.29 of
the Revised Code has been paid, for the purpose of operating a
transit bus shall be reimbursed in the amount of the tax paid on
motor fuel used by public transportation systems providing transit
or paratransit service on a regular and continuing basis within
the state;

(2) A city, exempted village, joint vocational, or local
school district or educational service center that purchases any
motor fuel for school district or service center operations, on
which any tax imposed by section 5735.29 of the Revised Code that
became effective on or after July 1, 2003, has been paid, may, if
an application is filed under this section, be reimbursed in the
amount of all but two cents per gallon of the total tax imposed by
such section and paid on motor fuel.

(3) A county board of ~~mental retardation and~~ developmental
disabilities that, on or after July 1, 2005, purchases any motor
fuel for county board operations, on which any tax imposed by
section 5735.29 of the Revised Code has been paid may, if an
application is filed under this section, be reimbursed in the
amount of all but two cents per gallon of the total tax imposed by
such section and paid on motor fuel purchased on or after July 1,
2005.

(B) Such person, school district, educational service center,
or county board shall file with the tax commissioner an
application for refund within one year from the date of purchase,
stating the quantity of fuel used for operating transit buses used
by local transit systems in furnishing scheduled common carrier,
public passenger land transportation service along regular routes
primarily in one or more municipal corporations or for operating
vehicles used for school district, service center, or county board
operations. However, no claim shall be made for the tax on fewer
than one hundred gallons of motor fuel. A school district,

educational service center, or county board shall not apply for a 29115
refund for any tax paid on motor fuel that is sold by the 29116
district, service center, or county board. The application shall 29117
be accompanied by the statement described in section 5735.15 of 29118
the Revised Code showing the purchase, together with evidence of 29119
payment thereof. 29120

(C) After consideration of the application and statement, the 29121
commissioner shall determine the amount of refund to which the 29122
applicant is entitled. If the amount is not less than that 29123
claimed, the commissioner shall certify the amount to the director 29124
of budget and management and treasurer of state for payment from 29125
the tax refund fund created by section 5703.052 of the Revised 29126
Code. If the amount is less than that claimed, the commissioner 29127
shall proceed in accordance with section 5703.70 of the Revised 29128
Code. 29129

The commissioner may require that the application be 29130
supported by the affidavit of the claimant. No refund shall be 29131
authorized or ordered for any single claim for the tax on fewer 29132
than one hundred gallons of motor fuel. No refund shall be 29133
authorized or ordered on motor fuel that is sold by a school 29134
district, educational service center, or county board. 29135

(D) The refund authorized by this section or section 5703.70 29136
of the Revised Code shall be reduced by the cents per gallon 29137
amount of any qualified fuel credit received under section 29138
5735.145 of the Revised Code, as determined by the commissioner, 29139
for each gallon of qualified fuel included in the total gallonage 29140
of motor fuel upon which the refund is computed. 29141

(E) The right to receive any refund under this section or 29142
section 5703.70 of the Revised Code is not assignable. The payment 29143
of this refund shall not be made to any person or entity other 29144
than the person or entity originally entitled thereto who used the 29145
motor fuel upon which the claim for refund is based, except that 29146

the refund when allowed and certified, as provided in this 29147
section, may be paid to the executor, the administrator, the 29148
receiver, the trustee in bankruptcy, or the assignee in insolvency 29149
proceedings of the person. 29150

Sec. 5815.28. (A) As used in this section: 29151

(1) "Ascertainable standard" includes a standard in a trust 29152
instrument requiring the trustee to provide for the care, comfort, 29153
maintenance, welfare, education, or general well-being of the 29154
beneficiary. 29155

(2) "Disability" means any substantial, medically 29156
determinable impairment that can be expected to result in death or 29157
that has lasted or can be expected to last for a continuous period 29158
of at least twelve months, except that "disability" does not 29159
include an impairment that is the result of abuse of alcohol or 29160
drugs. 29161

(3) "Political subdivision" and "state" have the same 29162
meanings as in section 2744.01 of the Revised Code. 29163

(4) "Supplemental services" means services specified by rule 29164
of the department of mental health under section 5119.01 of the 29165
Revised Code or the department of ~~mental retardation and~~ 29166
developmental disabilities under section 5123.04 of the Revised 29167
Code that are provided to an individual with a disability in 29168
addition to services the individual is eligible to receive under 29169
programs authorized by federal or state law. 29170

(B) Any person may create a trust under this section to 29171
provide funding for supplemental services for the benefit of 29172
another individual who meets either of the following conditions: 29173

(1) The individual has a physical or mental disability and is 29174
eligible to receive services through the department of ~~mental~~ 29175
~~retardation and~~ developmental disabilities or a county board of 29176

~~mental retardation and~~ developmental disabilities; 29177

(2) The individual has a mental disability and is eligible to 29178
receive services through the department of mental health or a 29179
board of alcohol, drug addiction, and mental health services. 29180

The trust may confer discretion upon the trustee and may 29181
contain specific instructions or conditions governing the exercise 29182
of the discretion. 29183

(C) The general division of the court of common pleas and the 29184
probate court of the county in which the beneficiary of a trust 29185
authorized by division (B) of this section resides or is confined 29186
have concurrent original jurisdiction to hear and determine 29187
actions pertaining to the trust. In any action pertaining to the 29188
trust in a court of common pleas or probate court and in any 29189
appeal of the action, all of the following apply to the trial or 29190
appellate court: 29191

(1) The court shall render determinations consistent with the 29192
testator's or other settlor's intent in creating the trust, as 29193
evidenced by the terms of the trust instrument. 29194

(2) The court may order the trustee to exercise discretion 29195
that the trust instrument confers upon the trustee only if the 29196
instrument contains specific instructions or conditions governing 29197
the exercise of that discretion and the trustee has failed to 29198
comply with the instructions or conditions. In issuing an order 29199
pursuant to this division, the court shall require the trustee to 29200
exercise the trustee's discretion only in accordance with the 29201
instructions or conditions. 29202

