

As Introduced

**128th General Assembly
Regular Session
2009-2010**

S. B. No. 79

Senator Stewart

Cosponsors: Senators Roberts, Gibbs, Gillmor, Turner, Wagoner

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A B I L L

To amend sections 9.239, 9.55, 101.37, 101.39,	1
107.12, 109.57, 109.572, 109.71, 109.77, 109.86,	2
117.102, 121.02, 121.03, 121.32, 121.36, 121.37,	3
123.01, 124.11, 124.23, 124.241, 124.27, 124.38,	4
124.381, 125.602, 125.603, 126.32, 127.16,	5
135.801, 135.802, 135.803, 140.01, 140.03, 140.05,	6
145.012, 145.297, 154.17, 154.20, 173.03, 305.14,	7
307.10, 307.86, 309.10, 319.16, 325.19, 329.06,	8
1751.01, 1751.02, 2108.521, 2109.01, 2109.04,	9
2111.01, 2111.02, 2111.10, 2133.25, 2151.011,	10
2151.421, 2903.33, 2919.271, 2921.36, 2921.38,	11
2930.061, 2935.03, 2945.37, 2945.371, 2945.38,	12
2945.39, 2945.40, 2945.401, 2967.22, 3109.18,	13
3301.07, 3301.15, 3301.52, 3301.53, 3301.55,	14
3301.57, 3301.58, 3304.231, 3313.65, 3313.715,	15
3314.022, 3314.99, 3317.01, 3317.02, 3317.024,	16
3317.03, 3317.032, 3317.05, 3317.051, 3317.052,	17
3317.07, 3317.15, 3317.20, 3319.22, 3319.99,	18
3323.01, 3323.02, 3323.021, 3323.03, 3323.04,	19
3323.05, 3323.07, 3323.09, 3323.091, 3323.12,	20
3323.141, 3323.142, 3323.31, 3326.99, 3501.01,	21
3701.78, 3701.93, 3701.932, 3701.933, 3705.36,	22
3721.01, 3721.14, 3722.01, 3727.01, 3735.58,	23

4109.06, 4115.32, 4141.29, 4511.21, 4511.75,	24
4723.071, 5101.35, 5101.46, 5101.611, 5103.02,	25
5103.13, 5104.08, 5107.24, 5111.042, 5111.151,	26
5111.202, 5111.203, 5111.211, 5111.251, 5111.291,	27
5111.65, 5111.677, 5111.709, 5111.87, 5111.871,	28
5111.872, 5111.873, 5111.874, 5111.875, 5111.876,	29
5111.8710, 5111.915, 5112.30, 5112.32, 5112.37,	30
5112.371, 5119.16, 5119.221, 5119.51, 5120.07,	31
5120.135, 5121.01, 5121.02, 5121.03, 5121.04,	32
5121.05, 5121.051, 5121.06, 5121.061, 5121.07,	33
5121.08, 5121.09, 5121.10, 5121.11, 5121.12,	34
5123.01, 5123.012, 5123.02, 5123.021, 5123.03,	35
5123.031, 5123.032, 5123.033, 5123.04, 5123.042,	36
5123.043, 5123.044, 5123.046, 5123.047, 5123.048,	37
5123.049, 5123.0410, 5123.0411, 5123.0412,	38
5123.0413, 5123.0414, 5123.0415, 5123.0416,	39
5123.0417, 5123.05, 5123.051, 5123.06, 5123.07,	40
5123.08, 5123.081, 5123.082, 5123.083, 5123.09,	41
5123.091, 5123.092, 5123.093, 5123.10, 5123.11,	42
5123.12, 5123.122, 5123.13, 5123.14, 5123.15,	43
5123.16, 5123.161, 5123.162, 5123.163, 5123.164,	44
5123.166, 5123.167, 5123.168, 5123.169, 5123.17,	45
5123.171, 5123.172, 5123.18, 5123.181, 5123.19,	46
5123.191, 5123.194, 5123.195, 5123.196, 5123.198,	47
5123.21, 5123.211, 5123.22, 5123.221, 5123.23,	48
5123.24, 5123.25, 5123.26, 5123.27, 5123.28,	49
5123.29, 5123.30, 5123.31, 5123.33, 5123.34,	50
5123.35, 5123.351, 5123.352, 5123.36, 5123.37,	51
5123.371, 5123.372, 5123.373, 5123.374, 5123.375,	52
5123.38, 5123.40, 5123.41, 5123.42, 5123.421,	53
5123.43, 5123.44, 5123.45, 5123.451, 5123.47,	54
5123.50, 5123.51, 5123.52, 5123.53, 5123.54,	55
5123.541, 5123.542, 5123.55, 5123.56, 5123.57,	56

5123.58, 5123.59, 5123.60, 5123.601, 5123.602,	57
5123.604, 5123.61, 5123.611, 5123.612, 5123.613,	58
5123.614, 5123.63, 5123.64, 5123.65, 5123.71,	59
5123.711, 5123.72, 5123.73, 5123.74, 5123.75,	60
5123.76, 5123.801, 5123.81, 5123.811, 5123.82,	61
5123.85, 5123.86, 5123.89, 5123.90, 5123.96,	62
5126.01, 5126.02, 5126.021, 5126.022, 5126.023,	63
5126.024, 5126.025, 5126.026, 5126.027, 5126.028,	64
5126.029, 5126.0210, 5126.0211, 5126.0212,	65
5126.0213, 5126.0214, 5126.0215, 5126.0216,	66
5126.0217, 5126.0218, 5126.0219, 5126.0220,	67
5126.0221, 5126.0222, 5126.0223, 5126.0224,	68
5126.0225, 5126.0226, 5126.0227, 5126.0228,	69
5126.0229, 5126.03, 5126.031, 5126.032, 5126.033,	70
5126.034, 5126.037, 5126.038, 5126.04, 5126.041,	71
5126.042, 5126.044, 5126.045, 5126.046, 5126.05,	72
5126.051, 5126.052, 5126.054, 5126.055, 5126.056,	73
5126.058, 5126.059, 5126.0510, 5126.0511,	74
5126.0512, 5126.06, 5126.07, 5126.071, 5126.08,	75
5126.081, 5126.082, 5126.09, 5126.10, 5126.11,	76
5126.12, 5126.121, 5126.13, 5126.14, 5126.15,	77
5126.18, 5126.19, 5126.20, 5126.201, 5126.21,	78
5126.22, 5126.221, 5126.23, 5126.24, 5126.25,	79
5126.251, 5126.252, 5126.253, 5126.254, 5126.26,	80
5126.27, 5126.28, 5126.281, 5126.29, 5126.30,	81
5126.31, 5126.311, 5126.313, 5126.33, 5126.331,	82
5126.333, 5126.34, 5126.36, 5126.40, 5126.41,	83
5126.42, 5126.43, 5126.45, 5126.46, 5126.47,	84
5126.49, 5126.50, 5126.54, 5126.55, 5126.57,	85
5126.58, 5126.59, 5126.61, 5126.62, 5126.99,	86
5139.08, 5139.34, 5145.18, 5153.16, 5153.99,	87
5511.03, 5543.011, 5705.091, 5705.14, 5705.191,	88
5705.222, 5705.28, 5705.44, 5735.142, 5815.28, and	89

5815.35; to amend section 5123.011 as it results 90
from Am. Sub. S.B. 156 of the 119th General 91
Assembly; to amend, for the purpose of adopting a 92
new section number as indicated in parentheses, 93
section 5123.011 (5123.013) as it results from Am. 94
Sub. S.B. 285 of the 121st General Assembly; to 95
enact sections 5123.014 and 5126.011 of the 96
Revised Code; to amend Sections 213.30, 269.20.40, 97
269.20.80, 269.20.90, 269.30.50, 293.30, 98
309.31.60, 309.31.70, 335.40.10, 337.10, 99
337.20.10, 337.30.10, 337.30.20, 337.30.30, 100
337.30.40, 337.30.60, 337.30.70, 337.30.80, 101
337.40.10, and 337.40.30 of Am. Sub. H.B. 119 of 102
the 127th General Assembly, to amend Sections 103
337.30.43, 337.40, and 337.40.15 of Am. Sub. H.B. 104
119 of the 127th General Assembly as subsequently 105
amended, to amend Sections 209.60.40, 209.60.50, 106
and 501.40 of H.B. 496 of the 127th General 107
Assembly, to amend Section 201.60.30 of H.B. 496 108
of the 127th General Assembly, as subsequently 109
amended, to amend Sections 231.30.10, 231.30.20, 110
253.10, and 751.10 of Am. Sub. H.B. 562 of the 111
127th General Assembly, to amend Section 231.20.30 112
of Am. Sub. H.B. 562 of the 127th General 113
Assembly, as subsequently amended, and to amend 114
Section 4 of Am. Sub. H.B. 516 of the 125th 115
General Assembly, as subsequently amended, to 116
change the name of the Department of Mental 117
Retardation and Developmental Disabilities to the 118
Department of Developmental Disabilities and the 119
name of county boards of mental retardation and 120
developmental disabilities to county boards of 121
developmental disabilities and to make similar 122

name changes for the Joint Council on Mental	123
Retardation and Developmental Disabilities, the	124
Mental Retardation and Developmental Disabilities	125
Developmental Center Closure Commission, and	126
certain state and county funds.	127
	128

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,	129
109.57, 109.572, 109.71, 109.77, 109.86, 117.102, 121.02, 121.03,	130
121.32, 121.36, 121.37, 123.01, 124.11, 124.23, 124.241, 124.27,	131
124.38, 124.381, 125.602, 125.603, 126.32, 127.16, 135.801,	132
135.802, 135.803, 140.01, 140.03, 140.05, 145.012, 145.297,	133
154.17, 154.20, 173.03, 305.14, 307.10, 307.86, 309.10, 319.16,	134
325.19, 329.06, 1751.01, 1751.02, 2108.521, 2109.01, 2109.04,	135
2111.01, 2111.02, 2111.10, 2133.25, 2151.011, 2151.421, 2903.33,	136
2919.271, 2921.36, 2921.38, 2930.061, 2935.03, 2945.37, 2945.371,	137
2945.38, 2945.39, 2945.40, 2945.401, 2967.22, 3109.18, 3301.07,	138
3301.15, 3301.52, 3301.53, 3301.55, 3301.57, 3301.58, 3304.231,	139
3313.65, 3313.715, 3314.022, 3314.99, 3317.01, 3317.02, 3317.024,	140
3317.03, 3317.032, 3317.05, 3317.051, 3317.052, 3317.07, 3317.15,	141
3317.20, 3319.22, 3319.99, 3323.01, 3323.02, 3323.021, 3323.03,	142
3323.04, 3323.05, 3323.07, 3323.09, 3323.091, 3323.12, 3323.141,	143
3323.142, 3323.31, 3326.99, 3501.01, 3701.78, 3701.93, 3701.932,	144
3701.933, 3705.36, 3721.01, 3721.14, 3722.01, 3727.01, 3735.58,	145
4109.06, 4115.32, 4141.29, 4511.21, 4511.75, 4723.071, 5101.35,	146
5101.46, 5101.611, 5103.02, 5103.13, 5104.08, 5107.24, 5111.042,	147
5111.151, 5111.202, 5111.203, 5111.211, 5111.251, 5111.291,	148
5111.65, 5111.677, 5111.709, 5111.87, 5111.871, 5111.872,	149
5111.873, 5111.874, 5111.875, 5111.876, 5111.8710, 5111.915,	150
5112.30, 5112.32, 5112.37, 5112.371, 5119.16, 5119.221, 5119.51,	151
5120.07, 5120.135, 5121.01, 5121.02, 5121.03, 5121.04, 5121.05,	152

5121.051, 5121.06, 5121.061, 5121.07, 5121.08, 5121.09, 5121.10,	153
5121.11, 5121.12, 5123.01, 5123.012, 5123.02, 5123.021, 5123.03,	154
5123.031, 5123.032, 5123.033, 5123.04, 5123.042, 5123.043,	155
5123.044, 5123.046, 5123.047, 5123.048, 5123.049, 5123.0410,	156
5123.0411, 5123.0412, 5123.0413, 5123.0414, 5123.0415, 5123.0416,	157
5123.0417, 5123.05, 5123.051, 5123.06, 5123.07, 5123.08, 5123.081,	158
5123.082, 5123.083, 5123.09, 5123.091, 5123.092, 5123.093,	159
5123.10, 5123.11, 5123.12, 5123.122, 5123.13, 5123.14, 5123.15,	160
5123.16, 5123.161, 5123.162, 5123.163, 5123.164, 5123.166,	161
5123.167, 5123.168, 5123.169, 5123.17, 5123.171, 5123.172,	162
5123.18, 5123.181, 5123.19, 5123.191, 5123.194, 5123.195,	163
5123.196, 5123.198, 5123.21, 5123.211, 5123.22, 5123.221, 5123.23,	164
5123.24, 5123.25, 5123.26, 5123.27, 5123.28, 5123.29, 5123.30,	165
5123.31, 5123.33, 5123.34, 5123.35, 5123.351, 5123.352, 5123.36,	166
5123.37, 5123.371, 5123.372, 5123.373, 5123.374, 5123.375,	167
5123.38, 5123.40, 5123.41, 5123.42, 5123.421, 5123.43, 5123.44,	168
5123.45, 5123.451, 5123.47, 5123.50, 5123.51, 5123.52, 5123.53,	169
5123.54, 5123.541, 5123.542, 5123.55, 5123.56, 5123.57, 5123.58,	170
5123.59, 5123.60, 5123.601, 5123.602, 5123.604, 5123.61, 5123.611,	171
5123.612, 5123.613, 5123.614, 5123.63, 5123.64, 5123.65, 5123.71,	172
5123.711, 5123.72, 5123.73, 5123.74, 5123.75, 5123.76, 5123.801,	173
5123.81, 5123.811, 5123.82, 5123.85, 5123.86, 5123.89, 5123.90,	174
5123.96, 5126.01, 5126.02, 5126.021, 5126.022, 5126.023, 5126.024,	175
5126.025, 5126.026, 5126.027, 5126.028, 5126.029, 5126.0210,	176
5126.0211, 5126.0212, 5126.0213, 5126.0214, 5126.0215, 5126.0216,	177
5126.0217, 5126.0218, 5126.0219, 5126.0220, 5126.0221, 5126.0222,	178
5126.0223, 5126.0224, 5126.0225, 5126.0226, 5126.0227, 5126.0228,	179
5126.0229, 5126.03, 5126.031, 5126.032, 5126.033, 5126.034,	180
5126.037, 5126.038, 5126.04, 5126.041, 5126.042, 5126.044,	181
5126.045, 5126.046, 5126.05, 5126.051, 5126.052, 5126.054,	182
5126.055, 5126.056, 5126.058, 5126.059, 5126.0510, 5126.0511,	183
5126.0512, 5126.06, 5126.07, 5126.071, 5126.08, 5126.081,	184

5126.082, 5126.09, 5126.10, 5126.11, 5126.12, 5126.121, 5126.13, 185
5126.14, 5126.15, 5126.18, 5126.19, 5126.20, 5126.201, 5126.21, 186
5126.22, 5126.221, 5126.23, 5126.24, 5126.25, 5126.251, 5126.252, 187
5126.253, 5126.254, 5126.26, 5126.27, 5126.28, 5126.281, 5126.29, 188
5126.30, 5126.31, 5126.311, 5126.313, 5126.33, 5126.331, 5126.333, 189
5126.34, 5126.36, 5126.40, 5126.41, 5126.42, 5126.43, 5126.45, 190
5126.46, 5126.47, 5126.49, 5126.50, 5126.54, 5126.55, 5126.57, 191
5126.58, 5126.59, 5126.61, 5126.62, 5126.99, 5139.08, 5139.34, 192
5145.18, 5153.16, 5153.99, 5511.03, 5543.011, 5705.091, 5705.14, 193
5705.191, 5705.222, 5705.28, 5705.44, 5735.142, 5815.28, and 194
5815.35 and section 5123.011 as it results from Am. Sub. S.B. 156 195
of the 119th General Assembly be amended; that section 5123.011 196
(5123.013) as it results from Am. Sub. S.B. 285 of the 121st 197
General Assembly be amended for the purpose of adopting a new 198
section number as indicated in parentheses; and sections 5123.014 199
and 5126.011 of the Revised Code be enacted to read as follows: 200

201
Sec. 9.239. (A) There is hereby created the government 202
contracting advisory council. The attorney general and auditor of 203
state shall consult with the council on the performance of their 204
rule-making functions under sections 9.237 and 9.238 of the 205
Revised Code and shall consider any recommendations of the 206
council. The director of job and family services shall annually 207
report to the council the cost methodology of the medicaid-funded 208
services described in division (A)(3)(d) of section 9.231 of the 209
Revised Code. The council shall consist of the following members 210
or their designees: 211

- (1) The attorney general; 212
- (2) The auditor of state; 213
- (3) The director of administrative services; 214

(4) The director of aging;	215
(5) The director of alcohol and drug addiction services;	216
(6) The director of budget and management;	217
(7) The director of development;	218
(8) The director of job and family services;	219
(9) The director of mental health;	220
(10) The director of mental retardation and developmental disabilities;	221 222
(11) The director of rehabilitation and correction;	223
(12) The administrator of workers' compensation;	224
(13) The executive director of the county commissioners' association of Ohio;	225 226
(14) The president of the Ohio grantmakers forum;	227
(15) The president of the Ohio chamber of commerce;	228
(16) The president of the Ohio state bar association;	229
(17) The president of the Ohio society of certified public accountants;	230 231
(18) The executive director of the Ohio association of nonprofit organizations;	232 233
(19) The president of the Ohio united way;	234
(20) One additional member appointed by the attorney general;	235
(21) One additional member appointed by the auditor of state.	236
(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	237 238 239 240 241

is the successor, the attorney general shall designate an agency 242
or organization to be represented in place of the agency or 243
organization originally represented on the council. 244

(C) The two members appointed to the council shall serve 245
three-year terms. Original appointments shall be made not later 246
than sixty days after ~~the effective date of this section~~ September 247
29, 2005. Vacancies on the council shall be filled in the same 248
manner as the original appointment. 249

(D) The attorney general or the attorney general's designee 250
shall be the chairperson of the council. The council shall meet at 251
least once every two years to review the rules adopted under 252
sections 9.237 and 9.238 of the Revised Code and to make 253
recommendations to the attorney general and auditor of state 254
regarding the adoption, amendment, or repeal of those rules. The 255
council shall also meet at other times as requested by the 256
attorney general or auditor of state. 257

(E) Members of the council shall serve without compensation 258
or reimbursement. 259

(F) The office of the attorney general shall provide 260
necessary staff, facilities, supplies, and services to the 261
council. 262

(G) Sections 101.82 to 101.87 of the Revised Code do not 263
apply to the council. 264

Sec. 9.55. (A) As used in this section, "state agency" means 265
the house of representatives, the senate, the governor, the 266
secretary of state, the auditor of state, the treasurer of state, 267
the attorney general, the department of job and family services, 268
the department of commerce, the department of ~~mental retardation~~ 269
~~and~~ developmental disabilities, the department of education, the 270
department of health, the department of aging, the governor's 271

office of advocacy for disabled persons, and the civil rights 272
commission. 273

(B) Each state agency shall install in its offices at least 274
one teletypewriter designed to receive printed messages from and 275
transmit printed messages to deaf or hearing-impaired persons. 276

Sec. 101.37. (A) There is hereby created the joint council on 277
~~mental retardation and~~ developmental disabilities. The joint 278
council shall consist of three members of the house of 279
representatives appointed by the speaker of the house of 280
representatives, not more than two of whom shall be members of the 281
same political party, three members of the senate appointed by the 282
president of the senate, not more than two of whom shall be 283
members of the same political party, and the director of ~~mental~~ 284
~~retardation and~~ developmental disabilities. At least one member of 285
the joint council appointed by the speaker of the house of 286
representatives and at least one member appointed by the president 287
of the senate shall be a member of the house or senate committee 288
with primary responsibility for appropriation issues and at least 289
one member appointed by the speaker and at least one member 290
appointed by the president shall be a member of the house or 291
senate committee with primary responsibility for human services 292
issues. 293

Members of the joint council shall be reimbursed for their 294
actual and necessary expenses incurred in the performance of their 295
official duties, provided that reimbursement for such expenses 296
shall not exceed limits imposed upon the department of ~~mental~~ 297
~~retardation and~~ developmental disabilities by administrative rules 298
regulating travel within this state. Members shall receive no 299
other compensation. 300

The joint council shall organize itself within fifteen days 301
after the commencement of each regular session of the general 302

assembly by electing a chairperson and vice-chairperson. The joint 303
council may meet upon the call of the chairperson, the director, 304
or on the request of any three members. 305

Members of the joint council who are appointed from the 306
general assembly shall serve until the expiration of their terms 307
in the general assembly. Any vacancies occurring among the general 308
assembly members of the joint council shall be filled in the 309
manner of the original appointment. 310

(B) The joint council shall do all of the following: 311

(1) Appoint the original members of the citizen's advisory 312
council at any institution under the control of the department of 313
~~mental retardation and~~ developmental disabilities that is created 314
after November 15, 1981; 315

(2) Make final determinations in any dispute between the 316
director of ~~mental retardation and~~ developmental disabilities and 317
a citizen's advisory council concerning the appointment of members 318
to the citizen's advisory council, as provided for in section 319
5123.092 of the Revised Code; 320

(3) Receive reports from citizen's advisory councils on or 321
before the thirty-first day of January of each year, as required 322
by section 5123.093 of the Revised Code; 323

(4) Receive reports as appropriate concerning extenuating 324
circumstances at institutions under the control of the department 325
of ~~mental retardation and~~ developmental disabilities; 326

(5) Conduct reviews and make recommendations to the director 327
of ~~mental retardation and~~ developmental disabilities with respect 328
to any disputes between the department of ~~mental retardation and~~ 329
developmental disabilities and entities that have entered into 330
contracts with the department for the provision of protective 331
services to individuals with mental retardation or developmental 332
disabilities; 333

(6) Provide the director of ~~mental retardation and~~ 334
developmental disabilities with advice on legislative and fiscal 335
issues affecting the department of ~~mental retardation and~~ 336
developmental disabilities, county boards of ~~mental retardation~~ 337
~~and~~ developmental disabilities, persons with mental retardation or 338
developmental disabilities, and providers of services to persons 339
with mental retardation or developmental disabilities and on 340
related issues the director requests the joint council to address; 341

(7) On behalf of the director of ~~mental retardation and~~ 342
developmental disabilities, advocate to the general assembly 343
legislative issues about which the joint council has provided 344
advice to the director. 345

(C) Reports and any correspondence received by the joint 346
council shall be deposited with the legislative service 347
commission, which shall retain them for not less than three years 348
after the date of deposit. 349

Sec. 101.39. (A) There is hereby created the joint 350
legislative committee on health care oversight. The committee may 351
review or study any matter related to the provision of health care 352
services that it considers of significance to the citizens of this 353
state, including the availability of health care, the quality of 354
health care, the effectiveness and efficiency of managed care 355
systems, and the operation of the medical assistance program 356
established under Chapter 5111. of the Revised Code or other 357
government health programs. 358

The department of job and family services, department of 359
health, department of aging, department of mental health, 360
department of ~~mental retardation and~~ developmental disabilities, 361
department of alcohol and drug addiction services, and other state 362
agencies shall cooperate with the committee in its study and 363
review of health care issues. On request, the departments shall 364

provide the committee with reports and other information 365
sufficient for the committee to fulfill its duties. 366

The committee may issue recommendations as it determines 367
appropriate. The recommendations may be made to the general 368
assembly, state agencies, private industry, or any other entity. 369

(B) The committee shall consist of the following members of 370
the general assembly: the chairperson of the senate's standing 371
committee with primary responsibility for health legislation, the 372
chairperson of the house of representatives' standing committee 373
with primary responsibility for health legislation, four members 374
of the house of representatives appointed by the speaker of the 375
house of representatives, and four members of the senate appointed 376
by the president of the senate. Not more than two members 377
appointed by the speaker of the house of representatives and not 378
more than two members appointed by the president of the senate may 379
be of the same political party. Except in 1995, appointments shall 380
be made not later than fifteen days after the commencement of the 381
first regular session of each general assembly. The chairpersons 382
of the standing committees with primary responsibility for health 383
legislation shall serve as co-chairpersons of the committee. 384

Each member of the committee shall hold office during the 386
general assembly in which the member is appointed and until a 387
successor has been appointed, notwithstanding the adjournment sine 388
die of the general assembly in which the member was appointed or 389
the expiration of the member's term as a member of the general 390
assembly. Any vacancies occurring among the members of the 391
committee shall be filled in the manner of the original 392
appointment. 393

The committee shall meet at least quarterly and at the call 394
of the co-chairpersons. The co-chairpersons shall determine the 395
time, place, and agenda for each meeting of the committee. 396

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

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

(B) There is hereby established within the office of the governor the governor's office of faith-based and community initiatives. The office shall:

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

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

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

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

(C) The governor shall appoint an executive director and such other staff as may be necessary to manage the office and perform or oversee the performance of the duties of the office. Within

sixty days after being appointed, and every twelve months 427
thereafter, the executive director shall distribute to the 428
advisory board and review with the board a strategic plan. The 429
executive director shall report to the board at least quarterly on 430
proposed initiatives and policies. A report shall include the 431
condition of the budget and the finances of the office. 432

(D)(1) There is hereby created the advisory board of the 433
governor's office of faith-based and community initiatives. The 434
board shall consist of the following members: 435

(a) The directors of aging, alcohol and drug addiction 436
services, rehabilitation and correction, health, job and family 437
services, ~~mental retardation and~~ developmental disabilities, 438
mental health, and youth services, or their designees; 439

(b) The speaker of the house of representatives shall appoint 440
to the board two members of the house of representatives, not more 441
than one of whom shall be from the same political party and at 442
least one of whom shall be from the legislative black caucus. The 443
president of the senate shall appoint to the board two members of 444
the senate, not more than one of whom shall be from the same 445
political party. 446

(c) The governor, the speaker of the house of 447
representatives, and the president of the senate shall each 448
appoint to the board three representatives of the nonprofit, 449
faith-based and other nonprofit community. 450

(2) Terms of the office shall be one year. Any vacancy that 451
occurs on the board shall be filled in the same manner as the 452
original appointment. 453

(3) Members of the board are not entitled to compensation, 454
but the members appointed by the governor, the speaker of the 455
house of representatives, and the president of the senate who are 456
representatives of the nonprofit, faith-based and other nonprofit 457

community shall be reimbursed for their actual and necessary 458
expenses that are incurred in relation to board meetings. 459

(4) The board shall be presided over by a chairperson and a 460
vice-chairperson, who shall be the members of the board who are 461
also members of the house of representatives or the senate. 462
Annually on the first day of January, the chairpersonship and 463
vice-chairpersonship shall alternate between the members of the 464
house of representatives and the senate. 465

(E) The board shall have the following duties: 466

(1) Provide direction, guidance, and oversight to the office; 467

(2) Assist in the dissemination of information about, and in 468
the stimulation of public awareness of, the service programs 469
supported by the office; 470

(3) Review the budget and finances of the office, proposed 471
initiatives and policies, and the executive director's annual 472
strategic plan at board meetings; 473

(4) Provide feedback for and proposed modifications of the 474
executive director's strategic plan. Within forty-five days after 475
submitting a strategic plan, the executive director shall contact 476
each advisory board member to obtain feedback. With the approval 477
of the advisory board chairperson, the executive director shall 478
lead a strategic plan discussion at the first board meeting 479
following the distribution of the strategic plan. 480

(5) Publish a report of its activities and accomplishments on 481
or before the first day of August of each year, and deliver copies 482
of the report to the governor, the speaker and minority leader of 483
the house of representatives, and the president and minority 484
leader of the senate. 485

(F) No member of the board or organization that the member is 486
affiliated or involved with is eligible to receive any grant that 487

the office administers or assists in administering. 488

Sec. 109.57. (A)(1) The superintendent of the bureau of 489
criminal identification and investigation shall procure from 490
wherever procurable and file for record photographs, pictures, 491
descriptions, fingerprints, measurements, and other information 492
that may be pertinent of all persons who have been convicted of 493
committing within this state a felony, any crime constituting a 494
misdemeanor on the first offense and a felony on subsequent 495
offenses, or any misdemeanor described in division (A)(1)(a), 496
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 497
of all children under eighteen years of age who have been 498
adjudicated delinquent children for committing within this state 499
an act that would be a felony or an offense of violence if 500
committed by an adult or who have been convicted of or pleaded 501
guilty to committing within this state a felony or an offense of 502
violence, and of all well-known and habitual criminals. The person 503
in charge of any county, multicounty, municipal, municipal-county, 504
or multicounty-municipal jail or workhouse, community-based 505
correctional facility, halfway house, alternative residential 506
facility, or state correctional institution and the person in 507
charge of any state institution having custody of a person 508
suspected of having committed a felony, any crime constituting a 509
misdemeanor on the first offense and a felony on subsequent 510
offenses, or any misdemeanor described in division (A)(1)(a), 511
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or 512
having custody of a child under eighteen years of age with respect 513
to whom there is probable cause to believe that the child may have 514
committed an act that would be a felony or an offense of violence 515
if committed by an adult shall furnish such material to the 516
superintendent of the bureau. Fingerprints, photographs, or other 517
descriptive information of a child who is under eighteen years of 518
age, has not been arrested or otherwise taken into custody for 519

committing an act that would be a felony or an offense of violence 520
who is not in any other category of child specified in this 521
division, if committed by an adult, has not been adjudicated a 522
delinquent child for committing an act that would be a felony or 523
an offense of violence if committed by an adult, has not been 524
convicted of or pleaded guilty to committing a felony or an 525
offense of violence, and is not a child with respect to whom there 526
is probable cause to believe that the child may have committed an 527
act that would be a felony or an offense of violence if committed 528
by an adult shall not be procured by the superintendent or 529
furnished by any person in charge of any county, multicounty, 530
municipal, municipal-county, or multicounty-municipal jail or 531
workhouse, community-based correctional facility, halfway house, 532
alternative residential facility, or state correctional 533
institution, except as authorized in section 2151.313 of the 534
Revised Code. 535

(2) Every clerk of a court of record in this state, other 536
than the supreme court or a court of appeals, shall send to the 537
superintendent of the bureau a weekly report containing a summary 538
of each case involving a felony, involving any crime constituting 539
a misdemeanor on the first offense and a felony on subsequent 540
offenses, involving a misdemeanor described in division (A)(1)(a), 541
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 542
or involving an adjudication in a case in which a child under 543
eighteen years of age was alleged to be a delinquent child for 544
committing an act that would be a felony or an offense of violence 545
if committed by an adult. The clerk of the court of common pleas 546
shall include in the report and summary the clerk sends under this 547
division all information described in divisions (A)(2)(a) to (f) 548
of this section regarding a case before the court of appeals that 549
is served by that clerk. The summary shall be written on the 550
standard forms furnished by the superintendent pursuant to 551
division (B) of this section and shall include the following 552

information:	553
(a) The incident tracking number contained on the standard forms furnished by the superintendent pursuant to division (B) of this section;	554 555 556
(b) The style and number of the case;	557
(c) The date of arrest, offense, summons, or arraignment;	558
(d) The date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing the act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a nolle prosequi, or the date of any other determination that constitutes final resolution of the case;	559 560 561 562 563 564 565 566 567 568 569 570
(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;	571 572
(f) If the person or child was convicted, pleaded guilty, or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child.	573 574 575 576
If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.	577 578 579 580 581
(3) The superintendent shall cooperate with and assist	582

sheriffs, chiefs of police, and other law enforcement officers in 583
the establishment of a complete system of criminal identification 584
and in obtaining fingerprints and other means of identification of 585
all persons arrested on a charge of a felony, any crime 586
constituting a misdemeanor on the first offense and a felony on 587
subsequent offenses, or a misdemeanor described in division 588
(A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the 589
Revised Code and of all children under eighteen years of age 590
arrested or otherwise taken into custody for committing an act 591
that would be a felony or an offense of violence if committed by 592
an adult. The superintendent also shall file for record the 593
fingerprint impressions of all persons confined in a county, 594
multicounty, municipal, municipal-county, or multicounty-municipal 595
jail or workhouse, community-based correctional facility, halfway 596
house, alternative residential facility, or state correctional 597
institution for the violation of state laws and of all children 598
under eighteen years of age who are confined in a county, 599
multicounty, municipal, municipal-county, or multicounty-municipal 600
jail or workhouse, community-based correctional facility, halfway 601
house, alternative residential facility, or state correctional 602
institution or in any facility for delinquent children for 603
committing an act that would be a felony or an offense of violence 604
if committed by an adult, and any other information that the 605
superintendent may receive from law enforcement officials of the 606
state and its political subdivisions. 607

(4) The superintendent shall carry out Chapter 2950. of the 608
Revised Code with respect to the registration of persons who are 609
convicted of or plead guilty to a sexually oriented offense or a 610
child-victim oriented offense and with respect to all other duties 611
imposed on the bureau under that chapter. 612

(5) The bureau shall perform centralized recordkeeping 613
functions for criminal history records and services in this state 614

for purposes of the national crime prevention and privacy compact 615
set forth in section 109.571 of the Revised Code and is the 616
criminal history record repository as defined in that section for 617
purposes of that compact. The superintendent or the 618
superintendent's designee is the compact officer for purposes of 619
that compact and shall carry out the responsibilities of the 620
compact officer specified in that compact. 621

(B) The superintendent shall prepare and furnish to every 622
county, multicounty, municipal, municipal-county, or 623
multicounty-municipal jail or workhouse, community-based 624
correctional facility, halfway house, alternative residential 625
facility, or state correctional institution and to every clerk of 626
a court in this state specified in division (A)(2) of this section 627
standard forms for reporting the information required under 628
division (A) of this section. The standard forms that the 629
superintendent prepares pursuant to this division may be in a 630
tangible format, in an electronic format, or in both tangible 631
formats and electronic formats. 632

(C)(1) The superintendent may operate a center for 633
electronic, automated, or other data processing for the storage 634
and retrieval of information, data, and statistics pertaining to 635
criminals and to children under eighteen years of age who are 636
adjudicated delinquent children for committing an act that would 637
be a felony or an offense of violence if committed by an adult, 638
criminal activity, crime prevention, law enforcement, and criminal 639
justice, and may establish and operate a statewide communications 640
network to gather and disseminate information, data, and 641
statistics for the use of law enforcement agencies and for other 642
uses specified in this division. The superintendent may gather, 643
store, retrieve, and disseminate information, data, and statistics 644
that pertain to children who are under eighteen years of age and 645
that are gathered pursuant to sections 109.57 to 109.61 of the 646

Revised Code together with information, data, and statistics that 647
pertain to adults and that are gathered pursuant to those 648
sections. 649

(2) The superintendent or the superintendent's designee shall 650
gather information of the nature described in division (C)(1) of 651
this section that pertains to the offense and delinquency history 652
of a person who has been convicted of, pleaded guilty to, or been 653
adjudicated a delinquent child for committing a sexually oriented 654
offense or a child-victim oriented offense for inclusion in the 655
state registry of sex offenders and child-victim offenders 656
maintained pursuant to division (A)(1) of section 2950.13 of the 657
Revised Code and in the internet database operated pursuant to 658
division (A)(13) of that section and for possible inclusion in the 659
internet database operated pursuant to division (A)(11) of that 660
section. 661

(3) In addition to any other authorized use of information, 662
data, and statistics of the nature described in division (C)(1) of 663
this section, the superintendent or the superintendent's designee 664
may provide and exchange the information, data, and statistics 665
pursuant to the national crime prevention and privacy compact as 666
described in division (A)(5) of this section. 667

(D) The information and materials furnished to the 668
superintendent pursuant to division (A) of this section and 669
information and materials furnished to any board or person under 670
division (F) or (G) of this section are not public records under 671
section 149.43 of the Revised Code. The superintendent or the 672
superintendent's designee shall gather and retain information so 673
furnished under division (A) of this section that pertains to the 674
offense and delinquency history of a person who has been convicted 675
of, pleaded guilty to, or been adjudicated a delinquent child for 676
committing a sexually oriented offense or a child-victim oriented 677
offense for the purposes described in division (C)(2) of this 678

section. 679

(E) The attorney general shall adopt rules, in accordance 680
with Chapter 119. of the Revised Code, setting forth the procedure 681
by which a person may receive or release information gathered by 682
the superintendent pursuant to division (A) of this section. A 683
reasonable fee may be charged for this service. If a temporary 684
employment service submits a request for a determination of 685
whether a person the service plans to refer to an employment 686
position has been convicted of or pleaded guilty to an offense 687
listed in division (A)(1), (3), (4), (5), or (6) of section 688
109.572 of the Revised Code, the request shall be treated as a 689
single request and only one fee shall be charged. 690

(F)(1) As used in division (F)(2) of this section, "head 691
start agency" means an entity in this state that has been approved 692
to be an agency for purposes of subchapter II of the "Community 693
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 694
as amended. 695

(2)(a) In addition to or in conjunction with any request that 696
is required to be made under section 109.572, 2151.86, 3301.32, 697
3301.541, 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 698
5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 699
Code or that is made under section 3314.41, 3319.392, or 3326.25 700
of the Revised Code, the board of education of any school 701
district; the director of ~~mental retardation and~~ developmental 702
disabilities; any county board of ~~mental retardation and~~ 703
developmental disabilities; any entity under contract with a 704
county board of ~~mental retardation and~~ developmental disabilities; 705
the chief administrator of any chartered nonpublic school; the 706
chief administrator of any home health agency; the chief 707
administrator of or person operating any child day-care center, 708
type A family day-care home, or type B family day-care home 709
licensed or certified under Chapter 5104. of the Revised Code; the 710

administrator of any type C family day-care home certified 711
pursuant to Section 1 of Sub. H.B. 62 of the 121st general 712
assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general 713
assembly; the chief administrator of any head start agency; the 714
executive director of a public children services agency; a private 715
company described in section 3314.41, 3319.392, or 3326.25 of the 716
Revised Code; or an employer described in division (J)(2) of 717
section 3327.10 of the Revised Code may request that the 718
superintendent of the bureau investigate and determine, with 719
respect to any individual who has applied for employment in any 720
position after October 2, 1989, or any individual wishing to apply 721
for employment with a board of education may request, with regard 722
to the individual, whether the bureau has any information gathered 723
under division (A) of this section that pertains to that 724
individual. On receipt of the request, the superintendent shall 725
determine whether that information exists and, upon request of the 726
person, board, or entity requesting information, also shall 727
request from the federal bureau of investigation any criminal 728
records it has pertaining to that individual. The superintendent 729
or the superintendent's designee also may request criminal history 730
records from other states or the federal government pursuant to 731
the national crime prevention and privacy compact set forth in 732
section 109.571 of the Revised Code. Within thirty days of the 733
date that the superintendent receives a request, the 734
superintendent shall send to the board, entity, or person a report 735
of any information that the superintendent determines exists, 736
including information contained in records that have been sealed 737
under section 2953.32 of the Revised Code, and, within thirty days 738
of its receipt, shall send the board, entity, or person a report 739
of any information received from the federal bureau of 740
investigation, other than information the dissemination of which 741
is prohibited by federal law. 742
743

(b) When a board of education is required to receive 744
information under this section as a prerequisite to employment of 745
an individual pursuant to section 3319.39 of the Revised Code, it 746
may accept a certified copy of records that were issued by the 747
bureau of criminal identification and investigation and that are 748
presented by an individual applying for employment with the 749
district in lieu of requesting that information itself. In such a 750
case, the board shall accept the certified copy issued by the 751
bureau in order to make a photocopy of it for that individual's 752
employment application documents and shall return the certified 753
copy to the individual. In a case of that nature, a district only 754
shall accept a certified copy of records of that nature within one 755
year after the date of their issuance by the bureau. 756

(3) The state board of education may request, with respect to 757
any individual who has applied for employment after October 2, 758
1989, in any position with the state board or the department of 759
education, any information that a school district board of 760
education is authorized to request under division (F)(2) of this 761
section, and the superintendent of the bureau shall proceed as if 762
the request has been received from a school district board of 763
education under division (F)(2) of this section. 764

(4) When the superintendent of the bureau receives a request 765
for information under section 3319.291 of the Revised Code, the 766
superintendent shall proceed as if the request has been received 767
from a school district board of education under division (F)(2) of 768
this section. 769

(5) When a recipient of a classroom reading improvement grant 770
paid under section 3301.86 of the Revised Code requests, with 771
respect to any individual who applies to participate in providing 772
any program or service funded in whole or in part by the grant, 773
the information that a school district board of education is 774
authorized to request under division (F)(2)(a) of this section, 775

the superintendent of the bureau shall proceed as if the request 776
has been received from a school district board of education under 777
division (F)(2)(a) of this section. 778

(G) In addition to or in conjunction with any request that is 779
required to be made under section 3701.881, 3712.09, 3721.121, or 780
3722.151 of the Revised Code with respect to an individual who has 781
applied for employment in a position that involves providing 782
direct care to an older adult, the chief administrator of a home 783
health agency, hospice care program, home licensed under Chapter 784
3721. of the Revised Code, adult day-care program operated 785
pursuant to rules adopted under section 3721.04 of the Revised 786
Code, or adult care facility may request that the superintendent 787
of the bureau investigate and determine, with respect to any 788
individual who has applied after January 27, 1997, for employment 789
in a position that does not involve providing direct care to an 790
older adult, whether the bureau has any information gathered under 791
division (A) of this section that pertains to that individual. 792