(3) The court may order the trustee to maintain the trust and 29203
distribute assets in accordance with rules adopted by the director 29204
of mental health under section 5119.01 of the Revised Code or the 29205
director of ~~mental retardation and~~ developmental disabilities 29206
under section 5123.04 of the Revised Code if the trustee has 29207

failed to comply with such rules. 29208

(D) To the extent permitted by federal law and subject to the 29209
provisions of division (C)(2) of this section pertaining to the 29210
enforcement of specific instructions or conditions governing a 29211
trustee's discretion, a trust authorized by division (B) of this 29212
section that confers discretion upon the trustee shall not be 29213
considered an asset or resource of the beneficiary, the 29214
beneficiary's estate, the settlor, or the settlor's estate and 29215
shall be exempt from the claims of creditors, political 29216
subdivisions, the state, other governmental entities, and other 29217
claimants against the beneficiary, the beneficiary's estate, the 29218
settlor, or the settlor's estate, including claims based on 29219
provisions of Chapters 5111., 5121., or 5123. of the Revised Code 29220
and claims sought to be satisfied by way of a civil action, 29221
subrogation, execution, garnishment, attachment, judicial sale, or 29222
other legal process, if all of the following apply: 29223

(1) At the time the trust is created, the trust principal 29224
does not exceed the maximum amount determined under division (E) 29225
of this section; 29226

(2) The trust instrument contains a statement of the 29227
settlor's intent, or otherwise clearly evidences the settlor's 29228
intent, that the beneficiary does not have authority to compel the 29229
trustee under any circumstances to furnish the beneficiary with 29230
minimal or other maintenance or support, to make payments from the 29231
principal of the trust or from the income derived from the 29232
principal, or to convert any portion of the principal into cash, 29233
whether pursuant to an ascertainable standard specified in the 29234
instrument or otherwise; 29235

(3) The trust instrument provides that trust assets can be 29236
used only to provide supplemental services, as defined by rule of 29237
the director of mental health under section 5119.01 of the Revised 29238
Code or the director of ~~mental retardation and~~ developmental 29239

disabilities under section 5123.04 of the Revised Code, to the 29240
beneficiary; 29241

(4) The trust is maintained and assets are distributed in 29242
accordance with rules adopted by the director of mental health 29243
under section 5119.01 of the Revised Code or the director of 29244
~~mental retardation and~~ developmental disabilities under section 29245
5123.04 of the Revised Code; 29246

(5) The trust instrument provides that on the death of the 29247
beneficiary, a portion of the remaining assets of the trust, which 29248
shall be not less than fifty per cent of such assets, will be 29249
deposited to the credit of the services fund for individuals with 29250
mental illness created by section 5119.17 of the Revised Code or 29251
the services fund for individuals with mental retardation and 29252
developmental disabilities created by section 5123.40 of the 29253
Revised Code. 29254

(E) In 1994, the trust principal maximum amount for a trust 29255
created under this section shall be two hundred thousand dollars. 29256
The maximum amount for a trust created under this section prior to 29257
November 11, 1994, may be increased to two hundred thousand 29258
dollars. 29259

In 1995, the maximum amount for a trust created under this 29260
section shall be two hundred two thousand dollars. Each year 29261
thereafter, the maximum amount shall be the prior year's amount 29262
plus two thousand dollars. 29263

(F) This section does not limit or otherwise affect the 29264
creation, validity, interpretation, or effect of any trust that is 29265
not created under this section. 29266

(G) Once a trustee takes action on a trust created by a 29267
settlor under this section and disburses trust funds on behalf of 29268
the beneficiary of the trust, then the trust may not be terminated 29269
or otherwise revoked by a particular event or otherwise without 29270

payment into the services fund created pursuant to section 5119.17 29271
or 5123.40 of the Revised Code of an amount that is equal to the 29272
disbursements made on behalf of the beneficiary for medical care 29273
by the state from the date the trust vests but that is not more 29274
than fifty per cent of the trust corpus. 29275

Sec. 5815.35. (A)(1) As used in this division, "fiduciary" 29276
means any person, association, or corporation, other than a 29277
trustee of a testamentary trust, an assignee or trustee for an 29278
insolvent debtor, or a guardian under Chapter 5905. of the Revised 29279
Code, that is appointed by and accountable to the probate court, 29280
and that is acting in a fiduciary capacity for another or charged 29281
with duties in relation to any property, interest, or estate for 29282
another's benefit. A fiduciary also includes an agency under 29283
contract with the department of ~~mental retardation and~~ 29284
developmental disabilities for the provision of protective service 29285
under sections 5123.55 to 5123.59 of the Revised Code, when 29286
appointed by and accountable to the probate court as a guardian or 29287
trustee for a mentally retarded or developmentally disabled 29288
person. 29289

(2) A fiduciary who enters a contract as fiduciary on or 29290
after March 22, 1984, is not personally liable on that contract, 29291
unless the contract otherwise specifies, if the contract is within 29292
the fiduciary's authority and the fiduciary discloses that the 29293
contract is being entered into in a fiduciary capacity. In a 29294
contract, the words "fiduciary" or "as fiduciary" or other words 29295
that indicate one's fiduciary capacity following the name or 29296
signature of a fiduciary are sufficient disclosure for purposes of 29297
this division. 29298

(B)(1) As used in this division, "partnership" includes a 29299
partnership composed of only general partners and a partnership 29300
composed of general and limited partners. 29301

(2) Subject to division (D) of this section, an executor or 29302
administrator who acquires, in a fiduciary capacity, a general 29303
partnership interest upon the death of a general partner of a 29304
partnership is not personally liable for any debt, obligation, or 29305
liability of the partnership that arises from the executor's or 29306
administrator's actions, except as provided in this division, as a 29307
general partner, or for any debt, obligation, or liability of the 29308
partnership for which the executor or administrator otherwise 29309
would be personally liable because the executor or administrator 29310
holds the general partnership interest, if the executor or 29311
administrator discloses that the general partnership interest is 29312
held by the executor or administrator in a fiduciary capacity. 29313
This immunity does not apply if an executor or administrator 29314
causes loss or injury to a person who is not a partner in the 29315
partnership by a wrongful act or omission. This immunity is not 29316
available to an executor or administrator who holds a general 29317
partnership interest in a fiduciary capacity if the spouse or any 29318
lineal descendants of the executor or administrator, or the 29319
executor or administrator other than in a fiduciary capacity, 29320
holds any interest in the partnership. 29321

A partnership certificate that is filed pursuant to Chapter 29322
1777. or another chapter of the Revised Code and that indicates 29323
that an executor or administrator holds a general partnership 29324
interest in a fiduciary capacity by the use following the name or 29325
signature of the executor or administrator of the words "executor 29326
under the will of (name of decedent)" or "administrator of the 29327
estate of (name of decedent)" or other words that indicate the 29328
executor's or administrator's fiduciary capacity constitutes a 29329
sufficient disclosure for purposes of this division. 29330