In addition to or in conjunction with any request that is 793
required to be made under section 173.27 of the Revised Code with 794
respect to an individual who has applied for employment in a 795
position that involves providing ombudsperson services to 796
residents of long-term care facilities or recipients of 797
community-based long-term care services, the state long-term care 798
ombudsperson, ombudsperson's designee, or director of health may 799
request that the superintendent investigate and determine, with 800
respect to any individual who has applied for employment in a 801
position that does not involve providing such ombudsperson 802
services, whether the bureau has any information gathered under 803
division (A) of this section that pertains to that applicant. 804

In addition to or in conjunction with any request that is 805
required to be made under section 173.394 of the Revised Code with 806
respect to an individual who has applied for employment in a 807

position that involves providing direct care to an individual, the 808
chief administrator of a community-based long-term care agency may 809
request that the superintendent investigate and determine, with 810
respect to any individual who has applied for employment in a 811
position that does not involve providing direct care, whether the 812
bureau has any information gathered under division (A) of this 813
section that pertains to that applicant. 814

On receipt of a request under this division, the 815
superintendent shall determine whether that information exists 816
and, on request of the individual requesting information, shall 817
also request from the federal bureau of investigation any criminal 818
records it has pertaining to the applicant. The superintendent or 819
the superintendent's designee also may request criminal history 820
records from other states or the federal government pursuant to 821
the national crime prevention and privacy compact set forth in 822
section 109.571 of the Revised Code. Within thirty days of the 823
date a request is received, the superintendent shall send to the 824
requester a report of any information determined to exist, 825
including information contained in records that have been sealed 826
under section 2953.32 of the Revised Code, and, within thirty days 827
of its receipt, shall send the requester a report of any 828
information received from the federal bureau of investigation, 829
other than information the dissemination of which is prohibited by 830
federal law. 831

(H) Information obtained by a government entity or person 832
under this section is confidential and shall not be released or 833
disseminated. 834

(I) The superintendent may charge a reasonable fee for 835
providing information or criminal records under division (F)(2) or 836
(G) of this section. 837

(J) As used in this section, "sexually oriented offense" and 838
"child-victim oriented offense" have the same meanings as in 839

section 2950.01 of the Revised Code. 840

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 841
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 842
a completed form prescribed pursuant to division (C)(1) of this 843
section, and a set of fingerprint impressions obtained in the 844
manner described in division (C)(2) of this section, the 845
superintendent of the bureau of criminal identification and 846
investigation shall conduct a criminal records check in the manner 847
described in division (B) of this section to determine whether any 848
information exists that indicates that the person who is the 849
subject of the request previously has been convicted of or pleaded 850
guilty to any of the following: 851

(a) A violation of section 2903.01, 2903.02, 2903.03, 852
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 853
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 854
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 855
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 856
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 857
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 858
2925.06, or 3716.11 of the Revised Code, felonious sexual 859
penetration in violation of former section 2907.12 of the Revised 860
Code, a violation of section 2905.04 of the Revised Code as it 861
existed prior to July 1, 1996, a violation of section 2919.23 of 862
the Revised Code that would have been a violation of section 863
2905.04 of the Revised Code as it existed prior to July 1, 1996, 864
had the violation been committed prior to that date, or a 865
violation of section 2925.11 of the Revised Code that is not a 866
minor drug possession offense; 867

(b) A violation of an existing or former law of this state, 868
any other state, or the United States that is substantially 869
equivalent to any of the offenses listed in division (A)(1)(a) of 870

this section. 871

(2) On receipt of a request pursuant to section 5123.081 of 872
the Revised Code with respect to an applicant for employment in 873
any position with the department of ~~mental retardation and~~ 874
developmental disabilities, pursuant to section 5126.28 of the 875
Revised Code with respect to an applicant for employment in any 876
position with a county board of ~~mental retardation and~~ 877
developmental disabilities, or pursuant to section 5126.281 of the 878
Revised Code with respect to an applicant for employment in a 879
direct services position with an entity contracting with a county 880
board for employment, a completed form prescribed pursuant to 881
division (C)(1) of this section, and a set of fingerprint 882
impressions obtained in the manner described in division (C)(2) of 883
this section, the superintendent of the bureau of criminal 884
identification and investigation shall conduct a criminal records 885
check. The superintendent shall conduct the criminal records check 886
in the manner described in division (B) of this section to 887
determine whether any information exists that indicates that the 888
person who is the subject of the request has been convicted of or 889
pleaded guilty to any of the following: 890

(a) A violation of section 2903.01, 2903.02, 2903.03, 891
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 892
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 893
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 894
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 895
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 896
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 897
2925.03, or 3716.11 of the Revised Code; 898

(b) An existing or former municipal ordinance or law of this 899
state, any other state, or the United States that is substantially 900
equivalent to any of the offenses listed in division (A)(2)(a) of 901
this section. 902

(3) On receipt of a request pursuant to section 173.27, 903
173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a 904
completed form prescribed pursuant to division (C)(1) of this 905
section, and a set of fingerprint impressions obtained in the 906
manner described in division (C)(2) of this section, the 907
superintendent of the bureau of criminal identification and 908
investigation shall conduct a criminal records check with respect 909
to any person who has applied for employment in a position for 910
which a criminal records check is required by those sections. The 911
superintendent shall conduct the criminal records check in the 912
manner described in division (B) of this section to determine 913
whether any information exists that indicates that the person who 914
is the subject of the request previously has been convicted of or 915
pleaded guilty to any of the following: 916

(a) A violation of section 2903.01, 2903.02, 2903.03, 917
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 918
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 919
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 920
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 921
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 922
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 923
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 924
2925.22, 2925.23, or 3716.11 of the Revised Code; 925

(b) An existing or former law of this state, any other state, 926
or the United States that is substantially equivalent to any of 927
the offenses listed in division (A)(3)(a) of this section. 928

(4) On receipt of a request pursuant to section 3701.881 of 929
the Revised Code with respect to an applicant for employment with 930
a home health agency as a person responsible for the care, 931
custody, or control of a child, a completed form prescribed 932
pursuant to division (C)(1) of this section, and a set of 933
fingerprint impressions obtained in the manner described in 934

division (C)(2) of this section, the superintendent of the bureau 935
of criminal identification and investigation shall conduct a 936
criminal records check. The superintendent shall conduct the 937
criminal records check in the manner described in division (B) of 938
this section to determine whether any information exists that 939
indicates that the person who is the subject of the request 940
previously has been convicted of or pleaded guilty to any of the 941
following: 942

(a) A violation of section 2903.01, 2903.02, 2903.03, 943
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 944
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 945
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 946
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 947
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 948
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 949
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 950
violation of section 2925.11 of the Revised Code that is not a 951
minor drug possession offense; 952

(b) An existing or former law of this state, any other state, 953
or the United States that is substantially equivalent to any of 954
the offenses listed in division (A)(4)(a) of this section. 955

(5) On receipt of a request pursuant to section 5111.032, 956
5111.033, or 5111.034 of the Revised Code, a completed form 957
prescribed pursuant to division (C)(1) of this section, and a set 958
of fingerprint impressions obtained in the manner described in 959
division (C)(2) of this section, the superintendent of the bureau 960
of criminal identification and investigation shall conduct a 961
criminal records check. The superintendent shall conduct the 962
criminal records check in the manner described in division (B) of 963
this section to determine whether any information exists that 964
indicates that the person who is the subject of the request 965
previously has been convicted of, has pleaded guilty to, or has 966

been found eligible for intervention in lieu of conviction for any 967
of the following: 968

(a) A violation of section 2903.01, 2903.02, 2903.03, 969
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 970
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 971
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 972
2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 973
2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 974
2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 975
2913.40, 2913.43, 2913.47, 2913.48, 2913.49, 2913.51, 2917.11, 976
2919.12, 2919.22, 2919.24, 2919.25, 2921.13, 2921.36, 2923.02, 977
2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 978
2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, or 979
3716.11 of the Revised Code, felonious sexual penetration in 980
violation of former section 2907.12 of the Revised Code, a 981
violation of section 2905.04 of the Revised Code as it existed 982
prior to July 1, 1996, a violation of section 2919.23 of the 983
Revised Code that would have been a violation of section 2905.04 984
of the Revised Code as it existed prior to July 1, 1996, had the 985
violation been committed prior to that date; 986

(b) An existing or former law of this state, any other state, 987
or the United States that is substantially equivalent to any of 988
the offenses listed in division (A)(5)(a) of this section. 989

(6) On receipt of a request pursuant to section 3701.881 of 990
the Revised Code with respect to an applicant for employment with 991
a home health agency in a position that involves providing direct 992
care to an older adult, a completed form prescribed pursuant to 993
division (C)(1) of this section, and a set of fingerprint 994
impressions obtained in the manner described in division (C)(2) of 995
this section, the superintendent of the bureau of criminal 996
identification and investigation shall conduct a criminal records 997
check. The superintendent shall conduct the criminal records check 998

in the manner described in division (B) of this section to 999
determine whether any information exists that indicates that the 1000
person who is the subject of the request previously has been 1001
convicted of or pleaded guilty to any of the following: 1002

(a) A violation of section 2903.01, 2903.02, 2903.03, 1003
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1004
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1005
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1006
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1007
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1008
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1009
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1010
2925.22, 2925.23, or 3716.11 of the Revised Code; 1011

(b) An existing or former law of this state, any other state, 1012
or the United States that is substantially equivalent to any of 1013
the offenses listed in division (A)(6)(a) of this section. 1014

(7) When conducting a criminal records check upon a request 1015
pursuant to section 3319.39 of the Revised Code for an applicant 1016
who is a teacher, in addition to the determination made under 1017
division (A)(1) of this section, the superintendent shall 1018
determine whether any information exists that indicates that the 1019
person who is the subject of the request previously has been 1020
convicted of or pleaded guilty to any offense specified in section 1021
3319.31 of the Revised Code. 1022

(8) On receipt of a request pursuant to section 2151.86 of 1023
the Revised Code, a completed form prescribed pursuant to division 1024
(C)(1) of this section, and a set of fingerprint impressions 1025
obtained in the manner described in division (C)(2) of this 1026
section, the superintendent of the bureau of criminal 1027
identification and investigation shall conduct a criminal records 1028
check in the manner described in division (B) of this section to 1029
determine whether any information exists that indicates that the 1030

person who is the subject of the request previously has been 1031
convicted of or pleaded guilty to any of the following: 1032

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 1033
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 1034
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 1035
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 1036
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 1037
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 1038
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 1039
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 1040
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 1041
of the Revised Code, a violation of section 2905.04 of the Revised 1042
Code as it existed prior to July 1, 1996, a violation of section 1043
2919.23 of the Revised Code that would have been a violation of 1044
section 2905.04 of the Revised Code as it existed prior to July 1, 1045
1996, had the violation been committed prior to that date, a 1046
violation of section 2925.11 of the Revised Code that is not a 1047
minor drug possession offense, two or more OVI or OVUAC violations 1048
committed within the three years immediately preceding the 1049
submission of the application or petition that is the basis of the 1050
request, or felonious sexual penetration in violation of former 1051
section 2907.12 of the Revised Code; 1052

(b) A violation of an existing or former law of this state, 1053
any other state, or the United States that is substantially 1054
equivalent to any of the offenses listed in division (A)(8)(a) of 1055
this section. 1056

(9) Upon receipt of a request pursuant to section 5104.012 or 1057
5104.013 of the Revised Code, a completed form prescribed pursuant 1058
to division (C)(1) of this section, and a set of fingerprint 1059
impressions obtained in the manner described in division (C)(2) of 1060
this section, the superintendent of the bureau of criminal 1061
identification and investigation shall conduct a criminal records 1062

check in the manner described in division (B) of this section to 1063
determine whether any information exists that indicates that the 1064
person who is the subject of the request has been convicted of or 1065
pleaded guilty to any of the following: 1066

(a) A violation of section 2903.01, 2903.02, 2903.03, 1067
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 1068
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 1069
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 1070
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 1071
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 1072
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 1073
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 1074
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 1075
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 1076
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 1077
3716.11 of the Revised Code, felonious sexual penetration in 1078
violation of former section 2907.12 of the Revised Code, a 1079
violation of section 2905.04 of the Revised Code as it existed 1080
prior to July 1, 1996, a violation of section 2919.23 of the 1081
Revised Code that would have been a violation of section 2905.04 1082
of the Revised Code as it existed prior to July 1, 1996, had the 1083
violation been committed prior to that date, a violation of 1084
section 2925.11 of the Revised Code that is not a minor drug 1085
possession offense, a violation of section 2923.02 or 2923.03 of 1086
the Revised Code that relates to a crime specified in this 1087
division, or a second violation of section 4511.19 of the Revised 1088
Code within five years of the date of application for licensure or 1089
certification. 1090

(b) A violation of an existing or former law of this state, 1091
any other state, or the United States that is substantially 1092
equivalent to any of the offenses or violations described in 1093
division (A)(9)(a) of this section. 1094

(10) Upon receipt of a request pursuant to section 5153.111 1095
of the Revised Code, a completed form prescribed pursuant to 1096
division (C)(1) of this section, and a set of fingerprint 1097
impressions obtained in the manner described in division (C)(2) of 1098
this section, the superintendent of the bureau of criminal 1099
identification and investigation shall conduct a criminal records 1100
check in the manner described in division (B) of this section to 1101
determine whether any information exists that indicates that the 1102
person who is the subject of the request previously has been 1103
convicted of or pleaded guilty to any of the following: 1104

(a) A violation of section 2903.01, 2903.02, 2903.03, 1105
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1106
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1107
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1108
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 1109
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1110
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1111
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 1112
felonious sexual penetration in violation of former section 1113
2907.12 of the Revised Code, a violation of section 2905.04 of the 1114
Revised Code as it existed prior to July 1, 1996, a violation of 1115
section 2919.23 of the Revised Code that would have been a 1116
violation of section 2905.04 of the Revised Code as it existed 1117
prior to July 1, 1996, had the violation been committed prior to 1118
that date, or a violation of section 2925.11 of the Revised Code 1119
that is not a minor drug possession offense; 1120

(b) A violation of an existing or former law of this state, 1121
any other state, or the United States that is substantially 1122
equivalent to any of the offenses listed in division (A)(10)(a) of 1123
this section. 1124

(11) On receipt of a request for a criminal records check 1125
from an individual pursuant to section 4749.03 or 4749.06 of the 1126

Revised Code, accompanied by a completed copy of the form 1127
prescribed in division (C)(1) of this section and a set of 1128
fingerprint impressions obtained in a manner described in division 1129
(C)(2) of this section, the superintendent of the bureau of 1130
criminal identification and investigation shall conduct a criminal 1131
records check in the manner described in division (B) of this 1132
section to determine whether any information exists indicating 1133
that the person who is the subject of the request has been 1134
convicted of or pleaded guilty to a felony in this state or in any 1135
other state. If the individual indicates that a firearm will be 1136
carried in the course of business, the superintendent shall 1137
require information from the federal bureau of investigation as 1138
described in division (B)(2) of this section. The superintendent 1139
shall report the findings of the criminal records check and any 1140
information the federal bureau of investigation provides to the 1141
director of public safety. 1142

(12) On receipt of a request pursuant to section 1321.37, 1143
1322.03, 1322.031, or 4763.05 of the Revised Code, a completed 1144
form prescribed pursuant to division (C)(1) of this section, and a 1145
set of fingerprint impressions obtained in the manner described in 1146
division (C)(2) of this section, the superintendent of the bureau 1147
of criminal identification and investigation shall conduct a 1148
criminal records check with respect to any person who has applied 1149
for a license, permit, or certification from the department of 1150
commerce or a division in the department. The superintendent shall 1151
conduct the criminal records check in the manner described in 1152
division (B) of this section to determine whether any information 1153
exists that indicates that the person who is the subject of the 1154
request previously has been convicted of or pleaded guilty to any 1155
of the following: a violation of section 2913.02, 2913.11, 1156
2913.31, 2913.51, or 2925.03 of the Revised Code; any other 1157
criminal offense involving theft, receiving stolen property, 1158
embezzlement, forgery, fraud, passing bad checks, money 1159

laundering, or drug trafficking, or any criminal offense involving 1160
money or securities, as set forth in Chapters 2909., 2911., 2913., 1161
2915., 2921., 2923., and 2925. of the Revised Code; or any 1162
existing or former law of this state, any other state, or the 1163
United States that is substantially equivalent to those offenses. 1164
1165

(13) On receipt of a request for a criminal records check 1166
from the treasurer of state under section 113.041 of the Revised 1167
Code or from an individual under section 4701.08, 4715.101, 1168
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 1169
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 1170
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 1171
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 1172
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 1173
a completed form prescribed under division (C)(1) of this section 1174
and a set of fingerprint impressions obtained in the manner 1175
described in division (C)(2) of this section, the superintendent 1176
of the bureau of criminal identification and investigation shall 1177
conduct a criminal records check in the manner described in 1178
division (B) of this section to determine whether any information 1179
exists that indicates that the person who is the subject of the 1180
request has been convicted of or pleaded guilty to any criminal 1181
offense in this state or any other state. The superintendent shall 1182
send the results of a check requested under section 113.041 of the 1183
Revised Code to the treasurer of state and shall send the results 1184
of a check requested under any of the other listed sections to the 1185
licensing board specified by the individual in the request. 1186
1187

(14) On receipt of a request pursuant to section 1121.23, 1188
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 1189
Code, a completed form prescribed pursuant to division (C)(1) of 1190
this section, and a set of fingerprint impressions obtained in the 1191

manner described in division (C)(2) of this section, the 1192
superintendent of the bureau of criminal identification and 1193
investigation shall conduct a criminal records check in the manner 1194
described in division (B) of this section to determine whether any 1195
information exists that indicates that the person who is the 1196
subject of the request previously has been convicted of or pleaded 1197
guilty to any criminal offense under any existing or former law of 1198
this state, any other state, or the United States. 1199

(15) Not later than thirty days after the date the 1200
superintendent receives a request of a type described in division 1201
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), 1202
or (14) of this section, the completed form, and the fingerprint 1203
impressions, the superintendent shall send the person, board, or 1204
entity that made the request any information, other than 1205
information the dissemination of which is prohibited by federal 1206
law, the superintendent determines exists with respect to the 1207
person who is the subject of the request that indicates that the 1208
person previously has been convicted of or pleaded guilty to any 1209
offense listed or described in division (A)(1), (2), (3), (4), 1210
(5), (6), (7), (8), (9), (10), (11), (12), or (14) of this 1211
section, as appropriate. The superintendent shall send the person, 1212
board, or entity that made the request a copy of the list of 1213
offenses specified in division (A)(1), (2), (3), (4), (5), (6), 1214
(7), (8), (9), (10), (11), (12), or (14) of this section, as 1215
appropriate. If the request was made under section 3701.881 of the 1216
Revised Code with regard to an applicant who may be both 1217
responsible for the care, custody, or control of a child and 1218
involved in providing direct care to an older adult, the 1219
superintendent shall provide a list of the offenses specified in 1220
divisions (A)(4) and (6) of this section. 1221

Not later than thirty days after the superintendent receives 1222
a request for a criminal records check pursuant to section 113.041 1223

of the Revised Code, the completed form, and the fingerprint 1224
impressions, the superintendent shall send the treasurer of state 1225
any information, other than information the dissemination of which 1226
is prohibited by federal law, the superintendent determines exist 1227
with respect to the person who is the subject of the request that 1228
indicates that the person previously has been convicted of or 1229
pleaded guilty to any criminal offense in this state or any other 1230
state. 1231

(B) The superintendent shall conduct any criminal records 1232
check requested under section 113.041, 121.08, 173.27, 173.394, 1233
1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 1733.47, 1234
1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 1235
3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 1236
4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 1237
4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 1238
4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 1239
4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 1240
4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 1241
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as 1242
follows: 1243

(1) The superintendent shall review or cause to be reviewed 1244
any relevant information gathered and compiled by the bureau under 1245
division (A) of section 109.57 of the Revised Code that relates to 1246
the person who is the subject of the request, including, if the 1247
criminal records check was requested under section 113.041, 1248
121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1249
1321.37, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 1250
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 1251
4749.06, 4763.05, 5104.012, 5104.013, 5111.032, 5111.033, 1252
5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 1253
Code, any relevant information contained in records that have been 1254
sealed under section 2953.32 of the Revised Code; 1255

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

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

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

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

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10,

4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 1321
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 1322
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 1323
5126.281, or 5153.111 of the Revised Code. The person making a 1324
criminal records request under any of those sections shall pay the 1325
fee prescribed pursuant to this division. A person making a 1326
request under section 3701.881 of the Revised Code for a criminal 1327
records check for an applicant who may be both responsible for the 1328
care, custody, or control of a child and involved in providing 1329
direct care to an older adult shall pay one fee for the request. 1330
In the case of a request under section 1121.23, 1155.03, 1163.05, 1331
1315.141, 1733.47, 1761.26, or 5111.032 of the Revised Code, the 1332
fee shall be paid in the manner specified in that section. 1333

(4) The superintendent of the bureau of criminal 1334
identification and investigation may prescribe methods of 1335
forwarding fingerprint impressions and information necessary to 1336
conduct a criminal records check, which methods shall include, but 1337
not be limited to, an electronic method. 1338
1339

(D) A determination whether any information exists that 1340
indicates that a person previously has been convicted of or 1341
pleaded guilty to any offense listed or described in division 1342
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 1343
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), 1344
(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), or (A)(14) of this 1345
section, or that indicates that a person previously has been 1346
convicted of or pleaded guilty to any criminal offense in this 1347
state or any other state regarding a criminal records check of a 1348
type described in division (A)(13) of this section, and that is 1349
made by the superintendent with respect to information considered 1350
in a criminal records check in accordance with this section is 1351
valid for the person who is the subject of the criminal records 1352

check for a period of one year from the date upon which the 1353
superintendent makes the determination. During the period in which 1354
the determination in regard to a person is valid, if another 1355
request under this section is made for a criminal records check 1356
for that person, the superintendent shall provide the information 1357
that is the basis for the superintendent's initial determination 1358
at a lower fee than the fee prescribed for the initial criminal 1359
records check. 1360

(E) As used in this section: 1361

(1) "Criminal records check" means any criminal records check 1362
conducted by the superintendent of the bureau of criminal 1363
identification and investigation in accordance with division (B) 1364
of this section. 1365

(2) "Minor drug possession offense" has the same meaning as 1366
in section 2925.01 of the Revised Code. 1367

(3) "Older adult" means a person age sixty or older. 1368

(4) "OVI or OVUAC violation" means a violation of section 1369
4511.19 of the Revised Code or a violation of an existing or 1370
former law of this state, any other state, or the United States 1371
that is substantially equivalent to section 4511.19 of the Revised 1372
Code. 1373

Sec. 109.71. There is hereby created in the office of the 1374
attorney general the Ohio peace officer training commission. The 1375
commission shall consist of nine members appointed by the governor 1376
with the advice and consent of the senate and selected as follows: 1377
one member representing the public; two members who are incumbent 1378
sheriffs; two members who are incumbent chiefs of police; one 1379
member from the bureau of criminal identification and 1380
investigation; one member from the state highway patrol; one 1381
member who is the special agent in charge of a field office of the 1382

federal bureau of investigation in this state; and one member from 1383
the department of education, trade and industrial education 1384
services, law enforcement training. 1385

This section does not confer any arrest authority or any 1386
ability or authority to detain a person, write or issue any 1387
citation, or provide any disposition alternative, as granted under 1388
Chapter 2935. of the Revised Code. 1389

As used in sections 109.71 to 109.801 of the Revised Code: 1390

(A) "Peace officer" means: 1391

(1) A deputy sheriff, marshal, deputy marshal, member of the 1392
organized police department of a township or municipal 1393
corporation, member of a township police district or joint 1394
township police district police force, member of a police force 1395
employed by a metropolitan housing authority under division (D) of 1396
section 3735.31 of the Revised Code, or township constable, who is 1397
commissioned and employed as a peace officer by a political 1398
subdivision of this state or by a metropolitan housing authority, 1399
and whose primary duties are to preserve the peace, to protect 1400
life and property, and to enforce the laws of this state, 1401
ordinances of a municipal corporation, resolutions of a township, 1402
or regulations of a board of county commissioners or board of 1403
township trustees, or any of those laws, ordinances, resolutions, 1404
or regulations; 1405

(2) A police officer who is employed by a railroad company 1406
and appointed and commissioned by the secretary of state pursuant 1407
to sections 4973.17 to 4973.22 of the Revised Code; 1408

(3) Employees of the department of taxation engaged in the 1409
enforcement of Chapter 5743. of the Revised Code and designated by 1410
the tax commissioner for peace officer training for purposes of 1411
the delegation of investigation powers under section 5743.45 of 1412
the Revised Code; 1413

(4) An undercover drug agent;	1414
(5) Enforcement agents of the department of public safety	1415
whom the director of public safety designates under section	1416
5502.14 of the Revised Code;	1417
(6) An employee of the department of natural resources who is	1418
a natural resources law enforcement staff officer designated	1419
pursuant to section 1501.013, a park officer designated pursuant	1420
to section 1541.10, a forest officer designated pursuant to	1421
section 1503.29, a preserve officer designated pursuant to section	1422
1517.10, a wildlife officer designated pursuant to section	1423
1531.13, or a state watercraft officer designated pursuant to	1424
section 1547.521 of the Revised Code;	1425
(7) An employee of a park district who is designated pursuant	1426
to section 511.232 or 1545.13 of the Revised Code;	1427
(8) An employee of a conservancy district who is designated	1428
pursuant to section 6101.75 of the Revised Code;	1429
(9) A police officer who is employed by a hospital that	1430
employs and maintains its own proprietary police department or	1431
security department, and who is appointed and commissioned by the	1432
secretary of state pursuant to sections 4973.17 to 4973.22 of the	1433
Revised Code;	1434
(10) Veterans' homes police officers designated under section	1435
5907.02 of the Revised Code;	1436
(11) A police officer who is employed by a qualified	1437
nonprofit corporation police department pursuant to section	1438
1702.80 of the Revised Code;	1439
(12) A state university law enforcement officer appointed	1440
under section 3345.04 of the Revised Code or a person serving as a	1441
state university law enforcement officer on a permanent basis on	1442
June 19, 1978, who has been awarded a certificate by the executive	1443

director of the Ohio peace officer training commission attesting 1444
to the person's satisfactory completion of an approved state, 1445
county, municipal, or department of natural resources peace 1446
officer basic training program; 1447

(13) A special police officer employed by the department of 1448
mental health pursuant to section 5119.14 of the Revised Code or 1449
the department of ~~mental retardation and~~ developmental 1450
disabilities pursuant to section 5123.13 of the Revised Code; 1451

(14) A member of a campus police department appointed under 1452
section 1713.50 of the Revised Code; 1453

(15) A member of a police force employed by a regional 1454
transit authority under division (Y) of section 306.35 of the 1455
Revised Code; 1456

(16) Investigators appointed by the auditor of state pursuant 1457
to section 117.091 of the Revised Code and engaged in the 1458
enforcement of Chapter 117. of the Revised Code; 1459

(17) A special police officer designated by the 1460
superintendent of the state highway patrol pursuant to section 1461
5503.09 of the Revised Code or a person who was serving as a 1462
special police officer pursuant to that section on a permanent 1463
basis on October 21, 1997, and who has been awarded a certificate 1464
by the executive director of the Ohio peace officer training 1465
commission attesting to the person's satisfactory completion of an 1466
approved state, county, municipal, or department of natural 1467
resources peace officer basic training program; 1468

(18) A special police officer employed by a port authority 1469
under section 4582.04 or 4582.28 of the Revised Code or a person 1470
serving as a special police officer employed by a port authority 1471
on a permanent basis on May 17, 2000, who has been awarded a 1472
certificate by the executive director of the Ohio peace officer 1473
training commission attesting to the person's satisfactory 1474

completion of an approved state, county, municipal, or department 1475
of natural resources peace officer basic training program; 1476

(19) A special police officer employed by a municipal 1477
corporation who has been awarded a certificate by the executive 1478
director of the Ohio peace officer training commission for 1479
satisfactory completion of an approved peace officer basic 1480
training program and who is employed on a permanent basis on or 1481
after March 19, 2003, at a municipal airport, or other municipal 1482
air navigation facility, that has scheduled operations, as defined 1483
in section 119.3 of Title 14 of the Code of Federal Regulations, 1484
14 C.F.R. 119.3, as amended, and that is required to be under a 1485
security program and is governed by aviation security rules of the 1486
transportation security administration of the United States 1487
department of transportation as provided in Parts 1542. and 1544. 1488
of Title 49 of the Code of Federal Regulations, as amended; 1489

(20) A police officer who is employed by an owner or operator 1490
of an amusement park that has an average yearly attendance in 1491
excess of six hundred thousand guests and that employs and 1492
maintains its own proprietary police department or security 1493
department, and who is appointed and commissioned by a judge of 1494
the appropriate municipal court or county court pursuant to 1495
section 4973.17 of the Revised Code; 1496

(21) A police officer who is employed by a bank, savings and 1497
loan association, savings bank, credit union, or association of 1498
banks, savings and loan associations, savings banks, or credit 1499
unions, who has been appointed and commissioned by the secretary 1500
of state pursuant to sections 4973.17 to 4973.22 of the Revised 1501
Code, and who has been awarded a certificate by the executive 1502
director of the Ohio peace officer training commission attesting 1503
to the person's satisfactory completion of a state, county, 1504
municipal, or department of natural resources peace officer basic 1505
training program; 1506

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

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

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

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

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

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

(B)(1) Notwithstanding any general, special, or local law or charter to the contrary, and except as otherwise provided in this section, no person shall receive an original appointment on a permanent basis as any of the following unless the person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state,

county, municipal, or department of natural resources peace	1537
officer basic training program:	1538
(a) A peace officer of any county, township, municipal	1539
corporation, regional transit authority, or metropolitan housing	1540
authority;	1541
(b) A natural resources law enforcement staff officer, park	1542
officer, forest officer, preserve officer, wildlife officer, or	1543
state watercraft officer of the department of natural resources;	1544
(c) An employee of a park district under section 511.232 or	1545
1545.13 of the Revised Code;	1546
(d) An employee of a conservancy district who is designated	1547
pursuant to section 6101.75 of the Revised Code;	1548
(e) A state university law enforcement officer;	1549
(f) A special police officer employed by the department of	1550
mental health pursuant to section 5119.14 of the Revised Code or	1551
the department of mental retardation and developmental	1552
disabilities pursuant to section 5123.13 of the Revised Code;	1553
(g) An enforcement agent of the department of public safety	1554
whom the director of public safety designates under section	1555
5502.14 of the Revised Code;	1556
(h) A special police officer employed by a port authority	1557
under section 4582.04 or 4582.28 of the Revised Code;	1558
(i) A special police officer employed by a municipal	1559
corporation at a municipal airport, or other municipal air	1560
navigation facility, that has scheduled operations, as defined in	1561
section 119.3 of Title 14 of the Code of Federal Regulations, 14	1562
C.F.R. 119.3, as amended, and that is required to be under a	1563
security program and is governed by aviation security rules of the	1564
transportation security administration of the United States	1565
department of transportation as provided in Parts 1542. and 1544.	1566

of Title 49 of the Code of Federal Regulations, as amended. 1567

(2) Every person who is appointed on a temporary basis or for 1568
a probationary term or on other than a permanent basis as any of 1569
the following shall forfeit the appointed position unless the 1570
person previously has completed satisfactorily or, within the time 1571
prescribed by rules adopted by the attorney general pursuant to 1572
section 109.74 of the Revised Code, satisfactorily completes a 1573
state, county, municipal, or department of natural resources peace 1574
officer basic training program for temporary or probationary 1575
officers and is awarded a certificate by the director attesting to 1576
the satisfactory completion of the program: 1577

(a) A peace officer of any county, township, municipal 1578
corporation, regional transit authority, or metropolitan housing 1579
authority; 1580

(b) A natural resources law enforcement staff officer, park 1581
officer, forest officer, preserve officer, wildlife officer, or 1582
state watercraft officer of the department of natural resources; 1583

(c) An employee of a park district under section 511.232 or 1584
1545.13 of the Revised Code; 1585

(d) An employee of a conservancy district who is designated 1586
pursuant to section 6101.75 of the Revised Code; 1587

(e) A special police officer employed by the department of 1588
mental health pursuant to section 5119.14 of the Revised Code or 1589
the department of ~~mental retardation~~ and developmental 1590
disabilities pursuant to section 5123.13 of the Revised Code; 1591

(f) An enforcement agent of the department of public safety 1592
whom the director of public safety designates under section 1593
5502.14 of the Revised Code; 1594

(g) A special police officer employed by a port authority 1595
under section 4582.04 or 4582.28 of the Revised Code; 1596

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

(3) For purposes of division (B) of this section, a state, county, municipal, or department of natural resources peace officer basic training program, regardless of whether the program is to be completed by peace officers appointed on a permanent or temporary, probationary, or other nonpermanent basis, shall include at least fifteen hours of training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code and at least six hours of crisis intervention training. The requirement to complete fifteen hours of training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code does not apply to any person serving as a peace officer on March 27, 1979, and the requirement to complete six hours of training in crisis intervention does not apply to any person serving as a peace officer on April 4, 1985. Any person who is serving as a peace officer on April 4, 1985, who terminates that employment after that date, and who subsequently is hired as a peace officer by the same or another law enforcement agency shall complete the six hours of training in crisis intervention within the time prescribed by rules adopted by the attorney general pursuant to

section 109.742 of the Revised Code. No peace officer shall have 1630
employment as a peace officer terminated and then be reinstated 1631
with intent to circumvent this section. 1632

(4) Division (B) of this section does not apply to any person 1633
serving on a permanent basis on March 28, 1985, as a park officer, 1634
forest officer, preserve officer, wildlife officer, or state 1635
watercraft officer of the department of natural resources or as an 1636
employee of a park district under section 511.232 or 1545.13 of 1637
the Revised Code, to any person serving on a permanent basis on 1638
March 6, 1986, as an employee of a conservancy district designated 1639
pursuant to section 6101.75 of the Revised Code, to any person 1640
serving on a permanent basis on January 10, 1991, as a preserve 1641
officer of the department of natural resources, to any person 1642
employed on a permanent basis on July 2, 1992, as a special police 1643
officer by the department of mental health pursuant to section 1644
5119.14 of the Revised Code or by the department of ~~mental~~ 1645
~~retardation and~~ developmental disabilities pursuant to section 1646
5123.13 of the Revised Code, to any person serving on a permanent 1647
basis on May 17, 2000, as a special police officer employed by a 1648
port authority under section 4582.04 or 4582.28 of the Revised 1649
Code, to any person serving on a permanent basis on ~~the effective~~ 1650
~~date of this amendment~~ March 19, 2003, as a special police officer 1651
employed by a municipal corporation at a municipal airport or 1652
other municipal air navigation facility described in division 1653
(A)(19) of section 109.71 of the Revised Code, to any person 1654
serving on a permanent basis on June 19, 1978, as a state 1655
university law enforcement officer pursuant to section 3345.04 of 1656
the Revised Code and who, immediately prior to June 19, 1978, was 1657
serving as a special police officer designated under authority of 1658
that section, or to any person serving on a permanent basis on 1659
September 20, 1984, as a liquor control investigator, known after 1660
June 30, 1999, as an enforcement agent of the department of public 1661
safety, engaged in the enforcement of Chapters 4301. and 4303. of 1662

the Revised Code. 1663

(5) Division (B) of this section does not apply to any person 1664
who is appointed as a regional transit authority police officer 1665
pursuant to division (Y) of section 306.35 of the Revised Code if, 1666
on or before July 1, 1996, the person has completed satisfactorily 1667
an approved state, county, municipal, or department of natural 1668
resources peace officer basic training program and has been 1669
awarded a certificate by the executive director of the Ohio peace 1670
officer training commission attesting to the person's satisfactory 1671
completion of such an approved program and if, on July 1, 1996, 1672
the person is performing peace officer functions for a regional 1673
transit authority. 1674

(C) No person, after September 20, 1984, shall receive an 1675
original appointment on a permanent basis as a veterans' home 1676
police officer designated under section 5907.02 of the Revised 1677
Code unless the person previously has been awarded a certificate 1678
by the executive director of the Ohio peace officer training 1679
commission attesting to the person's satisfactory completion of an 1680
approved police officer basic training program. Every person who 1681
is appointed on a temporary basis or for a probationary term or on 1682
other than a permanent basis as a veterans' home police officer 1683
designated under section 5907.02 of the Revised Code shall forfeit 1684
that position unless the person previously has completed 1685
satisfactorily or, within one year from the time of appointment, 1686
satisfactorily completes an approved police officer basic training 1687
program. 1688

(D) No bailiff or deputy bailiff of a court of record of this 1689
state and no criminal investigator who is employed by the state 1690
public defender shall carry a firearm, as defined in section 1691
2923.11 of the Revised Code, while on duty unless the bailiff, 1692
deputy bailiff, or criminal investigator has done or received one 1693
of the following: 1694

(1) Has been awarded a certificate by the executive director 1695
of the Ohio peace officer training commission, which certificate 1696
attests to satisfactory completion of an approved state, county, 1697
or municipal basic training program for bailiffs and deputy 1698
bailiffs of courts of record and for criminal investigators 1699
employed by the state public defender that has been recommended by 1700
the Ohio peace officer training commission; 1701

(2) Has successfully completed a firearms training program 1702
approved by the Ohio peace officer training commission prior to 1703
employment as a bailiff, deputy bailiff, or criminal investigator; 1704

(3) Prior to June 6, 1986, was authorized to carry a firearm 1705
by the court that employed the bailiff or deputy bailiff or, in 1706
the case of a criminal investigator, by the state public defender 1707
and has received training in the use of firearms that the Ohio 1708
peace officer training commission determines is equivalent to the 1709
training that otherwise is required by division (D) of this 1710
section. 1711

(E)(1) Before a person seeking a certificate completes an 1712
approved peace officer basic training program, the executive 1713
director of the Ohio peace officer training commission shall 1714
request the person to disclose, and the person shall disclose, any 1715
previous criminal conviction of or plea of guilty of that person 1716
to a felony. 1717

(2) Before a person seeking a certificate completes an 1718
approved peace officer basic training program, the executive 1719
director shall request a criminal history records check on the 1720
person. The executive director shall submit the person's 1721
fingerprints to the bureau of criminal identification and 1722
investigation, which shall submit the fingerprints to the federal 1723
bureau of investigation for a national criminal history records 1724
check. 1725

Upon receipt of the executive director's request, the bureau 1726
of criminal identification and investigation and the federal 1727
bureau of investigation shall conduct a criminal history records 1728
check on the person and, upon completion of the check, shall 1729
provide a copy of the criminal history records check to the 1730
executive director. The executive director shall not award any 1731
certificate prescribed in this section unless the executive 1732
director has received a copy of the criminal history records check 1733
on the person to whom the certificate is to be awarded. 1734

(3) The executive director of the commission shall not award 1735
a certificate prescribed in this section to a person who has been 1736
convicted of or has pleaded guilty to a felony or who fails to 1737
disclose any previous criminal conviction of or plea of guilty to 1738
a felony as required under division (E)(1) of this section. 1739

(4) The executive director of the commission shall revoke the 1740
certificate awarded to a person as prescribed in this section, and 1741
that person shall forfeit all of the benefits derived from being 1742
certified as a peace officer under this section, if the person, 1743
before completion of an approved peace officer basic training 1744
program, failed to disclose any previous criminal conviction of or 1745
plea of guilty to a felony as required under division (E)(1) of 1746
this section. 1747

(F)(1) Regardless of whether the person has been awarded the 1748
certificate or has been classified as a peace officer prior to, 1749
on, or after October 16, 1996, the executive director of the Ohio 1750
peace officer training commission shall revoke any certificate 1751
that has been awarded to a person as prescribed in this section if 1752
the person does either of the following: 1753

(a) Pleads guilty to a felony committed on or after January 1754
1, 1997; 1755

(b) Pleads guilty to a misdemeanor committed on or after 1756

January 1, 1997, pursuant to a negotiated plea agreement as 1757
provided in division (D) of section 2929.43 of the Revised Code in 1758
which the person agrees to surrender the certificate awarded to 1759
the person under this section. 1760

(2) The executive director of the commission shall suspend 1761
any certificate that has been awarded to a person as prescribed in 1762
this section if the person is convicted, after trial, of a felony 1763
committed on or after January 1, 1997. The executive director 1764
shall suspend the certificate pursuant to division (F)(2) of this 1765
section pending the outcome of an appeal by the person from that 1766
conviction to the highest court to which the appeal is taken or 1767
until the expiration of the period in which an appeal is required 1768
to be filed. If the person files an appeal that results in that 1769
person's acquittal of the felony or conviction of a misdemeanor, 1770
or in the dismissal of the felony charge against that person, the 1771
executive director shall reinstate the certificate awarded to the 1772
person under this section. If the person files an appeal from that 1773
person's conviction of the felony and the conviction is upheld by 1774
the highest court to which the appeal is taken or if the person 1775
does not file a timely appeal, the executive director shall revoke 1776
the certificate awarded to the person under this section. 1777

(G)(1) If a person is awarded a certificate under this 1778
section and the certificate is revoked pursuant to division (E)(4) 1779
or (F) of this section, the person shall not be eligible to 1780
receive, at any time, a certificate attesting to the person's 1781
satisfactory completion of a peace officer basic training program. 1782

(2) The revocation or suspension of a certificate under 1783
division (E)(4) or (F) of this section shall be in accordance with 1784
Chapter 119. of the Revised Code. 1785