If a partnership certificate is not required to be filed 29331
pursuant to Chapter 1776. or 1777. or another chapter of the 29332
Revised Code, a sufficient disclosure for purposes of this 29333

division can be made by an executor or administrator if a 29334
certificate that satisfies the following requirements is filed 29335
with the recorder of the county in which the partnership's 29336
principal office or place of business is situated and with the 29337
recorder of each county in which the partnership owns real estate: 29338
29339

(a) The certificate shall state in full the names of all 29340
persons holding interests in the partnership and their places of 29341
residence; 29342

(b) The certificate shall be signed by all persons who are 29343
general partners in the partnership, and shall be acknowledged by 29344
a person authorized to take acknowledgements of deeds; 29345

(c) The certificate shall use the words "executor under the 29346
will of (name of decedent)" or "administrator of the estate of 29347
(name of decedent)" or other words that indicate the executor's or 29348
administrator's fiduciary capacity, following the name or 29349
signature of the executor or administrator. 29350

A contract or other written instrument delivered to a party 29351
that contracts with the partnership in which an executor or 29352
administrator holds a general partnership interest in a fiduciary 29353
capacity, that indicates that the executor or administrator so 29354
holds the interest, constitutes a disclosure for purposes of this 29355
division with respect to transactions between the party and the 29356
partnership. If a disclosure has been made by a certificate in 29357
accordance with this division, a disclosure for purposes of this 29358
division with respect to such transactions exists regardless of 29359
whether a contract or other instrument indicates the executor or 29360
administrator holds the general partnership interest in a 29361
fiduciary capacity. 29362

If an executor or administrator acquires, in a fiduciary 29363
capacity, a general partnership interest, the decedent's estate is 29364

liable for debts, obligations, or liabilities of the partnership. 29365

(C) An estate that includes a general partnership interest is 29366
not liable for the debts, obligations, or liabilities of a 29367
partnership in which another estate has a general partnership 29368
interest, merely because the executor or administrator of the 29369
estates holds a general partnership interest in both of the 29370
partnerships in the executor's or administrator's fiduciary 29371
capacities. 29372

(D) Divisions (B) and (C) of this section apply to general 29373
partnership interests held by executors or administrators in their 29374
fiduciary capacities prior to and on or after March 22, 1984. If 29375
an appropriate disclosure is made pursuant to division (B) of this 29376
section, the immunity acquired under that division extends only to 29377
debts, obligations, and liabilities of the partnership arising on 29378
and after the date of the disclosure and to debts, obligations, 29379
and liabilities of the partnership that arose prior to the 29380
acquisition of the general partnership interest by the executor or 29381
administrator becoming a general partner. 29382

(E) The liability limitations in this section apply to 29383
fiduciaries as partners notwithstanding the broader personal 29384
liabilities otherwise imposed by any partnership law. 29385

(F) If an estate or other fund held by a fiduciary is 29386
identified as a partner, the reference is deemed to be to, and the 29387
partner is, the current executor, administrator, or other 29388
fiduciary of the estate or other fund and their successors as 29389
executors, administrators, or other fiduciaries. 29390

Section 2. That existing sections 9.239, 9.55, 101.37, 29391
101.39, 107.12, 109.57, 109.572, 109.71, 109.77, 109.86, 117.102, 29392
121.02, 121.03, 121.32, 121.36, 121.37, 123.01, 124.11, 124.23, 29393
124.241, 124.27, 124.38, 124.381, 125.602, 125.603, 126.32, 29394
127.16, 135.801, 135.802, 135.803, 140.01, 140.03, 140.05, 29395

145.012, 145.297, 154.17, 154.20, 173.03, 305.14, 307.10, 307.86,	29396
309.10, 319.16, 325.19, 329.06, 1751.01, 1751.02, 2108.521,	29397
2109.01, 2109.04, 2111.01, 2111.02, 2111.10, 2133.25, 2151.011,	29398
2151.421, 2903.33, 2919.271, 2921.36, 2921.38, 2930.061, 2935.03,	29399
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 2967.22,	29400
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3317.07, 3317.15, 3317.20, 3319.22, 3319.99, 3323.01, 3323.02,	29404
3323.021, 3323.03, 3323.04, 3323.05, 3323.07, 3323.09, 3323.091,	29405
3323.12, 3323.141, 3323.142, 3323.31, 3326.99, 3501.01, 3701.78,	29406
3701.93, 3701.932, 3701.933, 3705.36, 3721.01, 3721.14, 3722.01,	29407
3727.01, 3735.58, 4109.06, 4115.32, 4141.29, 4511.21, 4511.75,	29408
4723.071, 5101.35, 5101.46, 5101.611, 5103.02, 5103.13, 5104.08,	29409
5107.24, 5111.042, 5111.151, 5111.202, 5111.203, 5111.211,	29410
5111.251, 5111.291, 5111.65, 5111.677, 5111.709, 5111.87,	29411
5111.871, 5111.872, 5111.873, 5111.874, 5111.875, 5111.876,	29412
5111.8710, 5111.915, 5112.30, 5112.32, 5112.37, 5112.371, 5119.16,	29413
5119.221, 5119.51, 5120.07, 5120.135, 5121.01, 5121.02, 5121.03,	29414
5121.04, 5121.05, 5121.051, 5121.06, 5121.061, 5121.07, 5121.08,	29415
5121.09, 5121.10, 5121.11, 5121.12, 5123.01, 5123.012, 5123.02,	29416
5123.021, 5123.03, 5123.031, 5123.032, 5123.033, 5123.04,	29417
5123.042, 5123.043, 5123.044, 5123.046, 5123.047, 5123.048,	29418
5123.049, 5123.0410, 5123.0411, 5123.0412, 5123.0413, 5123.0414,	29419
5123.0415, 5123.0416, 5123.0417, 5123.05, 5123.051, 5123.06,	29420
5123.07, 5123.08, 5123.081, 5123.082, 5123.083, 5123.09, 5123.091,	29421
5123.092, 5123.093, 5123.10, 5123.11, 5123.12, 5123.122, 5123.13,	29422
5123.14, 5123.15, 5123.16, 5123.161, 5123.162, 5123.163, 5123.164,	29423
5123.166, 5123.167, 5123.168, 5123.169, 5123.17, 5123.171,	29424
5123.172, 5123.18, 5123.181, 5123.19, 5123.191, 5123.194,	29425
5123.195, 5123.196, 5123.198, 5123.21, 5123.211, 5123.22,	29426
5123.221, 5123.23, 5123.24, 5123.25, 5123.26, 5123.27, 5123.28,	29427

5123.29, 5123.30, 5123.31, 5123.33, 5123.34, 5123.35, 5123.351, 29428
5123.352, 5123.36, 5123.37, 5123.371, 5123.372, 5123.373, 29429
5123.374, 5123.375, 5123.38, 5123.40, 5123.41, 5123.42, 5123.421, 29430
5123.43, 5123.44, 5123.45, 5123.451, 5123.47, 5123.50, 5123.51, 29431
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5123.57, 5123.58, 5123.59, 5123.60, 5123.601, 5123.602, 5123.604, 29433
5123.61, 5123.611, 5123.612, 5123.613, 5123.614, 5123.63, 5123.64, 29434
5123.65, 5123.71, 5123.711, 5123.72, 5123.73, 5123.74, 5123.75, 29435
5123.76, 5123.801, 5123.81, 5123.811, 5123.82, 5123.85, 5123.86, 29436
5123.89, 5123.90, 5123.96, 5126.01, 5126.02, 5126.028, 5126.029, 29437
5126.0210, 5126.0211, 5126.0212, 5126.0213, 5126.0214, 5126.0215, 29438
5126.0216, 5126.0217, 5126.0218, 5126.0219, 5126.0220, 5126.0221, 29439
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5126.0228, 5126.0229, 5126.03, 5126.031, 5126.032, 5126.033, 29441
5126.034, 5126.037, 5126.038, 5126.04, 5126.041, 5126.042, 29442
5126.044, 5126.045, 5126.046, 5126.05, 5126.051, 5126.052, 29443
5126.054, 5126.055, 5126.056, 5126.058, 5126.059, 5126.0510, 29444
5126.0511, 5126.0512, 5126.06, 5126.07, 5126.071, 5126.08, 29445
5126.081, 5126.082, 5126.09, 5126.10, 5126.11, 5126.12, 5126.121, 29446
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5126.21, 5126.22, 5126.221, 5126.23, 5126.24, 5126.25, 5126.251, 29448
5126.252, 5126.253, 5126.254, 5126.26, 5126.27, 5126.28, 5126.281, 29449
5126.29, 5126.30, 5126.31, 5126.311, 5126.313, 5126.33, 5126.331, 29450
5126.333, 5126.34, 5126.36, 5126.40, 5126.41, 5126.42, 5126.43, 29451
5126.45, 5126.46, 5126.47, 5126.49, 5126.50, 5126.54, 5126.55, 29452
5126.57, 5126.58, 5126.59, 5126.61, 5126.62, 5126.99, 5139.08, 29453
5139.34, 5145.18, 5153.16, 5153.99, 5511.03, 5543.011, 5705.091, 29454
5705.14, 5705.191, 5705.222, 5705.28, 5705.44, 5735.142, 5815.28, 29455
and 5815.35 and existing section 5123.011 as it results from Am. 29456
Sub. S.B. 156 of the 119th General Assembly and existing section 29457
5123.011 of the Revised Code as it results from Am. Sub. S.B. 285 29458
of the 121st General Assembly are hereby repealed. 29459

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That sections 5126.021, 5126.022, 5126.023, 5126.024,
5126.025, 5126.026, and 5126.027 of the Revised Code are hereby
repealed.

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Section 3. That Sections 209.60.40, 209.60.50, and 501.40 of
H.B. 496 of the 127th General Assembly be amended to read as
follows:

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Sec. 209.60.40. The foregoing appropriations for the
Department of Alcohol and Drug Addiction Services, C03801,
Community Assistance Projects; Department of Mental Health,
C58001, Community Assistance Projects; and Department of ~~Mental~~
~~Retardation and~~ Developmental Disabilities, C59004, Community
Assistance Projects, may be used on facilities constructed or to
be constructed pursuant to Chapter 340., 3793., 5119., 5123., or
5126. of the Revised Code or the authority granted by section
154.20 of the Revised Code and the rules adopted pursuant to those
chapters and that section and shall be distributed by the
Department of Alcohol and Drug Addiction Services, the Department
of Mental Health, and the Department of ~~Mental Retardation and~~
Developmental Disabilities, subject to Controlling Board approval.

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Sec. 209.60.50. (A) No capital improvement appropriations
made in Sections 201.60 and 201.60.10 to 201.60.40 of ~~this act~~
H.B. 496 of the 127th General Assembly shall be released for
planning or for improvement, renovation, or construction or
acquisition of capital facilities if a governmental agency, as
defined in section 154.01 of the Revised Code, does not own the
real property that constitutes the capital facilities or on which
the capital facilities are or will be located. This restriction

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does not apply in any of the following circumstances: 29489

(1) The governmental agency has a long-term (at least fifteen 29490
years) lease of, or other interest (such as an easement) in, the 29491
real property. 29492

(2) In the case of an appropriation for capital facilities 29493
that, because of their unique nature or location, will be owned or 29494
be part of facilities owned by a separate nonprofit organization 29495
and made available to the governmental agency for its use, the 29496
nonprofit organization either owns or has a long-term (at least 29497
fifteen years) lease of the real property or other capital 29498
facility to be improved, renovated, constructed, or acquired and 29499
has entered into a joint or cooperative use agreement, approved by 29500
the Department of Mental Health, Department of ~~Mental Retardation~~ 29501
~~and~~ Developmental Disabilities, or Department of Alcohol and Drug 29502
Addiction Services, whichever is applicable, with the governmental 29503
agency for that agency's use of and right to use the capital 29504
facilities to be financed and, if applicable, improved, the value 29505
of such use or right to use being, as determined by the parties, 29506
reasonably related to the amount of the appropriation. 29507

(B) In the case of capital facilities referred to in division 29508
(A)(2) of this section, the joint or cooperative use agreement 29509
shall include, as a minimum, provisions that: 29510

(1) Specify the extent and nature of that joint or 29511
cooperative use, extending for not fewer than fifteen years, with 29512
the value of such use or right to use to be, as determined by the 29513
parties and approved by the applicable department, reasonably 29514
related to the amount of the appropriation; 29515

(2) Provide for pro rata reimbursement to the state should 29516
the arrangement for joint or cooperative use by a governmental 29517
agency be terminated; and 29518

(3) Provide that procedures to be followed during the capital 29519
improvement process will comply with appropriate applicable state 29520
statutes and rules, including provisions of ~~this act~~ H.B. 496 of 29521
the 127th General Assembly. 29522