(H)(1) A person who was employed as a peace officer of a 1786
county, township, or municipal corporation of the state on January 1787
1, 1966, and who has completed at least sixteen years of full-time 1788

active service as such a peace officer may receive an original 1789
appointment on a permanent basis and serve as a peace officer of a 1790
county, township, or municipal corporation, or as a state 1791
university law enforcement officer, without complying with the 1792
requirements of division (B) of this section. 1793

(2) Any person who held an appointment as a state highway 1794
trooper on January 1, 1966, may receive an original appointment on 1795
a permanent basis and serve as a peace officer of a county, 1796
township, or municipal corporation, or as a state university law 1797
enforcement officer, without complying with the requirements of 1798
division (B) of this section. 1799

(I) No person who is appointed as a peace officer of a 1800
county, township, or municipal corporation on or after April 9, 1801
1985, shall serve as a peace officer of that county, township, or 1802
municipal corporation unless the person has received training in 1803
the handling of missing children and child abuse and neglect cases 1804
from an approved state, county, township, or municipal police 1805
officer basic training program or receives the training within the 1806
time prescribed by rules adopted by the attorney general pursuant 1807
to section 109.741 of the Revised Code. 1808

(J) No part of any approved state, county, or municipal basic 1809
training program for bailiffs and deputy bailiffs of courts of 1810
record and no part of any approved state, county, or municipal 1811
basic training program for criminal investigators employed by the 1812
state public defender shall be used as credit toward the 1813
completion by a peace officer of any part of the approved state, 1814
county, or municipal peace officer basic training program that the 1815
peace officer is required by this section to complete 1816
satisfactorily. 1817

(K) This section does not apply to any member of the police 1818
department of a municipal corporation in an adjoining state 1819
serving in this state under a contract pursuant to section 737.04 1820

of the Revised Code. 1821

Sec. 109.86. (A) The attorney general shall investigate any 1822
activity the attorney general has reasonable cause to believe is 1823
in violation of section 2903.34 of the Revised Code. Upon written 1824
request of the governor, the general assembly, the auditor of 1825
state, or the director of health, job and family services, aging, 1826
mental health, or ~~mental retardation and~~ developmental 1827
disabilities, the attorney general shall investigate any activity 1828
these persons believe is in violation of section 2903.34 of the 1829
Revised Code. If after an investigation the attorney general has 1830
probable cause to prosecute for the commission of a crime, the 1831
attorney general shall refer the evidence to the prosecuting 1832
attorney, director of law, or other similar chief legal officer 1833
having jurisdiction over the matter. If the prosecuting attorney 1834
decides to present the evidence to a grand jury, the prosecuting 1835
attorney shall notify the attorney general in writing of the 1836
decision within thirty days after referral of the matter and shall 1837
present the evidence prior to the discharge of the next regular 1838
grand jury. If the director of law or other chief legal officer 1839
decides to prosecute the case, the director or officer shall 1840
notify the attorney general in writing of the decision within 1841
thirty days and shall initiate prosecution within sixty days after 1842
the matter was referred to the director or officer. 1843

(B) If the prosecuting attorney, director of law, or other 1844
chief legal officer fails to notify the attorney general or to 1845
present evidence or initiate prosecution in accordance with 1846
division (A) of this section, the attorney general may present the 1847
evidence to a regular grand jury drawn and impaneled pursuant to 1848
sections 2939.01 to 2939.24 of the Revised Code, or to a special 1849
grand jury drawn and impaneled pursuant to section 2939.17 of the 1850
Revised Code, or the attorney general may initiate and prosecute 1851
any action in any court or tribunal of competent jurisdiction in 1852

this state. The attorney general, and any assistant or special 1853
counsel designated by the attorney general, have all the powers of 1854
a prosecuting attorney, director of law, or other chief legal 1855
officer when proceeding under this section. Nothing in this 1856
section shall limit or prevent a prosecuting attorney, director of 1857
law, or other chief legal officer from investigating and 1858
prosecuting criminal activity committed against a resident or 1859
patient of a care facility. 1860

Sec. 117.102. The auditor of state shall review the report of 1861
each school health and safety network inspection of a public 1862
school building and associated grounds submitted to the auditor of 1863
state under section 3701.932 of the Revised Code. The auditor of 1864
state may include references to any of the recommendations 1865
contained in the inspection report, as determined appropriate by 1866
the auditor of state, in any audit report of the school district, 1867
educational service center, county board of ~~mental retardation and~~ 1868
developmental disabilities, or community school controlling the 1869
inspected building and grounds. 1870

As used in this section, "public school" has the same meaning 1871
as in section 3701.93 of the Revised Code. 1872

Sec. 121.02. The following administrative departments and 1873
their respective directors are hereby created: 1874

(A) The office of budget and management, which shall be 1875
administered by the director of budget and management; 1876

(B) The department of commerce, which shall be administered 1877
by the director of commerce; 1878

(C) The department of administrative services, which shall be 1879
administered by the director of administrative services; 1880

(D) The department of transportation, which shall be 1881
administered by the director of transportation; 1882

(E) The department of agriculture, which shall be administered by the director of agriculture;	1883 1884
(F) The department of natural resources, which shall be administered by the director of natural resources;	1885 1886
(G) The department of health, which shall be administered by the director of health;	1887 1888
(H) The department of job and family services, which shall be administered by the director of job and family services;	1889 1890
(I) Until July 1, 1997, the department of liquor control, which shall be administered by the director of liquor control;	1891 1892
(J) The department of public safety, which shall be administered by the director of public safety;	1893 1894
(K) The department of mental health, which shall be administered by the director of mental health;	1895 1896
(L) The department of mental retardation and developmental disabilities, which shall be administered by the director of mental retardation and developmental disabilities;	1897 1898 1899
(M) The department of insurance, which shall be administered by the superintendent of insurance as director thereof;	1900 1901
(N) The department of development, which shall be administered by the director of development;	1902 1903
(O) The department of youth services, which shall be administered by the director of youth services;	1904 1905
(P) The department of rehabilitation and correction, which shall be administered by the director of rehabilitation and correction;	1906 1907 1908
(Q) The environmental protection agency, which shall be administered by the director of environmental protection;	1909 1910
(R) The department of aging, which shall be administered by	1911

the director of aging;	1912
(S) The department of alcohol and drug addiction services,	1913
which shall be administered by the director of alcohol and drug	1914
addiction services;	1915
(T) The department of veterans services, which shall be	1916
administered by the director of veterans services.	1917
The director of each department shall exercise the powers and	1918
perform the duties vested by law in such department.	1919
Sec. 121.03. The following administrative department heads	1920
shall be appointed by the governor, with the advice and consent of	1921
the senate, and shall hold their offices during the term of the	1922
appointing governor, and are subject to removal at the pleasure of	1923
the governor.	1924
(A) The director of budget and management;	1925
(B) The director of commerce;	1926
(C) The director of transportation;	1927
(D) The director of agriculture;	1928
(E) The director of job and family services;	1929
(F) Until July 1, 1997, the director of liquor control;	1930
(G) The director of public safety;	1931
(H) The superintendent of insurance;	1932
(I) The director of development;	1933
(J) The tax commissioner;	1934
(K) The director of administrative services;	1935
(L) The director of natural resources;	1936
(M) The director of mental health;	1937
(N) The director of mental retardation and developmental	1938

disabilities;	1939
(O) The director of health;	1940
(P) The director of youth services;	1941
(Q) The director of rehabilitation and correction;	1942
(R) The director of environmental protection;	1943
(S) The director of aging;	1944
(T) The director of alcohol and drug addiction services;	1945
(U) The administrator of workers' compensation who meets the qualifications required under division (A) of section 4121.121 of the Revised Code;	1946 1947 1948
(V) The director of veterans services who meets the qualifications required under section 5902.01 of the Revised Code.	1949 1950
Sec. 121.32. The commission on Hispanic-Latino affairs shall:	1951 1952
(A) Gather and disseminate information and conduct hearings, conferences, investigations, and special studies on problems and programs concerning Spanish-speaking people;	1953 1954 1955
(B) Secure appropriate recognition of the accomplishments and contributions of Spanish-speaking people to this state;	1956 1957
(C) Stimulate public awareness of the problems of Spanish-speaking people by conducting a program of public education;	1958 1959 1960
(D) Develop, coordinate, and assist other public and private organizations that serve Spanish-speaking people, including the conducting of training programs for community leadership and service project staff;	1961 1962 1963 1964
(E) Advise the governor, general assembly, and state departments and agencies of the nature, magnitude, and priorities	1965 1966

of the problems of Spanish-speaking people;	1967
(F) Advise the governor, general assembly, and state departments and agencies on, and assist in the development and implementation of, comprehensive and coordinated policies, programs, and procedures focusing on the special problems and needs of Spanish-speaking people, especially in the fields of education, employment, energy, health, housing, welfare, and recreation;	1968 1969 1970 1971 1972 1973 1974
(G) Propose new programs concerning Spanish-speaking people to public and private agencies and evaluate for such agencies existing programs or prospective legislation concerning Spanish-speaking people;	1975 1976 1977 1978
(H) Review and approve grants to be made from federal, state, or private funds which are administered or subcontracted by the office of Spanish-speaking affairs;	1979 1980 1981
(I) Review and approve the annual report prepared by the office of Spanish-speaking affairs;	1982 1983
(J) Create an interagency council consisting of the following persons or their authorized representatives: one member of the senate appointed by the president of the senate; one member of the house of representatives appointed by the speaker of the house of representatives; the directors of administrative services, agriculture, education, development, health, highway safety, job and family services, liquor control, mental health, mental retardation and developmental disabilities, natural resources, rehabilitation and correction, youth services, transportation, environmental protection, and budget and management; the chairperson of the Ohio civil rights commission, the administrators of the bureau of workers' compensation and the rehabilitation services commission, and an additional member of the governor's cabinet appointed by the governor. The commission	1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997

on Hispanic-Latino affairs, by rule, may designate other state 1998
officers or their representatives to be members of the council. 1999
The director of the commission shall be the chairperson of the 2000
council. 2001

The interagency council shall provide and coordinate the 2002
exchange of information relative to the needs of Spanish-speaking 2003
people and promote the delivery of state services to such people. 2004
The council shall meet at the call of the chairperson. 2005

Sec. 121.36. (A) As used in this section, "home care 2006
dependent adult" means an individual who resides in a private home 2007
or other noninstitutional and unlicensed living arrangement, 2008
without the presence of a parent or guardian, but has health and 2009
safety needs that require the provision of regularly scheduled 2010
home care services to remain in the home or other living 2011
arrangement because one of the following is the case: 2012

(1) The individual is at least twenty-one years of age but 2013
less than sixty years of age and has a physical disability or 2014
mental impairment. 2015

(2) The individual is sixty years of age or older, regardless 2016
of whether the individual has a physical disability or mental 2017
impairment. 2018

(B) Except as provided in division (D) of this section, the 2019
departments of ~~mental retardation and~~ developmental disabilities, 2020
aging, job and family services, and health shall each implement 2021
this section with respect to all contracts entered into by the 2022
department for the provision of home care services to home care 2023
dependent adults that are paid for in whole or in part with 2024
federal, state, or local funds. Except as provided in division (D) 2025
of this section, each department shall also require all public and 2026
private entities that receive money from or through the department 2027
to comply with this section when entering into contracts for the 2028

provision of home care services to home care dependent adults that 2029
are paid for in whole or in part with federal, state, or local 2030
funds. Such entities may include county boards of ~~mental~~ 2031
~~retardation and~~ developmental disabilities, area agencies on 2032
aging, county departments of job and family services, and boards 2033
of health of city and general health districts. 2034

(C) Beginning one year after ~~the effective date of this~~ 2035
~~section~~ September 26, 2003, each contract subject to this section 2036
shall include terms requiring that the provider of home care 2037
services to home care dependent adults have a system in place that 2038
effectively monitors the delivery of the services by its 2039
employees. To be considered an effective monitoring system for 2040
purposes of the contract, the system established by a provider 2041
must include at least the following components: 2042

(1) When providing home care services to home care dependent 2043
adults who have a mental impairment or life-threatening health 2044
condition, a mechanism to verify whether the provider's employees 2045
are present at the location where the services are to be provided 2046
and at the time the services are to be provided; 2047

(2) When providing home care services to all other home care 2048
dependent adults, a system to verify at the end of each working 2049
day whether the provider's employees have provided the services at 2050
the proper location and time; 2051

(3) A protocol to be followed in scheduling a substitute 2052
employee when the monitoring system identifies that an employee 2053
has failed to provide home care services at the proper location 2054
and time, including standards for determining the length of time 2055
that may elapse without jeopardizing the health and safety of the 2056
home care dependent adult; 2057

(4) Procedures for maintaining records of the information 2058
obtained through the monitoring system; 2059

(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 to the requirement of effectively monitoring whether home care services are being provided and have been provided at the proper location and time. Not later than two years after ~~the effective date of this section~~ September 26, 2003, the departments shall prepare a report of their findings and recommendations. The report shall be submitted to the president of the senate and the speaker of the house of representatives.

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

Sec. 121.37. (A)(1) There is hereby created the Ohio family and children first cabinet council. The council shall be composed of the superintendent of public instruction and the directors of youth services, job and family services, mental health, health,

alcohol and drug addiction services, ~~mental retardation and~~ 2091
developmental disabilities, and budget and management. The 2092
chairperson of the council shall be the governor or the governor's 2093
designee and shall establish procedures for the council's internal 2094
control and management. 2095

The purpose of the cabinet council is to help families 2096
seeking government services. This section shall not be interpreted 2097
or applied to usurp the role of parents, but solely to streamline 2098
and coordinate existing government services for families seeking 2099
assistance for their children. 2100

(2) In seeking to fulfill its purpose, the council may do any 2101
of the following: 2102

(a) Advise and make recommendations to the governor and 2103
general assembly regarding the provision of services to children; 2104

(b) Advise and assess local governments on the coordination 2105
of service delivery to children; 2106

(c) Hold meetings at such times and places as may be 2107
prescribed by the council's procedures and maintain records of the 2108
meetings, except that records identifying individual children are 2109
confidential and shall be disclosed only as provided by law; 2110

(d) Develop programs and projects, including pilot projects, 2111
to encourage coordinated efforts at the state and local level to 2112
improve the state's social service delivery system; 2113

(e) Enter into contracts with and administer grants to county 2114
family and children first councils, as well as other county or 2115
multicounty organizations to plan and coordinate service delivery 2116
between state agencies and local service providers for families 2117
and children; 2118

(f) Enter into contracts with and apply for grants from 2119
federal agencies or private organizations; 2120

(g) Enter into interagency agreements to encourage	2121
coordinated efforts at the state and local level to improve the	2122
state's social service delivery system. The agreements may include	2123
provisions regarding the receipt, transfer, and expenditure of	2124
funds;	2125
(h) Identify public and private funding sources for services	2126
provided to alleged or adjudicated unruly children and children	2127
who are at risk of being alleged or adjudicated unruly children,	2128
including regulations governing access to and use of the services;	2129
(i) Collect information provided by local communities	2130
regarding successful programs for prevention, intervention, and	2131
treatment of unruly behavior, including evaluations of the	2132
programs;	2133
(j) Identify and disseminate publications regarding alleged	2134
or adjudicated unruly children and children who are at risk of	2135
being alleged or adjudicated unruly children and regarding	2136
programs serving those types of children;	2137
(k) Maintain an inventory of strategic planning facilitators	2138
for use by government or nonprofit entities that serve alleged or	2139
adjudicated unruly children or children who are at risk of being	2140
alleged or adjudicated unruly children.	2141
(3) The cabinet council shall provide for the following:	2142
(a) Reviews of service and treatment plans for children for	2143
which such reviews are requested;	2144
(b) Assistance as the council determines to be necessary to	2145
meet the needs of children referred by county family and children	2146
first councils;	2147
(c) Monitoring and supervision of a statewide, comprehensive,	2148
coordinated, multi-disciplinary, interagency system for infants	2149
and toddlers with developmental disabilities or delays and their	2150

families, as established pursuant to federal grants received and 2151
administered by the department of health for early intervention 2152
services under the "Individuals with Disabilities Education Act of 2153
2004," 20 U.S.C.A. 1400, as amended. 2154

(4) The cabinet council shall develop and implement the 2155
following: 2156

(a) An interagency process to select the indicators that will 2157
be used to measure progress toward increasing child well-being in 2158
the state and to update the indicators on an annual basis. The 2159
indicators shall focus on expectant parents and newborns thriving; 2160
infants and toddlers thriving; children being ready for school; 2161
children and youth succeeding in school; youth choosing healthy 2162
behaviors; and youth successfully transitioning into adulthood. 2163

(b) An interagency system to offer guidance and monitor 2164
progress toward increasing child well-being in the state and in 2165
each county; 2166

(c) An annual plan that identifies state-level agency efforts 2167
taken to ensure progress towards increasing child well-being in 2168
the state. 2169

On an annual basis, the cabinet council shall submit to the 2170
governor and the general assembly a report on the status of 2171
efforts to increase child well-being in the state. This report 2172
shall be made available to any other person on request. 2173

(B)(1) Each board of county commissioners shall establish a 2174
county family and children first council. The board may invite any 2175
local public or private agency or group that funds, advocates, or 2176
provides services to children and families to have a 2177
representative become a permanent or temporary member of its 2178
county council. Each county council must include the following 2179
individuals: 2180

(a) At least three individuals who are not employed by an 2181

agency represented on the council and whose families are or have 2182
received services from an agency represented on the council or 2183
another county's council. Where possible, the number of members 2184
representing families shall be equal to twenty per cent of the 2185
council's membership. 2186

(b) The director of the board of alcohol, drug addiction, and 2187
mental health services that serves the county, or, in the case of 2188
a county that has a board of alcohol and drug addiction services 2189
and a community mental health board, the directors of both boards. 2190
If a board of alcohol, drug addiction, and mental health services 2191
covers more than one county, the director may designate a person 2192
to participate on the county's council. 2193

(c) The health commissioner, or the commissioner's designee, 2194
of the board of health of each city and general health district in 2195
the county. If the county has two or more health districts, the 2196
health commissioner membership may be limited to the commissioners 2197
of the two districts with the largest populations. 2198

(d) The director of the county department of job and family 2199
services; 2200

(e) The executive director of the public children services 2201
agency; 2202

(f) The superintendent of the county board of ~~mental~~ 2203
~~retardation and~~ developmental disabilities; 2204

(g) The superintendent of the city, exempted village, or 2205
local school district with the largest number of pupils residing 2206
in the county, as determined by the department of education, which 2207
shall notify each board of county commissioners of its 2208
determination at least biennially; 2209

(h) A school superintendent representing all other school 2210
districts with territory in the county, as designated at a 2211
biennial meeting of the superintendents of those districts; 2212

(i) A representative of the municipal corporation with the largest population in the county;	2213 2214
(j) The president of the board of county commissioners or an individual designated by the board;	2215 2216
(k) A representative of the regional office of the department of youth services;	2217 2218
(l) A representative of the county's head start agencies, as defined in section 3301.32 of the Revised Code;	2219 2220
(m) A representative of the county's early intervention collaborative established pursuant to the federal early intervention program operated under the "Individuals with Disabilities Education Act of 2004";	2221 2222 2223 2224
(n) A representative of a local nonprofit entity that funds, advocates, or provides services to children and families.	2225 2226
Notwithstanding any other provision of law, the public members of a county council are not prohibited from serving on the council and making decisions regarding the duties of the council, including those involving the funding of joint projects and those outlined in the county's service coordination mechanism implemented pursuant to division (C) of this section.	2227 2228 2229 2230 2231 2232
The cabinet council shall establish a state appeals process to resolve disputes among the members of a county council concerning whether reasonable responsibilities as members are being shared. The appeals process may be accessed only by a majority vote of the council members who are required to serve on the council. Upon appeal, the cabinet council may order that state funds for services to children and families be redirected to a county's board of county commissioners.	2233 2234 2235 2236 2237 2238 2239 2240
The county's juvenile court judge senior in service or another judge of the juvenile court designated by the	2241 2242

administrative judge or, where there is no administrative judge, 2243
by the judge senior in service shall serve as the judicial advisor 2244
to the county family and children first council. The judge may 2245
advise the county council on the court's utilization of resources, 2246
services, or programs provided by the entities represented by the 2247
members of the county council and how those resources, services, 2248
or programs assist the court in its administration of justice. 2249
Service of a judge as a judicial advisor pursuant to this section 2250
is a judicial function. 2251

(2) The purpose of the county council is to streamline and 2252
coordinate existing government services for families seeking 2253
services for their children. In seeking to fulfill its purpose, a 2254
county council shall provide for the following: 2255

(a) Referrals to the cabinet council of those children for 2256
whom the county council cannot provide adequate services; 2257

(b) Development and implementation of a process that annually 2258
evaluates and prioritizes services, fills service gaps where 2259
possible, and invents new approaches to achieve better results for 2260
families and children; 2261

(c) Participation in the development of a countywide, 2262
comprehensive, coordinated, multi-disciplinary, interagency system 2263
for infants and toddlers with developmental disabilities or delays 2264
and their families, as established pursuant to federal grants 2265
received and administered by the department of health for early 2266
intervention services under the "Individuals with Disabilities 2267
Education Act of 2004"; 2268

(d) Maintenance of an accountability system to monitor the 2269
county council's progress in achieving results for families and 2270
children; 2271

(e) Establishment of a mechanism to ensure ongoing input from 2272
a broad representation of families who are receiving services 2273

within the county system. 2274

(3) A county council shall develop and implement the 2275
following: 2276

(a) An interagency process to establish local indicators and 2277
monitor the county's progress toward increasing child well-being 2278
in the county; 2279

(b) An interagency process to identify local priorities to 2280
increase child well-being. The local priorities shall focus on 2281
expectant parents and newborns thriving; infants and toddlers 2282
thriving; children being ready for school; children and youth 2283
succeeding in school; youth choosing healthy behaviors; and youth 2284
successfully transitioning into adulthood and take into account 2285
the indicators established by the cabinet council under division 2286
(A)(4)(a) of this section. 2287

(c) An annual plan that identifies the county's interagency 2288
efforts to increase child well-being in the county. 2289

On an annual basis, the county council shall submit a report 2290
on the status of efforts by the county to increase child 2291
well-being in the county to the county's board of county 2292
commissioners and the cabinet council. This report shall be made 2293
available to any other person on request. 2294

(4)(a) Except as provided in division (B)(4)(b) of this 2295
section, a county council shall comply with the policies, 2296
procedures, and activities prescribed by the rules or interagency 2297
agreements of a state department participating on the cabinet 2298
council whenever the county council performs a function subject to 2299
those rules or agreements. 2300

(b) On application of a county council, the cabinet council 2301
may grant an exemption from any rules or interagency agreements of 2302
a state department participating on the council if an exemption is 2303
necessary for the council to implement an alternative program or 2304

approach for service delivery to families and children. The 2305
application shall describe the proposed program or approach and 2306
specify the rules or interagency agreements from which an 2307
exemption is necessary. The cabinet council shall approve or 2308
disapprove the application in accordance with standards and 2309
procedures it shall adopt. If an application is approved, the 2310
exemption is effective only while the program or approach is being 2311
implemented, including a reasonable period during which the 2312
program or approach is being evaluated for effectiveness. 2313

(5)(a) Each county council shall designate an administrative 2314
agent for the council from among the following public entities: 2315
the board of alcohol, drug addiction, and mental health services, 2316
including a board of alcohol and drug addiction or a community 2317
mental health board if the county is served by separate boards; 2318
the board of county commissioners; any board of health of the 2319
county's city and general health districts; the county department 2320
of job and family services; the county agency responsible for the 2321
administration of children services pursuant to section 5153.15 of 2322
the Revised Code; the county board of ~~mental retardation and~~ 2323
developmental disabilities; any of the county's boards of 2324
education or governing boards of educational service centers; or 2325
the county's juvenile court. Any of the foregoing public entities, 2326
other than the board of county commissioners, may decline to serve 2327
as the council's administrative agent. 2328

A county council's administrative agent shall serve as the 2329
council's appointing authority for any employees of the council. 2330
The council shall file an annual budget with its administrative 2331
agent, with copies filed with the county auditor and with the 2332
board of county commissioners, unless the board is serving as the 2333
council's administrative agent. The council's administrative agent 2334
shall ensure that all expenditures are handled in accordance with 2335
policies, procedures, and activities prescribed by state 2336

departments in rules or interagency agreements that are applicable 2337
to the council's functions. 2338

The administrative agent of a county council shall send 2339
notice of a member's absence if a member listed in division (B)(1) 2340
of this section has been absent from either three consecutive 2341
meetings of the county council or a county council subcommittee, 2342
or from one-quarter of such meetings in a calendar year, whichever 2343
is less. The notice shall be sent to the board of county 2344
commissioners that establishes the county council and, for the 2345
members listed in divisions (B)(1)(b), (c), (e), and (l) of this 2346
section, to the governing board overseeing the respective entity; 2347
for the member listed in division (B)(1)(f) of this section, to 2348
the county board of ~~mental retardation and~~ developmental 2349
disabilities that employs the superintendent; for a member listed 2350
in division (B)(1)(g) or (h) of this section, to the school board 2351
that employs the superintendent; for the member listed in division 2352
(B)(1)(i) of this section, to the mayor of the municipal 2353
corporation; for the member listed in division (B)(1)(k) of this 2354
section, to the director of youth services; and for the member 2355
listed in division (B)(1)(n), to that member's board of trustees. 2356

The administrative agent for a county council may do any of 2357
the following on behalf of the council: 2358

(i) Enter into agreements or administer contracts with public 2359
or private entities to fulfill specific council business. Such 2360
agreements and contracts are exempt from the competitive bidding 2361
requirements of section 307.86 of the Revised Code if they have 2362
been approved by the county council and they are for the purchase 2363
of family and child welfare or child protection services or other 2364
social or job and family services for families and children. The 2365
approval of the county council is not required to exempt 2366
agreements or contracts entered into under section 5139.34, 2367
5139.41, or 5139.43 of the Revised Code from the competitive 2368

bidding requirements of section 307.86 of the Revised Code. 2369

(ii) As determined by the council, provide financial 2370
stipends, reimbursements, or both, to family representatives for 2371
expenses related to council activity; 2372

(iii) Receive by gift, grant, devise, or bequest any moneys, 2373
lands, or other property for the purposes for which the council is 2374
established. The agent shall hold, apply, and dispose of the 2375
moneys, lands, or other property according to the terms of the 2376
gift, grant, devise, or bequest. Any interest or earnings shall be 2377
treated in the same manner and are subject to the same terms as 2378
the gift, grant, devise, or bequest from which it accrues. 2379

(b)(i) If the county council designates the board of county 2380
commissioners as its administrative agent, the board may, by 2381
resolution, delegate any of its powers and duties as 2382
administrative agent to an executive committee the board 2383
establishes from the membership of the county council. The board 2384
shall name to the executive committee at least the individuals 2385
described in divisions (B)(1)(b) to (h) of this section and may 2386
appoint the president of the board or another individual as the 2387
chair of the executive committee. The executive committee must 2388
include at least one family county council representative who does 2389
not have a family member employed by an agency represented on the 2390
council. 2391

(ii) The executive committee may, with the approval of the 2392
board, hire an executive director to assist the county council in 2393
administering its powers and duties. The executive director shall 2394
serve in the unclassified civil service at the pleasure of the 2395
executive committee. The executive director may, with the approval 2396
of the executive committee, hire other employees as necessary to 2397
properly conduct the county council's business. 2398

(iii) The board may require the executive committee to submit 2399

an annual budget to the board for approval and may amend or repeal 2400
the resolution that delegated to the executive committee its 2401
authority as the county council's administrative agent. 2402

(6) Two or more county councils may enter into an agreement 2403
to administer their county councils jointly by creating a regional 2404
family and children first council. A regional council possesses 2405
the same duties and authority possessed by a county council, 2406
except that the duties and authority apply regionally rather than 2407
to individual counties. Prior to entering into an agreement to 2408
create a regional council, the members of each county council to 2409
be part of the regional council shall meet to determine whether 2410
all or part of the members of each county council will serve as 2411
members of the regional council. 2412

(7) A board of county commissioners may approve a resolution 2413
by a majority vote of the board's members that requires the county 2414
council to submit a statement to the board each time the council 2415
proposes to enter into an agreement, adopt a plan, or make a 2416
decision, other than a decision pursuant to section 121.38 of the 2417
Revised Code, that requires the expenditure of funds for two or 2418
more families. The statement shall describe the proposed 2419
agreement, plan, or decision. 2420

Not later than fifteen days after the board receives the 2421
statement, it shall, by resolution approved by a majority of its 2422
members, approve or disapprove the agreement, plan, or decision. 2423
Failure of the board to pass a resolution during that time period 2424
shall be considered approval of the agreement, plan, or decision. 2425

An agreement, plan, or decision for which a statement is 2426
required to be submitted to the board shall be implemented only if 2427
it is approved by the board. 2428

(C) Each county shall develop a county service coordination 2429
mechanism. The county service coordination mechanism shall serve 2430

as the guiding document for coordination of services in the 2431
county. For children who also receive services under the help me 2432
grow program, the service coordination mechanism shall be 2433
consistent with rules adopted by the department of health under 2434
section 3701.61 of the Revised Code. All family service 2435
coordination plans shall be developed in accordance with the 2436
county service coordination mechanism. The mechanism shall be 2437
developed and approved with the participation of the county 2438
entities representing child welfare; mental retardation and 2439
developmental disabilities; alcohol, drug addiction, and mental 2440
health services; health; juvenile judges; education; the county 2441
family and children first council; and the county early 2442
intervention collaborative established pursuant to the federal 2443
early intervention program operated under the "Individuals with 2444
Disabilities Education Act of 2004." The county shall establish an 2445
implementation schedule for the mechanism. The cabinet council may 2446
monitor the implementation and administration of each county's 2447
service coordination mechanism. 2448

Each mechanism shall include all of the following: 2449

(1) A procedure for an agency, including a juvenile court, or 2450
a family voluntarily seeking service coordination, to refer the 2451
child and family to the county council for service coordination in 2452
accordance with the mechanism; 2453

(2) A procedure ensuring that a family and all appropriate 2454
staff from involved agencies, including a representative from the 2455
appropriate school district, are notified of and invited to 2456
participate in all family service coordination plan meetings; 2457

(3) A procedure that permits a family to initiate a meeting 2458
to develop or review the family's service coordination plan and 2459
allows the family to invite a family advocate, mentor, or support 2460
person of the family's choice to participate in any such meeting; 2461

(4) A procedure for ensuring that a family service 2462
coordination plan meeting is conducted for each child who receives 2463
service coordination under the mechanism and for whom an emergency 2464
out-of-home placement has been made or for whom a nonemergency 2465
out-of-home placement is being considered. The meeting shall be 2466
conducted within ten days of an emergency out-of-home placement. 2467
The meeting shall be conducted before a nonemergency out-of-home 2468
placement. The family service coordination plan shall outline how 2469
the county council members will jointly pay for services, where 2470
applicable, and provide services in the least restrictive 2471
environment. 2472

(5) A procedure for monitoring the progress and tracking the 2473
outcomes of each service coordination plan requested in the county 2474
including monitoring and tracking children in out-of-home 2475
placements to assure continued progress, appropriateness of 2476
placement, and continuity of care after discharge from placement 2477
with appropriate arrangements for housing, treatment, and 2478
education. 2479

(6) A procedure for protecting the confidentiality of all 2480
personal family information disclosed during service coordination 2481
meetings or contained in the comprehensive family service 2482
coordination plan. 2483

(7) A procedure for assessing the needs and strengths of any 2484
child or family that has been referred to the council for service 2485
coordination, including a child whose parent or custodian is 2486
voluntarily seeking services, and for ensuring that parents and 2487
custodians are afforded the opportunity to participate; 2488

(8) A procedure for development of a family service 2489
coordination plan described in division (D) of this section; 2490

(9) A local dispute resolution process to serve as the 2491
process that must be used first to resolve disputes among the 2492

agencies represented on the county council concerning the 2493
provision of services to children, including children who are 2494
abused, neglected, dependent, unruly, alleged unruly, or 2495
delinquent children and under the jurisdiction of the juvenile 2496
court and children whose parents or custodians are voluntarily 2497
seeking services. The local dispute resolution process shall 2498
comply with sections 121.38, 121.381, and 121.382 of the Revised 2499
Code. The local dispute resolution process shall be used to 2500
resolve disputes between a child's parents or custodians and the 2501
county council regarding service coordination. The county council 2502
shall inform the parents or custodians of their right to use the 2503
dispute resolution process. Parents or custodians shall use 2504
existing local agency grievance procedures to address disputes not 2505
involving service coordination. The dispute resolution process is 2506
in addition to and does not replace other rights or procedures 2507
that parents or custodians may have under other sections of the 2508
Revised Code. 2509

The cabinet council shall adopt rules in accordance with 2510
Chapter 119. of the Revised Code establishing an administrative 2511
review process to address problems that arise concerning the 2512
operation of a local dispute resolution process. 2513

Nothing in division (C)(4) of this section shall be 2514
interpreted as overriding or affecting decisions of a juvenile 2515
court regarding an out-of-home placement, long-term placement, or 2516
emergency out-of-home placement. 2517

(D) Each county shall develop a family service coordination 2518
plan that does all of the following: 2519

(1) Designates service responsibilities among the various 2520
state and local agencies that provide services to children and 2521
their families, including children who are abused, neglected, 2522
dependent, unruly, or delinquent children and under the 2523
jurisdiction of the juvenile court and children whose parents or 2524

custodians are voluntarily seeking services;	2525
(2) Designates an individual, approved by the family, to track the progress of the family service coordination plan, schedule reviews as necessary, and facilitate the family service coordination plan meeting process;	2526 2527 2528 2529
(3) Ensures that assistance and services to be provided are responsive to the strengths and needs of the family, as well as the family's culture, race, and ethnic group, by allowing the family to offer information and suggestions and participate in decisions. Identified assistance and services shall be provided in the least restrictive environment possible.	2530 2531 2532 2533 2534 2535
(4) Includes a process for dealing with a child who is alleged to be an unruly child. The process shall include methods to divert the child from the juvenile court system;	2536 2537 2538
(5) Includes timelines for completion of goals specified in the plan with regular reviews scheduled to monitor progress toward those goals;	2539 2540 2541
(6) Includes a plan for dealing with short-term crisis situations and safety concerns.	2542 2543
(E)(1) The process provided for under division (D)(4) of this section may include, but is not limited to, the following:	2544 2545
(a) Designation of the person or agency to conduct the assessment of the child and the child's family as described in division (C)(7) of this section and designation of the instrument or instruments to be used to conduct the assessment;	2546 2547 2548 2549
(b) An emphasis on the personal responsibilities of the child and the parental responsibilities of the parents, guardian, or custodian of the child;	2550 2551 2552
(c) Involvement of local law enforcement agencies and officials.	2553 2554

(2) The method to divert a child from the juvenile court system that must be included in the service coordination process may include, but is not limited to, the following:	2555 2556 2557
(a) The preparation of a complaint under section 2151.27 of the Revised Code alleging that the child is an unruly child and notifying the child and the parents, guardian, or custodian that the complaint has been prepared to encourage the child and the parents, guardian, or custodian to comply with other methods to divert the child from the juvenile court system;	2558 2559 2560 2561 2562 2563
(b) Conducting a meeting with the child, the parents, guardian, or custodian, and other interested parties to determine the appropriate methods to divert the child from the juvenile court system;	2564 2565 2566 2567
(c) A method to provide to the child and the child's family a short-term respite from a short-term crisis situation involving a confrontation between the child and the parents, guardian, or custodian;	2568 2569 2570 2571
(d) A program to provide a mentor to the child or the parents, guardian, or custodian;	2572 2573
(e) A program to provide parenting education to the parents, guardian, or custodian;	2574 2575
(f) An alternative school program for children who are truant from school, repeatedly disruptive in school, or suspended or expelled from school;	2576 2577 2578
(g) Other appropriate measures, including, but not limited to, any alternative methods to divert a child from the juvenile court system that are identified by the Ohio family and children first cabinet council.	2579 2580 2581 2582
(F) Each county may review and revise the service coordination process described in division (D) of this section	2583 2584

based on the availability of funds under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, or to the extent resources are available from any other federal, state, or local funds.

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

(1) To prepare, or contract to be prepared, by licensed engineers or architects, surveys, general and detailed plans, specifications, bills of materials, and estimates of cost for any projects, improvements, or public buildings to be constructed by state agencies that may be authorized by legislative appropriations or any other funds made available therefor, provided that the construction of the projects, improvements, or public buildings is a statutory duty of the department. This section does not require the independent employment of an architect or engineer as provided by section 153.01 of the Revised Code in the cases to which that section applies nor affect or alter the existing powers of the director of transportation.

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

(3) To make contracts for and supervise the construction of any projects and improvements or the construction and repair of buildings under the control of a state agency, except contracts for the repair of buildings under the management and control of the departments of public safety, job and family services, mental health, ~~mental retardation and~~ developmental disabilities,

rehabilitation and correction, and youth services, the bureau of 2616
workers' compensation, the rehabilitation services commission, and 2617
boards of trustees of educational and benevolent institutions and 2618
except contracts for the construction of projects that do not 2619
require the issuance of a building permit or the issuance of a 2620
certificate of occupancy and that are necessary to remediate 2621
conditions at a hazardous waste facility, solid waste facility, or 2622
other location at which the director of environmental protection 2623
has reason to believe there is a substantial threat to public 2624
health or safety or the environment. These contracts shall be made 2625
and entered into by the directors of public safety, job and family 2626
services, mental health, ~~mental retardation and~~ developmental 2627
disabilities, rehabilitation and correction, and youth services, 2628
the administrator of workers' compensation, the rehabilitation 2629
services commission, the boards of trustees of such institutions, 2630
and the director of environmental protection, respectively. All 2631
such contracts may be in whole or in part on unit price basis of 2632
maximum estimated cost, with payment computed and made upon actual 2633
quantities or units. 2634

(4) To prepare and suggest comprehensive plans for the 2635
development of grounds and buildings under the control of a state 2636
agency; 2637

(5) To acquire, by purchase, gift, devise, lease, or grant, 2638
all real estate required by a state agency, in the exercise of 2639
which power the department may exercise the power of eminent 2640
domain, in the manner provided by sections 163.01 to 163.22 of the 2641
Revised Code; 2642

(6) To make and provide all plans, specifications, and models 2643
for the construction and perfection of all systems of sewerage, 2644
drainage, and plumbing for the state in connection with buildings 2645
and grounds under the control of a state agency; 2646

(7) To erect, supervise, and maintain all public monuments 2647

and memorials erected by the state, except where the supervision 2648
and maintenance is otherwise provided by law; 2649

(8) To procure, by lease, storage accommodations for a state 2650
agency; 2651

(9) To lease or grant easements or licenses for unproductive 2652
and unused lands or other property under the control of a state 2653
agency. Such leases, easements, or licenses shall be granted for a 2654
period not to exceed fifteen years and shall be executed for the 2655
state by the director of administrative services and the governor 2656
and shall be approved as to form by the attorney general, provided 2657
that leases, easements, or licenses may be granted to any county, 2658
township, municipal corporation, port authority, water or sewer 2659
district, school district, library district, health district, park 2660
district, soil and water conservation district, conservancy 2661
district, or other political subdivision or taxing district, or 2662
any agency of the United States government, for the exclusive use 2663
of that agency, political subdivision, or taxing district, without 2664
any right of sublease or assignment, for a period not to exceed 2665
fifteen years, and provided that the director shall grant leases, 2666
easements, or licenses of university land for periods not to 2667
exceed twenty-five years for purposes approved by the respective 2668
university's board of trustees wherein the uses are compatible 2669
with the uses and needs of the university and may grant leases of 2670
university land for periods not to exceed forty years for purposes 2671
approved by the respective university's board of trustees pursuant 2672
to section 123.77 of the Revised Code. 2673

(10) To lease office space in buildings for the use of a 2674
state agency; 2675

(11) To have general supervision and care of the storerooms, 2676
offices, and buildings leased for the use of a state agency; 2677

(12) To exercise general custodial care of all real property 2678

of the state; 2679

(13) To assign and group together state offices in any city 2680
in the state and to establish, in cooperation with the state 2681
agencies involved, rules governing space requirements for office 2682
or storage use; 2683

(14) To lease for a period not to exceed forty years, 2684
pursuant to a contract providing for the construction thereof 2685
under a lease-purchase plan, buildings, structures, and other 2686
improvements for any public purpose, and, in conjunction 2687
therewith, to grant leases, easements, or licenses for lands under 2688
the control of a state agency for a period not to exceed forty 2689
years. The lease-purchase plan shall provide that at the end of 2690
the lease period, the buildings, structures, and related 2691
improvements, together with the land on which they are situated, 2692
shall become the property of the state without cost. 2693

(a) Whenever any building, structure, or other improvement is 2694
to be so leased by a state agency, the department shall retain 2695
either basic plans, specifications, bills of materials, and 2696
estimates of cost with sufficient detail to afford bidders all 2697
needed information or, alternatively, all of the following plans, 2698
details, bills of materials, and specifications: 2699

(i) Full and accurate plans suitable for the use of mechanics 2700
and other builders in the improvement; 2701

(ii) Details to scale and full sized, so drawn and 2702
represented as to be easily understood; 2703

(iii) Accurate bills showing the exact quantity of different 2704
kinds of material necessary to the construction; 2705

(iv) Definite and complete specifications of the work to be 2706
performed, together with such directions as will enable a 2707
competent mechanic or other builder to carry them out and afford 2708
bidders all needed information; 2709

(v) A full and accurate estimate of each item of expense and 2710
of the aggregate cost thereof. 2711

(b) The department shall give public notice, in such 2712
newspaper, in such form, and with such phraseology as the director 2713
of administrative services prescribes, published once each week 2714
for four consecutive weeks, of the time when and place where bids 2715
will be received for entering into an agreement to lease to a 2716
state agency a building, structure, or other improvement. The last 2717
publication shall be at least eight days preceding the day for 2718
opening the bids. The bids shall contain the terms upon which the 2719
builder would propose to lease the building, structure, or other 2720
improvement to the state agency. The form of the bid approved by 2721
the department shall be used, and a bid is invalid and shall not 2722
be considered unless that form is used without change, alteration, 2723
or addition. Before submitting bids pursuant to this section, any 2724
builder shall comply with Chapter 153. of the Revised Code. 2725

(c) On the day and at the place named for receiving bids for 2726
entering into lease agreements with a state agency, the director 2727
of administrative services shall open the bids and shall publicly 2728
proceed immediately to tabulate the bids upon duplicate sheets. No 2729
lease agreement shall be entered into until the bureau of workers' 2730
compensation has certified that the person to be awarded the lease 2731
agreement has complied with Chapter 4123. of the Revised Code, 2732
until, if the builder submitting the lowest and best bid is a 2733
foreign corporation, the secretary of state has certified that the 2734
corporation is authorized to do business in this state, until, if 2735
the builder submitting the lowest and best bid is a person 2736
nonresident of this state, the person has filed with the secretary 2737
of state a power of attorney designating the secretary of state as 2738
its agent for the purpose of accepting service of summons in any 2739
action brought under Chapter 4123. of the Revised Code, and until 2740
the agreement is submitted to the attorney general and the 2741

attorney general's approval is certified thereon. Within thirty 2742
days after the day on which the bids are received, the department 2743
shall investigate the bids received and shall determine that the 2744
bureau and the secretary of state have made the certifications 2745
required by this section of the builder who has submitted the 2746
lowest and best bid. Within ten days of the completion of the 2747
investigation of the bids, the department shall award the lease 2748
agreement to the builder who has submitted the lowest and best bid 2749
and who has been certified by the bureau and secretary of state as 2750
required by this section. If bidding for the lease agreement has 2751
been conducted upon the basis of basic plans, specifications, 2752
bills of materials, and estimates of costs, upon the award to the 2753
builder the department, or the builder with the approval of the 2754
department, shall appoint an architect or engineer licensed in 2755
this state to prepare such further detailed plans, specifications, 2756
and bills of materials as are required to construct the building, 2757
structure, or improvement. The department shall adopt such rules 2758
as are necessary to give effect to this section. The department 2759
may reject any bid. Where there is reason to believe there is 2760
collusion or combination among bidders, the bids of those 2761
concerned therein shall be rejected. 2762

(15) To acquire by purchase, gift, devise, or grant and to 2763
transfer, lease, or otherwise dispose of all real property 2764
required to assist in the development of a conversion facility as 2765
defined in section 5709.30 of the Revised Code as that section 2766
existed before its repeal by Amended Substitute House Bill 95 of 2767
the 125th general assembly; 2768

(16) To lease for a period not to exceed forty years, 2769
notwithstanding any other division of this section, the 2770
state-owned property located at 408-450 East Town Street, 2771
Columbus, Ohio, formerly the state school for the deaf, to a 2772
developer in accordance with this section. "Developer," as used in 2773

this section, has the same meaning as in section 123.77 of the Revised Code. 2774
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Such a lease shall be for the purpose of development of the land for use by senior citizens by constructing, altering, renovating, repairing, expanding, and improving the site as it existed on June 25, 1982. A developer desiring to lease the land shall prepare for submission to the department a plan for development. Plans shall include provisions for roads, sewers, water lines, waste disposal, water supply, and similar matters to meet the requirements of state and local laws. The plans shall also include provision for protection of the property by insurance or otherwise, and plans for financing the development, and shall set forth details of the developer's financial responsibility. 2776
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The department may employ, as employees or consultants, persons needed to assist in reviewing the development plans. Those persons may include attorneys, financial experts, engineers, and other necessary experts. The department shall review the development plans and may enter into a lease if it finds all of the following: 2787
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(a) The best interests of the state will be promoted by entering into a lease with the developer; 2793
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(b) The development plans are satisfactory; 2795

(c) The developer has established the developer's financial responsibility and satisfactory plans for financing the development. 2796
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The lease shall contain a provision that construction or renovation of the buildings, roads, structures, and other necessary facilities shall begin within one year after the date of the lease and shall proceed according to a schedule agreed to between the department and the developer or the lease will be terminated. The lease shall contain such conditions and 2799
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stipulations as the director considers necessary to preserve the 2805
best interest of the state. Moneys received by the state pursuant 2806
to this lease shall be paid into the general revenue fund. The 2807
lease shall provide that at the end of the lease period the 2808
buildings, structures, and related improvements shall become the 2809
property of the state without cost. 2810

(17) To lease to any person any tract of land owned by the 2811
state and under the control of the department, or any part of such 2812
a tract, for the purpose of drilling for or the pooling of oil or 2813
gas. Such a lease shall be granted for a period not exceeding 2814
forty years, with the full power to contract for, determine the 2815
conditions governing, and specify the amount the state shall 2816
receive for the purposes specified in the lease, and shall be 2817
prepared as in other cases. 2818

(18) To manage the use of space owned and controlled by the 2819
department, including space in property under the jurisdiction of 2820
the Ohio building authority, by doing all of the following: 2821

(a) Biennially implementing, by state agency location, a 2822
census of agency employees assigned space; 2823

(b) Periodically in the discretion of the director of 2824
administrative services: 2825

(i) Requiring each state agency to categorize the use of 2826
space allotted to the agency between office space, common areas, 2827
storage space, and other uses, and to report its findings to the 2828
department; 2829

(ii) Creating and updating a master space utilization plan 2830
for all space allotted to state agencies. The plan shall 2831
incorporate space utilization metrics. 2832

(iii) Conducting a cost-benefit analysis to determine the 2833
effectiveness of state-owned buildings; 2834

(iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus. 2835
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(c) Commissioning a comprehensive space utilization and capacity study in order to determine the feasibility of consolidating existing commercially leased space used by state agencies into a new state-owned facility. 2837
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(B) This section and section 125.02 of the Revised Code shall not interfere with any of the following: 2841
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(1) The power of the adjutant general to purchase military supplies, or with the custody of the adjutant general of property leased, purchased, or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories; 2843
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(2) The power of the director of transportation in acquiring rights-of-way for the state highway system, or the leasing of lands for division or resident district offices, or the leasing of lands or buildings required in the maintenance operations of the department of transportation, or the purchase of real property for garage sites or division or resident district offices, or in preparing plans and specifications for and constructing such buildings as the director may require in the administration of the department; 2848
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(3) The power of the director of public safety and the registrar of motor vehicles to purchase or lease real property and buildings to be used solely as locations to which a deputy registrar is assigned pursuant to division (B) of section 4507.011 of the Revised Code and from which the deputy registrar is to conduct the deputy registrar's business, the power of the director of public safety to purchase or lease real property and buildings to be used as locations for division or district offices as required in the maintenance of operations of the department of 2857
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public safety, and the power of the superintendent of the state 2866
highway patrol in the purchase or leasing of real property and 2867
buildings needed by the patrol, to negotiate the sale of real 2868
property owned by the patrol, to rent or lease real property owned 2869
or leased by the patrol, and to make or cause to be made repairs 2870
to all property owned or under the control of the patrol; 2871

(4) The power of the division of liquor control in the 2872
leasing or purchasing of retail outlets and warehouse facilities 2873
for the use of the division; 2874

(5) The power of the director of development to enter into 2875
leases of real property, buildings, and office space to be used 2876
solely as locations for the state's foreign offices to carry out 2877
the purposes of section 122.05 of the Revised Code; 2878

(6) The power of the director of environmental protection to 2879
enter into environmental covenants, to grant and accept easements, 2880
or to sell property pursuant to division (G) of section 3745.01 of 2881
the Revised Code. 2882

(C) Purchases for, and the custody and repair of, buildings 2883
under the management and control of the capitol square review and 2884
advisory board, the rehabilitation services commission, the bureau 2885
of workers' compensation, or the departments of public safety, job 2886
and family services, mental health, ~~mental retardation and~~ 2887
developmental disabilities, and rehabilitation and correction, and 2888
buildings of educational and benevolent institutions under the 2889
management and control of boards of trustees, are not subject to 2890
the control and jurisdiction of the department of administrative 2891
services. 2892

(D) Any instrument by which real property is acquired 2893
pursuant to this section shall identify the agency of the state 2894
that has the use and benefit of the real property as specified in 2895
section 5301.012 of the Revised Code. 2896

Sec. 124.11. The civil service of the state and the several 2897
counties, cities, civil service townships, city health districts, 2898
general health districts, and city school districts of the state 2899
shall be divided into the unclassified service and the classified 2900
service. 2901

(A) The unclassified service shall comprise the following 2902
positions, which shall not be included in the classified service, 2903
and which shall be exempt from all examinations required by this 2904
chapter: 2905

(1) All officers elected by popular vote or persons appointed 2906
to fill vacancies in those offices; 2907

(2) All election officers as defined in section 3501.01 of 2908
the Revised Code; 2909

(3)(a) The members of all boards and commissions, and heads 2910
of principal departments, boards, and commissions appointed by the 2911
governor or by and with the governor's consent; 2912

(b) The heads of all departments appointed by a board of 2913
county commissioners; 2914

(c) The members of all boards and commissions and all heads 2915
of departments appointed by the mayor, or, if there is no mayor, 2916
such other similar chief appointing authority of any city or city 2917
school district; 2918

Except as otherwise provided in division (A)(17) or (C) of 2919
this section, this chapter does not exempt the chiefs of police 2920
departments and chiefs of fire departments of cities or civil 2921
service townships from the competitive classified service. 2922

(4) The members of county or district licensing boards or 2923
commissions and boards of revision, and not more than five deputy 2924
county auditors; 2925

(5) All officers and employees elected or appointed by either 2926

or both branches of the general assembly, and employees of the	2927
city legislative authority engaged in legislative duties;	2928
(6) All commissioned, warrant, and noncommissioned officers	2929
and enlisted persons in the Ohio organized militia, including	2930
military appointees in the adjutant general's department;	2931
(7)(a) All presidents, business managers, administrative	2932
officers, superintendents, assistant superintendents, principals,	2933
deans, assistant deans, instructors, teachers, and such employees	2934
as are engaged in educational or research duties connected with	2935
the public school system, colleges, and universities, as	2936
determined by the governing body of the public school system,	2937
colleges, and universities;	2938
(b) The library staff of any library in the state supported	2939
wholly or in part at public expense.	2940
(8) Four clerical and administrative support employees for	2941
each of the elective state officers, four clerical and	2942
administrative support employees for each board of county	2943
commissioners and one such employee for each county commissioner,	2944
and four clerical and administrative support employees for other	2945
elective officers and each of the principal appointive executive	2946
officers, boards, or commissions, except for civil service	2947
commissions, that are authorized to appoint such clerical and	2948
administrative support employees;	2949
(9) The deputies and assistants of state agencies authorized	2950
to act for and on behalf of the agency, or holding a fiduciary or	2951
administrative relation to that agency and those persons employed	2952
by and directly responsible to elected county officials or a	2953
county administrator and holding a fiduciary or administrative	2954
relationship to such elected county officials or county	2955
administrator, and the employees of such county officials whose	2956
fitness would be impracticable to determine by competitive	2957

examination, provided that division (A)(9) of this section shall 2958
not affect those persons in county employment in the classified 2959
service as of September 19, 1961. Nothing in division (A)(9) of 2960
this section applies to any position in a county department of job 2961
and family services created pursuant to Chapter 329. of the 2962
Revised Code. 2963

(10) Bailiffs, constables, official stenographers, and 2964
commissioners of courts of record, deputies of clerks of the 2965
courts of common pleas who supervise or who handle public moneys 2966
or secured documents, and such officers and employees of courts of 2967
record and such deputies of clerks of the courts of common pleas 2968
as the director of administrative services finds it impracticable 2969
to determine their fitness by competitive examination; 2970

(11) Assistants to the attorney general, special counsel 2971
appointed or employed by the attorney general, assistants to 2972
county prosecuting attorneys, and assistants to city directors of 2973
law; 2974

(12) Such teachers and employees in the agricultural 2975
experiment stations; such students in normal schools, colleges, 2976
and universities of the state who are employed by the state or a 2977
political subdivision of the state in student or intern 2978
classifications; and such unskilled labor positions as the 2979
director of administrative services or any municipal civil service 2980
commission may find it impracticable to include in the competitive 2981
classified service; provided such exemptions shall be by order of 2982
the commission or the director, duly entered on the record of the 2983
commission or the director with the reasons for each such 2984
exemption; 2985

(13) Any physician or dentist who is a full-time employee of 2986
the department of mental health, the department of ~~mental~~ 2987
~~retardation and~~ developmental disabilities, or an institution 2988
under the jurisdiction of either department; and physicians who 2989

are in residency programs at the institutions;	2990
(14) Up to twenty positions at each institution under the jurisdiction of the department of mental health or the department of mental retardation and developmental disabilities that the department director determines to be primarily administrative or managerial; and up to fifteen positions in any division of either department, excluding administrative assistants to the director and division chiefs, which are within the immediate staff of a division chief and which the director determines to be primarily and distinctively administrative and managerial;	2991 2992 2993 2994 2995 2996 2997 2998 2999
(15) Noncitizens of the United States employed by the state, or its counties or cities, as physicians or nurses who are duly licensed to practice their respective professions under the laws of this state, or medical assistants, in mental or chronic disease hospitals, or institutions;	3000 3001 3002 3003 3004
(16) Employees of the governor's office;	3005
(17) Fire chiefs and chiefs of police in civil service townships appointed by boards of township trustees under section 505.38 or 505.49 of the Revised Code;	3006 3007 3008
(18) Executive directors, deputy directors, and program directors employed by boards of alcohol, drug addiction, and mental health services under Chapter 340. of the Revised Code, and secretaries of the executive directors, deputy directors, and program directors;	3009 3010 3011 3012 3013
(19) Superintendents, and management employees as defined in section 5126.20 of the Revised Code, of county boards of mental retardation and developmental disabilities;	3014 3015 3016
(20) Physicians, nurses, and other employees of a county hospital who are appointed pursuant to sections 339.03 and 339.06 of the Revised Code;	3017 3018 3019

(21) The executive director of the state medical board, who 3020
is appointed pursuant to division (B) of section 4731.05 of the 3021
Revised Code; 3022

(22) County directors of job and family services as provided 3023
in section 329.02 of the Revised Code and administrators appointed 3024
under section 329.021 of the Revised Code; 3025

(23) A director of economic development who is hired pursuant 3026
to division (A) of section 307.07 of the Revised Code; 3027

(24) Chiefs of construction and compliance, of operations and 3028
maintenance, and of licensing and certification in the division of 3029
industrial compliance in the department of commerce; 3030

(25) The executive director of a county transit system 3031
appointed under division (A) of section 306.04 of the Revised 3032
Code; 3033

(26) Up to five positions at each of the administrative 3034
departments listed in section 121.02 of the Revised Code and at 3035
the department of taxation, department of the adjutant general, 3036
department of education, Ohio board of regents, bureau of workers' 3037
compensation, industrial commission, state lottery commission, and 3038
public utilities commission of Ohio that the head of that 3039
administrative department or of that other state agency determines 3040
to be involved in policy development and implementation. The head 3041
of the administrative department or other state agency shall set 3042
the compensation for employees in these positions at a rate that 3043
is not less than the minimum compensation specified in pay range 3044
41 but not more than the maximum compensation specified in pay 3045
range 44 of salary schedule E-2 in section 124.152 of the Revised 3046
Code. The authority to establish positions in the unclassified 3047
service under division (A)(26) of this section is in addition to 3048
and does not limit any other authority that an administrative 3049
department or state agency has under the Revised Code to establish 3050

positions, appoint employees, or set compensation. 3051

(27) Employees of the department of agriculture employed 3052
under section 901.09 of the Revised Code; 3053

(28) For cities, counties, civil service townships, city 3054
health districts, general health districts, and city school 3055
districts, the deputies and assistants of elective or principal 3056
executive officers authorized to act for and in the place of their 3057
principals or holding a fiduciary relation to their principals; 3058

(29) Employees who receive intermittent or temporary 3059
appointments under division (B) of section 124.30 of the Revised 3060
Code; 3061

(30) Employees appointed to administrative staff positions 3062
for which an appointing authority is given specific statutory 3063
authority to set compensation; 3064

(31) Employees appointed to highway patrol cadet or highway 3065
patrol cadet candidate classifications; 3066

(32) Employees placed in the unclassified service by another 3067
section of the Revised Code. 3068

(B) The classified service shall comprise all persons in the 3069
employ of the state and the several counties, cities, city health 3070
districts, general health districts, and city school districts of 3071
the state, not specifically included in the unclassified service. 3072
Upon the creation by the board of trustees of a civil service 3073
township civil service commission, the classified service shall 3074
also comprise, except as otherwise provided in division (A)(17) or 3075
(C) of this section, all persons in the employ of a civil service 3076
township police or fire department having ten or more full-time 3077
paid employees. The classified service consists of two classes, 3078
which shall be designated as the competitive class and the 3079
unskilled labor class. 3080

(1) The competitive class shall include all positions and 3081
employments in the state and the counties, cities, city health 3082
districts, general health districts, and city school districts of 3083
the state, and, upon the creation by the board of trustees of a 3084
civil service township of a township civil service commission, all 3085
positions in a civil service township police or fire department 3086
having ten or more full-time paid employees, for which it is 3087
practicable to determine the merit and fitness of applicants by 3088
competitive examinations. Appointments shall be made to, or 3089
employment shall be given in, all positions in the competitive 3090
class that are not filled by promotion, reinstatement, transfer, 3091
or reduction, as provided in this chapter, and the rules of the 3092
director of administrative services, by appointment from those 3093
certified to the appointing officer in accordance with this 3094
chapter. 3095

(2) The unskilled labor class shall include ordinary 3096
unskilled laborers. Vacancies in the labor class for positions in 3097
service of the state shall be filled by appointment from lists of 3098
applicants registered by the director. Vacancies in the labor 3099
class for all other positions shall be filled by appointment from 3100
lists of applicants registered by a commission. The director or 3101
the commission, as applicable, by rule, shall require an applicant 3102
for registration in the labor class to furnish evidence or take 3103
tests as the director or commission considers proper with respect 3104
to age, residence, physical condition, ability to labor, honesty, 3105
sobriety, industry, capacity, and experience in the work or 3106
employment for which application is made. Laborers who fulfill the 3107
requirements shall be placed on the eligible list for the kind of 3108
labor or employment sought, and preference shall be given in 3109
employment in accordance with the rating received from that 3110
evidence or in those tests. Upon the request of an appointing 3111
officer, stating the kind of labor needed, the pay and probable 3112
length of employment, and the number to be employed, the director 3113

or commission, as applicable, shall certify from the highest on 3114
the list double the number to be employed; from this number, the 3115
appointing officer shall appoint the number actually needed for 3116
the particular work. If more than one applicant receives the same 3117
rating, priority in time of application shall determine the order 3118
in which their names shall be certified for appointment. 3119

(C) A municipal or civil service township civil service 3120
commission may place volunteer firefighters who are paid on a 3121
fee-for-service basis in either the classified or the unclassified 3122
civil service. 3123

(D) This division does not apply to persons in the 3124
unclassified service who have the right to resume positions in the 3125
classified service under sections 4121.121, 5119.071, 5120.38, 3126
5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised 3127
Code. 3128

An appointing authority whose employees are paid directly by 3129
warrant of the director of budget and management may appoint a 3130
person who holds a certified position in the classified service 3131
within the appointing authority's agency to a position in the 3132
unclassified service within that agency. A person appointed 3133
pursuant to this division to a position in the unclassified 3134
service shall retain the right to resume the position and status 3135
held by the person in the classified service immediately prior to 3136
the person's appointment to the position in the unclassified 3137
service, regardless of the number of positions the person held in 3138
the unclassified service. An employee's right to resume a position 3139
in the classified service may only be exercised when an appointing 3140
authority demotes the employee to a pay range lower than the 3141
employee's current pay range or revokes the employee's appointment 3142
to the unclassified service. An employee forfeits the right to 3143
resume a position in the classified service when the employee is 3144
removed from the position in the unclassified service due to 3145

incompetence, inefficiency, dishonesty, drunkenness, immoral 3146
conduct, insubordination, discourteous treatment of the public, 3147
neglect of duty, violation of this chapter or the rules of the 3148
director of administrative services, any other failure of good 3149
behavior, any other acts of misfeasance, malfeasance, or 3150
nonfeasance in office, or conviction of a felony. An employee also 3151
forfeits the right to resume a position in the classified service 3152
upon transfer to a different agency. 3153

Reinstatement to a position in the classified service shall 3154
be to a position substantially equal to that position in the 3155
classified service held previously, as certified by the director 3156
of administrative services. If the position the person previously 3157
held in the classified service has been placed in the unclassified 3158
service or is otherwise unavailable, the person shall be appointed 3159
to a position in the classified service within the appointing 3160
authority's agency that the director of administrative services 3161
certifies is comparable in compensation to the position the person 3162
previously held in the classified service. Service in the position 3163
in the unclassified service shall be counted as service in the 3164
position in the classified service held by the person immediately 3165
prior to the person's appointment to the position in the 3166
unclassified service. When a person is reinstated to a position in 3167
the classified service as provided in this division, the person is 3168
entitled to all rights, status, and benefits accruing to the 3169
position in the classified service during the person's time of 3170
service in the position in the unclassified service. 3171

Sec. 124.23. (A) All applicants for positions and places in 3172
the classified service shall be subject to examination, except for 3173
applicants for positions as professional or certified service and 3174
paraprofessional employees of county boards of ~~mental retardation~~ 3175
~~and~~ developmental disabilities, who shall be hired in the manner 3176
provided in section 124.241 of the Revised Code. 3177

(B) Any examination administered under this section shall be 3178
public and be open to all citizens of the United States and those 3179
persons who have legally declared their intentions of becoming 3180
United States citizens, within certain limitations to be 3181
determined by the director of administrative services as to 3182
citizenship, age, experience, education, health, habit, and moral 3183
character. Any person who has completed service in the uniformed 3184
services, who has been honorably discharged from the uniformed 3185
services or transferred to the reserve with evidence of 3186
satisfactory service, and who is a resident of this state and any 3187
member of the national guard or a reserve component of the armed 3188
forces of the United States who has completed more than one 3189
hundred eighty days of active duty service pursuant to an 3190
executive order of the president of the United States or an act of 3191
the congress of the United States may file with the director a 3192
certificate of service or honorable discharge, and, upon this 3193
filing, the person shall receive additional credit of twenty per 3194
cent of the person's total grade given in the regular examination 3195
in which the person receives a passing grade. 3196

As used in this division, "service in the uniformed services" 3197
and "uniformed services" have the same meanings as in the 3198
"Uniformed Services Employment and Reemployment Rights Act of 3199
1994," 108 Stat. 3149, 38 U.S.C.A. 4303. 3200

(C) An examination may include an evaluation of such factors 3201
as education, training, capacity, knowledge, manual dexterity, and 3202
physical or psychological fitness. An examination shall consist of 3203
one or more tests in any combination. Tests may be written, oral, 3204
physical, demonstration of skill, or an evaluation of training and 3205
experiences and shall be designed to fairly test the relative 3206
capacity of the persons examined to discharge the particular 3207
duties of the position for which appointment is sought. Tests may 3208
include structured interviews, assessment centers, work 3209

simulations, examinations of knowledge, skills, and abilities, and 3210
any other acceptable testing methods. If minimum or maximum 3211
requirements are established for any examination, they shall be 3212
specified in the examination announcement. 3213

(D) The director of administrative services shall have 3214
control of all examinations, except as otherwise provided in 3215
sections 124.01 to 124.64 of the Revised Code. No questions in any 3216
examination shall relate to political or religious opinions or 3217
affiliations. No credit for seniority, efficiency, or any other 3218
reason shall be added to an applicant's examination grade unless 3219
the applicant achieves at least the minimum passing grade on the 3220
examination without counting that extra credit. 3221

(E) Except as otherwise provided in sections 124.01 to 124.64 3222
of the Revised Code, the director of administrative services shall 3223
give reasonable notice of the time, place, and general scope of 3224
every competitive examination for appointment to a position in the 3225
civil service. The director shall send written, printed, or 3226
electronic notices of every examination to be conducted in the 3227
state classified service to each agency of the type the director 3228
of job and family services specifies and, in the case of a county 3229
in which no such agency is located, to the clerk of the court of 3230
common pleas of that county and to the clerk of each city located 3231
within that county. Those notices shall be posted in conspicuous 3232
public places in the designated agencies or the courthouse, and 3233
city hall of the cities, of the counties in which no designated 3234
agency is located for at least two weeks preceding any examination 3235
involved, and in a conspicuous place in the office of the director 3236
of administrative services for at least two weeks preceding any 3237
examination involved. In case of examinations limited by the 3238
director to a district, county, city, or department, the director 3239
shall provide by rule for adequate publicity of an examination in 3240
the district, county, city, or department within which competition 3241

is permitted. 3242

Sec. 124.241. As used in this section, "professional 3243
employee" has the same meaning as in section 5126.20 of the 3244
Revised Code and "registered service employee" means a service 3245
employee, as defined in section 5126.20 of the Revised Code, who 3246
is registered under section 5126.25 of the Revised Code. 3247

County boards of ~~mental retardation and~~ developmental 3248
disabilities may hire professional employees and registered 3249
service employees in the classified service on the basis of the 3250
candidates' qualifications rather than on the basis of the results 3251
of an examination administered by the director of administrative 3252
services pursuant to section 124.23 of the Revised Code. 3253

Sec. 124.27. (A) The head of a department, office, or 3254
institution, in which a position in the classified service is to 3255
be filled, shall notify the director of administrative services of 3256
the fact, and the director shall, except as otherwise provided in 3257
this section and sections 124.30 and 124.31 of the Revised Code, 3258
certify to the appointing authority the names and addresses of the 3259
ten candidates standing highest on the eligible list for the class 3260
or grade to which the position belongs, except that the director 3261
may certify less than ten names if ten names are not available. 3262
When less than ten names are certified to an appointing authority, 3263
appointment from that list shall not be mandatory. When a position 3264
in the classified service in the department of mental health or 3265
the department of ~~mental retardation and~~ developmental 3266
disabilities is to be filled, the director of administrative 3267
services shall make such certification to the appointing authority 3268
within seven working days of the date the eligible list is 3269
requested. 3270

(B) The appointing authority shall notify the director of a 3271

position in the classified service to be filled, and the 3272
appointing authority shall fill the vacant position by appointment 3273
of one of the ten persons certified by the director. If more than 3274
one position is to be filled, the director may certify a group of 3275
names from the eligible list, and the appointing authority shall 3276
appoint in the following manner: beginning at the top of the list, 3277
each time a selection is made, it must be from one of the first 3278
ten candidates remaining on the list who is willing to accept 3279
consideration for the position. If an eligible list becomes 3280
exhausted, and until a new list can be created, or when no 3281
eligible list for a position exists, names may be certified from 3282
eligible lists most appropriate for the group or class in which 3283
the position to be filled is classified. A person who is certified 3284
from an eligible list more than three times to the same appointing 3285
authority for the same or similar positions may be omitted from 3286
future certification to that appointing authority, provided that 3287
certification for a temporary appointment shall not be counted as 3288
one of those certifications. Every person who qualifies for 3289
veteran's preference under section 124.23 of the Revised Code, who 3290
is a resident of this state, and whose name is on the eligible 3291
list for a position shall be entitled to preference in original 3292
appointments to any such competitive position in the civil service 3293
of the state and its civil divisions over all other persons 3294
eligible for those appointments and standing on the relevant 3295
eligible list with a rating equal to that of the person qualifying 3296
for veteran's preference. Appointments to all positions in the 3297
classified service, that are not filled by promotion, transfer, or 3298
reduction, as provided in sections 124.01 to 124.64 of the Revised 3299
Code and the rules of the director prescribed under those 3300
sections, shall be made only from those persons whose names are 3301
certified to the appointing authority, and no employment, except 3302
as provided in those sections, shall be otherwise given in the 3303
classified service of this state or any political subdivision of 3304

the state. 3305

(C) All original and promotional appointments, including 3306
appointments made pursuant to section 124.30 of the Revised Code, 3307
shall be for a probationary period, not less than sixty days nor 3308
more than one year, to be fixed by the rules of the director, 3309
except as provided in section 124.231 of the Revised Code, and 3310
except for original appointments to a police department as a 3311
police officer or to a fire department as a firefighter which 3312
shall be for a probationary period of one year. No appointment or 3313
promotion is final until the appointee has satisfactorily served 3314
the probationary period. If the service of the probationary 3315
employee is unsatisfactory, the employee may be removed or reduced 3316
at any time during the probationary period. If the appointing 3317
authority decides to remove a probationary employee in the service 3318
of the state, the appointing authority shall communicate to the 3319
director the reason for that decision. A probationary employee 3320
duly removed or reduced in position for unsatisfactory service 3321
does not have the right to appeal the removal or reduction under 3322
section 124.34 of the Revised Code. 3323

Sec. 124.38. Each of the following shall be entitled for each 3324
completed eighty hours of service to sick leave of four and 3325
six-tenths hours with pay: 3326

(A) Employees in the various offices of the county, 3327
municipal, and civil service township service, other than 3328
superintendents and management employees, as defined in section 3329
5126.20 of the Revised Code, of county boards of ~~mental~~ 3330
~~retardation and~~ developmental disabilities; 3331

(B) Employees of any state college or university; 3332

(C) Employees of any board of education for whom sick leave 3333
is not provided by section 3319.141 of the Revised Code. 3334

Employees may use sick leave, upon approval of the 3335
responsible administrative officer of the employing unit, for 3336
absence due to personal illness, pregnancy, injury, exposure to 3337
contagious disease that could be communicated to other employees, 3338
and illness, injury, or death in the employee's immediate family. 3339
Unused sick leave shall be cumulative without limit. When sick 3340
leave is used, it shall be deducted from the employee's credit on 3341
the basis of one hour for every one hour of absence from 3342
previously scheduled work. 3343

The previously accumulated sick leave of an employee who has 3344
been separated from the public service shall be placed to the 3345
employee's credit upon the employee's re-employment in the public 3346
service, provided that the re-employment takes place within ten 3347
years of the date on which the employee was last terminated from 3348
public service. This ten-year period shall be tolled for any 3349
period during which the employee holds elective public office, 3350
whether by election or by appointment. 3351

An employee who transfers from one public agency to another 3352
shall be credited with the unused balance of the employee's 3353
accumulated sick leave up to the maximum of the sick leave 3354
accumulation permitted in the public agency to which the employee 3355
transfers. 3356

The appointing authorities of the various offices of the 3357
county service may permit all or any part of a person's accrued 3358
but unused sick leave acquired during service with any regional 3359
council of government established in accordance with Chapter 167. 3360
of the Revised Code to be credited to the employee upon a transfer 3361
as if the employee were transferring from one public agency to 3362
another under this section. 3363

The appointing authority of each employing unit shall require 3364
an employee to furnish a satisfactory written, signed statement to 3365
justify the use of sick leave. If medical attention is required, a 3366

certificate stating the nature of the illness from a licensed 3367
physician shall be required to justify the use of sick leave. 3368
Falsification of either a written, signed statement or a 3369
physician's certificate shall be grounds for disciplinary action, 3370
including dismissal. 3371

This section does not interfere with existing unused sick 3372
leave credit in any agency of government where attendance records 3373
are maintained and credit has been given employees for unused sick 3374
leave. 3375

Notwithstanding this section or any other section of the 3376
Revised Code, any appointing authority of a county office, 3377
department, commission, board, or body may, upon notification to 3378
the board of county commissioners, establish alternative schedules 3379
of sick leave for employees of the appointing authority for whom 3380
the state employment relations board has not established an 3381
appropriate bargaining unit pursuant to section 4117.06 of the 3382
Revised Code, as long as the alternative schedules are not 3383
inconsistent with the provisions of at least one collective 3384
bargaining agreement covering other employees of that appointing 3385
authority, if such a collective bargaining agreement exists. If no 3386
such collective bargaining agreement exists, an appointing 3387
authority may, upon notification to the board of county 3388
commissioners, establish an alternative schedule of sick leave for 3389
its employees that does not diminish the sick leave benefits 3390
granted by this section. 3391

Sec. 124.381. Each employee of the department of 3392
rehabilitation and correction, the department of mental health, 3393
the department of ~~mental retardation and~~ developmental 3394
disabilities, the Ohio veteran's home agency, or the Ohio schools 3395
for the deaf and blind, and each employee of the department of 3396
youth services as established in division (A) of section 124.14 of 3397

the Revised Code who suffers bodily injury inflicted by an inmate, 3398
patient, client, youth, or student in the facilities of these 3399
agencies during the time the employee is lawfully carrying out the 3400
assigned duties of the employee's position shall be paid the 3401
employee's total rate of pay during the period the employee is 3402
disabled as a result of that injury, but in no case to exceed one 3403
hundred twenty work days, in lieu of workers' compensation. Pay 3404
made according to this section shall not be charged to the 3405
employee's accumulation of sick leave credit. 3406

The director of administrative services shall adopt rules for 3407
the administration of the occupational injury leave program. The 3408
rules shall include, but not be limited to, provisions for 3409
determining a disability, for filing a claim for leave under this 3410
section, and for allowing or denying claims for the leave. 3411

During the time an employee is receiving injury compensation 3412
as provided in this section, the employee shall be exempt from the 3413
accumulation of vacation leave credit under section 124.134 of the 3414
Revised Code but shall continue to receive sick leave credit and 3415
personal leave credit under sections 124.382 and 124.386 of the 3416
Revised Code. 3417

In any case when an employee's disability, as covered by this 3418
section, extends beyond one hundred twenty work days, the employee 3419
shall immediately become subject to sections 124.382 and 124.385 3420
of the Revised Code regarding sick leave and disability leave 3421
benefits. 3422

An appointing authority may apply to the director of 3423
administrative services to grant injury leave in accordance with 3424
this section to law enforcement personnel employed by the agency. 3425

Sec. 125.602. (A) The department of ~~mental retardation and~~ 3426
developmental disabilities, the department of mental health, the 3427
department of job and family services, the rehabilitation services 3428

commission, and any other state or governmental agency or 3429
community rehabilitation program responsible for the provision of 3430
rehabilitation and vocational educational services to persons with 3431
work-limiting disabilities may, through written agreement, 3432
cooperate in providing resources to the department of 3433
administrative services for the operation of the office of 3434
procurement from community rehabilitation programs. These 3435
resources may include, but are not limited to, leadership and 3436
assistance in dealing with the societal aspects of meeting the 3437
needs of persons with work-limiting disabilities. 3438

(B) The office and all governmental entities that administer 3439
socioeconomic programs may enter into contractual agreements, 3440
cooperative working relationships, or other arrangements that are 3441
necessary for effective coordination and realization of the 3442
objectives of these entities. 3443

Sec. 125.603. (A) The office of procurement from community 3444
rehabilitation programs shall do the following in addition to 3445
other duties specified in sections 125.60 to 125.6012 of the 3446
Revised Code: 3447

(1) Establish, maintain, and periodically update a 3448
procurement list of approved supplies and services available from 3449
qualified nonprofit agencies; 3450

(2) Monitor the procurement practices of government ordering 3451
offices to ensure compliance with sections 125.60 to 125.6012 of 3452
the Revised Code; 3453

(3) In cooperation with qualified nonprofit agencies, 3454
government ordering offices, the department of ~~mental retardation~~ 3455
~~and~~ developmental disabilities, the department of mental health, 3456
the department of job and family services, and the rehabilitation 3457
services commission, develop and recommend to the director of 3458
administrative services rules the director shall adopt in 3459

accordance with Chapter 119. of the Revised Code for the effective 3460
and efficient administration of sections 125.60 to 125.6012 of the 3461
Revised Code; 3462

(4) Prepare a report of its activities by the last day of 3463
December of each year. The report shall be posted electronically 3464
on the office's web site. 3465

(B) The office of procurement from community rehabilitation 3466
programs may enter into contractual agreements and establish pilot 3467
programs to further the objectives of sections 125.60 to 125.6012 3468
of the Revised Code. 3469

Sec. 126.32. (A) Any officer of any state agency may 3470
authorize reimbursement for travel, including the costs of 3471
transportation, for lodging, and for meals to any person who is 3472
interviewing for a position that is classified in pay range 13 or 3473
above in schedule E-1 or schedule E-1 for step seven only, or is 3474
classified in schedule E-2, of section 124.152 of the Revised 3475
Code. 3476

(B) If a person is appointed to a position listed in section 3477
121.03 of the Revised Code, to the position of chairperson of the 3478
industrial commission, adjutant general, chancellor of the Ohio 3479
board of regents, superintendent of public instruction, 3480
chairperson of the public utilities commission of Ohio, or 3481
director of the state lottery commission, to a position holding a 3482
fiduciary relationship to the governor, to a position of an 3483
appointing authority of the department of mental health, ~~mental~~ 3484
~~retardation~~ and developmental disabilities, or rehabilitation and 3485
correction, to a position of superintendent in the department of 3486
youth services, or to a position under section 122.05 of the 3487
Revised Code, and if that appointment requires a permanent change 3488
of residence, the appropriate state agency may reimburse the 3489
person for the person's actual and necessary expenses, including 3490

the cost of in-transit storage of household goods and personal 3491
effects, of moving the person and members of the person's 3492
immediate family residing in the person's household, and of moving 3493
their household goods and personal effects, to the person's new 3494
location. 3495

Until that person moves the person's permanent residence to 3496
the new location, but not for a period that exceeds thirty 3497
consecutive days, the state agency may reimburse the person for 3498
the person's temporary living expenses at the new location that 3499
the person has incurred on behalf of the person and members of the 3500
person's immediate family residing in the person's household. In 3501
addition, the state agency may reimburse that person for the 3502
person's travel expenses between the new location and the person's 3503
former residence during this period for a maximum number of trips 3504
specified by rule of the director of budget and management, but 3505
the state agency shall not reimburse the person for travel 3506
expenses incurred for those trips by members of the person's 3507
immediate family. With the prior written approval of the director, 3508
the maximum thirty-day period for temporary living expenses may be 3509
extended for a person appointed to a position under section 122.05 3510
of the Revised Code. 3511

The director of development may reimburse a person appointed 3512
to a position under section 122.05 of the Revised Code for the 3513
person's actual and necessary expenses of moving the person and 3514
members of the person's immediate family residing in the person's 3515
household back to the United States and may reimburse a person 3516
appointed to such a position for the cost of storage of household 3517
goods and personal effects of the person and the person's 3518
immediate family while the person is serving outside the United 3519
States, if the person's office outside the United States is the 3520
person's primary job location. 3521

(C) All reimbursement under division (A) or (B) of this 3522

section shall be made in the manner, and at rates that do not 3523
exceed those, provided by rule of the director of budget and 3524
management in accordance with section 111.15 of the Revised Code. 3525
Reimbursements may be made under division (B) of this section 3526
directly to the persons who incurred the expenses or directly to 3527
the providers of goods or services the persons receive, as 3528
determined by the director of budget and management. 3529

Sec. 127.16. (A) Upon the request of either a state agency or 3530
the director of budget and management and after the controlling 3531
board determines that an emergency or a sufficient economic reason 3532
exists, the controlling board may approve the making of a purchase 3533
without competitive selection as provided in division (B) of this 3534
section. 3535

(B) Except as otherwise provided in this section, no state 3536
agency, using money that has been appropriated to it directly, 3537
shall: 3538

(1) Make any purchase from a particular supplier, that would 3539
amount to fifty thousand dollars or more when combined with both 3540
the amount of all disbursements to the supplier during the fiscal 3541
year for purchases made by the agency and the amount of all 3542
outstanding encumbrances for purchases made by the agency from the 3543
supplier, unless the purchase is made by competitive selection or 3544
with the approval of the controlling board; 3545

(2) Lease real estate from a particular supplier, if the 3546
lease would amount to seventy-five thousand dollars or more when 3547
combined with both the amount of all disbursements to the supplier 3548
during the fiscal year for real estate leases made by the agency 3549
and the amount of all outstanding encumbrances for real estate 3550
leases made by the agency from the supplier, unless the lease is 3551
made by competitive selection or with the approval of the 3552
controlling board. 3553

(C) Any person who authorizes a purchase in violation of 3554
division (B) of this section shall be liable to the state for any 3555
state funds spent on the purchase, and the attorney general shall 3556
collect the amount from the person. 3557

(D) Nothing in division (B) of this section shall be 3558
construed as: 3559

(1) A limitation upon the authority of the director of 3560
transportation as granted in sections 5501.17, 5517.02, and 3561
5525.14 of the Revised Code; 3562

(2) Applying to medicaid provider agreements under Chapter 3563
5111. of the Revised Code or payments or provider agreements under 3564
the disability medical assistance program established under 3565
Chapter 5115. of the Revised Code; 3566

(3) Applying to the purchase of examinations from a sole 3567
supplier by a state licensing board under Title XLVII of the 3568
Revised Code; 3569

(4) Applying to entertainment contracts for the Ohio state 3570
fair entered into by the Ohio expositions commission, provided 3571
that the controlling board has given its approval to the 3572
commission to enter into such contracts and has approved a total 3573
budget amount for such contracts as agreed upon by commission 3574
action, and that the commission causes to be kept itemized records 3575
of the amounts of money spent under each contract and annually 3576
files those records with the clerk of the house of representatives 3577
and the clerk of the senate following the close of the fair; 3578