Sec. 501.40. AGENCY ADMINISTRATION OF CAPITAL FACILITIES 29523
PROJECTS 29524

Notwithstanding sections 123.01 and 123.15 of the Revised 29525
Code, the Director of Administrative Services may authorize the 29526
Departments of Mental Health, ~~Mental Retardation and~~ Developmental 29527
Disabilities, Alcohol and Drug Addiction Services, Agriculture, 29528
Job and Family Services, Rehabilitation and Correction, Youth 29529
Services, Public Safety, Transportation, the Ohio Veterans' Home, 29530
and the Rehabilitation Services Commission to administer any 29531
capital facilities projects when the estimated cost, including 29532
design fees, construction, equipment, and contingency amounts, is 29533
less than \$1,500,000. Requests for authorization to administer 29534
capital facilities projects shall be made in writing to the 29535
Director of Administrative Services by the respective state agency 29536
within sixty days after the effective date of the act in which the 29537
General Assembly initially makes an appropriation for the project. 29538
Upon the release of funds for such projects by the Controlling 29539
Board or the Director of Budget and Management, the agency may 29540
administer the capital project or projects for which agency 29541
administration has been authorized without the supervision, 29542
control, or approval of the Director of Administrative Services. 29543

A state agency authorized by the Director of Administrative 29544
Services to administer capital facilities projects pursuant to 29545
this section shall comply with the applicable procedures and 29546
guidelines established in Chapter 153. of the Revised Code. 29547

Section 4. That existing Sections 209.60.40, 209.60.50, and 29548

501.40 of H.B. 496 of the 127th General Assembly are hereby 29549
repealed. 29550

Section 5. That Section 201.60.30 of H.B. 496 of the 127th 29551
General Assembly, as amended by Am. Sub. H.B. 420 of the 127th 29552
General Assembly, be amended to read as follows: 29553

Reappropriations

Sec. 201.60.30. ~~DMR~~ DDD DEPARTMENT OF ~~MENTAL RETARDATION AND~~ 29554
DEVELOPMENTAL DISABILITIES 29555

STATEWIDE PROJECTS 29556

C59000	Asbestos Abatement	\$	999,637	29557
C59004	Community Assistance Projects	\$	1,202,040	29558
C59020	Kamp Dovetail Project at Rocky Fork Lake	\$	100,000	29559
	State Park			
C59022	Razing of Buildings	\$	80,595	29560
C59024	Telecommunications Systems Improvement	\$	774,454	29561
C59029	Emergency Generator Replacement	\$	1,049,606	29562
C59034	Statewide Developmental Centers	\$	5,479,662	29563
C59050	Emergency Improvements	\$	634,970	29564
Total Statewide and Central Office Projects		\$	10,320,964	29565

COMMUNITY ASSISTANCE PROJECTS 29566

The foregoing appropriation item C59004, Community Assistance 29567
Projects, may be used to provide community assistance funds for 29568
the construction or renovation of facilities for day programs or 29569
residential programs that provide services to persons eligible for 29570
services from the Department of ~~Mental Retardation and~~ 29571
Developmental Disabilities or county boards of ~~mental retardation~~ 29572
~~and~~ developmental disabilities. Any funds provided to nonprofit 29573
agencies for the construction or renovation of facilities for 29574
persons eligible for services from the Department of ~~Mental~~ 29575
~~Retardation and~~ Developmental Disabilities and county boards of 29576

~~mental retardation and~~ developmental disabilities are subject to 29577
the prevailing wage provisions in section 176.05 of the Revised 29578
Code. 29579

Notwithstanding any other provision of law to the contrary, 29580
of the foregoing appropriation item C59004, Community Assistance 29581
Projects, \$75,000 shall be used for the Hanson Home. 29582

STATEWIDE DEVELOPMENTAL CENTERS 29583

CAMBRIDGE DEVELOPMENTAL CENTER 29584

C59005	Residential Renovations - CAMDC	\$	41,398	29585
C59023	HVAC Renovations - Residential Buildings	\$	1,000	29586
C59025	Cambridge HVAC Upgrade - Activity Center	\$	3,538	29587
C59046	Utility Upgrade Centerwide	\$	5,960	29588
Total Cambridge Developmental Center		\$	51,896	29589

COLUMBUS DEVELOPMENTAL CENTER 29590

C59036	Columbus Developmental Center	\$	8,162	29591
Total Columbus Developmental Center		\$	8,162	29592

GALLIPOLIS DEVELOPMENTAL CENTER 29593

C59027	HVAC Replacements	\$	4,873	29594
C59037	Gallipolis Developmental Center	\$	21,849	29595
Total Gallipolis Developmental Center		\$	26,722	29596

MONTGOMERY DEVELOPMENTAL CENTER 29597

C59038	Montgomery Developmental Center	\$	43,634	29598
Total Montgomery Developmental Center		\$	43,634	29599

MOUNT VERNON DEVELOPMENTAL CENTER 29600

C59039	Mount Vernon Developmental Center	\$	160,353	29601
Total Mount Vernon Developmental Center		\$	160,353	29602

NORTHWEST OHIO DEVELOPMENTAL CENTER 29603

C59030	Replace Chiller	\$	8,535	29604
C59040	Northwest Ohio Developmental Center	\$	11,171	29605
Total Northwest Ohio Developmental Center		\$	19,706	29606

SOUTHWEST OHIO DEVELOPMENTAL CENTER 29607

C59016	Residential Renovation - HVAC Upgrade	\$	23,075	29608
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C59041	Southwest Ohio Developmental Center	\$	14,566	29609
C59048	Renovation Program and Support Services	\$	3,900	29610
	Building			
Total Southwest Ohio Developmental Center		\$	41,541	29611
	TIFFIN DEVELOPMENTAL CENTER			29612
C59026	Roof and Exterior Renovations	\$	19,666	29613
C59043	Tiffin Developmental Center	\$	20,696	29614
Total Tiffin Developmental Center		\$	40,362	29615
	WARRENSVILLE DEVELOPMENTAL CENTER			29616
C59017	Residential Renovations - WDC	\$	5,057	29617
C59021	Water Line Replacement - WDC	\$	16,267	29618
C59031	ADA Compliance - WDC	\$	3,628	29619
C59044	Warrensville Developmental Center	\$	29,860	29620
Total Warrensville Developmental Center		\$	54,812	29621
	YOUNGSTOWN DEVELOPMENTAL CENTER			29622
C59045	Youngstown Developmental Center	\$	24,400	29623
Total Youngstown Developmental Center		\$	24,400	29624
TOTAL Department of Mental Retardation				29625
and Developmental Disabilities		\$	10,792,552	29626
TOTAL Mental Health Facilities Improvement Fund		\$	43,084,415	29627