(5) Limiting the authority of the chief of the division of 3579
mineral resources management to contract for reclamation work with 3580
an operator mining adjacent land as provided in section 1513.27 of 3581
the Revised Code; 3582

(6) Applying to investment transactions and procedures of any 3583
state agency, except that the agency shall file with the board the 3584

name of any person with whom the agency contracts to make, broker, 3585
service, or otherwise manage its investments, as well as the 3586
commission, rate, or schedule of charges of such person with 3587
respect to any investment transactions to be undertaken on behalf 3588
of the agency. The filing shall be in a form and at such times as 3589
the board considers appropriate. 3590

(7) Applying to purchases made with money for the per cent 3591
for arts program established by section 3379.10 of the Revised 3592
Code; 3593

(8) Applying to purchases made by the rehabilitation services 3594
commission of services, or supplies, that are provided to persons 3595
with disabilities, or to purchases made by the commission in 3596
connection with the eligibility determinations it makes for 3597
applicants of programs administered by the social security 3598
administration; 3599

(9) Applying to payments by the department of job and family 3600
services under section 5111.13 of the Revised Code for group 3601
health plan premiums, deductibles, coinsurance, and other 3602
cost-sharing expenses; 3603

(10) Applying to any agency of the legislative branch of the 3604
state government; 3605

(11) Applying to agreements or contracts entered into under 3606
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the 3607
Revised Code; 3608

(12) Applying to purchases of services by the adult parole 3609
authority under section 2967.14 of the Revised Code or by the 3610
department of youth services under section 5139.08 of the Revised 3611
Code; 3612

(13) Applying to dues or fees paid for membership in an 3613
organization or association; 3614

(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	3615 3616
(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;	3617 3618 3619 3620
(16) Applying to purchases of tickets for passenger air transportation;	3621 3622
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	3623 3624 3625
(18) Applying to the judicial branch of state government;	3626
(19) Applying to purchases of liquor for resale by the division of liquor control;	3627 3628
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	3629 3630 3631
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	3632 3633 3634 3635
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	3636 3637 3638
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	3639 3640
(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;	3641 3642 3643 3644

(25) Applying to purchases from a qualified nonprofit agency	3645
pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of	3646
the Revised Code;	3647
(26) Applying to payments by the department of job and family	3648
services to the United States department of health and human	3649
services for printing and mailing notices pertaining to the tax	3650
refund offset program of the internal revenue service of the	3651
United States department of the treasury;	3652
(27) Applying to contracts entered into by the department of	3653
mental retardation and developmental disabilities under section	3654
5123.18 of the Revised Code;	3655
(28) Applying to payments made by the department of mental	3656
health under a physician recruitment program authorized by section	3657
5119.101 of the Revised Code;	3658
(29) Applying to contracts entered into with persons by the	3659
director of commerce for unclaimed funds collection and remittance	3660
efforts as provided in division (F) of section 169.03 of the	3661
Revised Code. The director shall keep an itemized accounting of	3662
unclaimed funds collected by those persons and amounts paid to	3663
them for their services.	3664
(30) Applying to purchases made by a state institution of	3665
higher education in accordance with the terms of a contract	3666
between the vendor and an inter-university purchasing group	3667
comprised of purchasing officers of state institutions of higher	3668
education;	3669
(31) Applying to the department of job and family services'	3670
purchases of health assistance services under the children's	3671
health insurance program part I provided for under section 5101.50	3672
of the Revised Code, the children's health insurance program part	3673
II provided for under section 5101.51 of the Revised Code, or the	3674
children's health insurance program part III provided for under	3675

section 5101.52 of the Revised Code, or the children's buy-in 3676
program provided for under sections 5101.5211 to 5101.5216 of the 3677
Revised Code; 3678

(32) Applying to payments by the attorney general from the 3679
reparations fund to hospitals and other emergency medical 3680
facilities for performing medical examinations to collect physical 3681
evidence pursuant to section 2907.28 of the Revised Code; 3682

(33) Applying to contracts with a contracting authority or 3683
administrative receiver under division (B) of section 5126.056 of 3684
the Revised Code; 3685

(34) Applying to reimbursements paid to the United States 3686
department of veterans affairs for pharmaceutical and patient 3687
supply purchases made on behalf of the Ohio veterans' home agency; 3688

(35) Applying to agreements entered into with terminal 3689
distributors of dangerous drugs under section 173.79 of the 3690
Revised Code; 3691

(36) Applying to payments by the superintendent of the bureau 3692
of criminal identification and investigation to the federal bureau 3693
of investigation for criminal records checks pursuant to section 3694
109.572 of the Revised Code. 3695

(E) When determining whether a state agency has reached the 3696
cumulative purchase thresholds established in divisions (B)(1) and 3697
(2) of this section, all of the following purchases by such agency 3698
shall not be considered: 3699

(1) Purchases made through competitive selection or with 3700
controlling board approval; 3701

(2) Purchases listed in division (D) of this section; 3702

(3) For the purposes of the threshold of division (B)(1) of 3703
this section only, leases of real estate. 3704

(F) As used in this section, "competitive selection," 3705

"purchase," "supplies," and "services" have the same meanings as 3706
in section 125.01 of the Revised Code. 3707

Sec. 135.801. (A) As used in sections 135.801 to 135.803 of 3708
the Revised Code, "eligible lending institution," "eligible 3709
organization," "investing authority," "residential facility," and 3710
"residential facility linked deposit program" have the same 3711
meanings as in section 5126.51 of the Revised Code. 3712

(B) The board of county commissioners may adopt a resolution 3713
implementing a residential facility linked deposit program under 3714
sections 5126.51 to 5126.62 of the Revised Code if it finds each 3715
of the following: 3716

(1) The county board of ~~mental retardation and~~ developmental 3717
disabilities has adopted a resolution under section 5126.49 of the 3718
Revised Code. 3719

(2) There is a shortage of residential facilities in the 3720
county for individuals with mental retardation or developmental 3721
disabilities. 3722

(3) Eligible organizations, otherwise willing and able to 3723
develop residential facilities in the county, have been unable to 3724
do so because of high interest rates. 3725

(4) Placement of residential facility linked deposits will 3726
assist in financing the development of residential facilities in 3727
the county that otherwise would not be developed because of high 3728
interest rates. 3729

(5) Public moneys of the county are available for purposes of 3730
the residential facility linked deposit program. 3731

(6) At least one eligible lending institution has an office 3732
located within the territorial limits of the county into which the 3733
board may deposit the public moneys of the county. 3734

Sec. 135.802. The board of county commissioners shall include 3735
each of the following in a resolution implementing a residential 3736
facility linked deposit program under sections 5126.51 to 5126.62 3737
of the Revised Code: 3738

(A) Specific findings of fact justifying implementation of 3739
the residential facility linked deposit program in the county; 3740

(B) Guidelines to be followed by the county board of ~~mental~~ 3741
~~retardation and~~ developmental disabilities in establishing 3742
standards under section 5126.49 of the Revised Code for approving 3743
applications for linked deposit loans; 3744

(C) Instructions to the county's investing authority as 3745
necessary for the placement and monitoring of, and for reporting 3746
with regard to, residential facility linked deposits under 3747
sections 5126.59 to 5126.61 of the Revised Code; 3748

(D) Any information the board requires an applicant for a 3749
residential facility linked deposit loan to provide to the county 3750
board of ~~mental retardation and~~ developmental disabilities that 3751
would not otherwise be provided to that board by the applicant 3752
pursuant to sections 5126.51 to 5126.62 of the Revised Code. 3753

The board shall transmit a certified copy of the resolution 3754
to the county board of ~~mental retardation and~~ developmental 3755
disabilities and the county's investing authority, unless the 3756
board is itself that authority. 3757

Sec. 135.803. On receiving a resolution from the county board 3758
of ~~mental retardation and~~ developmental disabilities approving 3759
under section 5126.55 of the Revised Code development of a 3760
proposed residential facility, the board of county commissioners 3761
shall determine whether public moneys of the county are available 3762
for a residential facility linked deposit and shall certify to the 3763
county board of ~~mental retardation and~~ developmental disabilities 3764

either that public moneys are available or that public moneys are 3765
not available. If public moneys are not available the 3766
certification shall indicate the date, if any, on which the board 3767
of county commissioners anticipates that public moneys will be 3768
available. 3769

Sec. 140.01. As used in this chapter: 3770

(A) "Hospital agency" means any public hospital agency or any 3771
nonprofit hospital agency. 3772

(B) "Public hospital agency" means any county, board of 3773
county hospital trustees established pursuant to section 339.02 of 3774
the Revised Code, county hospital commission established pursuant 3775
to section 339.14 of the Revised Code, municipal corporation, new 3776
community authority organized under Chapter 349. of the Revised 3777
Code, joint township hospital district, state or municipal 3778
university or college operating or authorized to operate a 3779
hospital facility, or the state. 3780

(C) "Nonprofit hospital agency" means a corporation or 3781
association not for profit, no part of the net earnings of which 3782
inures or may lawfully inure to the benefit of any private 3783
shareholder or individual, that has authority to own or operate a 3784
hospital facility or provides or is to provide services to one or 3785
more other hospital agencies. 3786

(D) "Governing body" means, in the case of a county, the 3787
board of county commissioners or other legislative body; in the 3788
case of a board of county hospital trustees, the board; in the 3789
case of a county hospital commission, the commission; in the case 3790
of a municipal corporation, the council or other legislative 3791
authority; in the case of a new community authority, its board of 3792
trustees; in the case of a joint township hospital district, the 3793
joint township district hospital board; in the case of a state or 3794
municipal university or college, its board of trustees or board of 3795

directors; in the case of a nonprofit hospital agency, the board 3796
of trustees or other body having general management of the agency; 3797
and, in the case of the state, the director of development or the 3798
Ohio higher educational facility commission. 3799

(E) "Hospital facilities" means buildings, structures and 3800
other improvements, additions thereto and extensions thereof, 3801
furnishings, equipment, and real estate and interests in real 3802
estate, used or to be used for or in connection with one or more 3803
hospitals, emergency, intensive, intermediate, extended, 3804
long-term, or self-care facilities, diagnostic and treatment and 3805
out-patient facilities, facilities related to programs for home 3806
health services, clinics, laboratories, public health centers, 3807
research facilities, and rehabilitation facilities, for or 3808
pertaining to diagnosis, treatment, care, or rehabilitation of 3809
sick, ill, injured, infirm, impaired, disabled, or handicapped 3810
persons, or the prevention, detection, and control of disease, and 3811
also includes education, training, and food service facilities for 3812
health professions personnel, housing facilities for such 3813
personnel and their families, and parking and service facilities 3814
in connection with any of the foregoing; and includes any one, 3815
part of, or any combination of the foregoing; and further includes 3816
site improvements, utilities, machinery, facilities, furnishings, 3817
and any separate or connected buildings, structures, improvements, 3818
sites, utilities, facilities, or equipment to be used in, or in 3819
connection with the operation or maintenance of, or supplementing 3820
or otherwise related to the services or facilities to be provided 3821
by, any one or more of such hospital facilities. 3822

(F) "Costs of hospital facilities" means the costs of 3823
acquiring hospital facilities or interests in hospital facilities, 3824
including membership interests in nonprofit hospital agencies, 3825
costs of constructing hospital facilities, costs of improving one 3826
or more hospital facilities, including reconstructing, 3827

rehabilitating, remodeling, renovating, and enlarging, costs of 3828
equipping and furnishing such facilities, and all financing costs 3829
pertaining thereto, including, without limitation thereto, costs 3830
of engineering, architectural, and other professional services, 3831
designs, plans, specifications and surveys, and estimates of cost, 3832
costs of tests and inspections, the costs of any indemnity or 3833
surety bonds and premiums on insurance, all related direct or 3834
allocable administrative expenses pertaining thereto, fees and 3835
expenses of trustees, depositories, and paying agents for the 3836
obligations, cost of issuance of the obligations and financing 3837
charges and fees and expenses of financial advisors, attorneys, 3838
accountants, consultants and rating services in connection 3839
therewith, capitalized interest on the obligations, amounts 3840
necessary to establish reserves as required by the bond 3841
proceedings, the reimbursement of all moneys advanced or applied 3842
by the hospital agency or others or borrowed from others for the 3843
payment of any item or items of costs of such facilities, and all 3844
other expenses necessary or incident to planning or determining 3845
feasibility or practicability with respect to such facilities, and 3846
such other expenses as may be necessary or incident to the 3847
acquisition, construction, reconstruction, rehabilitation, 3848
remodeling, renovation, enlargement, improvement, equipment, and 3849
furnishing of such facilities, the financing thereof, and the 3850
placing of the same in use and operation, including any one, part 3851
of, or combination of such classes of costs and expenses, and 3852
means the costs of refinancing obligations issued by, or 3853
reimbursement of money advanced by, nonprofit hospital agencies or 3854
others the proceeds of which were used for the payment of costs of 3855
hospital facilities, if the governing body of the public hospital 3856
agency determines that the refinancing or reimbursement advances 3857
the purposes of this chapter, whether or not the refinancing or 3858
reimbursement is in conjunction with the acquisition or 3859
construction of additional hospital facilities. 3860

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

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

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

(J) "Bond proceedings" means one or more ordinances, resolutions, trust agreements, indentures, and other agreements or documents, and amendments and supplements to the foregoing, or any combination thereof, authorizing or providing for the terms, including any variable interest rates, and conditions applicable to, or providing for the security of, obligations and the provisions contained in such obligations.

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

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

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

(N) "Independent living facility" means any self-care

facility or other housing facility designed or used as a residence 3892
for elderly persons. An "independent living facility" does not 3893
include a residential facility, or that part of a residential 3894
facility, that is any of the following: 3895

(1) A hospital required to be certified by section 3727.02 of 3896
the Revised Code; 3897

(2) A nursing home or residential care facility; 3898

(3) An adult care facility; 3899

(4) A hospice licensed under section 3712.04 of the Revised 3900
Code; 3901

(5) A residential facility for the mentally ill licensed by 3902
the department of mental health under section 5119.22 of the 3903
Revised Code; 3904

(6) A facility licensed to provide methadone treatment under 3905
section 3793.11 of the Revised Code; 3906

(7) A facility certified as an alcohol and drug addiction 3907
program under section 3793.06 of the Revised Code; 3908

(8) A residential facility licensed under section 5123.19 of 3909
the Revised Code or a facility providing services under a contract 3910
with the department of ~~mental retardation and~~ developmental 3911
disabilities under section 5123.18 of the Revised Code; 3912

(9) A residential facility used as part of a hospital to 3913
provide housing for staff of the hospital or students pursuing a 3914
course of study at the hospital. 3915

Sec. 140.03. (A) Two or more hospital agencies may enter into 3916
agreements for the acquisition, construction, reconstruction, 3917
rehabilitation, remodeling, renovating, enlarging, equipping, and 3918
furnishing of hospital facilities, or the management, operation, 3919
occupancy, use, maintenance, and repair of hospital facilities, or 3920

for participation in programs, projects, activities, and services 3921
useful to, connected with, supplementing, or otherwise related to 3922
the services provided by, or the operation of, hospital facilities 3923
operated by one or more participating hospital agencies, including 3924
any combination of such purposes, all in such manner as to promote 3925
the public purpose stated in section 140.02 of the Revised Code. A 3926
city health district; general health district; board of alcohol, 3927
drug addiction, and mental health services; county board of ~~mental~~ 3928
~~retardation and~~ developmental disabilities; the department of 3929
mental health; the department of ~~mental retardation and~~ 3930
developmental disabilities; or any public body engaged in the 3931
education or training of health professions personnel may join in 3932
any such agreement for purposes related to its authority under 3933
laws applicable to it, and as such a participant shall be 3934
considered a public hospital agency or hospital agency for the 3935
purposes of this section. 3936

(B) An agreement entered into under authority of this section 3937
shall, where appropriate, provide for: 3938

(1) The manner in which the title to the hospital facilities, 3939
including the sites and interest in real estate pertaining 3940
thereto, is to be held, transferred, or disposed of; 3941

(2) Unless provided for by lease pursuant to section 140.05 3942
of the Revised Code, the method by which such hospital facilities 3943
are to be acquired, constructed, or otherwise improved and by 3944
which they shall be managed, occupied, maintained, and repaired, 3945
including the designation of one of the hospital agencies to have 3946
charge of the details of acquisition, construction, or improvement 3947
pursuant to the contracting procedures prescribed under the law 3948
applicable to one of the participating public hospital agencies; 3949

(3) The management or administration of any such programs, 3950
projects, activities, or services, which may include management or 3951
administration by one of said hospital agencies or a board or 3952

agency thereof; 3953

(4) Annual, or more frequent, reports to the participating 3954
hospital agencies as to the revenues and receipts pertaining to 3955
the subject of the agreement, the expenditures thereof, the status 3956
and application of other funds contributed under such agreement, 3957
and such other matters as may be specified by or pursuant to such 3958
agreement; 3959

(5) The manner of apportionment or sharing of costs of 3960
hospital facilities, any other applicable costs of management, 3961
operation, maintenance, and repair of hospital facilities, and 3962
costs for the programs, projects, activities, and services forming 3963
the subject of the agreement, which apportionment or sharing may 3964
be prescribed in fixed amounts, or determined by ratios, formulas, 3965
or otherwise, and paid as service charges, rentals, or in such 3966
other manner as provided in the agreement, and may include amounts 3967
sufficient to meet the bond service charges and other payments and 3968
deposits required under the bond proceedings for obligations 3969
issued to pay costs of hospital facilities. A hospital agency may 3970
commit itself to make such payments at least for so long as any 3971
such obligations are outstanding. In the apportionment, different 3972
classes of costs or expenses may be apportioned to one or more, 3973
all or less than all, of the participating hospital agencies as 3974
determined under such agreement. 3975

(C) An agreement entered into under authority of this section 3976
may provide for: 3977

(1) An orderly process for making determinations or advising 3978
as to planning, execution, implementation, and operation, which 3979
may include designating one of the hospital agencies, or a board 3980
thereof, for any of such purposes, provisions for a committee, 3981
board, or commission, and for representation thereon, or as may 3982
otherwise be provided; 3983

(2) Securing necessary personnel, including participation of personnel from the respective hospital agencies;	3984 3985
(3) Standards or conditions for the admission or participation of patients and physicians;	3986 3987
(4) Conditions for admittance of other hospital agencies to participation under the agreement;	3988 3989
(5) Fixing or establishing the method of determining charges to be made for particular services;	3990 3991
(6) The manner of amending, supplementing, terminating, or withdrawal or removal of any party from, the agreement, and the term of the agreement, or an indefinite term;	3992 3993 3994
(7) Designation of the applicants for or recipients of any federal, state, or other aid, assistance, or loans available by reason of any activities conducted under the agreement;	3995 3996 3997
(8) Designation of one or more of the participating hospital agencies to maintain, prepare, and submit, on behalf of all parties to the agreement, any or all records and reports with regard to the activities conducted under the agreement;	3998 3999 4000 4001
(9) Any incidental use of the hospital facilities, or services thereof, by participating public hospital agencies for any of their lawful purposes, which incidental use does not impair the character of the facilities as hospital facilities for any purpose of this chapter;	4002 4003 4004 4005 4006
(10) Such other matters as the parties thereto may agree upon for the purposes of division (A) of this section.	4007 4008
(D) For the purpose of paying or contributing its share under an agreement made under this section, a public hospital agency may:	4009 4010 4011
(1) Expend any moneys from its general fund, and from any other funds not otherwise restricted by law, but including funds	4012 4013

for permanent improvements of hospital facilities of such public 4014
hospital agency where the contribution is to be made toward the 4015
costs of hospital facilities under the agreement, and including 4016
funds derived from levies for, or receipts available for, 4017
operating expenses of hospital facilities or services of such 4018
public hospital agency where the contribution or payment is to be 4019
made toward operating expenses of the hospital facilities or 4020
services under the agreement or for the services provided thereby; 4021

(2) Issue obligations under Chapter 133. or section 140.06, 4022
339.14, 339.15, 513.12, or 3345.12 of the Revised Code, or Section 4023
3 of Article XVIII, Ohio Constitution, if applicable to such 4024
public hospital agency, to pay costs of hospital facilities, or 4025
issue obligations under any other provision of law authorizing 4026
such public hospital agency to issue obligations for any costs of 4027
hospital facilities; 4028

(3) Levy taxes under Chapter 5705. or section 513.13 or 4029
3709.29 of the Revised Code, if applicable to such public hospital 4030
agency, provided that the purpose of such levy may include the 4031
provision of funds for either or both permanent improvements and 4032
current expenses if required for the contribution or payment of 4033
such hospital agency under such agreement, and each such public 4034
hospital agency may issue notes in anticipation of any such levy, 4035
pursuant to the procedures provided in section 5705.191 of the 4036
Revised Code if the levy is solely for current expenses, and in 4037
section 5705.193 of the Revised Code if the levy is all or in part 4038
for permanent improvements; 4039

(4) Contribute real and personal property or interest therein 4040
without necessity for competitive bidding or public auction on 4041
disposition of such property. 4042

(E) Any funds provided by public hospital agencies that are 4043
parties to an agreement entered into under this section shall be 4044
transferred to and placed in a separate fund or funds of such 4045

participating public hospital agency as is designated under the 4046
agreement. The funds shall be applied for the purposes provided in 4047
such agreement and are subject to audit. Pursuant to any 4048
determinations to be made under such agreement, the funds shall be 4049
deposited, invested, and disbursed under the provisions of law 4050
applicable to the public hospital agency in whose custody the 4051
funds are held. This division is subject to the provisions of any 4052
applicable bond proceedings under section 133.08, 140.06, 339.15, 4053
or 3345.12 of the Revised Code or Section 3 of Article XVIII, Ohio 4054
Constitution. The records and reports of such public hospital 4055
agency under Chapter 117. of the Revised Code and sections 3702.51 4056
to 3702.62 of the Revised Code, with respect to the funds shall be 4057
sufficient without necessity for reports thereon by the other 4058
public hospital agencies participating under such agreement. 4059

(F)(1) Prior to its entry into any such agreement, the public 4060
hospital agency must determine, and set forth in a resolution or 4061
ordinance, that the contribution to be made by it under such 4062
agreement will be fair consideration for value and benefit to be 4063
derived by it under such agreement and that the agreement will 4064
promote the public purpose stated in section 140.02 of the Revised 4065
Code. 4066

(2) If the agreement is with a board of county commissioners, 4067
board of county hospital trustees, or county hospital commission 4068
and is an initial agreement for the acquisition or operation of a 4069
county hospital operated by a board of county hospital trustees 4070
under section 339.06 of the Revised Code, the governing body of 4071
the public hospital agency shall submit the agreement, accompanied 4072
by the resolution or ordinance, to the board of county 4073
commissioners for review pursuant to section 339.091 of the 4074
Revised Code. The agreement may be entered into only if the board 4075
of county commissioners adopts a resolution under that section. 4076
The requirements of division (F)(2) of this section do not apply 4077

to the agreement if one or more hospitals classified as general 4078
hospitals by the public health council under section 3701.07 of 4079
the Revised Code are operating in the same county as the county 4080
hospital. 4081

Sec. 140.05. (A)(1) A public hospital agency may lease any 4082
hospital facility to one or more hospital agencies for use as a 4083
hospital facility, or to one or more city or general health 4084
districts; boards of alcohol, drug addiction, and mental health 4085
services; county boards of ~~mental retardation and~~ developmental 4086
disabilities; the department of mental health; or the department 4087
of ~~mental retardation and~~ developmental disabilities, for uses 4088
which they are authorized to make thereof under the laws 4089
applicable to them, or any combination of them, and they may lease 4090
such facilities to or from a hospital agency for such uses, upon 4091
such terms and conditions as are agreed upon by the parties. Such 4092
lease may be for a term of fifty years or less and may provide for 4093
an option of the lessee to renew for a term of fifty years or 4094
less, as therein set forth. Prior to entering into such lease, the 4095
governing body of any public hospital agency granting such lease 4096
must determine, and set forth in a resolution or ordinance, that 4097
such lease will promote the public purpose stated in section 4098
140.02 of the Revised Code and that the lessor public hospital 4099
agency will be duly benefited thereby. 4100

(2) If the lease is with a board of county commissioners, 4101
board of county hospital trustees, or county hospital commission 4102
and is an agreement for the initial lease of a county hospital 4103
operated by a board of county hospital trustees under section 4104
339.06 of the Revised Code, the governing body of the public 4105
hospital agency shall submit the agreement, accompanied by the 4106
resolution or ordinance, to the board of county commissioners for 4107
review pursuant to section 339.091 of the Revised Code. The 4108
agreement may be entered into only if the board of county 4109

commissioners adopts a resolution under that section. The 4110
requirements of division (A)(2) of this section do not apply to 4111
the lease if one or more hospitals classified as general hospitals 4112
by the public health council under section 3701.07 of the Revised 4113
Code are operating in the same county as the county hospital. 4114

(B) Any lease entered into pursuant to this section shall 4115
provide that in the event that the lessee fails faithfully and 4116
efficiently to administer, maintain, and operate such leased 4117
facilities as hospital facilities, or fails to provide the 4118
services thereof without regard to race, creed, color, or national 4119
origin, or fails to require that any hospital agency using such 4120
facilities or the services thereof shall not discriminate by 4121
reason of race, creed, color, or national origin, after an 4122
opportunity to be heard upon written charges, said lease may be 4123
terminated at the time, in the manner and with consequences 4124
therein provided. If any such lease does not contain terms to the 4125
effect provided in this division, it shall nevertheless be deemed 4126
to contain such terms which shall be implemented as determined by 4127
the governing body of the lessor. 4128

(C) Such lease may provide for rentals commencing at any time 4129
agreed upon, or advance rental, and continuing for such period 4130
therein provided, notwithstanding and without diminution, rebate, 4131
or setoff by reason of time of availability of the hospital 4132
facility for use, delays in construction, failure of completion, 4133
damage or destruction of the hospital facilities, or for any other 4134
reason. 4135

(D) Such lease may provide for the sale or transfer of title 4136
of the leased facilities pursuant to an option to purchase, 4137
lease-purchase, or installment purchase upon terms therein 4138
provided or to be determined as therein provided, which may 4139
include provision for the continued use thereof as a hospital 4140
facility for some reasonable period, taking into account efficient 4141

useful life and other factors, as is provided therein. 4142

(E) Such lease may be entered as part of or in connection 4143
with an agreement pursuant to section 140.03 of the Revised Code. 4144
Any hospital facilities which are the subject of an agreement 4145
entered into under section 140.03 of the Revised Code may be 4146
leased pursuant to this section. 4147

(F) If land acquired by a public hospital agency for a 4148
hospital facility is adjacent to an existing hospital facility 4149
owned by another hospital agency, the public hospital agency may, 4150
in connection with such acquisition or the leasing of such land 4151
and hospital facilities thereon to one or more hospital agencies, 4152
enter into an agreement with the hospital agency which owns such 4153
adjacent hospital facility for the use of common walls in the 4154
construction, operation, or maintenance of hospital facilities of 4155
the public hospital agency. For the purpose of construction, 4156
operation, or maintenance of hospital facilities, a public 4157
hospital agency may acquire by purchase, gift, lease, lease with 4158
option to purchase, lease-purchase, or installment purchase, 4159
easement deed, or other agreement, real estate and interests in 4160
real estate, including rights to use space over, under or upon 4161
real property owned by others, and support, access, common wall, 4162
and other rights in connection therewith. Any public hospital 4163
agency or other political subdivision or any public agency, board, 4164
commission, institution, body, or instrumentality may grant such 4165
real estate, interests, or rights to any hospital agency upon such 4166
terms as are agreed upon without necessity for competitive bidding 4167
or public auction. 4168

Sec. 145.012. (A) "Public employee," as defined in division 4169
(A) of section 145.01 of the Revised Code, does not include any 4170
person: 4171

(1) Who is employed by a private, temporary-help service and 4172

performs services under the direction of a public employer or is	4173
employed on a contractual basis as an independent contractor under	4174
a personal service contract with a public employer;	4175
(2) Who is an emergency employee serving on a temporary basis	4176
in case of fire, snow, earthquake, flood, or other similar	4177
emergency;	4178
(3) Who is employed in a program established pursuant to the	4179
"Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A.	4180
1501;	4181
(4) Who is an appointed member of either the motor vehicle	4182
salvage dealers board or the motor vehicle dealer's board whose	4183
rate and method of payment are determined pursuant to division (J)	4184
of section 124.15 of the Revised Code;	4185
(5) Who is employed as an election worker and paid less than	4186
five hundred dollars per calendar year for that service;	4187
(6) Who is employed as a firefighter in a position requiring	4188
satisfactory completion of a firefighter training course approved	4189
under former section 3303.07 or section 4765.55 of the Revised	4190
Code or conducted under section 3737.33 of the Revised Code except	4191
for the following:	4192
(a) Any firefighter who has elected under section 145.013 of	4193
the Revised Code to remain a contributing member of the public	4194
employees retirement system;	4195
(b) Any firefighter who was eligible to transfer from the	4196
public employees retirement system to the Ohio police and fire	4197
pension fund under section 742.51 or 742.515 of the Revised Code	4198
and did not elect to transfer;	4199
(c) Any firefighter who has elected under section 742.516 of	4200
the Revised Code to transfer from the Ohio police and fire pension	4201
fund to the public employees retirement system.	4202

(7) Who is a member of the board of health of a city or 4203
general health district, which pursuant to sections 3709.051 and 4204
3709.07 of the Revised Code includes a combined health district, 4205
and whose compensation for attendance at meetings of the board is 4206
set forth in division (B) of section 3709.02 or division (B) of 4207
section 3709.05 of the Revised Code, as appropriate; 4208

(8) Who participates in an alternative retirement plan 4209
established under Chapter 3305. of the Revised Code; 4210

(9) Who is a member of the board of directors of a sanitary 4211
district established under Chapter 6115. of the Revised Code. 4212

(B) No inmate of a correctional institution operated by the 4213
department of rehabilitation and correction, no patient in a 4214
hospital for the mentally ill or criminally insane operated by the 4215
department of mental health, no resident in an institution for the 4216
mentally retarded operated by the department of ~~mental retardation~~ 4217
~~and~~ developmental disabilities, no resident admitted as a patient 4218
of a veterans' home operated under Chapter 5907. of the Revised 4219
Code, and no resident of a county home shall be considered as a 4220
public employee for the purpose of establishing membership or 4221
calculating service credit or benefits under this chapter. Nothing 4222
in this division shall be construed to affect any service credit 4223
attained by any person who was a public employee before becoming 4224
an inmate, patient, or resident at any institution listed in this 4225
division, or the payment of any benefit for which such a person or 4226
such a person's beneficiaries otherwise would be eligible. 4227

Sec. 145.297. (A) As used in this section, "employing unit" 4228
means: 4229

(1) A municipal corporation, agency of a municipal 4230
corporation designated by the legislative authority, park 4231
district, conservancy district, sanitary district, health 4232
4233

district, township, department of a township designated by the 4234
board of township trustees, metropolitan housing authority, public 4235
library, county law library, union cemetery, joint hospital, or 4236
other political subdivision or unit of local government. 4237

(2) With respect to state employees, any entity of the state 4238
including any department, agency, institution of higher education, 4239
board, bureau, commission, council, office, or administrative body 4240
or any part of such entity that is designated by the entity as an 4241
employing unit. 4242

(3)(a) With respect to employees of a board of alcohol, drug 4243
addiction, and mental health services, that board. 4244

(b) With respect to employees of a county board of ~~mental~~ 4245
~~retardation and~~ developmental disabilities, that board. 4246

(c) With respect to other county employees, the county or any 4247
county agency designated by the board of county commissioners. 4248

(4) In the case of an employee whose employing unit is in 4249
question, the employing unit is the unit through whose payroll the 4250
employee is paid. 4251

(B) An employing unit may establish a retirement incentive 4252
plan for its eligible employees. In the case of a county or county 4253
agency, decisions on whether to establish a retirement incentive 4254
plan for any employees other than employees of a board of alcohol, 4255
drug addiction, and mental health services or county board of 4256
~~mental retardation and~~ developmental disabilities and on the terms 4257
of the plan shall be made by the board of county commissioners. In 4258
the case of a municipal corporation or an agency of a municipal 4259
corporation, decisions on whether to establish a retirement 4260
incentive plan and on the terms of the plan shall be made by the 4261
legislative authority. 4262

All terms of a retirement incentive plan shall be in writing. 4263

A retirement incentive plan shall provide for purchase by the 4264
employing unit of service credit for eligible employees who elect 4265
to participate in the plan and for payment by the employing unit 4266
of the entire cost of the service credit purchased. 4267

Every retirement incentive plan shall remain in effect for at 4268
least one year. The employing unit shall give employees at least 4269
thirty days' notice before terminating the plan. 4270

Every retirement incentive plan shall include provisions for 4271
the timely and impartial resolution of grievances and disputes 4272
arising under the plan. 4273

No employing unit shall have more than one retirement 4274
incentive plan in effect at any time. 4275

(C) Any classified or unclassified employee of the employing 4276
unit who is a member of the public employees retirement system 4277
shall be eligible to participate in the retirement incentive plan 4278
established by the employee's employing unit if the employee meets 4279
the following criteria: 4280

(1) The employee is not any of the following: 4281

(a) An elected official; 4282

(b) A member of a board or commission; 4283

(c) A person elected to serve a term of fixed length; 4284

(d) A person appointed to serve a term of fixed length, other 4285
than a person appointed and employed by the person's employing 4286
unit. 4287

(2) The employee is or will be eligible to retire under 4288
section 145.32, 145.34, 145.37, or division (A) of section 145.33 4289
of the Revised Code on or before the date of termination of the 4290
retirement incentive plan. Service credit to be purchased for the 4291
employee under the retirement incentive plan shall be included in 4292
making such determination. 4293

(3) The employee agrees to retire under section 145.32, 4294
145.34, 145.37, or division (A) of section 145.33 of the Revised 4295
Code within ninety days after receiving notice from the public 4296
employees retirement system that service credit has been purchased 4297
for the employee under this section. 4298

Participation in the plan shall be available to all eligible 4299
employees except that the employing unit may limit the number of 4300
participants in the plan to a specified percentage of its 4301
employees who are members of the public employees retirement 4302
system on the date the plan goes into effect. The percentage shall 4303
not be less than five per cent of such employees. If participation 4304
is limited, employees with more total service credit have the 4305
right to elect to participate before employees with less total 4306
service credit. In the case of employees with the same total 4307
service credit, employees with a greater length of service with 4308
the employing unit have the right to elect to participate before 4309
employees with less service with the employing unit. Employees 4310
with less than eighteen months of service with the employing unit 4311
have the right to elect to participate only after all other 4312
eligible employees have been given the opportunity to elect to 4313
participate. For the purpose of determining which employees may 4314
participate in a plan, total service credit includes service 4315
credit purchased by the employee under this chapter after the date 4316
on which the plan is established. 4317

A retirement incentive plan that limits participation may 4318
provide that an employee who does not notify the employing unit of 4319
the employee's decision to participate in the plan within a 4320
specified period of time will lose priority to participate in the 4321
plan ahead of other employees with less seniority. The time given 4322
to an employee to elect to participate ahead of other employees 4323
shall not be less than thirty days after the employee receives 4324
written notice that the employee may participate in the plan. 4325

(D) A retirement incentive plan shall provide for purchase of 4326
the same amount of service credit for each participating employee, 4327
except that the employer may not purchase more service credit for 4328
any employee than the lesser of the following: 4329

(1) Five years of service credit; 4330

(2) An amount of service credit equal to one-fifth of the 4331
total service credited to the participant under this chapter, 4332
exclusive of service credit purchased under this section. 4333

For each year of service credit purchased under this section, 4334
the employing unit shall pay an amount equal to the additional 4335
liability resulting from the purchase of that year of service 4336
credit, as determined by an actuary employed by the public 4337
employees retirement board. 4338

(E) Upon the election by an eligible employee to participate 4339
in the retirement incentive plan, the employee and the employing 4340
unit shall agree upon a date for payment or contracting for 4341
payment in installments to the public employees retirement system 4342
of the cost of the service credit to be purchased. The employing 4343
unit shall submit to the public employees retirement system a 4344
written request for a determination of the cost of the service 4345
credit, and within forty-five days after receiving the request, 4346
the board shall give the employing unit written notice of the 4347
cost. 4348

The employing unit shall pay or contract to pay in 4349
installments the cost of the service credit to be purchased to the 4350
public employees retirement system on the date agreed to by the 4351
employee and the employing unit. The payment shall be made in 4352
accordance with rules adopted by the public employees retirement 4353
board. The rules may provide for payment in installments and for 4354
crediting the purchased credit to the employee's account upon the 4355
employer's contracting to pay the cost in installments. The board 4356

shall notify the member when the member is credited with service 4357
purchased under this section. If the employee does not retire 4358
within ninety days after receiving notice that the employee has 4359
been credited with the purchased service credit, the system shall 4360
refund to the employing unit the amount paid for the service 4361
credit. 4362

No payment made to the public employees retirement system 4363
under this section shall affect any payment required by section 4364
145.48 of the Revised Code. 4365

(F) For the purpose of determining whether the cost of a 4366
retirement incentive plan established by a county or county agency 4367
under this section is an allowable cost for the purpose of federal 4368
funding for any year, the cost shall be considered abnormal or 4369
mass severance pay only if fifteen per cent or more of the county 4370
or county agency's employees participate in the plan in that year. 4371

Nothing in this division shall relieve a county or county 4372
agency from seeking federal approval for any early retirement 4373
incentive plan that uses federal dollars in accordance with 4374
federal law. 4375

Sec. 154.17. The departments of administrative services, 4376
mental health, ~~mental retardation and~~ developmental disabilities, 4377
rehabilitation and correction, and natural resources, the Ohio 4378
board of regents, institutions of higher education, and other 4379
state officers and state agencies shall cooperate with the 4380
commission in providing services and information requested by the 4381
commission for purposes of Chapter 154. of the Revised Code, and 4382
the commission may make mutually satisfactory arrangements 4383
therefor and may thereunder designate any governmental agency for 4384
the management or performance of particular functions of the 4385
commission, other than the authorization and issuance of 4386
obligations provided for in Chapter 154. of the Revised Code, 4387

pursuant to which designation, upon acceptance thereof by that governmental agency, that function may be carried out with the full force and effect as if performed by the commission. Any such designation shall be made only by formal action or written agreement of the commission. In the management of capital facilities or performance of other functions with respect thereto, a governmental agency may exercise all powers which it has under law with respect to other similar facilities under its jurisdiction.

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

No contract shall be let or assignment thereof accepted under this section involving performance in accordance with plans and specifications until such plans and specifications have been submitted to and approved by the governmental agency to have responsibility for the management of the capital facilities provided for in such plans and specifications, which approval shall be considered to be given if no approval or disapproval is communicated in writing to the commission or its designee for such

purpose within sixty days following such submission of plans and 4420
specifications. Approval by such governmental agency of changes in 4421
plans and specifications is not required if the director of 4422
administrative services or the designee of the commission for such 4423
purpose shall certify that such changes do not substantially 4424
change the location, character, or extent of such capital 4425
facilities. 4426

Sec. 154.20. (A) Subject to authorization by the general 4427
assembly under section 154.02 of the Revised Code, the issuing 4428
authority may issue obligations pursuant to this chapter to pay 4429
costs of capital facilities for mental hygiene and retardation, 4430
including housing for mental hygiene and retardation patients. 4431

(B) Any capital facilities for mental hygiene or retardation, 4432
including housing for mental hygiene and retardation patients, may 4433
be leased by the commission to the department of mental health, 4434
the department of ~~mental retardation and~~ developmental 4435
disabilities, or the department of alcohol and drug addiction 4436
services, and other agreements may be made by the commission and 4437
any one or more of these departments with respect to the use or 4438
purchase of such capital facilities or, subject to the approval of 4439
the director of the department, the commission may lease such 4440
capital facilities to, and make or provide for other agreements 4441
with respect to the use or purchase thereof with, any governmental 4442
agency having authority under law to operate such capital 4443
facilities, and the director of the department may sublease such 4444
capital facilities to, and make other agreements with respect to 4445
the use or purchase thereof with, any such governmental agency, 4446
which may include provisions for transmittal to the mental health 4447
bond service trust fund created under division (E) of this 4448
section, by such governmental agency or by a nonprofit corporation 4449
providing mental hygiene and retardation services for or under 4450
contract with or the supervision of that governmental agency, of 4451

receipts of that agency or nonprofit corporation from charges for 4452
the treatment or care of mental hygiene and retardation patients, 4453
all upon such terms and conditions as the parties may agree upon 4454
and pursuant to this chapter, notwithstanding any other provision 4455
of law affecting the leasing, acquisition, or disposition of 4456
capital facilities by the parties. 4457

(C) For purposes of this section, "available receipts" means 4458
all receipts of the state from charges for the treatment or care 4459
of mental hygiene and retardation patients, including support 4460
payments received under Chapter 5121. of the Revised Code and 4461
moneys required to be transmitted to the mental health bond 4462
service trust fund pursuant to subleases and other agreements 4463
between any of the departments and another governmental agency 4464
pursuant to division (B) of this section as the subleases and 4465
other agreements may be further implemented for internal planning, 4466
budgeting, and accounting purposes pursuant to rules adopted by 4467
the director of mental health, director of ~~mental retardation and~~ 4468
developmental disabilities, or director of alcohol and drug 4469
addiction services, any revenues or receipts derived by the 4470
commission from the operation, leasing, or other disposition of 4471
capital facilities financed under this section, the proceeds of 4472
obligations issued under this section and sections 154.11 and 4473
154.12 of the Revised Code, and also means any gifts, grants, 4474
donations, and pledges, and receipts therefrom, available for the 4475
payment of bond service charges on such obligations. The issuing 4476
authority may pledge all, or such portion as that authority 4477
determines, of the available receipts to the payment of bond 4478
service charges on obligations issued under this section and under 4479
sections 154.11 and 154.12 of the Revised Code and for the 4480
establishment and maintenance of any reserves, as provided in the 4481
bond proceedings, and make other provisions therein with respect 4482
to such available receipts as authorized by this chapter, which 4483
provisions shall be controlling notwithstanding any other 4484

provision of law pertaining thereto. 4485

(D) The issuing authority may covenant in the bond 4486
proceedings that the state and state agencies shall, so long as 4487
any obligations issued under this section are outstanding, cause 4488
to be charged and collected charges for the treatment or care of 4489
mental hygiene and retardation patients sufficient in amount to 4490
provide for the payment of bond service charges on such 4491
obligations and for the establishment and maintenance of any 4492
reserves, as provided in the bond proceedings, and such covenants 4493
shall be controlling notwithstanding any other provision of law 4494
pertaining to such charges. 4495

(E) There is hereby created the mental health bond service 4496
trust fund, which shall be in the custody of the treasurer of 4497
state but shall be separate and apart from and not a part of the 4498
state treasury. All moneys received by or on account of the 4499
commission or issuing authority or state agencies and required by 4500
the applicable bond proceedings to be deposited, transferred, or 4501
credited to the fund, and all other moneys transferred or 4502
allocated to or received for the purposes of the fund, shall be 4503
deposited with the treasurer of state and credited to such fund, 4504
subject to applicable provisions of the bond proceedings, but 4505
without necessity for any act of appropriation. The mental health 4506
bond service trust fund is a trust fund and is hereby pledged to 4507
the payment of bond service charges on the obligations issued 4508
pursuant to this section and sections 154.11 and 154.12 of the 4509
Revised Code to the extent provided in the applicable bond 4510
proceedings, and payment thereof from such fund shall be made or 4511
provided for by the treasurer of state in accordance with such 4512
bond proceedings without necessity for any act of appropriation. 4513

(F) There is hereby created in the state treasury the mental 4514
health facilities improvement fund. Subject to the bond 4515
proceedings therefor, all of the proceeds of the sale of 4516

obligations pursuant to this section shall be credited to the 4517
fund, except that any accrued interest shall be credited to the 4518
mental health bond service fund. The mental health facilities 4519
improvement fund may also be comprised of gifts, grants, 4520
appropriated moneys, and other sums and securities received to the 4521
credit of such fund. The fund shall be applied only to the 4522
following purposes: 4523

(1) Paying costs of capital facilities for mental hygiene and 4524
retardation, including housing for mental hygiene and retardation 4525
patients, under the jurisdiction of the department of mental 4526
health, department of ~~mental retardation and~~ developmental 4527
disabilities, or department of alcohol and drug addiction 4528
services; 4529

(2) Participating in capital facilities for mental hygiene 4530
and retardation, including housing for mental hygiene and 4531
retardation patients, with the federal government, municipal 4532
corporations, counties, or other governmental agencies, or a 4533
nonprofit corporation specifically chartered to provide a mental 4534
health or mental retardation service when such service fulfills a 4535
public purpose, which participation may be by grants or 4536
contributions to them for such capital facilities. Except as 4537
provided in division (G) of this section, the nonprofit 4538
corporation may act in concert with a limited partnership or a 4539
limited liability company eligible to participate in the nonprofit 4540
set-aside described in section 42(h)(5) of the "Internal Revenue 4541
Code of 1986," 100 Stat. 2198, 26 U.S.C. 42, and the Ohio housing 4542
finance agency's housing tax credit program for the purpose of 4543
making use of low-income housing tax credits in support of housing 4544
for mental hygiene and retardation patients. 4545

(G) A nonprofit corporation providing a mental retardation 4546
service must obtain written approval from the director of ~~mental~~ 4547
~~retardation and~~ developmental disabilities before acting in 4548

concert with a limited partnership or limited liability company as 4549
described in division (F)(2) of this section. However, the 4550
director may issue one blanket approval for all such nonprofit 4551
corporations. 4552

(H) This section is to be applied with other applicable 4553
provisions of this chapter. 4554

Sec. 173.03. (A) There is hereby created the Ohio advisory 4555
council for the aging, which shall consist of twelve members to be 4556
appointed by the governor with the advice and consent of the 4557
senate. Two ex officio members of the council shall be members of 4558
the house of representatives appointed by the speaker of the house 4559
of representatives and shall be members of two different political 4560
parties. Two ex officio members of the council shall be members of 4561
the senate appointed by the president of the senate and shall be 4562
members of two different political parties. The directors of 4563
mental health, ~~mental retardation and~~ developmental disabilities, 4564
health, and job and family services, or their designees, shall 4565
serve as ex officio members of the council. The council shall 4566
carry out its role as defined under the "Older Americans Act of 4567
1965," 79 Stat. 219, 42 U.S.C. 3001, as amended. 4568

At the first meeting of the council, and annually thereafter, 4569
the members shall select one of their members to serve as 4570
chairperson and one of their members to serve as vice-chairperson. 4571

(B) Members of the council shall be appointed for a term of 4572
three years, except that for the first appointment members of the 4573
Ohio commission on aging who were serving on the commission 4574
immediately prior to July 26, 1984, shall become members of the 4575
council for the remainder of their unexpired terms. Thereafter, 4576
appointment to the council shall be for a three-year term by the 4577
governor. Each member shall hold office from the date of 4578
appointment until the end of the term for which the member was 4579

appointed. Any member appointed to fill a vacancy occurring prior 4580
to the expiration of the term for which the member's predecessor 4581
was appointed shall hold office for the remainder of the term. Any 4582
member may continue in office subsequent to the expiration date of 4583
the member's term until a successor takes office and shall be 4584
compensated for the period served between the expiration of the 4585
member's term and the beginning of the successor's term. 4586

(C) Membership of the council shall represent all areas of 4587
Ohio and shall be as follows: 4588

(1) A majority of members of the council shall have attained 4589
the age of sixty and have a knowledge of and continuing interest 4590
in the affairs and welfare of the older citizens of Ohio. The 4591
fields of business, labor, health, law, and human services shall 4592
be represented in the membership. 4593

(2) No more than seven members shall be of the same political 4594
party. 4595

(D) Any member of the council may be removed from office by 4596
the governor for neglect of duty, misconduct, or malfeasance in 4597
office after being informed in writing of the charges and afforded 4598
an opportunity for a hearing. Two consecutive unexcused absences 4599
from regularly scheduled meetings constitute neglect of duty. 4600

(E) Members of the council shall be compensated at the rate 4601
of fifty dollars for each day actually employed in the discharge 4602
of official duties but not to exceed two thousand dollars per year 4603
and in addition shall be allowed actual and necessary expenses. 4604

(F) Council members are not limited as to the number of terms 4605
they may serve. 4606

(G) Council members shall not be interested directly or 4607
indirectly in any contract awarded by the department of aging. 4608

Sec. 305.14. (A) The court of common pleas, upon the 4609

application of the prosecuting attorney and the board of county 4610
commissioners, may authorize the board to employ legal counsel to 4611
assist the prosecuting attorney, the board, or any other county 4612
officer in any matter of public business coming before such board 4613
or officer, and in the prosecution or defense of any action or 4614
proceeding in which such board or officer is a party or has an 4615
interest, in its official capacity. 4616

(B) The board of county commissioners may also employ legal 4617
counsel, as provided in section 309.09 of the Revised Code, to 4618
represent it in any matter of public business coming before such 4619
board, and in the prosecution or defense of any action or 4620
proceeding in which such board is a party or has an interest, in 4621
its official capacity. 4622

(C) Notwithstanding division (A) of this section and except 4623
as provided in division (D) of this section, a county board of 4624
~~mental retardation and~~ developmental disabilities or a public 4625
children services agency may, without the authorization of the 4626
court of common pleas, employ legal counsel to advise it or to 4627
represent it or any of its members or employees in any matter of 4628
public business coming before the board or agency or in the 4629
prosecution or defense of any action or proceeding in which the 4630
board or agency in its official capacity, or a board or agency 4631
member or employee in the member's or employee's official 4632
capacity, is a party or has an interest. 4633

(D)(1) In any legal proceeding in which the prosecuting 4634
attorney is fully able to perform the prosecuting attorney's 4635
statutory duty to represent the county board of ~~mental retardation~~ 4636
~~and~~ developmental disabilities or public children services agency 4637
without conflict of interest, the board or agency shall employ 4638
other counsel only with the written consent of the prosecuting 4639
attorney. In any legal proceeding in which the prosecuting 4640
attorney is unable, for any reason, to represent the board or 4641

agency, the prosecuting attorney shall so notify the board or 4642
agency, and, except as provided in division (D)(2) of this 4643
section, the board or agency may then employ counsel for the 4644
proceeding without further permission from any authority. 4645

(2) A public children services agency that receives money 4646
from the county general revenue fund must obtain the permission of 4647
the board of county commissioners of the county served by the 4648
agency before employing counsel under division (C) of this 4649
section. 4650

Sec. 307.10. (A) No sale of real property, or lease of real 4651
property used or to be used for the purpose of airports, landing 4652
fields, or air navigational facilities, or parts thereof, as 4653
provided by section 307.09 of the Revised Code shall be made 4654
unless it is authorized by a resolution adopted by a majority of 4655
the board of county commissioners. When a sale of real property as 4656
provided by section 307.09 of the Revised Code is authorized, the 4657
board may either deed the property to the highest responsible 4658
bidder, after advertisement once a week for four consecutive weeks 4659
in a newspaper of general circulation in the county or offer the 4660
real property for sale at a public auction, after giving at least 4661
thirty days' notice of the auction by publication in a newspaper 4662
of general circulation in the county. The board may reject any and 4663
all bids. The board may, as it considers best, sell real property 4664
pursuant to this section as an entire tract or in parcels. The 4665
board, by resolution adopted by a majority of the board, may lease 4666
real property, in accordance with division (A) of section 307.09 4667
of the Revised Code, without advertising for bids. 4668

(B) The board, by resolution, may transfer real property in 4669
fee simple belonging to the county and not needed for public use 4670
to the United States government, to the state or any department or 4671
agency thereof, to municipal corporations or other political 4672

subdivisions of the state, to the county board of ~~mental~~ 4673
~~retardation and~~ developmental disabilities, or to a county land 4674
reutilization corporation organized under Chapter 1724. of the 4675
Revised Code for public purposes upon the terms and in the manner 4676
that it may determine to be in the best interests of the county, 4677
without advertising for bids. The board shall execute a deed or 4678
other proper instrument when such a transfer is approved. 4679

(C) The board, by resolution adopted by a majority of the 4680
board, may grant leases, rights, or easements to the United States 4681
government, to the state or any department or agency thereof, or 4682
to municipal corporations and other political subdivisions of the 4683
state, or to privately owned electric light and power companies, 4684
natural gas companies, or telephone or telegraph companies for 4685
purposes of rendering their several public utilities services, in 4686
accordance with division (B) of section 307.09 of the Revised 4687
Code, without advertising for bids. When such grant of lease, 4688
right, or easement is authorized, a deed or other proper 4689
instrument therefor shall be executed by the board. 4690

Sec. 307.86. Anything to be purchased, leased, leased with an 4691
option or agreement to purchase, or constructed, including, but 4692
not limited to, any product, structure, construction, 4693
reconstruction, improvement, maintenance, repair, or service, 4694
except the services of an accountant, architect, attorney at law, 4695
physician, professional engineer, construction project manager, 4696
consultant, surveyor, or appraiser, by or on behalf of the county 4697
or contracting authority, as defined in section 307.92 of the 4698
Revised Code, at a cost in excess of twenty-five thousand dollars, 4699
except as otherwise provided in division (D) of section 713.23 and 4700
in sections 9.48, 125.04, 125.60 to 125.6012, 307.022, 307.041, 4701
307.861, 339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 4702
5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall 4703
be obtained through competitive bidding. However, competitive 4704

bidding is not required when any of the following applies: 4705

(A) The board of county commissioners, by a unanimous vote of 4706
its members, makes a determination that a real and present 4707
emergency exists, and that determination and the reasons for it 4708
are entered in the minutes of the proceedings of the board, when 4709
either of the following applies: 4710

(1) The estimated cost is less than fifty thousand dollars. 4711

(2) There is actual physical disaster to structures, radio 4712
communications equipment, or computers. 4713

For purposes of this division, "unanimous vote" means all 4714
three members of a board of county commissioners when all three 4715
members are present, or two members of the board if only two 4716
members, constituting a quorum, are present. 4717

Whenever a contract of purchase, lease, or construction is 4718
exempted from competitive bidding under division (A)(1) of this 4719
section because the estimated cost is less than fifty thousand 4720
dollars, but the estimated cost is twenty-five thousand dollars or 4721
more, the county or contracting authority shall solicit informal 4722
estimates from no fewer than three persons who could perform the 4723
contract, before awarding the contract. With regard to each such 4724
contract, the county or contracting authority shall maintain a 4725
record of such estimates, including the name of each person from 4726
whom an estimate is solicited. The county or contracting authority 4727
shall maintain the record for the longer of at least one year 4728
after the contract is awarded or the amount of time the federal 4729
government requires. 4730

(B)(1) The purchase consists of supplies or a replacement or 4731
supplemental part or parts for a product or equipment owned or 4732
leased by the county, and the only source of supply for the 4733
supplies, part, or parts is limited to a single supplier. 4734

(2) The purchase consists of services related to information 4735

technology, such as programming services, that are proprietary or 4736
limited to a single source. 4737

(C) The purchase is from the federal government, the state, 4738
another county or contracting authority of another county, or a 4739
board of education, township, or municipal corporation. 4740

(D) The purchase is made by a county department of job and 4741
family services under section 329.04 of the Revised Code and 4742
consists of family services duties or workforce development 4743
activities or is made by a county board of ~~mental retardation and~~ 4744
developmental disabilities under section 5126.05 of the Revised 4745
Code and consists of program services, such as direct and 4746
ancillary client services, child care, case management services, 4747
residential services, and family resource services. 4748

(E) The purchase consists of criminal justice services, 4749
social services programs, family services, or workforce 4750
development activities by the board of county commissioners from 4751
nonprofit corporations or associations under programs funded by 4752
the federal government or by state grants. 4753

(F) The purchase consists of any form of an insurance policy 4754
or contract authorized to be issued under Title XXXIX of the 4755
Revised Code or any form of health care plan authorized to be 4756
issued under Chapter 1751. of the Revised Code, or any combination 4757
of such policies, contracts, plans, or services that the 4758
contracting authority is authorized to purchase, and the 4759
contracting authority does all of the following: 4760

(1) Determines that compliance with the requirements of this 4761
section would increase, rather than decrease, the cost of the 4762
purchase; 4763

(2) Requests issuers of the policies, contracts, plans, or 4764
services to submit proposals to the contracting authority, in a 4765
form prescribed by the contracting authority, setting forth the 4766

coverage and cost of the policies, contracts, plans, or services 4767
as the contracting authority desires to purchase; 4768

(3) Negotiates with the issuers for the purpose of purchasing 4769
the policies, contracts, plans, or services at the best and lowest 4770
price reasonably possible. 4771

(G) The purchase consists of computer hardware, software, or 4772
consulting services that are necessary to implement a computerized 4773
case management automation project administered by the Ohio 4774
prosecuting attorneys association and funded by a grant from the 4775
federal government. 4776

(H) Child care services are purchased for provision to county 4777
employees. 4778

(I)(1) Property, including land, buildings, and other real 4779
property, is leased for offices, storage, parking, or other 4780
purposes, and all of the following apply: 4781

(a) The contracting authority is authorized by the Revised 4782
Code to lease the property. 4783

(b) The contracting authority develops requests for proposals 4784
for leasing the property, specifying the criteria that will be 4785
considered prior to leasing the property, including the desired 4786
size and geographic location of the property. 4787

(c) The contracting authority receives responses from 4788
prospective lessors with property meeting the criteria specified 4789
in the requests for proposals by giving notice in a manner 4790
substantially similar to the procedures established for giving 4791
notice under section 307.87 of the Revised Code. 4792

(d) The contracting authority negotiates with the prospective 4793
lessors to obtain a lease at the best and lowest price reasonably 4794
possible considering the fair market value of the property and any 4795
relocation and operational costs that may be incurred during the 4796

period the lease is in effect. 4797

(2) The contracting authority may use the services of a real 4798
estate appraiser to obtain advice, consultations, or other 4799
recommendations regarding the lease of property under this 4800
division. 4801

(J) The purchase is made pursuant to section 5139.34 or 4802
sections 5139.41 to 5139.46 of the Revised Code and is of programs 4803
or services that provide case management, treatment, or prevention 4804
services to any felony or misdemeanor delinquent, unruly youth, 4805
or status offender under the supervision of the juvenile court, 4806
including, but not limited to, community residential care, day 4807
treatment, services to children in their home, or electronic 4808
monitoring. 4809

(K) The purchase is made by a public children services agency 4810
pursuant to section 307.92 or 5153.16 of the Revised Code and 4811
consists of family services, programs, or ancillary services that 4812
provide case management, prevention, or treatment services for 4813
children at risk of being or alleged to be abused, neglected, or 4814
dependent children. 4815

(L) The purchase is to obtain the services of emergency 4816
medical service organizations under a contract made by the board 4817
of county commissioners pursuant to section 307.05 of the Revised 4818
Code with a joint emergency medical services district. 4819

(M) The county contracting authority determines that the use 4820
of competitive sealed proposals would be advantageous to the 4821
county and the contracting authority complies with section 307.862 4822
of the Revised Code. 4823

Any issuer of policies, contracts, plans, or services listed 4824
in division (F) of this section and any prospective lessor under 4825
division (I) of this section may have the issuer's or prospective 4826
lessor's name and address, or the name and address of an agent, 4827

placed on a special notification list to be kept by the 4828
contracting authority, by sending the contracting authority that 4829
name and address. The contracting authority shall send notice to 4830
all persons listed on the special notification list. Notices shall 4831
state the deadline and place for submitting proposals. The 4832
contracting authority shall mail the notices at least six weeks 4833
prior to the deadline set by the contracting authority for 4834
submitting proposals. Every five years the contracting authority 4835
may review this list and remove any person from the list after 4836
mailing the person notification of that action. 4837

Any contracting authority that negotiates a contract under 4838
division (F) of this section shall request proposals and negotiate 4839
with issuers in accordance with that division at least every three 4840
years from the date of the signing of such a contract, unless the 4841
parties agree upon terms for extensions or renewals of the 4842
contract. Such extension or renewal periods shall not exceed six 4843
years from the date the initial contract is signed. 4844

Any real estate appraiser employed pursuant to division (I) 4845
of this section shall disclose any fees or compensation received 4846
from any source in connection with that employment. 4847

Sec. 309.10. Sections 309.08 and 309.09 of the Revised Code 4848
do not prevent a school board from employing counsel to represent 4849
it, but when counsel is employed, the counsel shall be paid by the 4850
school board from the school fund. Sections 309.08 and 309.09 of 4851
the Revised Code do not prevent a county board of ~~mental~~ 4852
~~retardation and~~ developmental disabilities from employing counsel 4853
to represent it, but that counsel shall be employed in accordance 4854
with division (C) of section 305.14 and paid in accordance with 4855
division (A)(7) of section 5126.05 of the Revised Code. 4856

Sections 309.08 and 309.09 of the Revised Code do not prevent 4857
a board of county hospital trustees from employing counsel with 4858

the approval of the county commissioners to bring legal action for 4859
the collection of delinquent accounts of the hospital, but when 4860
counsel is employed, the counsel shall be paid from the hospital's 4861
funds. Sections 309.08 and 309.09 of the Revised Code do not 4862
prevent a board of library trustees from employing counsel to 4863
represent it, but when counsel is employed, the counsel shall be 4864
paid from the library's funds. Sections 309.08 and 309.09 of the 4865
Revised Code do not prevent the appointment and employment of 4866
assistants, clerks, and stenographers to assist the prosecuting 4867
attorney as provided in sections 309.01 to 309.16 of the Revised 4868
Code, or the appointment by the court of common pleas or the court 4869
of appeals of an attorney to assist the prosecuting attorney in 4870
the trial of a criminal cause pending in that court, or the board 4871
of county commissioners from paying for those services. 4872

Sec. 319.16. The county auditor shall issue warrants, 4873
including electronic warrants authorizing direct deposit for 4874
payment of county obligations in accordance with division (F) of 4875
section 9.37 of the Revised Code, on the county treasurer for all 4876
moneys payable from the county treasury, upon presentation of the 4877
proper order or voucher and evidentiary matter for the moneys, and 4878
keep a record of all such warrants showing the number, date of 4879
issue, amount for which drawn, in whose favor, for what purpose, 4880
and on what fund. The auditor shall not issue a warrant for the 4881
payment of any claim against the county, unless it is allowed by 4882
the board of county commissioners, except where the amount due is 4883
fixed by law or is allowed by an officer or tribunal, including a 4884
county board of mental health or county board of ~~mental~~ 4885
~~retardation and~~ developmental disabilities, so authorized by law. 4886
If the auditor questions the validity of an expenditure that is 4887
within available appropriations and for which a proper order or 4888
voucher and evidentiary matter is presented, the auditor shall 4889
notify the board, officer, or tribunal who presented the voucher. 4890

If the board, officer, or tribunal determines that the expenditure 4891
is valid and the auditor continues to refuse to issue the 4892
appropriate warrant on the county treasury, a writ of mandamus may 4893
be sought. The court shall issue a writ of mandamus for issuance 4894
of the warrant if the court determines that the claim is valid. 4895

Evidentiary matter includes original invoices, receipts, 4896
bills and checks, and legible copies of contracts. 4897

Sec. 325.19. (A)(1) The granting of vacation leave under 4898
division (A)(1) of this section is subject to divisions (A)(2) and 4899
(3) of this section. Each full-time employee in the several 4900
offices and departments of the county service, including full-time 4901
hourly rate employees, after service of one year with the county 4902
or any political subdivision of the state, shall have earned and 4903
will be due upon the attainment of the first year of employment, 4904
and annually thereafter, eighty hours of vacation leave with full 4905
pay. One year of service shall be computed on the basis of 4906
twenty-six biweekly pay periods. A full-time county employee with 4907
eight or more years of service with the county or any political 4908
subdivision of the state shall have earned and is entitled to one 4909
hundred twenty hours of vacation leave with full pay. A full-time 4910
county employee with fifteen or more years of service with the 4911
county or any political subdivision of the state shall have earned 4912
and is entitled to one hundred sixty hours of vacation leave with 4913
full pay. A full-time county employee with twenty-five years of 4914
service with the county or any political subdivision of the state 4915
shall have earned and is entitled to two hundred hours of vacation 4916
leave with full pay. Such vacation leave shall accrue to the 4917
employee at the rate of three and one-tenth hours each biweekly 4918
period for those entitled to eighty hours per year; four and 4919
six-tenths hours each biweekly period for those entitled to one 4920
hundred twenty hours per year; six and two-tenths hours each 4921
biweekly period for those entitled to one hundred sixty hours per 4922

year; and seven and seven-tenths hours each biweekly period for 4923
those entitled to two hundred hours per year. 4924

The appointing authorities of the offices and departments of 4925
the county service may permit all or any part of a person's prior 4926
service with any regional council of government established in 4927
accordance with Chapter 167. of the Revised Code to be considered 4928
service with the county or a political subdivision of the state 4929
for the purpose of determining years of service under this 4930
division. 4931

(2) Full-time employees granted vacation leave under division 4932
(A)(1) of this section who render any standard of service other 4933
than forty hours per week as described in division (J) of this 4934
section and who are in active pay status in a biweekly pay period, 4935
shall accrue a number of hours of vacation leave during each such 4936
pay period that bears the same ratio to the number of hours 4937
specified in division (A)(1) of this section as their number of 4938
hours which are accepted as full-time in active pay status, 4939
excluding overtime hours, bears to eighty hours. 4940

(3) Full-time employees granted vacation leave under division 4941
(A)(1) of this section who are in active pay status in a biweekly 4942
pay period for less than eighty hours or the number of hours of 4943
service otherwise accepted as full-time by their employing office 4944
or department shall accrue a number of hours of vacation leave 4945
during that pay period that bears the same ratio to the number of 4946
hours specified in division (A)(1) of this section as their number 4947
of hours in active pay status, excluding overtime hours, bears to 4948
eighty or the number of hours of service accepted as full-time, 4949
whichever is applicable. 4950

(B) A board of county commissioners, by resolution, may grant 4951
vacation leave with full pay to part-time county employees. A 4952
part-time county employee shall be eligible for vacation leave 4953
with full pay upon the attainment of the first year of employment, 4954

and annually thereafter. The ratio between the hours worked and 4955
the vacation hours awarded to a part-time employee shall be the 4956
same as the ratio between the hours worked and the vacation hours 4957
earned by a full-time employee as provided for in this section. 4958

(C) Days specified as holidays in section 124.19 of the 4959
Revised Code shall not be charged to an employee's vacation leave. 4960
Vacation leave shall be taken by the employee during the year in 4961
which it accrued and prior to the next recurrence of the 4962
anniversary date of the employee's employment, provided that the 4963
appointing authority may, in special and meritorious cases, permit 4964
such employee to accumulate and carry over the employee's vacation 4965
leave to the following year. No vacation leave shall be carried 4966
over for more than three years. An employee is entitled to 4967
compensation, at the employee's current rate of pay, for the 4968
prorated portion of any earned but unused vacation leave for the 4969
current year to the employee's credit at time of separation, and 4970
in addition shall be compensated for any unused vacation leave 4971
accrued to the employee's credit, with the permission of the 4972
appointing authority, for the three years immediately preceding 4973
the last anniversary date of employment. 4974

(D)(1) In addition to vacation leave, a full-time county 4975
employee is entitled to eight hours of holiday pay for New Year's 4976
day, Martin Luther King day, Washington-Lincoln day, Memorial day, 4977
Independence day, Labor day, Columbus day, Veterans' day, 4978
Thanksgiving day, and Christmas day, of each year. Except as 4979
provided in division (D)(2) of this section, holidays shall occur 4980
on the days specified in section 1.14 of the Revised Code. If any 4981
of those holidays fall on Saturday, the Friday immediately 4982
preceding shall be observed as the holiday. If any of those 4983
holidays fall on Sunday, the Monday immediately succeeding shall 4984
be observed as the holiday. If an employee's work schedule is 4985
other than Monday through Friday, the employee is entitled to 4986

holiday pay for holidays observed on the employee's day off 4987
regardless of the day of the week on which they are observed. 4988

(2)(a) When a classified employee of a county board of ~~mental~~ 4989
~~retardation~~ and developmental disabilities works at a site 4990
maintained by a government entity other than the board, such as a 4991
public school, the board may adjust the employee's holiday 4992
schedule to conform to the schedule adopted by the government 4993
entity. Under an adjusted holiday schedule, an employee shall 4994
receive the number of hours of holiday pay granted under division 4995
(D)(1) of this section. 4996

(b) Pursuant to division (J)(6) of section 339.06 of the 4997
Revised Code, a county hospital may observe Martin Luther King 4998
day, Washington-Lincoln day, Columbus day, and Veterans' day on 4999
days other than those specified in section 1.14 of the Revised 5000
Code. 5001

(E) In the case of the death of a county employee, the unused 5002
vacation leave and unpaid overtime to the credit of the employee 5003
shall be paid in accordance with section 2113.04 of the Revised 5004
Code, or to the employee's estate. 5005

(F) Notwithstanding this section or any other section of the 5006
Revised Code, any appointing authority of a county office, 5007
department, commission, board, or body may, upon notification to 5008
the board of county commissioners, establish alternative schedules 5009
of vacation leave and holidays for employees of the appointing 5010
authority for whom the state employment relations board has not 5011
established an appropriate bargaining unit pursuant to section 5012
4117.06 of the Revised Code, as long as the alternative schedules 5013
are not inconsistent with the provisions of at least one 5014
collective bargaining agreement covering other employees of that 5015
appointing authority, if such an agreement exists. If no such 5016
collective bargaining agreement exists, an appointing authority, 5017
upon notification to the board of county commissioners, may 5018

establish an alternative schedule of vacation leave and holidays 5019
for its employees that does not diminish the vacation leave and 5020
holiday benefits granted by this section. 5021

(G) The employees of a county children services board that 5022
establishes vacation benefits under section 5153.12 of the Revised 5023
Code are exempt from division (A) of this section. 5024

(H) The provisions of this section do not apply to 5025
superintendents and management employees of county boards of 5026
~~mental retardation and~~ developmental disabilities. 5027

(I) Division (A) of this section does not apply to an 5028
employee of a county board of ~~mental retardation and~~ developmental 5029
disabilities who works at, or provides transportation services to 5030
pupils of, a special education program provided by the county 5031
board pursuant to division (A)(4) of section 5126.05 of the 5032
Revised Code, if the employee's employment is based on a school 5033
year and the employee is not subject to a contract with the county 5034
board that provides for division (A) of this section to apply to 5035
the employee. 5036

(J) As used in this section: 5037

(1) "Full-time employee" means an employee whose regular 5038
hours of service for a county total forty hours per week, or who 5039
renders any other standard of service accepted as full-time by an 5040
office, department, or agency of county service. 5041

(2) "Part-time employee" means an employee whose regular 5042
hours of service for a county total less than forty hours per 5043
week, or who renders any other standard of service accepted as 5044
part-time by an office, department, or agency of county service, 5045
and whose hours of county service total at least five hundred 5046
twenty hours annually. 5047

(3) "Management employee" has the same meaning as in section 5048
5126.20 of the Revised Code. 5049

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

(1) Consumers of family services;

(2) The public children services agency;

(3) The child support enforcement agency;

(4) The county family and children first council;

(5) Public and private colleges and universities;

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

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

(8) Labor organizations;

(9) Any other group or entity that has an interest in the family services provided in the county, including groups or entities that represent any of the county's business, urban, and rural sectors.

(B) The county family services planning committee shall do all of the following:

(1) Serve as an advisory body to the board of county commissioners with regard to the family services provided in the county, including assistance under Chapters 5107. and 5108. of the Revised Code, publicly funded child care under Chapter 5104. of the Revised Code, and social services provided under section 5101.46 of the Revised Code;

(2) At least once a year, review and analyze the county department of job and family services' implementation of the programs established under Chapters 5107. and 5108. of the Revised Code. In its review, the committee shall use information available to it to examine all of the following:

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

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

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

(d) Other issues the committee considers appropriate.

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

(3) Conduct public hearings on proposed county profiles for 5110
the provision of social services under section 5101.46 of the 5111
Revised Code; 5112

(4) At the request of the board, make recommendations and 5113
provide assistance regarding the family services provided in the 5114
county; 5115

(5) At any other time the committee considers appropriate, 5116
consult with the board and make recommendations regarding the 5117
family services provided in the county. The committee's 5118
recommendations may address the following: 5119

(a) Implementation and administration of family service 5120
programs; 5121

(b) Use of federal, state, and local funds available for 5122
family service programs; 5123

(c) Establishment of goals to be achieved by family service 5124
programs; 5125

(d) Evaluation of the outcomes of family service programs; 5126

(e) Any other matter the board considers relevant to the 5127
provision of family services. 5128

(C) If there is a committee in existence in a county on 5129
October 1, 1997, that the board of county commissioners determines 5130
is capable of fulfilling the responsibilities of a county family 5131
services planning committee, the board may designate the committee 5132
as the county's family services planning committee and the 5133
committee shall serve in that capacity. 5134

Sec. 1751.01. As used in this chapter: 5135

(A)(1) "Basic health care services" means the following 5136
services when medically necessary: 5137

(a) Physician's services, except when such services are 5138

supplemental under division (B) of this section;	5139
(b) Inpatient hospital services;	5140
(c) Outpatient medical services;	5141
(d) Emergency health services;	5142
(e) Urgent care services;	5143
(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;	5144 5145
(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental illnesses;	5146 5147 5148
(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;	5149 5150 5151 5152
(i) Routine patient care for patients enrolled in an eligible cancer clinical trial pursuant to section 3923.80 of the Revised Code.	5153 5154 5155
"Basic health care services" does not include experimental procedures.	5156 5157
Except as provided by divisions (A)(2) and (3) of this section in connection with the offering of coverage for diagnostic and treatment services for biologically based mental illnesses, a health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to	5158 5159 5160 5161 5162 5163 5164 5165 5166 5167 5168

the coverage of participants of the children's buy-in program, or 5169
to the coverage of beneficiaries under any federal health care 5170
program regulated by a federal regulatory body, or to the coverage 5171
of beneficiaries under any contract covering officers or employees 5172
of the state that has been entered into by the department of 5173
administrative services. 5174

(2) A health insuring corporation may offer coverage for 5175
diagnostic and treatment services for biologically based mental 5176
illnesses without offering coverage for all other basic health 5177
care services. A health insuring corporation may offer coverage 5178
for diagnostic and treatment services for biologically based 5179
mental illnesses alone or in combination with one or more 5180
supplemental health care services. However, a health insuring 5181
corporation that offers coverage for any other basic health care 5182
service shall offer coverage for diagnostic and treatment services 5183
for biologically based mental illnesses in combination with the 5184
offer of coverage for all other listed basic health care services. 5185

(3) A health insuring corporation that offers coverage for 5186
basic health care services is not required to offer coverage for 5187
diagnostic and treatment services for biologically based mental 5188
illnesses in combination with the offer of coverage for all other 5189
listed basic health care services if all of the following apply: 5190

(a) The health insuring corporation submits documentation 5191
certified by an independent member of the American academy of 5192
actuaries to the superintendent of insurance showing that incurred 5193
claims for diagnostic and treatment services for biologically 5194
based mental illnesses for a period of at least six months 5195
independently caused the health insuring corporation's costs for 5196
claims and administrative expenses for the coverage of basic 5197
health care services to increase by more than one per cent per 5198
year. 5199

(b) The health insuring corporation submits a signed letter 5200

from an independent member of the American academy of actuaries to 5201
the superintendent of insurance opining that the increase in costs 5202
described in division (A)(3)(a) of this section could reasonably 5203
justify an increase of more than one per cent in the annual 5204
premiums or rates charged by the health insuring corporation for 5205
the coverage of basic health care services. 5206

(c) The superintendent of insurance makes the following 5207
determinations from the documentation and opinion submitted 5208
pursuant to divisions (A)(3)(a) and (b) of this section: 5209

(i) Incurred claims for diagnostic and treatment services for 5210
biologically based mental illnesses for a period of at least six 5211
months independently caused the health insuring corporation's 5212
costs for claims and administrative expenses for the coverage of 5213
basic health care services to increase by more than one per cent 5214
per year. 5215

(ii) The increase in costs reasonably justifies an increase 5216
of more than one per cent in the annual premiums or rates charged 5217
by the health insuring corporation for the coverage of basic 5218
health care services. 5219

Any determination made by the superintendent under this 5220
division is subject to Chapter 119. of the Revised Code. 5221

(B)(1) "Supplemental health care services" means any health 5222
care services other than basic health care services that a health 5223
insuring corporation may offer, alone or in combination with 5224
either basic health care services or other supplemental health 5225
care services, and includes: 5226

(a) Services of facilities for intermediate or long-term 5227
care, or both; 5228

(b) Dental care services; 5229

(c) Vision care and optometric services including lenses and 5230

frames;	5231
(d) Podiatric care or foot care services;	5232
(e) Mental health services, excluding diagnostic and treatment services for biologically based mental illnesses;	5233 5234
(f) Short-term outpatient evaluative and crisis-intervention mental health services;	5235 5236
(g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;	5237 5238
(h) Home health services;	5239
(i) Prescription drug services;	5240
(j) Nursing services;	5241
(k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;	5242 5243
(l) Physical therapy services;	5244
(m) Chiropractic services;	5245
(n) Any other category of services approved by the superintendent of insurance.	5246 5247
(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.	5248 5249 5250 5251 5252
(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.	5253 5254 5255 5256 5257
(D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive	5258 5259

disorder, bipolar disorder, paranoia and other psychotic 5260
disorders, obsessive-compulsive disorder, and panic disorder, as 5261
these terms are defined in the most recent edition of the 5262
diagnostic and statistical manual of mental disorders published by 5263
the American psychiatric association. 5264

(E) "Children's buy-in program" has the same meaning as in 5265
section 5101.5211 of the Revised Code. 5266

(F) "Closed panel plan" means a health care plan that 5267
requires enrollees to use participating providers. 5268

(G) "Compensation" means remuneration for the provision of 5269
health care services, determined on other than a fee-for-service 5270
or discounted-fee-for-service basis. 5271

(H) "Contractual periodic prepayment" means the formula for 5272
determining the premium rate for all subscribers of a health 5273
insuring corporation. 5274

(I) "Corporation" means a corporation formed under Chapter 5275
1701. or 1702. of the Revised Code or the similar laws of another 5276
state. 5277

(J) "Emergency health services" means those health care 5278
services that must be available on a seven-days-per-week, 5279
twenty-four-hours-per-day basis in order to prevent jeopardy to an 5280
enrollee's health status that would occur if such services were 5281
not received as soon as possible, and includes, where appropriate, 5282
provisions for transportation and indemnity payments or service 5283
agreements for out-of-area coverage. 5284

(K) "Enrollee" means any natural person who is entitled to 5285
receive health care benefits provided by a health insuring 5286
corporation. 5287

(L) "Evidence of coverage" means any certificate, agreement, 5288
policy, or contract issued to a subscriber that sets out the 5289

coverage and other rights to which such person is entitled under a health care plan.