Section 6. That existing Section 201.60.30 of H.B. 496 of the 29629
127th General Assembly, as amended by Am. Sub. H.B. 420 of the 29630
127th General Assembly is hereby repealed. 29631

Section 7. That Sections 231.30.10, 231.30.20, and 253.10 of 29632
Am. Sub. H.B. 562 of the 127th General Assembly be amended to read 29633
as follows: 29634

Sec. 231.30.10. The foregoing appropriations for the 29635
Department of Mental Health, C58001, Community Assistance 29636
Projects, and the Department of ~~Mental Retardation and~~ 29637
Developmental Disabilities, C59004, Community Assistance Projects, 29638

may be used for facilities constructed or to be constructed 29639
pursuant to Chapter 340., 3793., 5119., 5123., or 5126. of the 29640
Revised Code or the authority granted by section 154.20 of the 29641
Revised Code and the rules issued pursuant to those chapters and 29642
shall be distributed by the Department of Mental Health and the 29643
Department of ~~Mental Retardation and~~ Developmental Disabilities, 29644
all subject to Controlling Board approval. 29645

Sec. 231.30.20. (A) No capital improvement appropriations 29646
made in Sections 231.10.10 to 231.30.10 of ~~this act~~ Am. Sub. H.B. 29647
562 of the 127th General Assembly shall be released for planning 29648
or for improvement, renovation, or construction or acquisition of 29649
capital facilities if a governmental agency, as defined in section 29650
154.01 of the Revised Code, does not own the real property that 29651
constitutes the capital facilities or on which the capital 29652
facilities are or will be located. This restriction does not apply 29653
in any of the following circumstances: 29654

(1) The governmental agency has a long-term (at least fifteen 29655
years) lease of, or other interest (such as an easement) in, the 29656
real property. 29657

(2) In the case of an appropriation for capital facilities 29658
that, because of their uniqueness or location, will be owned or 29659
be part of facilities owned by a separate nonprofit organization 29660
and made available to the governmental agency for its use or 29661
operated by the nonprofit organization under contract with the 29662
governmental agency, the nonprofit organization either owns or has 29663
a long-term (at least fifteen years) lease of the real property or 29664
other capital facility to be improved, renovated, constructed, or 29665
acquired and has entered into a joint or cooperative use 29666
agreement, approved by the Department of Mental Health or the 29667
Department of ~~Mental Retardation and~~ Developmental Disabilities, 29668
whichever is applicable, with the governmental agency for that 29669

agency's use of and right to use the capital facilities to be 29670
financed and, if applicable, improved, the value of such use or 29671
right to use being, as determined by the parties, reasonably 29672
related to the amount of the appropriation. 29673

(B) In the case of capital facilities referred to in division 29674
(A)(2) of this section, the joint or cooperative use agreement 29675
shall include, at a minimum, provisions that: 29676

(1) Specify the extent and nature of that joint or 29677
cooperative use, extending for not fewer than fifteen years, with 29678
the value of such use or right to use to be, as determined by the 29679
parties and approved by the approving department, reasonably 29680
related to the amount of the appropriation; 29681

(2) Provide for pro rata reimbursement to the state should 29682
the arrangement for joint or cooperative use by a governmental 29683
agency be terminated; 29684

(3) Provide that procedures to be followed during the capital 29685
improvement process will comply with applicable state statutes and 29686
rules, including the provisions of ~~this act~~ Am. Sub. H.B. 562 of 29687
the 127th General Assembly. 29688

Sec. 253.10. AGENCY ADMINISTRATION OF CAPITAL FACILITIES 29689
PROJECTS 29690

Notwithstanding sections 123.01 and 123.15 of the Revised 29691
Code, the Director of Administrative Services may authorize the 29692
Departments of Mental Health, ~~Mental Retardation and~~ Developmental 29693
Disabilities, Agriculture, Job and Family Services, Rehabilitation 29694
and Correction, Youth Services, Public Safety, Transportation, and 29695
the Ohio Veterans' Home to administer any capital facilities 29696
projects, the estimated cost of which, including design fees, 29697
construction, equipment, and contingency amounts, is less than 29698
\$1,500,000. Requests for authorization to administer capital 29699

facilities projects shall be made in writing to the Director of 29700
Administrative Services by the applicable state agency within 29701
sixty days after the effective date of the section of law in which 29702
the General Assembly initially makes an appropriation for the 29703
project. Upon the release of funds for the projects by the 29704
Controlling Board or the Director of Budget and Management, the 29705
agency may administer the capital project or projects for which 29706
agency administration has been authorized without the supervision, 29707
control, or approval of the Director of Administrative Services. 29708

A state agency authorized by the Director of Administrative 29709
Services to administer capital facilities projects pursuant to 29710
this section shall comply with the applicable procedures and 29711
guidelines established in Chapter 153. of the Revised Code. 29712

Section 8. That existing Sections 231.30.10, 231.30.20, and 29713
253.10 of Am. Sub. H.B. 562 of the 127th General Assembly are 29714
hereby repealed. 29715

Section 9. That Section 231.20.30 of Am. Sub. H.B. 562 of the 29716
127th General Assembly, as amended by Am. Sub. H.B. 420 of the 29717
127th General Assembly, be amended to read as follows: 29718

Appropriations

Sec. 231.20.30. ~~DMR DDD~~ DEPARTMENT OF ~~MENTAL RETARDATION AND~~ 29719
DEVELOPMENTAL DISABILITIES 29720

STATEWIDE AND CENTRAL OFFICE PROJECTS 29721

C59004	Community Assistance Projects	\$	13,551,537	29722
C59022	Razing of Buildings	\$	200,000	29723
C59024	Telecommunications	\$	400,000	29724
C59029	Generator Replacement	\$	1,000,000	29725
C59034	Statewide Developmental Centers	\$	4,294,237	29726
C59050	Emergency Improvements	\$	500,000	29727
C59051	Energy Conservation	\$	500,000	29728

C59052	Guernsey County MRDD Boiler Replacement	\$	275,000	29729
C59054	Recreation Unlimited Life Center - Delaware	\$	150,000	29730
C59055	Camp McKinley Improvements	\$	30,000	29731
C59056	The Hope Learning Center	\$	250,000	29732
Total Statewide and Central Office Projects		\$	21,150,774	29733
TOTAL Department of Mental Retardation and Developmental Disabilities		\$	21,150,774	29734
TOTAL Mental Health Facilities Improvement Fund		\$	127,630,774	29735