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

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

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

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

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

~~mental retardation and~~ developmental disabilities, an alcohol and 5321
drug addiction services board, a board of alcohol, drug addiction, 5322
and mental health services, or a community mental health board, as 5323
those terms are used in Chapters 340. and 5126. of the Revised 5324
Code. Except as provided by division (D) of section 1751.02 of the 5325
Revised Code, or as otherwise provided by law, no board, 5326
commission, agency, or other entity under the control of a 5327
political subdivision may accept insurance risk in providing for 5328
health care services. However, nothing in this division shall be 5329
construed as prohibiting such entities from purchasing the 5330
services of a health insuring corporation or a third-party 5331
administrator licensed under Chapter 3959. of the Revised Code. 5332

(Q) "Intermediary organization" means a health delivery 5333
network or other entity that contracts with licensed health 5334
insuring corporations or self-insured employers, or both, to 5335
provide health care services, and that enters into contractual 5336
arrangements with other entities for the provision of health care 5337
services for the purpose of fulfilling the terms of its contracts 5338
with the health insuring corporations and self-insured employers. 5339

(R) "Intermediate care" means residential care above the 5340
level of room and board for patients who require personal 5341
assistance and health-related services, but who do not require 5342
skilled nursing care. 5343

(S) "Medicaid" has the same meaning as in section 5111.01 of 5344
the Revised Code. 5345

(T) "Medical record" means the personal information that 5346
relates to an individual's physical or mental condition, medical 5347
history, or medical treatment. 5348

(U) "Medicare" means the program established under Title 5349
XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 5350
1395, as amended. 5351

(V)(1) "Open panel plan" means a health care plan that 5352
provides incentives for enrollees to use participating providers 5353
and that also allows enrollees to use providers that are not 5354
participating providers. 5355

(2) No health insuring corporation may offer an open panel 5356
plan, unless the health insuring corporation is also licensed as 5357
an insurer under Title XXXIX of the Revised Code, the health 5358
insuring corporation, on June 4, 1997, holds a certificate of 5359
authority or license to operate under Chapter 1736. or 1740. of 5360
the Revised Code, or an insurer licensed under Title XXXIX of the 5361
Revised Code is responsible for the out-of-network risk as 5362
evidenced by both an evidence of coverage filing under section 5363
1751.11 of the Revised Code and a policy and certificate filing 5364
under section 3923.02 of the Revised Code. 5365

(W) "Panel" means a group of providers or health care 5366
facilities that have joined together to deliver health care 5367
services through a contractual arrangement with a health insuring 5368
corporation, employer group, or other payor. 5369

(X) "Person" has the same meaning as in section 1.59 of the 5370
Revised Code, and, unless the context otherwise requires, includes 5371
any insurance company holding a certificate of authority under 5372
Title XXXIX of the Revised Code, any subsidiary and affiliate of 5373
an insurance company, and any government agency. 5374

(Y) "Premium rate" means any set fee regularly paid by a 5375
subscriber to a health insuring corporation. A "premium rate" does 5376
not include a one-time membership fee, an annual administrative 5377
fee, or a nominal access fee, paid to a managed health care system 5378
under which the recipient of health care services remains solely 5379
responsible for any charges accessed for those services by the 5380
provider or health care facility. 5381

(Z) "Primary care provider" means a provider that is 5382

designated by a health insuring corporation to supervise, 5383
coordinate, or provide initial care or continuing care to an 5384
enrollee, and that may be required by the health insuring 5385
corporation to initiate a referral for specialty care and to 5386
maintain supervision of the health care services rendered to the 5387
enrollee. 5388

(AA) "Provider" means any natural person or partnership of 5389
natural persons who are licensed, certified, accredited, or 5390
otherwise authorized in this state to furnish health care 5391
services, or any professional association organized under Chapter 5392
1785. of the Revised Code, provided that nothing in this chapter 5393
or other provisions of law shall be construed to preclude a health 5394
insuring corporation, health care practitioner, or organized 5395
health care group associated with a health insuring corporation 5396
from employing certified nurse practitioners, certified nurse 5397
anesthetists, clinical nurse specialists, certified nurse 5398
midwives, dietitians, physician assistants, dental assistants, 5399
dental hygienists, optometric technicians, or other allied health 5400
personnel who are licensed, certified, accredited, or otherwise 5401
authorized in this state to furnish health care services. 5402

(BB) "Provider sponsored organization" means a corporation, 5403
as defined in division (I) of this section, that is at least 5404
eighty per cent owned or controlled by one or more hospitals, as 5405
defined in section 3727.01 of the Revised Code, or one or more 5406
physicians licensed to practice medicine or surgery or osteopathic 5407
medicine and surgery under Chapter 4731. of the Revised Code, or 5408
any combination of such physicians and hospitals. Such control is 5409
presumed to exist if at least eighty per cent of the voting rights 5410
or governance rights of a provider sponsored organization are 5411
directly or indirectly owned, controlled, or otherwise held by any 5412
combination of the physicians and hospitals described in this 5413
division. 5414

(CC) "Solicitation document" means the written materials 5415
provided to prospective subscribers or enrollees, or both, and 5416
used for advertising and marketing to induce enrollment in the 5417
health care plans of a health insuring corporation. 5418

(DD) "Subscriber" means a person who is responsible for 5419
making payments to a health insuring corporation for participation 5420
in a health care plan, or an enrollee whose employment or other 5421
status is the basis of eligibility for enrollment in a health 5422
insuring corporation. 5423

(EE) "Urgent care services" means those health care services 5424
that are appropriately provided for an unforeseen condition of a 5425
kind that usually requires medical attention without delay but 5426
that does not pose a threat to the life, limb, or permanent health 5427
of the injured or ill person, and may include such health care 5428
services provided out of the health insuring corporation's 5429
approved service area pursuant to indemnity payments or service 5430
agreements. 5431

Sec. 1751.02. (A) Notwithstanding any law in this state to 5432
the contrary, any corporation, as defined in section 1751.01 of 5433
the Revised Code, may apply to the superintendent of insurance for 5434
a certificate of authority to establish and operate a health 5435
insuring corporation. If the corporation applying for a 5436
certificate of authority is a foreign corporation domiciled in a 5437
state without laws similar to those of this chapter, the 5438
corporation must form a domestic corporation to apply for, obtain, 5439
and maintain a certificate of authority under this chapter. 5440

(B) No person shall establish, operate, or perform the 5441
services of a health insuring corporation in this state without 5442
obtaining a certificate of authority under this chapter. 5443

(C) Except as provided by division (D) of this section, no 5444
political subdivision or department, office, or institution of 5445

this state, or corporation formed by or on behalf of any political 5446
subdivision or department, office, or institution of this state, 5447
shall establish, operate, or perform the services of a health 5448
insuring corporation. Nothing in this section shall be construed 5449
to preclude a board of county commissioners, a county board of 5450
~~mental retardation and~~ developmental disabilities, an alcohol and 5451
drug addiction services board, a board of alcohol, drug addiction, 5452
and mental health services, or a community mental health board, or 5453
a public entity formed by or on behalf of any of these boards, 5454
from using managed care techniques in carrying out the board's or 5455
public entity's duties pursuant to the requirements of Chapters 5456
307., 329., 340., and 5126. of the Revised Code. However, no such 5457
board or public entity may operate so as to compete in the private 5458
sector with health insuring corporations holding certificates of 5459
authority under this chapter. 5460

(D) A corporation formed by or on behalf of a publicly owned, 5461
operated, or funded hospital or health care facility may apply to 5462
the superintendent for a certificate of authority under division 5463
(A) of this section to establish and operate a health insuring 5464
corporation. 5465

(E) A health insuring corporation shall operate in this state 5466
in compliance with this chapter and Chapter 1753. of the Revised 5467
Code, and with sections 3702.51 to 3702.62 of the Revised Code, 5468
and shall operate in conformity with its filings with the 5469
superintendent under this chapter, including filings made pursuant 5470
to sections 1751.03, 1751.11, 1751.12, and 1751.31 of the Revised 5471
Code. 5472

(F) An insurer licensed under Title XXXIX of the Revised Code 5473
need not obtain a certificate of authority as a health insuring 5474
corporation to offer an open panel plan as long as the providers 5475
and health care facilities participating in the open panel plan 5476
receive their compensation directly from the insurer. If the 5477

providers and health care facilities participating in the open 5478
panel plan receive their compensation from any person other than 5479
the insurer, or if the insurer offers a closed panel plan, the 5480
insurer must obtain a certificate of authority as a health 5481
insuring corporation. 5482

(G) An intermediary organization need not obtain a 5483
certificate of authority as a health insuring corporation, 5484
regardless of the method of reimbursement to the intermediary 5485
organization, as long as a health insuring corporation or a 5486
self-insured employer maintains the ultimate responsibility to 5487
assure delivery of all health care services required by the 5488
contract between the health insuring corporation and the 5489
subscriber and the laws of this state or between the self-insured 5490
employer and its employees. 5491

Nothing in this section shall be construed to require any 5492
health care facility, provider, health delivery network, or 5493
intermediary organization that contracts with a health insuring 5494
corporation or self-insured employer, regardless of the method of 5495
reimbursement to the health care facility, provider, health 5496
delivery network, or intermediary organization, to obtain a 5497
certificate of authority as a health insuring corporation under 5498
this chapter, unless otherwise provided, in the case of contracts 5499
with a self-insured employer, by operation of the "Employee 5500
Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 5501
1001, as amended. 5502

(H) Any health delivery network doing business in this state, 5503
including any health delivery network that is functioning as an 5504
intermediary organization doing business in this state, that is 5505
not required to obtain a certificate of authority under this 5506
chapter shall certify to the superintendent annually, not later 5507
than the first day of July, and shall provide a statement signed 5508
by the highest ranking official which includes the following 5509

information: 5510

(1) The health delivery network's full name and the address 5511
of its principal place of business; 5512

(2) A statement that the health delivery network is not 5513
required to obtain a certificate of authority under this chapter 5514
to conduct its business. 5515

(I) The superintendent shall not issue a certificate of 5516
authority to a health insuring corporation that is a provider 5517
sponsored organization unless all health care plans to be offered 5518
by the health insuring corporation provide basic health care 5519
services. Substantially all of the physicians and hospitals with 5520
ownership or control of the provider sponsored organization, as 5521
defined in section 1751.01 of the Revised Code, shall also be 5522
participating providers for the provision of basic health care 5523
services for health care plans offered by the provider sponsored 5524
organization. If a health insuring corporation that is a provider 5525
sponsored organization offers health care plans that do not 5526
provide basic health care services, the health insuring 5527
corporation shall be deemed, for purposes of section 1751.35 of 5528
the Revised Code, to have failed to substantially comply with this 5529
chapter. 5530

Except as specifically provided in this division and in 5531
division (A) of section 1751.28 of the Revised Code, the 5532
provisions of this chapter shall apply to all health insuring 5533
corporations that are provider sponsored organizations in the same 5534
manner that these provisions apply to all health insuring 5535
corporations that are not provider sponsored organizations. 5536

(J) Nothing in this section shall be construed to apply to 5537
any multiple employer welfare arrangement operating pursuant to 5538
Chapter 1739. of the Revised Code. 5539

(K) Any person who violates division (B) of this section, and 5540

any health delivery network that fails to comply with division (H) 5541
of this section, is subject to the penalties set forth in section 5542
1751.45 of the Revised Code. 5543

Sec. 2108.521. (A) If a mentally retarded person or a 5544
developmentally disabled person dies, if the department of ~~mental~~ 5545
~~retardation and~~ developmental disabilities or a county board of 5546
~~mental retardation and~~ developmental disabilities has a good faith 5547
reason to believe that the deceased person's death occurred under 5548
suspicious circumstances, if the coroner was apprised of the 5549
circumstances of the death, and if the coroner after being so 5550
apprised of the circumstances declines to conduct an autopsy, the 5551
department or the board may file a petition in a court of common 5552
pleas seeking an order authorizing an autopsy or post-mortem 5553
examination under this section. 5554

(B) Upon the filing of a petition under division (A) of this 5555
section, the court may conduct, but is not required to conduct, a 5556
hearing on the petition. The court may determine whether to grant 5557
the petition without a hearing. The department or board, and all 5558
other interested parties, may submit information and statements to 5559
the court that are relevant to the petition, and, if the court 5560
conducts a hearing, may present evidence and testimony at the 5561
hearing. The court shall order the requested autopsy or 5562
post-mortem examination if it finds that, under the circumstances, 5563
the department or board has demonstrated a need for the autopsy or 5564
post-mortem examination. The court shall order an autopsy or 5565
post-mortem examination in the circumstances specified in this 5566
division regardless of whether any consent has been given, or has 5567
been given and withdrawn, under section 2108.50 of the Revised 5568
Code, and regardless of whether any information was presented to 5569
the coroner pursuant to section 313.131 of the Revised Code or to 5570
the court under this section regarding an autopsy being contrary 5571
to the deceased person's religious beliefs. 5572

(C) An autopsy or post-mortem examination ordered under this 5573
section may be performed upon the body of the deceased person by a 5574
licensed physician or surgeon. The court may identify in the order 5575
the person who is to perform the autopsy or post-mortem 5576
examination. If an autopsy or post-mortem examination is ordered 5577
under this section, the department or board that requested the 5578
autopsy or examination shall pay the physician or surgeon who 5579
performs the autopsy or examination for costs and expenses 5580
incurred in performing the autopsy or examination. 5581

Sec. 2109.01. "Fiduciary," as used in Chapters 2101. to 2131. 5582
of the Revised Code, means any person, other than an assignee or 5583
trustee for an insolvent debtor or a guardian under sections 5584
5905.01 to 5905.19 of the Revised Code, appointed by and 5585
accountable to the probate court and acting in a fiduciary 5586
capacity for any person, or charged with duties in relation to any 5587
property, interest, trust, or estate for the benefit of another; 5588
and includes an agency under contract with the department of 5589
~~mental retardation and~~ developmental disabilities for the 5590
provision of protective service under sections 5123.55 to 5123.59 5591
of the Revised Code, appointed by and accountable to the probate 5592
court as guardian or trustee with respect to mentally retarded or 5593
developmentally disabled persons. 5594

Sec. 2109.04. (A)(1) Unless otherwise provided by law, every 5595
fiduciary, prior to the issuance of ~~his~~ the fiduciary's letters as 5596
provided by section 2109.02 of the Revised Code, shall file in the 5597
probate court in which the letters are to be issued a bond with a 5598
penal sum in such amount as may be fixed by the court, but in no 5599
event less than double the probable value of the personal estate 5600
and of the annual real estate rentals which will come into such 5601
person's hands as a fiduciary. The bond of a fiduciary shall be in 5602
a form approved by the court and signed by two or more personal 5603

sureties or by one or more corporate sureties approved by the 5604
court. It shall be conditioned that the fiduciary faithfully and 5605
honestly will discharge the duties devolving upon ~~him~~ the person 5606
as fiduciary, and shall be conditioned further as may be provided 5607
by law. 5608

(2) Except as otherwise provided in this division, if the 5609
instrument creating the trust dispenses with the giving of a bond, 5610
the court shall appoint a fiduciary without bond, unless the court 5611
is of the opinion that the interest of the trust demands it. If 5612
the court is of that opinion, it may require bond to be given in 5613
any amount it fixes. If a parent nominates a guardian for ~~his~~ the 5614
parent's child in a will and provides in the will that the 5615
guardian may serve without giving bond, the court may appoint the 5616
guardian without bond or require the guardian to give bond in 5617
accordance with division (A)(1) of this section. 5618

(3) A guardian of the person only does not have to give bond 5619
unless, for good cause shown, the court considers a bond to be 5620
necessary. When a bond is required of a guardian of the person 5621
only, it shall be determined and filed in accordance with division 5622
(A)(1) of this section. This division does not apply to a guardian 5623
of the person only nominated in a parent's will if the will 5624
provides that the guardian may serve without giving bond. 5625

(4) When the probable value of the personal estate and of the 5626
annual real estate rentals that will come into the guardian's 5627
hands as a fiduciary is less than ten thousand dollars, the court 5628
may waive or reduce a bond required by division (A)(1) of this 5629
section. 5630

(B) When an executive director who is responsible for the 5631
administration of children services in the county is appointed as 5632
trustee of the estate of a ward pursuant to section 5153.18 of the 5633
Revised Code and has furnished bond under section 5153.13 of the 5634
Revised Code, or when an agency under contract with the department 5635

of ~~mental retardation and~~ developmental disabilities for the 5636
provision of protective service under sections 5123.55 to 5123.59 5637
of the Revised Code is appointed as trustee of the estate of a 5638
ward under such sections and any employees of the agency having 5639
custody or control of funds or property of such a ward have 5640
furnished bond under section 5123.59 of the Revised Code, the 5641
court may dispense with the giving of a bond. 5642

(C) When letters are granted without bond, at any later 5643
period on its own motion or upon the application of any party 5644
interested, the court may require bond to be given in such amount 5645
as may be fixed by the court. On failure to give such bond, the 5646
defaulting fiduciary shall be removed. 5647

No instrument authorizing a fiduciary whom it names to serve 5648
without bond shall be construed to relieve a successor fiduciary 5649
from the necessity of giving bond, unless the instrument clearly 5650
evidences such intention. 5651

The court by which a fiduciary is appointed may reduce the 5652
amount of the bond of such fiduciary at any time for good cause 5653
shown. 5654

When two or more persons are appointed as joint fiduciaries, 5655
the court may take a separate bond from each or a joint bond from 5656
all. 5657

Sec. 2111.01. As used in Chapters 2101. to 2131. of the 5658
Revised Code: 5659

(A) "Guardian," other than a guardian under sections 5905.01 5660
to 5905.19 of the Revised Code, means any person, association, or 5661
corporation appointed by the probate court to have the care and 5662
management of the person, the estate, or both of an incompetent or 5663
minor. When applicable, "guardian" includes, but is not limited 5664
to, a limited guardian, an interim guardian, a standby guardian, 5665

and an emergency guardian appointed pursuant to division (B) of 5666
section 2111.02 of the Revised Code. "Guardian" also includes an 5667
agency under contract with the department of ~~mental retardation~~ 5668
~~and~~ developmental disabilities for the provision of protective 5669
service under sections 5123.55 to 5123.59 of the Revised Code when 5670
appointed by the probate court to have the care and management of 5671
the person of an incompetent. 5672

(B) "Ward" means any person for whom a guardian is acting or 5673
for whom the probate court is acting pursuant to section 2111.50 5674
of the Revised Code. 5675

(C) "Resident guardian" means a guardian appointed by a 5676
probate court to have the care and management of property in this 5677
state that belongs to a nonresident ward. 5678

(D) "Incompetent" means any person who is so mentally 5679
impaired as a result of a mental or physical illness or 5680
disability, or mental retardation, or as a result of chronic 5681
substance abuse, that the person is incapable of taking proper 5682
care of the person's self or property or fails to provide for the 5683
person's family or other persons for whom the person is charged by 5684
law to provide, or any person confined to a correctional 5685
institution within this state. 5686

(E) "Next of kin" means any person who would be entitled to 5687
inherit from a ward under Chapter 2105. of the Revised Code if the 5688
ward dies intestate. 5689

(F) "Conservator" means a conservator appointed by the 5690
probate court in an order of conservatorship issued pursuant to 5691
section 2111.021 of the Revised Code. 5692

(G) "Parent" means a natural parent or adoptive parent of a 5693
minor child whose parental rights and responsibilities have not 5694
been terminated by a juvenile court or another court. 5695

Sec. 2111.02. (A) When found necessary, the probate court on 5696
its own motion or on application by any interested party shall 5697
appoint, subject to divisions (C) and (D) of this section and to 5698
section 2109.21 and division (B) of section 2111.121 of the 5699
Revised Code, a guardian of the person, the estate, or both, of a 5700
minor or incompetent, provided the person for whom the guardian is 5701
to be appointed is a resident of the county or has a legal 5702
settlement in the county and, except in the case of a minor, has 5703
had the opportunity to have the assistance of counsel in the 5704
proceeding for the appointment of such guardian. An interested 5705
party includes, but is not limited to, a person nominated in a 5706
durable power of attorney as described in division (D) of section 5707
1337.09 of the Revised Code or in a writing as described in 5708
division (A) of section 2111.121 of the Revised Code. 5709

Except when the guardian of an incompetent is an agency under 5710
contract with the department of ~~mental retardation and~~ 5711
developmental disabilities for the provision of protective 5712
services under sections 5123.55 to 5123.59 of the Revised Code, 5713
the guardian of an incompetent, by virtue of such appointment, 5714
shall be the guardian of the minor children of the guardian's 5715
ward, unless the court appoints some other person as their 5716
guardian. 5717

When the primary purpose of the appointment of a guardian is, 5718
or was, the collection, disbursement, or administration of moneys 5719
awarded by the veterans administration to the ward, or assets 5720
derived from such moneys, no court costs shall be charged in the 5721
proceeding for the appointment or in any subsequent proceedings 5722
made in pursuance of the appointment, unless the value of the 5723
estate, including the moneys then due under the veterans 5724
administration award, exceeds one thousand five hundred dollars. 5725

(B)(1) If the probate court finds it to be in the best 5726

interest of an incompetent or minor, it may appoint pursuant to 5727
divisions (A) and (C) of this section, on its own motion or on 5728
application by an interested party, a limited guardian with 5729
specific limited powers. The sections of the Revised Code, rules, 5730
and procedures governing guardianships apply to a limited 5731
guardian, except that the order of appointment and letters of 5732
authority of a limited guardian shall state the reasons for, and 5733
specify the limited powers of, the guardian. The court may appoint 5734
a limited guardian for a definite or indefinite period. An 5735
incompetent or minor for whom a limited guardian has been 5736
appointed retains all of the incompetent's or minor's rights in 5737
all areas not affected by the court order appointing the limited 5738
guardian. 5739

(2) If a guardian appointed pursuant to division (A) of this 5740
section is temporarily or permanently removed or resigns, and if 5741
the welfare of the ward requires immediate action, at any time 5742
after the removal or resignation, the probate court may appoint, 5743
ex parte and with or without notice to the ward or interested 5744
parties, an interim guardian for a maximum period of fifteen days. 5745
If the court appoints the interim guardian ex parte or without 5746
notice to the ward, the court, at its first opportunity, shall 5747
enter upon its journal with specificity the reason for acting ex 5748
parte or without notice, and, as soon as possible, shall serve 5749
upon the ward a copy of the order appointing the interim guardian. 5750
For good cause shown, after notice to the ward and interested 5751
parties and after hearing, the court may extend an interim 5752
guardianship for a specified period, but not to exceed an 5753
additional thirty days. 5754

(3) If a minor or incompetent has not been placed under a 5755
guardianship pursuant to division (A) of this section and if an 5756
emergency exists, and if it is reasonably certain that immediate 5757
action is required to prevent significant injury to the person or 5758

estate of the minor or incompetent, at any time after it receives 5759
notice of the emergency, the court, ex parte, may issue any order 5760
that it considers necessary to prevent injury to the person or 5761
estate of the minor or incompetent, or may appoint an emergency 5762
guardian for a maximum period of seventy-two hours. A written copy 5763
of any order issued by a court under this division shall be served 5764
upon the incompetent or minor as soon as possible after its 5765
issuance. Failure to serve such an order after its issuance or 5766
prior to the taking of any action under its authority does not 5767
invalidate the order or the actions taken. The powers of an 5768
emergency guardian shall be specified in the letters of 5769
appointment, and shall be limited to those powers that are 5770
necessary to prevent injury to the person or estate of the minor 5771
or incompetent. If the court acts ex parte or without notice to 5772
the minor or incompetent, the court, at its first opportunity, 5773
shall enter upon its journal a record of the case and, with 5774
specificity, the reason for acting ex parte or without notice. For 5775
good cause shown, after notice to the minor or incompetent and 5776
interested parties, and after hearing, the court may extend an 5777
emergency guardianship for a specified period, but not to exceed 5778
an additional thirty days. 5779

(C) Prior to the appointment of a guardian or limited 5780
guardian under division (A) or (B)(1) of this section, the court 5781
shall conduct a hearing on the matter of the appointment. The 5782
hearing shall be conducted in accordance with all of the 5783
following: 5784

(1) The proposed guardian or limited guardian shall appear at 5785
the hearing and, if appointed, shall swear under oath that the 5786
proposed guardian or limited guardian has made and will continue 5787
to make diligent efforts to file a true inventory in accordance 5788
with section 2111.14 of the Revised Code and find and report all 5789
assets belonging to the estate of the ward and that the proposed 5790

guardian or limited guardian faithfully and completely will 5791
fulfill the other duties of guardian, including the filing of 5792
timely and accurate reports and accountings; 5793

(2) If the hearing is conducted by a referee, the procedures 5794
set forth in Civil Rule 53 shall be followed; 5795

(3) If the hearing concerns the appointment of a guardian or 5796
limited guardian for an alleged incompetent, the burden of proving 5797
incompetency shall be by clear and convincing evidence; 5798

(4) Upon request of the applicant, the alleged incompetent 5799
for whom the appointment is sought or the alleged incompetent's 5800
counsel, or any interested party, a recording or record of the 5801
hearing shall be made; 5802

(5) Evidence of a less restrictive alternative to 5803
guardianship may be introduced, and when introduced, shall be 5804
considered by the court; 5805

(6) The court may deny a guardianship based upon a finding 5806
that a less restrictive alternative to guardianship exists; 5807

(7) If the hearing concerns the appointment of a guardian or 5808
limited guardian for an alleged incompetent, the alleged 5809
incompetent has all of the following rights: 5810

(a) The right to be represented by independent counsel of ~~his~~ 5811
the alleged incompetent's choice; 5812

(b) The right to have a friend or family member of ~~his~~ the 5813
alleged incompetent's choice present; 5814

(c) The right to have evidence of an independent expert 5815
evaluation introduced; 5816

(d) If the alleged incompetent is indigent, upon ~~his~~ the 5817
alleged incompetent's request: 5818

(i) The right to have counsel and an independent expert 5819
evaluator appointed at court expense; 5820

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

(D)(1) When a person has been nominated to be a guardian of the estate of a minor in or pursuant to a durable power of attorney as described in division (D) of section 1337.09 of the Revised Code or a writing as described in division (A) of section 2111.121 of the Revised Code, the person nominated has preference in appointment over a person selected by the minor. A person who has been nominated to be a guardian of the person of a minor in or pursuant to a durable power of attorney or writing of that nature does not have preference in appointment over a person selected by the minor, but the probate court may appoint the person named in the durable power of attorney or the writing, the person selected by the minor, or another person as guardian of the person of the minor.

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

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

Any appointment of a corporation as guardian shall apply to the estate only and not to the person, except that a nonprofit corporation organized under the laws of this state and entitled to

tax exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, that has a contract with the department of ~~mental-retardation-and~~ developmental disabilities to provide protective services may be appointed as a guardian of the person of a mentally retarded or developmentally disabled person and may serve as guardian pursuant to sections 5123.55 to 5123.59 of the Revised Code.

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

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

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

- (1) The association for hospitals and health systems (OHA);
- (2) The Ohio state medical association;
- (3) The Ohio chapter of the American college of emergency

physicians;	5882
(4) The Ohio hospice organization;	5883
(5) The Ohio council for home care;	5884
(6) The Ohio health care association;	5885
(7) The Ohio ambulance association;	5886
(8) The Ohio medical directors association;	5887
(9) The Ohio association of emergency medical services;	5888
(10) The bioethics network of Ohio;	5889
(11) The Ohio nurses association;	5890
(12) The Ohio academy of nursing homes;	5891
(13) The Ohio association of professional firefighters;	5892
(14) The department of mental retardation and developmental disabilities;	5893 5894
(15) The Ohio osteopathic association;	5895
(16) The association of Ohio philanthropic homes, housing and services for the aging;	5896 5897
(17) The catholic conference of Ohio;	5898
(18) The department of aging;	5899
(19) The department of mental health;	5900
(20) The Ohio private residential association;	5901
(21) The northern Ohio fire fighters association.	5902
Sec. 2151.011. (A) As used in the Revised Code:	5903
(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:	5904 5905 5906
(a) The division of the court of common pleas specified in	5907

section 2101.022 or 2301.03 of the Revised Code as having 5908
jurisdiction under this chapter and Chapter 2152. of the Revised 5909
Code or as being the juvenile division or the juvenile division 5910
combined with one or more other divisions; 5911

(b) The juvenile court of Cuyahoga county or Hamilton county 5912
that is separately and independently created by section 2151.08 or 5913
Chapter 2153. of the Revised Code and that has jurisdiction under 5914
this chapter and Chapter 2152. of the Revised Code; 5915

(c) If division (A)(1)(a) or (b) of this section does not 5916
apply, the probate division of the court of common pleas. 5917

(2) "Juvenile judge" means a judge of a court having 5918
jurisdiction under this chapter. 5919

(3) "Private child placing agency" means any association, as 5920
defined in section 5103.02 of the Revised Code, that is certified 5921
under section 5103.03 of the Revised Code to accept temporary, 5922
permanent, or legal custody of children and place the children for 5923
either foster care or adoption. 5924

(4) "Private noncustodial agency" means any person, 5925
organization, association, or society certified by the department 5926
of job and family services that does not accept temporary or 5927
permanent legal custody of children, that is privately operated in 5928
this state, and that does one or more of the following: 5929

(a) Receives and cares for children for two or more 5930
consecutive weeks; 5931

(b) Participates in the placement of children in certified 5932
foster homes; 5933

(c) Provides adoption services in conjunction with a public 5934
children services agency or private child placing agency. 5935

(B) As used in this chapter: 5936

(1) "Adequate parental care" means the provision by a child's 5937

parent or parents, guardian, or custodian of adequate food, 5938
clothing, and shelter to ensure the child's health and physical 5939
safety and the provision by a child's parent or parents of 5940
specialized services warranted by the child's physical or mental 5941
needs. 5942

(2) "Adult" means an individual who is eighteen years of age 5943
or older. 5944

(3) "Agreement for temporary custody" means a voluntary 5945
agreement authorized by section 5103.15 of the Revised Code that 5946
transfers the temporary custody of a child to a public children 5947
services agency or a private child placing agency. 5948

(4) "Certified foster home" means a foster home, as defined 5949
in section 5103.02 of the Revised Code, certified under section 5950
5103.03 of the Revised Code. 5951

(5) "Child" means a person who is under eighteen years of 5952
age, except that the juvenile court has jurisdiction over any 5953
person who is adjudicated an unruly child prior to attaining 5954
eighteen years of age until the person attains twenty-one years of 5955
age, and, for purposes of that jurisdiction related to that 5956
adjudication, a person who is so adjudicated an unruly child shall 5957
be deemed a "child" until the person attains twenty-one years of 5958
age. 5959

(6) "Child day camp," "child care," "child day-care center," 5960
"part-time child day-care center," "type A family day-care home," 5961
"certified type B family day-care home," "type B home," 5962
"administrator of a child day-care center," "administrator of a 5963
type A family day-care home," "in-home aide," and "authorized 5964
provider" have the same meanings as in section 5104.01 of the 5965
Revised Code. 5966

(7) "Child care provider" means an individual who is a 5967
child-care staff member or administrator of a child day-care 5968

center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of ~~mental retardation and~~ developmental disabilities, or the early childhood programs of the department of education.

(8) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code.

(9) "Commit" means to vest custody as ordered by the court.

(10) "Counseling" includes both of the following:

(a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.

(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.

(11) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.

(12) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(13) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order,

in a public or private facility designed to physically restrict the movement and activities of children. 5999
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(14) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code. 6001
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(15) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code. 6003
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(16) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents. 6005
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(17) "Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for five or more consecutive school days, seven or more school days in one school month, or twelve or more school days in a school year. 6010
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(18) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code. 6015
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(19) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court. 6017
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(20) A "legitimate excuse for absence from the public school the child is supposed to attend" includes, but is not limited to, any of the following: 6027
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(a) The fact that the child in question has enrolled in and is attending another public or nonpublic school in this or another state;

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

(c) The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

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

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

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

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

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

(26) "Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children, or the placement of

children in certified foster homes or elsewhere. 6060

(27) "Out-of-home care" means detention facilities, shelter 6061
facilities, certified children's crisis care facilities, certified 6062
foster homes, placement in a prospective adoptive home prior to 6063
the issuance of a final decree of adoption, organizations, 6064
certified organizations, child day-care centers, type A family 6065
day-care homes, child care provided by type B family day-care home 6066
providers and by in-home aides, group home providers, group homes, 6067
institutions, state institutions, residential facilities, 6068
residential care facilities, residential camps, day camps, public 6069
schools, chartered nonpublic schools, educational service centers, 6070
hospitals, and medical clinics that are responsible for the care, 6071
physical custody, or control of children. 6072

(28) "Out-of-home care child abuse" means any of the 6073
following when committed by a person responsible for the care of a 6074
child in out-of-home care: 6075

(a) Engaging in sexual activity with a child in the person's 6076
care; 6077

(b) Denial to a child, as a means of punishment, of proper or 6078
necessary subsistence, education, medical care, or other care 6079
necessary for a child's health; 6080

(c) Use of restraint procedures on a child that cause injury 6081
or pain; 6082

(d) Administration of prescription drugs or psychotropic 6083
medication to the child without the written approval and ongoing 6084
supervision of a licensed physician; 6085

(e) Commission of any act, other than by accidental means, 6086
that results in any injury to or death of the child in out-of-home 6087
care or commission of any act by accidental means that results in 6088
an injury to or death of a child in out-of-home care and that is 6089
at variance with the history given of the injury or death. 6090

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

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

(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;

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

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

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

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

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

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

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

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

(30) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency,

all parental rights, duties, and obligations, including the right 6121
to consent to adoption, and divests the natural parents or 6122
adoptive parents of all parental rights, privileges, and 6123
obligations, including all residual rights and obligations. 6124

(31) "Permanent surrender" means the act of the parents or, 6125
if a child has only one parent, of the parent of a child, by a 6126
voluntary agreement authorized by section 5103.15 of the Revised 6127
Code, to transfer the permanent custody of the child to a public 6128
children services agency or a private child placing agency. 6129

(32) "Person" means an individual, association, corporation, 6130
or partnership and the state or any of its political subdivisions, 6131
departments, or agencies. 6132

(33) "Person responsible for a child's care in out-of-home 6133
care" means any of the following: 6134

(a) Any foster caregiver, in-home aide, or provider; 6135

(b) Any administrator, employee, or agent of any of the 6136
following: a public or private detention facility; shelter 6137
facility; certified children's crisis care facility; organization; 6138
certified organization; child day-care center; type A family 6139
day-care home; certified type B family day-care home; group home; 6140
institution; state institution; residential facility; residential 6141
care facility; residential camp; day camp; school district; 6142
community school; chartered nonpublic school; educational service 6143
center; hospital; or medical clinic; 6144

(c) Any person who supervises or coaches children as part of 6145
an extracurricular activity sponsored by a school district, public 6146
school, or chartered nonpublic school; 6147

(d) Any other person who performs a similar function with 6148
respect to, or has a similar relationship to, children. 6149

(34) "Physically impaired" means having one or more of the 6150

following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:

- (a) A substantial impairment of vision, speech, or hearing;
- (b) A congenital orthopedic impairment;
- (c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.

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

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

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

- (a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.
- (b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.

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

(39) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an

adjudication that a child is an unruly child that is described in 6181
division (A)(4) of section 2152.19 of the Revised Code. 6182

(40) "Protective supervision" means an order of disposition 6183
pursuant to which the court permits an abused, neglected, 6184
dependent, or unruly child to remain in the custody of the child's 6185
parents, guardian, or custodian and stay in the child's home, 6186
subject to any conditions and limitations upon the child, the 6187
child's parents, guardian, or custodian, or any other person that 6188
the court prescribes, including supervision as directed by the 6189
court for the protection of the child. 6190

(41) "Psychiatrist" has the same meaning as in section 6191
5122.01 of the Revised Code. 6192

(42) "Psychologist" has the same meaning as in section 6193
4732.01 of the Revised Code. 6194

(43) "Residential camp" means a program in which the care, 6195
physical custody, or control of children is accepted overnight for 6196
recreational or recreational and educational purposes. 6197

(44) "Residential care facility" means an institution, 6198
residence, or facility that is licensed by the department of 6199
mental health under section 5119.22 of the Revised Code and that 6200
provides care for a child. 6201

(45) "Residential facility" means a home or facility that is 6202
licensed by the department of ~~mental retardation and~~ developmental 6203
disabilities under section 5123.19 of the Revised Code and in 6204
which a child with a developmental disability resides. 6205

(46) "Residual parental rights, privileges, and 6206
responsibilities" means those rights, privileges, and 6207
responsibilities remaining with the natural parent after the 6208
transfer of legal custody of the child, including, but not 6209
necessarily limited to, the privilege of reasonable visitation, 6210
consent to adoption, the privilege to determine the child's 6211

religious affiliation, and the responsibility for support. 6212

(47) "School day" means the school day established by the 6213
state board of education pursuant to section 3313.48 of the 6214
Revised Code. 6215

(48) "School month" and "school year" have the same meanings 6216
as in section 3313.62 of the Revised Code. 6217

(49) "Secure correctional facility" means a facility under 6218
the direction of the department of youth services that is designed 6219
to physically restrict the movement and activities of children and 6220
used for the placement of children after adjudication and 6221
disposition. 6222

(50) "Sexual activity" has the same meaning as in section 6223
2907.01 of the Revised Code. 6224

(51) "Shelter" means the temporary care of children in 6225
physically unrestricted facilities pending court adjudication or 6226
disposition. 6227

(52) "Shelter for victims of domestic violence" has the same 6228
meaning as in section 3113.33 of the Revised Code. 6229

(53) "Temporary custody" means legal custody of a child who 6230
is removed from the child's home, which custody may be terminated 6231
at any time at the discretion of the court or, if the legal 6232
custody is granted in an agreement for temporary custody, by the 6233
person who executed the agreement. 6234

(C) For the purposes of this chapter, a child shall be 6235
presumed abandoned when the parents of the child have failed to 6236
visit or maintain contact with the child for more than ninety 6237
days, regardless of whether the parents resume contact with the 6238
child after that period of ninety days. 6239

Sec. 2151.421. (A)(1)(a) No person described in division 6240
(A)(1)(b) of this section who is acting in an official or 6241

professional capacity and knows, or has reasonable cause to 6242
suspect based on facts that would cause a reasonable person in a 6243
similar position to suspect, that a child under eighteen years of 6244
age or a mentally retarded, developmentally disabled, or 6245
physically impaired child under twenty-one years of age has 6246
suffered or faces a threat of suffering any physical or mental 6247
wound, injury, disability, or condition of a nature that 6248
reasonably indicates abuse or neglect of the child shall fail to 6249
immediately report that knowledge or reasonable cause to suspect 6250
to the entity or persons specified in this division. Except as 6251
provided in section 5120.173 of the Revised Code, the person 6252
making the report shall make it to the public children services 6253
agency or a municipal or county peace officer in the county in 6254
which the child resides or in which the abuse or neglect is 6255
occurring or has occurred. In the circumstances described in 6256
section 5120.173 of the Revised Code, the person making the report 6257
shall make it to the entity specified in that section. 6258

(b) Division (A)(1)(a) of this section applies to any person 6259
who is an attorney; physician, including a hospital intern or 6260
resident; dentist; podiatrist; practitioner of a limited branch of 6261
medicine as specified in section 4731.15 of the Revised Code; 6262
registered nurse; licensed practical nurse; visiting nurse; other 6263
health care professional; licensed psychologist; licensed school 6264
psychologist; independent marriage and family therapist or 6265
marriage and family therapist; speech pathologist or audiologist; 6266
coroner; administrator or employee of a child day-care center; 6267
administrator or employee of a residential camp or child day camp; 6268
administrator or employee of a certified child care agency or 6269
other public or private children services agency; school teacher; 6270
school employee; school authority; person engaged in social work 6271
or the practice of professional counseling; agent of a county 6272
humane society; person, other than a cleric, rendering spiritual 6273
treatment through prayer in accordance with the tenets of a 6274

well-recognized religion; employee of a county department of job 6275
and family services who is a professional and who works with 6276
children and families; superintendent, board member, or employee 6277
of a county board of ~~mental retardation~~ developmental 6278
disabilities; investigative agent contracted with by a county 6279
board of ~~mental retardation~~ developmental disabilities; employee 6280
of the department of ~~mental retardation and~~ developmental 6281
disabilities; employee of a facility or home that provides respite 6282
care in accordance with section 5123.171 of the Revised Code; 6283
employee of a home health agency; employee of an entity that 6284
provides homemaker services; a person performing the duties of an 6285
assessor pursuant to Chapter 3107. or 5103. of the Revised Code; 6286
or third party employed by a public children services agency to 6287
assist in providing child or family related services. 6288

(2) Except as provided in division (A)(3) of this section, an 6289
attorney or a physician is not required to make a report pursuant 6290
to division (A)(1) of this section concerning any communication 6291
the attorney or physician receives from a client or patient in an 6292
attorney-client or physician-patient relationship, if, in 6293
accordance with division (A) or (B) of section 2317.02 of the 6294
Revised Code, the attorney or physician could not testify with 6295
respect to that communication in a civil or criminal proceeding. 6296

(3) The client or patient in an attorney-client or 6297
physician-patient relationship described in division (A)(2) of 6298
this section is deemed to have waived any testimonial privilege 6299
under division (A) or (B) of section 2317.02 of the Revised Code 6300
with respect to any communication the attorney or physician 6301
receives from the client or patient in that attorney-client or 6302
physician-patient relationship, and the attorney or physician 6303
shall make a report pursuant to division (A)(1) of this section 6304
with respect to that communication, if all of the following apply: 6305

(a) The client or patient, at the time of the communication, 6306

is either a child under eighteen years of age or a mentally 6307
retarded, developmentally disabled, or physically impaired person 6308
under twenty-one years of age. 6309

(b) The attorney or physician knows, or has reasonable cause 6310
to suspect based on facts that would cause a reasonable person in 6311
similar position to suspect, as a result of the communication or 6312
any observations made during that communication, that the client 6313
or patient has suffered or faces a threat of suffering any 6314
physical or mental wound, injury, disability, or condition of a 6315
nature that reasonably indicates abuse or neglect of the client or 6316
patient. 6317

(c) The abuse or neglect does not arise out of the client's 6318
or patient's attempt to have an abortion without the notification 6319
of her parents, guardian, or custodian in accordance with section 6320
2151.85 of the Revised Code. 6321

(4)(a) No cleric and no person, other than a volunteer, 6322
designated by any church, religious society, or faith acting as a 6323
leader, official, or delegate on behalf of the church, religious 6324
society, or faith who is acting in an official or professional 6325
capacity, who knows, or has reasonable cause to believe based on 6326
facts that would cause a reasonable person in a similar position 6327
to believe, that a child under eighteen years of age or a mentally 6328
retarded, developmentally disabled, or physically impaired child 6329
under twenty-one years of age has suffered or faces a threat of 6330
suffering any physical or mental wound, injury, disability, or 6331
condition of a nature that reasonably indicates abuse or neglect 6332
of the child, and who knows, or has reasonable cause to believe 6333
based on facts that would cause a reasonable person in a similar 6334
position to believe, that another cleric or another person, other 6335
than a volunteer, designated by a church, religious society, or 6336
faith acting as a leader, official, or delegate on behalf of the 6337
church, religious society, or faith caused, or poses the threat of 6338

causing, the wound, injury, disability, or condition that 6339
reasonably indicates abuse or neglect shall fail to immediately 6340
report that knowledge or reasonable cause to believe to the entity 6341
or persons specified in this division. Except as provided in 6342
section 5120.173 of the Revised Code, the person making the report 6343
shall make it to the public children services agency or a 6344
municipal or county peace officer in the county in which the child 6345
resides or in which the abuse or neglect is occurring or has 6346
occurred. In the circumstances described in section 5120.173 of 6347
the Revised Code, the person making the report shall make it to 6348
the entity specified in that section. 6349

(b) Except as provided in division (A)(4)(c) of this section, 6350
a cleric is not required to make a report pursuant to division 6351
(A)(4)(a) of this section concerning any communication the cleric 6352
receives from a penitent in a cleric-penitent relationship, if, in 6353
accordance with division (C) of section 2317.02 of the Revised 6354
Code, the cleric could not testify with respect to that 6355
communication in a civil or criminal proceeding. 6356

(c) The penitent in a cleric-penitent relationship described 6357
in division (A)(4)(b) of this section is deemed to have waived any 6358
testimonial privilege under division (C) of section 2317.02 of the 6359
Revised Code with respect to any communication the cleric receives 6360
from the penitent in that cleric-penitent relationship, and the 6361
cleric shall make a report pursuant to division (A)(4)(a) of this 6362
section with respect to that communication, if all of the 6363
following apply: 6364

(i) The penitent, at the time of the communication, is either 6365
a child under eighteen years of age or a mentally retarded, 6366
developmentally disabled, or physically impaired person under 6367
twenty-one years of age. 6368

(ii) The cleric knows, or has reasonable cause to believe 6369
based on facts that would cause a reasonable person in a similar 6370

position to believe, as a result of the communication or any 6371
observations made during that communication, the penitent has 6372
suffered or faces a threat of suffering any physical or mental 6373
wound, injury, disability, or condition of a nature that 6374
reasonably indicates abuse or neglect of the penitent. 6375

(iii) The abuse or neglect does not arise out of the 6376
penitent's attempt to have an abortion performed upon a child 6377
under eighteen years of age or upon a mentally retarded, 6378
developmentally disabled, or physically impaired person under 6379
twenty-one years of age without the notification of her parents, 6380
guardian, or custodian in accordance with section 2151.85 of the 6381
Revised Code. 6382

(d) Divisions (A)(4)(a) and (c) of this section do not apply 6383
in a cleric-penitent relationship when the disclosure of any 6384
communication the cleric receives from the penitent is in 6385
violation of the sacred trust. 6386

(e) As used in divisions (A)(1) and (4) of this section, 6387
"cleric" and "sacred trust" have the same meanings as in section 6388
2317.02 of the Revised Code. 6389

(B) Anyone who knows, or has reasonable cause to suspect 6390
based on facts that would cause a reasonable person in similar 6391
circumstances to suspect, that a child under eighteen years of age 6392
or a mentally retarded, developmentally disabled, or physically 6393
impaired person under twenty-one years of age has suffered or 6394
faces a threat of suffering any physical or mental wound, injury, 6395
disability, or other condition of a nature that reasonably 6396
indicates abuse or neglect of the child may report or cause 6397
reports to be made of that knowledge or reasonable cause to 6398
suspect to the entity or persons specified in this division. 6399
Except as provided in section 5120.173 of the Revised Code, a 6400
person making a report or causing a report to be made under this 6401
division shall make it or cause it to be made to the public 6402

children services agency or to a municipal or county peace 6403
officer. In the circumstances described in section 5120.173 of the 6404
Revised Code, a person making a report or causing a report to be 6405
made under this division shall make it or cause it to be made to 6406
the entity specified in that section. 6407

(C) Any report made pursuant to division (A) or (B) of this 6408
section shall be made forthwith either by telephone or in person 6409
and shall be followed by a written report, if requested by the 6410
receiving agency or officer. The written report shall contain: 6411

(1) The names and addresses of the child and the child's 6412
parents or the person or persons having custody of the child, if 6413
known; 6414

(2) The child's age and the nature and extent of the child's 6415
injuries, abuse, or neglect that is known or reasonably suspected 6416
or believed, as applicable, to have occurred or of the threat of 6417
injury, abuse, or neglect that is known or reasonably suspected or 6418
believed, as applicable, to exist, including any evidence of 6419
previous injuries, abuse, or neglect; 6420

(3) Any other information that might be helpful in 6421
establishing the cause of the injury, abuse, or neglect that is 6422
known or reasonably suspected or believed, as applicable, to have 6423
occurred or of the threat of injury, abuse, or neglect that is 6424
known or reasonably suspected or believed, as applicable, to 6425
exist. 6426

Any person, who is required by division (A) of this section 6427
to report child abuse or child neglect that is known or reasonably 6428
suspected or believed to have occurred, may take or cause to be 6429
taken color photographs of areas of trauma visible on a child and, 6430
if medically indicated, cause to be performed radiological 6431
examinations of the child. 6432

(D) As used in this division, "children's advocacy center" 6433

and "sexual abuse of a child" have the same meanings as in section 2151.425 of the Revised Code.