COMMUNITY ASSISTANCE PROJECTS 29736

The foregoing appropriation item C59004, Community Assistance 29737
Projects, may be used to provide community assistance funds for 29738
the development, purchase, construction, or renovation of 29739
facilities for day programs or residential programs that provide 29740
services to persons eligible for services from the Department of 29741
~~Mental Retardation and~~ Developmental Disabilities or county boards 29742
of ~~mental retardation and~~ developmental disabilities. Any funds 29743
provided to nonprofit agencies for the construction or renovation 29744
of facilities for persons eligible for services from the 29745
Department of ~~Mental Retardation and~~ Developmental Disabilities 29746
and county boards of ~~mental retardation and~~ developmental 29747
disabilities shall be governed by the prevailing wage provisions 29748
in section 176.05 of the Revised Code. 29749

Of the foregoing appropriation item C59004, Community 29750
Assistance Projects, \$250,000 shall be used for North Olmsted 29751
Welcome House. Notwithstanding any provision of law to the 29752
contrary, North Olmsted Welcome House is not subject to the 29753
requirements of Chapter 153. of the Revised Code. 29754

Section 10. That existing Section 231.20.30 of Am. Sub. H.B. 29755
562 of the 127th General Assembly, as amended by Am. Sub. H.B. 420 29756
of the 127th General Assembly is hereby repealed. 29757

Section 11. That Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly, as most recently amended by Am. Sub. H.B. 100 of the 127th General Assembly, be amended to read as follows:

Sec. 4. The following agencies shall be retained pursuant to division (D) of section 101.83 of the Revised Code and shall expire on December 31, 2010:

REVISED CODE 29764

OR

UNCODIFIED 29765

AGENCY NAME SECTION 29766

Administrator, Interstate Compact on Mental Health 5119.50 29767

Administrator, Interstate Compact on 5103.20 29768

Placement of Children 29769

Advisory Board of Governor's Office of Faith-Based 107.12 29770

and Community Initiatives

Advisory Boards to the EPA for Air Pollution 121.13 29771

Advisory Boards to the EPA for Water Pollution 121.13 29772

Advisory Committee of the State Veterinary Medical 4741.03(D)(3) 29773

Licensing Board

Advisory Committee on Livestock Exhibitions 901.71 29774

Advisory Council on Amusement Ride Safety 1711.51 29775

Advisory Board of Directors for Prison Labor 5145.162 29776

Advisory Council for Each Wild, Scenic, or 1517.18 29777

Recreational River Area

Advisory Councils or Boards for State Departments 107.18 or 29778

121.13

Advisory Group to the Ohio Water Resources Council 1521.19(C) 29779

Alzheimer's Disease Task Force 173.04(F) 29780

AMBER Alert Advisory Committee 5502.521 29781

Apprenticeship Council 4139.02 29782

Armory Board of Control 5911.09 29783

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Automated Title Processing Board	4505.09(C)(1)	29784
Banking Commission	1123.01	29785
Board of Directors of the Ohio Health Reinsurance Program	3924.08	29786
Board of Voting Machine Examiners	3506.05(B)	29787
Brain Injury Advisory Committee	3304.231	29788
Capitol Square Review and Advisory Board	105.41	29789
Child Support Guideline Advisory Council	3119.024	29790
Children's Trust Fund Board	3109.15	29791
Citizens Advisory Committee (BMV)	4501.025	29792
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	29793
Clean Ohio Trail Advisory Board	1519.06	29794
Coastal Resources Advisory Council	1506.12	29795
Commission on African-American Males	4112.12	29796
Commission on Hispanic-Latino Affairs	121.31	29797
Commission on Minority Health	3701.78	29798
Committee on Prescriptive Governance	4723.49	29799
Commodity Advisory Commission	926.32	29800
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	29801
Community Oversight Council	3311.77	29802
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA	29803
Continuing Education Committee (for Sheriffs)	109.80	29804
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14	29805
Council on Alcohol and Drug Addiction Services	3793.09	29806
Council on Unreclaimed Strip Mined Lands	1513.29	29807
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34	29808

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County Sheriffs' Standard Car-Marking and Uniform Commission	311.25	29809
Credit Union Council	1733.329	29810
Criminal Sentencing Advisory Committee	181.22	29811
Day-Care Advisory Council	5104.08	29812
Dentist Loan Repayment Advisory Board	3702.92	29813
Development Financing Advisory Council	122.40	29814
Education Commission of the States (Interstate Compact for Education)	3301.48	29815
Electrical Safety Inspector Advisory Committee	3783.08	29816
Emergency Response Commission	3750.02	29817
Engineering Experiment Station Advisory Committee	3335.27	29818
Environmental Education Council	3745.21	29819
EPA Advisory Boards or Councils	121.13	29820
Farmland Preservation Advisory Board	901.23	29821
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05	29822
Financial Planning & Supervision Commission for School District	3316.05	29823
Forestry Advisory Council	1503.40	29824
Governance Authority for a State University or College	3345.75	29825
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77	29826
Governor's Council on People with Disabilities	3303.41	29827
Governor's Residence Advisory Commission	107.40	29828
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	29829
Gubernatorial Transition Committee	107.29	29830
Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA	29831
Hemophilia Advisory Subcommittee	3701.0210	29832
Housing Trust Fund Advisory Committee	175.25	29833

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Industrial Commission Nominating Council	4121.04	29834
Industrial Technology and Enterprise Advisory Council	122.29	29835
Infant Hearing Screening Subcommittee	3701.507	29836
Insurance Agent Education Advisory Council	3905.483	29837
Interagency Council on Hispanic/Latino Affairs	121.32(J)	29838
Interstate Mining Commission (Interstate Mining Compact)	1514.30	29839
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35	29840
Joint Council on MR/DD <u>Developmental Disabilities</u>	101.37	29841
Joint Select Committee on Volume Cap	133.021	29842
Labor-Management Government Advisory Council	4121.70	29843
Legal Rights Service Commission	5123.60	29844
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	29845
Maternal and Child Health Council	3701.025	29846
Medically Handicapped Children's Medical Advisory Council	3701.025	29847
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361	29848
Military Activation Task Force	5902.15	29849
Milk Sanitation Board	917.03	29850
Mine Subsidence Insurance Governing Board	3929.51	29851
Minority Development Financing Board	122.72	29852
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	29853
Multidisciplinary Council	3746.03	29854
Muskingum River Advisory Council	1501.25	29855
National Museum of Afro-American History and Culture Planning Committee	149.303	29856
Ohio Advisory Council for the Aging	173.03	29857

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Ohio Aerospace & Defense Advisory Council	122.98	29858
Ohio Arts Council	3379.02	29859
Ohio Business Gateway Steering Committee	5703.57	29860
Ohio Cemetery Dispute Resolution Commission	4767.05	29861
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)	29862
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03	29863
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	29864
Ohio Commission on Dispute Resolution and Conflict Management	179.02	29865
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA	29866
Ohio Community Service Council	121.40	29867
Ohio Council for Interstate Adult Offender Supervision	5149.22	29868
Ohio Cultural Facilities Commission	3383.02	29869
Ohio Developmental Disabilities Council	5123.35	29870
Ohio Expositions Commission	991.02	29871
Ohio Family and Children First Cabinet Council	121.37	29872
Ohio Geology Advisory Council	1505.11	29873
Ohio Grape Industries Committee	924.51	29874
Ohio Hepatitis C Advisory Commission	3701.92	29875
Ohio Historic Site Preservation Advisory Board	149.301	29876
Ohio Historical Society Board of Trustees	149.30	29877
Ohio Judicial Conference	105.91	29878
Ohio Lake Erie Commission	1506.21	29879
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3,	29880

	S.B. 86, 125th GA	
Ohio Medical Quality Foundation	3701.89	29881
Ohio Parks and Recreation Council	1541.40	29882
Ohio Peace Officer Training Commission	109.71	29883
Ohio Public Defender Commission	120.01	29884
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA	29885
Ohio Quarter Horse Development Commission	3769.086	29886
Ohio Small Government Capital Improvements Commission	164.02	29887
Ohio Soil and Water Conservation Commission	1515.02	29888
Ohio Standardbred Development Commission	3769.085	29889
Ohio Steel Industry Advisory Council	122.97	29890
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	29891
Ohio Thoroughbred Racing Advisory Committee	3769.084	29892
Ohio Tuition Trust Authority	3334.03	29893
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	29894
Ohio Vendors Representative Committee	3304.34	29895
Ohio War Orphans Scholarship Board	5910.02	29896
Ohio Water Advisory Council	1521.031	29897
Ohio Water Resources Council	1521.19	29898
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62	29899
Oil and Gas Commission	1509.35	29900
Operating Committee, Agricultural Commodity Marketing Programs	924.07	29901
Organized Crime Investigations Commission	177.01	29902

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Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81	29903
Physician Loan Repayment Advisory Board	3702.81	29904
Power Siting Board	4906.02	29905
Prequalification Review Board	5525.07	29906
Private Water Systems Advisory Council	3701.346	29907
Public Employment Risk Reduction Advisory Commission	4167.02	29908
Public Health Council	3701.33	29909
Public Utilities Commission Nominating Council	4901.021	29910
Public Utility Property Tax Study Committee	5727.85	29911
Radiation Advisory Council	3748.20	29912
Reclamation Commission	1513.05	29913
Recreation and Resources Commission	1501.04	29914
Recycling and Litter Prevention Advisory Council	1502.04	29915
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	29916
Savings & Loans Associations & Savings Banks Board	1181.16	29917
Schools and Ministerial Lands Divestiture Committee	501.041	29918
Second Chance Trust Fund Advisory Committee	2108.17	29919
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	29920
Solid Waste Management Advisory Council	3734.51	29921
State Agency Coordinating Group	1521.19	29922
State Board of Emergency Medical Services	4765.04	29923
Subcommittees		
State Council of Uniform State Laws	105.21	29924
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32	29925
State Criminal Sentencing Commission	181.21	29926
State Fire Commission	3737.81	29927

State Racing Commission	3769.02	29928
State Victims Assistance Advisory Committee	109.91	29929
Student Tuition Recovery Authority	3332.081	29930
Tax Credit Authority	122.17	29931
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35	29932
Technical Advisory Council on Oil and Gas	1509.38	29933
Transportation Review Advisory Council	5512.07	29934
Unemployment Compensation Review Commission	4141.06	29935
Unemployment Compensation Advisory Council	4141.08	29936
Utility Radiological Safety Board	4937.02	29937
Vehicle Management Commission	125.833	29938
Veterans Advisory Committee	5902.02(K)	29939
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02	29940
Water and Sewer Commission	1525.11(C)	29941
Waterways Safety Council	1547.73	29942
Wildlife Council	1531.03	29943
Workers' Compensation Board of Directors	4121.123	29944
Nominating Committee		

Section 12. That existing Section 4 of Am. Sub. H.B. 516 of 29945
the 125th General Assembly, as most recently amended by Am. Sub. 29946
H.B. 100 of the 127th General Assembly, is hereby repealed. 29947

Section 13. The amendment of section 5120.07 of the Revised 29948
Code is not intended to supersede the earlier repeal, with delayed 29949
effective date, of that section. 29950

Section 14. The General Assembly, applying the principle 29951
stated in division (B) of section 1.52 of the Revised Code that 29952
amendments are to be harmonized if reasonably capable of 29953
simultaneous operation, finds that the following sections, 29954

presented in this act as composites of the sections as amended by 29955
the acts indicated, are the resulting versions of the sections in 29956
effect prior to the effective date of the sections as presented in 29957
this act: 29958

Section 109.57 of the Revised Code as amended by both Sub. 29959
H.B. 428 and Sub. S.B. 163 of the 127th General Assembly. 29960

Section 109.572 of the Revised Code as amended by Sub. H.B. 29961
195, Sub. H.B. 545, and Sub. S.B. 247, all of the 127th General 29962
Assembly. 29963

Section 109.77 of the Revised Code as amended by Am. Sub. 29964
H.B. 490, Sub. H.B. 545, and H.B. 675, all of the 124th General 29965
Assembly. 29966

Section 121.37 of the Revised Code as amended by both Sub. 29967
H.B. 289 and Am. Sub. H.B. 530 of the 126th General Assembly. 29968

Section 325.19 of the Revised Code as amended by both Sub. 29969
H.B. 187 and Sub. S.B. 126 of the 126th General Assembly. 29970

Section 1751.01 of the Revised Code as amended by both Am. 29971
Sub. H.B. 562 and Sub. S.B. 186 of the 127th General Assembly. 29972

Section 3109.18 of the Revised Code as amended by both Am. 29973
Sub. H.B. 11 and Sub. S.B. 66 of the 125th General Assembly. 29974

Section 5126.04 of the Revised Code as amended by both Am. 29975
Sub. H.B. 119 and Am. Sub. H.B. 214 of the 127th General Assembly. 29976

Section 5815.35 of the Revised Code as amended by both Sub. 29977
H.B. 332 and Sub. H.B. 499 of the 127th General Assembly. 29978