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

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

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

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

(E) No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect

the child from further abuse or neglect. The agency that must be
consulted shall be the agency conducting the investigation of the
report as determined pursuant to section 2151.422 of the Revised
Code.

(F)(1) Except as provided in section 2151.422 of the Revised
Code or in an interagency agreement entered into under section
2151.428 of the Revised Code that applies to the particular
report, the public children services agency shall investigate,
within twenty-four hours, each report of child abuse or child
neglect that is known or reasonably suspected or believed to have
occurred and of a threat of child abuse or child neglect that is
known or reasonably suspected or believed to exist that is
referred to it under this section to determine the circumstances
surrounding the injuries, abuse, or neglect or the threat of
injury, abuse, or neglect, the cause of the injuries, abuse,
neglect, or threat, and the person or persons responsible. The
investigation shall be made in cooperation with the law
enforcement agency and in accordance with the memorandum of
understanding prepared under division (J) of this section. A
representative of the public children services agency shall, at
the time of initial contact with the person subject to the
investigation, inform the person of the specific complaints or
allegations made against the person. The information shall be
given in a manner that is consistent with division (H)(1) of this
section and protects the rights of the person making the report
under this section.

A failure to make the investigation in accordance with the
memorandum is not grounds for, and shall not result in, the
dismissal of any charges or complaint arising from the report or
the suppression of any evidence obtained as a result of the report
and does not give, and shall not be construed as giving, any
rights or any grounds for appeal or post-conviction relief to any

person. The public children services agency shall report each case 6497
to the uniform statewide automated child welfare information 6498
system that the department of job and family services shall 6499
maintain in accordance with section 5101.13 of the Revised Code. 6500
The public children services agency shall submit a report of its 6501
investigation, in writing, to the law enforcement agency. 6502

(2) The public children services agency shall make any 6503
recommendations to the county prosecuting attorney or city 6504
director of law that it considers necessary to protect any 6505
children that are brought to its attention. 6506

(G)(1)(a) Except as provided in division (H)(3) of this 6507
section, anyone or any hospital, institution, school, health 6508
department, or agency participating in the making of reports under 6509
division (A) of this section, anyone or any hospital, institution, 6510
school, health department, or agency participating in good faith 6511
in the making of reports under division (B) of this section, and 6512
anyone participating in good faith in a judicial proceeding 6513
resulting from the reports, shall be immune from any civil or 6514
criminal liability for injury, death, or loss to person or 6515
property that otherwise might be incurred or imposed as a result 6516
of the making of the reports or the participation in the judicial 6517
proceeding. 6518

(b) Notwithstanding section 4731.22 of the Revised Code, the 6519
physician-patient privilege shall not be a ground for excluding 6520
evidence regarding a child's injuries, abuse, or neglect, or the 6521
cause of the injuries, abuse, or neglect in any judicial 6522
proceeding resulting from a report submitted pursuant to this 6523
section. 6524

(2) In any civil or criminal action or proceeding in which it 6525
is alleged and proved that participation in the making of a report 6526
under this section was not in good faith or participation in a 6527
judicial proceeding resulting from a report made under this 6528

section was not in good faith, the court shall award the 6529
prevailing party reasonable attorney's fees and costs and, if a 6530
civil action or proceeding is voluntarily dismissed, may award 6531
reasonable attorney's fees and costs to the party against whom the 6532
civil action or proceeding is brought. 6533

(H)(1) Except as provided in divisions (H)(4) and (N) of this 6534
section, a report made under this section is confidential. The 6535
information provided in a report made pursuant to this section and 6536
the name of the person who made the report shall not be released 6537
for use, and shall not be used, as evidence in any civil action or 6538
proceeding brought against the person who made the report. Nothing 6539
in this division shall preclude the use of reports of other 6540
incidents of known or suspected abuse or neglect in a civil action 6541
or proceeding brought pursuant to division (M) of this section 6542
against a person who is alleged to have violated division (A)(1) 6543
of this section, provided that any information in a report that 6544
would identify the child who is the subject of the report or the 6545
maker of the report, if the maker of the report is not the 6546
defendant or an agent or employee of the defendant, has been 6547
redacted. In a criminal proceeding, the report is admissible in 6548
evidence in accordance with the Rules of Evidence and is subject 6549
to discovery in accordance with the Rules of Criminal Procedure. 6550

(2) No person shall permit or encourage the unauthorized 6552
dissemination of the contents of any report made under this 6553
section. 6554

(3) A person who knowingly makes or causes another person to 6555
make a false report under division (B) of this section that 6556
alleges that any person has committed an act or omission that 6557
resulted in a child being an abused child or a neglected child is 6558
guilty of a violation of section 2921.14 of the Revised Code. 6559

(4) If a report is made pursuant to division (A) or (B) of 6560

this section and the child who is the subject of the report dies 6561
for any reason at any time after the report is made, but before 6562
the child attains eighteen years of age, the public children 6563
services agency or municipal or county peace officer to which the 6564
report was made or referred, on the request of the child fatality 6565
review board, shall submit a summary sheet of information 6566
providing a summary of the report to the review board of the 6567
county in which the deceased child resided at the time of death. 6568
On the request of the review board, the agency or peace officer 6569
may, at its discretion, make the report available to the review 6570
board. If the county served by the public children services agency 6571
is also served by a children's advocacy center and the report of 6572
alleged sexual abuse of a child or another type of abuse of a 6573
child is specified in the memorandum of understanding that creates 6574
the center as being within the center's jurisdiction, the agency 6575
or center shall perform the duties and functions specified in this 6576
division in accordance with the interagency agreement entered into 6577
under section 2151.428 of the Revised Code relative to that 6578
advocacy center. 6579

(5) A public children services agency shall advise a person 6580
alleged to have inflicted abuse or neglect on a child who is the 6581
subject of a report made pursuant to this section, including a 6582
report alleging sexual abuse of a child or another type of abuse 6583
of a child referred to a children's advocacy center pursuant to an 6584
interagency agreement entered into under section 2151.428 of the 6585
Revised Code, in writing of the disposition of the investigation. 6586
The agency shall not provide to the person any information that 6587
identifies the person who made the report, statements of 6588
witnesses, or police or other investigative reports. 6589

(I) Any report that is required by this section, other than a 6590
report that is made to the state highway patrol as described in 6591
section 5120.173 of the Revised Code, shall result in protective 6592

services and emergency supportive services being made available by 6593
the public children services agency on behalf of the children 6594
about whom the report is made, in an effort to prevent further 6595
neglect or abuse, to enhance their welfare, and, whenever 6596
possible, to preserve the family unit intact. The agency required 6597
to provide the services shall be the agency conducting the 6598
investigation of the report pursuant to section 2151.422 of the 6599
Revised Code. 6600

(J)(1) Each public children services agency shall prepare a 6601
memorandum of understanding that is signed by all of the 6602
following: 6603

(a) If there is only one juvenile judge in the county, the 6604
juvenile judge of the county or the juvenile judge's 6605
representative; 6606

(b) If there is more than one juvenile judge in the county, a 6607
juvenile judge or the juvenile judges' representative selected by 6608
the juvenile judges or, if they are unable to do so for any 6609
reason, the juvenile judge who is senior in point of service or 6610
the senior juvenile judge's representative; 6611

(c) The county peace officer; 6612

(d) All chief municipal peace officers within the county; 6613

(e) Other law enforcement officers handling child abuse and 6614
neglect cases in the county; 6615

(f) The prosecuting attorney of the county; 6616

(g) If the public children services agency is not the county 6617
department of job and family services, the county department of 6618
job and family services; 6619

(h) The county humane society; 6620

(i) If the public children services agency participated in 6621
the execution of a memorandum of understanding under section 6622

2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center established by the memorandum. 6623
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(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. 6626
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(3) A memorandum of understanding shall include all of the following: 6645
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(a) The roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect; 6647
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(b) Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child 6649
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who is the subject of the report and who allegedly was abused or 6655
neglected. 6656

(4) If a public children services agency participated in the 6657
execution of a memorandum of understanding under section 2151.426 6658
of the Revised Code establishing a children's advocacy center, the 6659
agency shall incorporate the contents of that memorandum in the 6660
memorandum prepared pursuant to this section. 6661

(5) The clerk of the court of common pleas in the county may 6662
sign the memorandum of understanding prepared under division 6663
(J)(1) of this section. If the clerk signs the memorandum of 6664
understanding, the clerk shall execute all relevant 6665
responsibilities as required of officials specified in the 6666
memorandum. 6667

(K)(1) Except as provided in division (K)(4) of this section, 6668
a person who is required to make a report pursuant to division (A) 6669
of this section may make a reasonable number of requests of the 6670
public children services agency that receives or is referred the 6671
report, or of the children's advocacy center that is referred the 6672
report if the report is referred to a children's advocacy center 6673
pursuant to an interagency agreement entered into under section 6674
2151.428 of the Revised Code, to be provided with the following 6675
information: 6676

(a) Whether the agency or center has initiated an 6677
investigation of the report; 6678

(b) Whether the agency or center is continuing to investigate 6679
the report; 6680

(c) Whether the agency or center is otherwise involved with 6681
the child who is the subject of the report; 6682

(d) The general status of the health and safety of the child 6683
who is the subject of the report; 6684

(e) Whether the report has resulted in the filing of a 6685
complaint in juvenile court or of criminal charges in another 6686
court. 6687

(2) A person may request the information specified in 6688
division (K)(1) of this section only if, at the time the report is 6689
made, the person's name, address, and telephone number are 6690
provided to the person who receives the report. 6691

When a municipal or county peace officer or employee of a 6692
public children services agency receives a report pursuant to 6693
division (A) or (B) of this section the recipient of the report 6694
shall inform the person of the right to request the information 6695
described in division (K)(1) of this section. The recipient of the 6696
report shall include in the initial child abuse or child neglect 6697
report that the person making the report was so informed and, if 6698
provided at the time of the making of the report, shall include 6699
the person's name, address, and telephone number in the report. 6700

Each request is subject to verification of the identity of 6701
the person making the report. If that person's identity is 6702
verified, the agency shall provide the person with the information 6703
described in division (K)(1) of this section a reasonable number 6704
of times, except that the agency shall not disclose any 6705
confidential information regarding the child who is the subject of 6706
the report other than the information described in those 6707
divisions. 6708

(3) A request made pursuant to division (K)(1) of this 6709
section is not a substitute for any report required to be made 6710
pursuant to division (A) of this section. 6711

(4) If an agency other than the agency that received or was 6712
referred the report is conducting the investigation of the report 6713
pursuant to section 2151.422 of the Revised Code, the agency 6714
conducting the investigation shall comply with the requirements of 6715

division (K) of this section. 6716

(L) The director of job and family services shall adopt rules 6717
in accordance with Chapter 119. of the Revised Code to implement 6718
this section. The department of job and family services may enter 6719
into a plan of cooperation with any other governmental entity to 6720
aid in ensuring that children are protected from abuse and 6721
neglect. The department shall make recommendations to the attorney 6722
general that the department determines are necessary to protect 6723
children from child abuse and child neglect. 6724

(M) Whoever violates division (A) of this section is liable 6725
for compensatory and exemplary damages to the child who would have 6726
been the subject of the report that was not made. A person who 6727
brings a civil action or proceeding pursuant to this division 6728
against a person who is alleged to have violated division (A)(1) 6729
of this section may use in the action or proceeding reports of 6730
other incidents of known or suspected abuse or neglect, provided 6731
that any information in a report that would identify the child who 6732
is the subject of the report or the maker of the report, if the 6733
maker is not the defendant or an agent or employee of the 6734
defendant, has been redacted. 6735

(N)(1) As used in this division: 6736

(a) "Out-of-home care" includes a nonchartered nonpublic 6737
school if the alleged child abuse or child neglect, or alleged 6738
threat of child abuse or child neglect, described in a report 6739
received by a public children services agency allegedly occurred 6740
in or involved the nonchartered nonpublic school and the alleged 6741
perpetrator named in the report holds a certificate, permit, or 6742
license issued by the state board of education under section 6743
3301.071 or Chapter 3319. of the Revised Code. 6744

(b) "Administrator, director, or other chief administrative 6745
officer" means the superintendent of the school district if the 6746

out-of-home care entity subject to a report made pursuant to this 6747
section is a school operated by the district. 6748

(2) No later than the end of the day following the day on 6749
which a public children services agency receives a report of 6750
alleged child abuse or child neglect, or a report of an alleged 6751
threat of child abuse or child neglect, that allegedly occurred in 6752
or involved an out-of-home care entity, the agency shall provide 6753
written notice of the allegations contained in and the person 6754
named as the alleged perpetrator in the report to the 6755
administrator, director, or other chief administrative officer of 6756
the out-of-home care entity that is the subject of the report 6757
unless the administrator, director, or other chief administrative 6758
officer is named as an alleged perpetrator in the report. If the 6759
administrator, director, or other chief administrative officer of 6760
an out-of-home care entity is named as an alleged perpetrator in a 6761
report of alleged child abuse or child neglect, or a report of an 6762
alleged threat of child abuse or child neglect, that allegedly 6763
occurred in or involved the out-of-home care entity, the agency 6764
shall provide the written notice to the owner or governing board 6765
of the out-of-home care entity that is the subject of the report. 6766
The agency shall not provide witness statements or police or other 6767
investigative reports. 6768

(3) No later than three days after the day on which a public 6769
children services agency that conducted the investigation as 6770
determined pursuant to section 2151.422 of the Revised Code makes 6771
a disposition of an investigation involving a report of alleged 6772
child abuse or child neglect, or a report of an alleged threat of 6773
child abuse or child neglect, that allegedly occurred in or 6774
involved an out-of-home care entity, the agency shall send written 6775
notice of the disposition of the investigation to the 6776
administrator, director, or other chief administrative officer and 6777
the owner or governing board of the out-of-home care entity. The 6778

agency shall not provide witness statements or police or other 6779
investigative reports. 6780

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the 6781
Revised Code: 6782

(A) "Care facility" means any of the following: 6783

(1) Any "home" as defined in section 3721.10 or 5111.20 of 6784
the Revised Code; 6785

(2) Any "residential facility" as defined in section 5123.19 6786
of the Revised Code; 6787

(3) Any institution or facility operated or provided by the 6788
department of mental health or by the department of ~~mental~~ 6789
~~retardation~~ and developmental disabilities pursuant to sections 6790
5119.02 and 5123.03 of the Revised Code; 6791

(4) Any "residential facility" as defined in section 5119.22 6792
of the Revised Code; 6793

(5) Any unit of any hospital, as defined in section 3701.01 6794
of the Revised Code, that provides the same services as a nursing 6795
home, as defined in section 3721.01 of the Revised Code; 6796

(6) Any institution, residence, or facility that provides, 6797
for a period of more than twenty-four hours, whether for a 6798
consideration or not, accommodations to one individual or two 6799
unrelated individuals who are dependent upon the services of 6800
others; 6801

(7) Any "adult care facility" as defined in section 3722.01 6802
of the Revised Code; 6803

(8) Any adult foster home certified by the department of 6804
aging or its designee under section 173.36 of the Revised Code; 6805

(9) Any "community alternative home" as defined in section 6806
3724.01 of the Revised Code. 6807

(B) "Abuse" means knowingly causing physical harm or 6808
recklessly causing serious physical harm to a person by physical 6809
contact with the person or by the inappropriate use of a physical 6810
or chemical restraint, medication, or isolation on the person. 6811

(C)(1) "Gross neglect" means knowingly failing to provide a 6812
person with any treatment, care, goods, or service that is 6813
necessary to maintain the health or safety of the person when the 6814
failure results in physical harm or serious physical harm to the 6815
person. 6816

(2) "Neglect" means recklessly failing to provide a person 6817
with any treatment, care, goods, or service that is necessary to 6818
maintain the health or safety of the person when the failure 6819
results in serious physical harm to the person. 6820

(D) "Inappropriate use of a physical or chemical restraint, 6821
medication, or isolation" means the use of physical or chemical 6822
restraint, medication, or isolation as punishment, for staff 6823
convenience, excessively, as a substitute for treatment, or in 6824
quantities that preclude habilitation and treatment. 6825

Sec. 2919.271. (A)(1)(a) If a defendant is charged with a 6826
violation of section 2919.27 of the Revised Code or of a municipal 6827
ordinance that is substantially similar to that section, the court 6828
may order an evaluation of the mental condition of the defendant 6829
if the court determines that either of the following criteria 6830
apply: 6831

(i) If the alleged violation is a violation of a protection 6832
order issued or consent agreement approved pursuant to section 6833
2919.26 or 3113.31 of the Revised Code, that the violation 6834
allegedly involves conduct by the defendant that caused physical 6835
harm to the person or property of a family or household member 6836
covered by the order or agreement, or conduct by the defendant 6837
that caused a family or household member to believe that the 6838

defendant would cause physical harm to that member or that 6839
member's property. 6840

(ii) If the alleged violation is a violation of a protection 6841
order issued pursuant to section 2903.213 or 2903.214 of the 6842
Revised Code or a protection order issued by a court of another 6843
state, that the violation allegedly involves conduct by the 6844
defendant that caused physical harm to the person or property of 6845
the person covered by the order, or conduct by the defendant that 6846
caused the person covered by the order to believe that the 6847
defendant would cause physical harm to that person or that 6848
person's property. 6849

(b) If a defendant is charged with a violation of section 6850
2903.211 of the Revised Code or of a municipal ordinance that is 6851
substantially similar to that section, the court may order an 6852
evaluation of the mental condition of the defendant. 6853

(2) An evaluation ordered under division (A)(1) of this 6854
section shall be completed no later than thirty days from the date 6855
the order is entered pursuant to that division. In that order, the 6856
court shall do either of the following: 6857

(a) Order that the evaluation of the mental condition of the 6858
defendant be preceded by an examination conducted either by a 6859
forensic center that is designated by the department of mental 6860
health to conduct examinations and make evaluations of defendants 6861
charged with violations of section 2903.211 or 2919.27 of the 6862
Revised Code or of substantially similar municipal ordinances in 6863
the area in which the court is located, or by any other program or 6864
facility that is designated by the department of mental health or 6865
the department of ~~mental retardation and~~ developmental 6866
disabilities to conduct examinations and make evaluations of 6867
defendants charged with violations of section 2903.211 or 2919.27 6868
of the Revised Code or of substantially similar municipal 6869
ordinances, and that is operated by either department or is 6870

certified by either department as being in compliance with the 6871
standards established under division (I) of section 5119.01 of the 6872
Revised Code or division (C) of section 5123.04 of the Revised 6873
Code. 6874

(b) Designate a center, program, or facility other than one 6875
designated by the department of mental health or the department of 6876
~~mental retardation and~~ developmental disabilities, as described in 6877
division (A)(2)(a) of this section, to conduct the evaluation and 6878
preceding examination of the mental condition of the defendant. 6879

Whether the court acts pursuant to division (A)(2)(a) or (b) 6880
of this section, the court may designate examiners other than the 6881
personnel of the center, program, facility, or department involved 6882
to make the evaluation and preceding examination of the mental 6883
condition of the defendant. 6884

(B) If the court considers that additional evaluations of the 6885
mental condition of a defendant are necessary following the 6886
evaluation authorized by division (A) of this section, the court 6887
may order up to two additional similar evaluations. These 6888
evaluations shall be completed no later than thirty days from the 6889
date the applicable court order is entered. If more than one 6890
evaluation of the mental condition of the defendant is ordered 6891
under this division, the prosecutor and the defendant may 6892
recommend to the court an examiner whom each prefers to perform 6893
one of the evaluations and preceding examinations. 6894

(C)(1) The court may order a defendant who has been released 6895
on bail to submit to an examination under division (A) or (B) of 6896
this section. The examination shall be conducted either at the 6897
detention facility in which the defendant would have been confined 6898
if the defendant had not been released on bail, or, if so 6899
specified by the center, program, facility, or examiners involved, 6900
at the premises of the center, program, or facility. Additionally, 6901
the examination shall be conducted at the times established by the 6902

examiners involved. If such a defendant refuses to submit to an examination or a complete examination as required by the court or the center, program, facility, or examiners involved, the court may amend the conditions of the bail of the defendant and order the sheriff to take the defendant into custody and deliver the defendant to the detention facility in which the defendant would have been confined if the defendant had not been released on bail, or, if so specified by the center, program, facility, or examiners involved, to the premises of the center, program, or facility, for purposes of the examination.

(2) A defendant who has not been released on bail shall be examined at the detention facility in which the defendant is confined or, if so specified by the center, program, facility, or examiners involved, at the premises of the center, program, or facility.

(D) The examiner of the mental condition of a defendant under division (A) or (B) of this section shall file a written report with the court within thirty days after the entry of an order for the evaluation of the mental condition of the defendant. The report shall contain the findings of the examiner; the facts in reasonable detail on which the findings are based; the opinion of the examiner as to the mental condition of the defendant; the opinion of the examiner as to whether the defendant represents a substantial risk of physical harm to other persons as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that placed other persons in reasonable fear of violent behavior and serious physical harm, or evidence of present dangerousness; and the opinion of the examiner as to the types of treatment or counseling that the defendant needs. The court shall provide copies of the report to the prosecutor and defense counsel.

(E) The costs of any evaluation and preceding examination of

a defendant that is ordered pursuant to division (A) or (B) of 6935
this section shall be taxed as court costs in the criminal case. 6936

(F) If the examiner considers it necessary in order to make 6937
an accurate evaluation of the mental condition of a defendant, an 6938
examiner under division (A) or (B) of this section may request any 6939
family or household member of the defendant to provide the 6940
examiner with information. A family or household member may, but 6941
is not required to, provide information to the examiner upon 6942
receipt of the request. 6943

(G) As used in this section: 6944

(1) "Bail" includes a recognizance. 6945

(2) "Examiner" means a psychiatrist, a licensed independent 6946
social worker who is employed by a forensic center that is 6947
certified as being in compliance with the standards established 6948
under division (I) of section 5119.01 or division (C) of section 6949
5123.04 of the Revised Code, a licensed professional clinical 6950
counselor who is employed at a forensic center that is certified 6951
as being in compliance with such standards, or a licensed clinical 6952
psychologist, except that in order to be an examiner, a licensed 6953
clinical psychologist shall meet the criteria of division (I)(1) 6954
of section 5122.01 of the Revised Code or be employed to conduct 6955
examinations by the department of mental health or by a forensic 6956
center certified as being in compliance with the standards 6957
established under division (I) of section 5119.01 or division (C) 6958
of section 5123.04 of the Revised Code that is designated by the 6959
department of mental health. 6960

(3) "Family or household member" has the same meaning as in 6961
section 2919.25 of the Revised Code. 6962

(4) "Prosecutor" has the same meaning as in section 2935.01 6963
of the Revised Code. 6964

(5) "Psychiatrist" and "licensed clinical psychologist" have 6965

the same meanings as in section 5122.01 of the Revised Code. 6966

(6) "Protection order issued by a court of another state" has 6967
the same meaning as in section 2919.27 of the Revised Code. 6968

Sec. 2921.36. (A) No person shall knowingly convey, or 6969
attempt to convey, onto the grounds of a detention facility or of 6970
an institution, office building, or other place that is under the 6971
control of the department of mental health, the department of 6972
~~mental retardation and~~ developmental disabilities, the department 6973
of youth services, or the department of rehabilitation and 6974
correction any of the following items: 6975

(1) Any deadly weapon or dangerous ordnance, as defined in 6976
section 2923.11 of the Revised Code, or any part of or ammunition 6977
for use in such a deadly weapon or dangerous ordnance; 6978

(2) Any drug of abuse, as defined in section 3719.011 of the 6979
Revised Code; 6980

(3) Any intoxicating liquor, as defined in section 4301.01 of 6981
the Revised Code. 6982

(B) Division (A) of this section does not apply to any person 6983
who conveys or attempts to convey an item onto the grounds of a 6984
detention facility or of an institution, office building, or other 6985
place under the control of the department of mental health, the 6986
department of ~~mental retardation and~~ developmental disabilities, 6987
the department of youth services, or the department of 6988
rehabilitation and correction pursuant to the written 6989
authorization of the person in charge of the detention facility or 6990
the institution, office building, or other place and in accordance 6991
with the written rules of the detention facility or the 6992
institution, office building, or other place. 6993

(C) No person shall knowingly deliver, or attempt to deliver, 6994
to any person who is confined in a detention facility, to a child 6995

confined in a youth services facility, to a prisoner who is 6996
temporarily released from confinement for a work assignment, or to 6997
any patient in an institution under the control of the department 6998
of mental health or the department of ~~mental retardation and~~ 6999
developmental disabilities any item listed in division (A)(1), 7000
(2), or (3) of this section. 7001

(D) No person shall knowingly deliver, or attempt to deliver, 7002
cash to any person who is confined in a detention facility, to a 7003
child confined in a youth services facility, or to a prisoner who 7004
is temporarily released from confinement for a work assignment. 7005

(E) No person shall knowingly deliver, or attempt to deliver, 7006
to any person who is confined in a detention facility, to a child 7007
confined in a youth services facility, or to a prisoner who is 7008
temporarily released from confinement for a work assignment a 7009
cellular telephone, two-way radio, or other electronic 7010
communications device. 7011

(F)(1) It is an affirmative defense to a charge under 7012
division (A)(1) of this section that the weapon or dangerous 7013
ordnance in question was being transported in a motor vehicle for 7014
any lawful purpose, that it was not on the actor's person, and, if 7015
the weapon or dangerous ordnance in question was a firearm, that 7016
it was unloaded and was being carried in a closed package, box, or 7017
case or in a compartment that can be reached only by leaving the 7018
vehicle. 7019

(2) It is an affirmative defense to a charge under division 7020
(C) of this section that the actor was not otherwise prohibited by 7021
law from delivering the item to the confined person, the child, 7022
the prisoner, or the patient and that either of the following 7023
applies: 7024

(a) The actor was permitted by the written rules of the 7025
detention facility or the institution, office building, or other 7026

place to deliver the item to the confined person or the patient. 7027

(b) The actor was given written authorization by the person 7028
in charge of the detention facility or the institution, office 7029
building, or other place to deliver the item to the confined 7030
person or the patient. 7031

(G)(1) Whoever violates division (A)(1) of this section or 7032
commits a violation of division (C) of this section involving an 7033
item listed in division (A)(1) of this section is guilty of 7034
illegal conveyance of weapons onto the grounds of a specified 7035
governmental facility, a felony of the third degree. If the 7036
offender is an officer or employee of the department of 7037
rehabilitation and correction, the court shall impose a mandatory 7038
prison term. 7039

(2) Whoever violates division (A)(2) of this section or 7040
commits a violation of division (C) of this section involving any 7041
drug of abuse is guilty of illegal conveyance of drugs of abuse 7042
onto the grounds of a specified governmental facility, a felony of 7043
the third degree. If the offender is an officer or employee of the 7044
department of rehabilitation and correction or of the department 7045
of youth services, the court shall impose a mandatory prison term. 7046
7047

(3) Whoever violates division (A)(3) of this section or 7048
commits a violation of division (C) of this section involving any 7049
intoxicating liquor is guilty of illegal conveyance of 7050
intoxicating liquor onto the grounds of a specified governmental 7051
facility, a misdemeanor of the second degree. 7052

(4) Whoever violates division (D) of this section is guilty 7053
of illegal conveyance of cash onto the grounds of a detention 7054
facility, a misdemeanor of the first degree. If the offender 7055
previously has been convicted of or pleaded guilty to a violation 7056
of division (D) of this section, illegal conveyance of cash onto 7057

the grounds of a detention facility is a felony of the fifth 7058
degree. 7059

(5) Whoever violates division (E) of this section is guilty 7060
of illegal conveyance of a communications device onto the grounds 7061
of a specified governmental facility, a misdemeanor of the first 7062
degree, or if the offender previously has been convicted of or 7063
pleaded guilty to a violation of division (E) of this section, a 7064
felony of the fifth degree. 7065

Sec. 2921.38. (A) No person who is confined in a detention 7066
facility, with intent to harass, annoy, threaten, or alarm another 7067
person, shall cause or attempt to cause the other person to come 7068
into contact with blood, semen, urine, feces, or another bodily 7069
substance by throwing the bodily substance at the other person, by 7070
expelling the bodily substance upon the other person, or in any 7071
other manner. 7072

(B) No person, with intent to harass, annoy, threaten, or 7073
alarm a law enforcement officer, shall cause or attempt to cause 7074
the law enforcement officer to come into contact with blood, 7075
semen, urine, feces, or another bodily substance by throwing the 7076
bodily substance at the law enforcement officer, by expelling the 7077
bodily substance upon the law enforcement officer, or in any other 7078
manner. 7079

(C) No person, with knowledge that the person is a carrier of 7080
the virus that causes acquired immunodeficiency syndrome, is a 7081
carrier of a hepatitis virus, or is infected with tuberculosis and 7082
with intent to harass, annoy, threaten, or alarm another person, 7083
shall cause or attempt to cause the other person to come into 7084
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

(D) Whoever violates this section is guilty of harassment with a bodily substance. A violation of division (A) or (B) of this section is a felony of the fifth degree. A violation of division (C) of this section is a felony of the third degree.

(E)(1) The court, on request of the prosecutor, or the law enforcement authority responsible for the investigation of the violation, shall cause a person who allegedly has committed a violation of this section to submit to one or more appropriate tests to determine if the person is a carrier of the virus that causes acquired immunodeficiency syndrome, is a carrier of a hepatitis virus, or is infected with tuberculosis.

(2) The court shall charge the offender with the costs of the test or tests ordered under division (E)(1) of this section unless the court determines that the accused is unable to pay, in which case the costs shall be charged to the entity that operates the detention facility in which the alleged offense occurred.

(F) This section does not apply to a person who is hospitalized, institutionalized, or confined in a facility operated by the department of mental health or the department of ~~mental retardation and~~ developmental disabilities.

Sec. 2930.061. (A) If a person is charged in a complaint, indictment, or information with any crime or specified delinquent act or with any other violation of law, and if the case involves a victim that the prosecutor in the case knows is a mentally retarded person or a developmentally disabled person, in addition to any other notices required under this chapter or under any other provision of law, the prosecutor in the case shall send written notice of the charges to the department of ~~mental retardation and~~ developmental disabilities. The written notice shall specifically identify the person so charged.

(B) As used in this section, "mentally retarded person" and

"developmentally disabled person" have the same meanings as in 7120
section 5123.01 of the Revised Code. 7121

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, 7122
deputy marshal, municipal police officer, township constable, 7123
police officer of a township or joint township police district, 7124
member of a police force employed by a metropolitan housing 7125
authority under division (D) of section 3735.31 of the Revised 7126
Code, member of a police force employed by a regional transit 7127
authority under division (Y) of section 306.35 of the Revised 7128
Code, state university law enforcement officer appointed under 7129
section 3345.04 of the Revised Code, veterans' home police officer 7130
appointed under section 5907.02 of the Revised Code, special 7131
police officer employed by a port authority under section 4582.04 7132
or 4582.28 of the Revised Code, or a special police officer 7133
employed by a municipal corporation at a municipal airport, or 7134
other municipal air navigation facility, that has scheduled 7135
operations, as defined in section 119.3 of Title 14 of the Code of 7136
Federal Regulations, 14 C.F.R. 119.3, as amended, and that is 7137
required to be under a security program and is governed by 7138
aviation security rules of the transportation security 7139
administration of the United States department of transportation 7140
as provided in Parts 1542. and 1544. of Title 49 of the Code of 7141
Federal Regulations, as amended, shall arrest and detain, until a 7142
warrant can be obtained, a person found violating, within the 7143
limits of the political subdivision, metropolitan housing 7144
authority housing project, regional transit authority facilities 7145
or areas of a municipal corporation that have been agreed to by a 7146
regional transit authority and a municipal corporation located 7147
within its territorial jurisdiction, college, university, 7148
veterans' home operated under Chapter 5907. of the Revised Code, 7149
port authority, or municipal airport or other municipal air 7150
navigation facility, in which the peace officer is appointed, 7151

employed, or elected, a law of this state, an ordinance of a 7152
municipal corporation, or a resolution of a township. 7153

(2) A peace officer of the department of natural resources, a 7154
state fire marshal law enforcement officer described in division 7155
(A)(23) of section 109.71 of the Revised Code, or an individual 7156
designated to perform law enforcement duties under section 7157
511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and 7158
detain, until a warrant can be obtained, a person found violating, 7159
within the limits of the peace officer's, state fire marshal law 7160
enforcement officer's, or individual's territorial jurisdiction, a 7161
law of this state. 7162

(3) The house sergeant at arms if the house sergeant at arms 7163
has arrest authority pursuant to division (E)(1) of section 7164
101.311 of the Revised Code and an assistant house sergeant at 7165
arms shall arrest and detain, until a warrant can be obtained, a 7166
person found violating, within the limits of the sergeant at 7167
arms's or assistant sergeant at arms's territorial jurisdiction 7168
specified in division (D)(1)(a) of section 101.311 of the Revised 7169
Code or while providing security pursuant to division (D)(1)(f) of 7170
section 101.311 of the Revised Code, a law of this state, an 7171
ordinance of a municipal corporation, or a resolution of a 7172
township. 7173

(B)(1) When there is reasonable ground to believe that an 7174
offense of violence, the offense of criminal child enticement as 7175
defined in section 2905.05 of the Revised Code, the offense of 7176
public indecency as defined in section 2907.09 of the Revised 7177
Code, the offense of domestic violence as defined in section 7178
2919.25 of the Revised Code, the offense of violating a protection 7179
order as defined in section 2919.27 of the Revised Code, the 7180
offense of menacing by stalking as defined in section 2903.211 of 7181
the Revised Code, the offense of aggravated trespass as defined in 7182
section 2911.211 of the Revised Code, a theft offense as defined 7183

in section 2913.01 of the Revised Code, or a felony drug abuse 7184
offense as defined in section 2925.01 of the Revised Code, has 7185
been committed within the limits of the political subdivision, 7186
metropolitan housing authority housing project, regional transit 7187
authority facilities or those areas of a municipal corporation 7188
that have been agreed to by a regional transit authority and a 7189
municipal corporation located within its territorial jurisdiction, 7190
college, university, veterans' home operated under Chapter 5907. 7191
of the Revised Code, port authority, or municipal airport or other 7192
municipal air navigation facility, in which the peace officer is 7193
appointed, employed, or elected or within the limits of the 7194
territorial jurisdiction of the peace officer, a peace officer 7195
described in division (A) of this section may arrest and detain 7196
until a warrant can be obtained any person who the peace officer 7197
has reasonable cause to believe is guilty of the violation. 7198

(2) For purposes of division (B)(1) of this section, the 7199
execution of any of the following constitutes reasonable ground to 7200
believe that the offense alleged in the statement was committed 7201
and reasonable cause to believe that the person alleged in the 7202
statement to have committed the offense is guilty of the 7203
violation: 7204

(a) A written statement by a person alleging that an alleged 7205
offender has committed the offense of menacing by stalking or 7206
aggravated trespass; 7207

(b) A written statement by the administrator of the 7208
interstate compact on mental health appointed under section 7209
5119.51 of the Revised Code alleging that a person who had been 7210
hospitalized, institutionalized, or confined in any facility under 7211
an order made pursuant to or under authority of section 2945.37, 7212
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 7213
Revised Code has escaped from the facility, from confinement in a 7214
vehicle for transportation to or from the facility, or from 7215

supervision by an employee of the facility that is incidental to 7216
hospitalization, institutionalization, or confinement in the 7217
facility and that occurs outside of the facility, in violation of 7218
section 2921.34 of the Revised Code; 7219

(c) A written statement by the administrator of any facility 7220
in which a person has been hospitalized, institutionalized, or 7221
confined under an order made pursuant to or under authority of 7222
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 7223
2945.402 of the Revised Code alleging that the person has escaped 7224
from the facility, from confinement in a vehicle for 7225
transportation to or from the facility, or from supervision by an 7226
employee of the facility that is incidental to hospitalization, 7227
institutionalization, or confinement in the facility and that 7228
occurs outside of the facility, in violation of section 2921.34 of 7229
the Revised Code. 7230

(3)(a) For purposes of division (B)(1) of this section, a 7231
peace officer described in division (A) of this section has 7232
reasonable grounds to believe that the offense of domestic 7233
violence or the offense of violating a protection order has been 7234
committed and reasonable cause to believe that a particular person 7235
is guilty of committing the offense if any of the following 7236
occurs: 7237

(i) A person executes a written statement alleging that the 7238
person in question has committed the offense of domestic violence 7239
or the offense of violating a protection order against the person 7240
who executes the statement or against a child of the person who 7241
executes the statement. 7242

(ii) No written statement of the type described in division 7243
(B)(3)(a)(i) of this section is executed, but the peace officer, 7244
based upon the peace officer's own knowledge and observation of 7245
the facts and circumstances of the alleged incident of the offense 7246
of domestic violence or the alleged incident of the offense of 7247

violating a protection order or based upon any other information, 7248
including, but not limited to, any reasonably trustworthy 7249
information given to the peace officer by the alleged victim of 7250
the alleged incident of the offense or any witness of the alleged 7251
incident of the offense, concludes that there are reasonable 7252
grounds to believe that the offense of domestic violence or the 7253
offense of violating a protection order has been committed and 7254
reasonable cause to believe that the person in question is guilty 7255
of committing the offense. 7256

(iii) No written statement of the type described in division 7257
(B)(3)(a)(i) of this section is executed, but the peace officer 7258
witnessed the person in question commit the offense of domestic 7259
violence or the offense of violating a protection order. 7260

(b) If pursuant to division (B)(3)(a) of this section a peace 7261
officer has reasonable grounds to believe that the offense of 7262
domestic violence or the offense of violating a protection order 7263
has been committed and reasonable cause to believe that a 7264
particular person is guilty of committing the offense, it is the 7265
preferred course of action in this state that the officer arrest 7266
and detain that person pursuant to division (B)(1) of this section 7267
until a warrant can be obtained. 7268

If pursuant to division (B)(3)(a) of this section a peace 7269
officer has reasonable grounds to believe that the offense of 7270
domestic violence or the offense of violating a protection order 7271
has been committed and reasonable cause to believe that family or 7272
household members have committed the offense against each other, 7273
it is the preferred course of action in this state that the 7274
officer, pursuant to division (B)(1) of this section, arrest and 7275
detain until a warrant can be obtained the family or household 7276
member who committed the offense and whom the officer has 7277
reasonable cause to believe is the primary physical aggressor. 7278
There is no preferred course of action in this state regarding any 7279

other family or household member who committed the offense and 7280
whom the officer does not have reasonable cause to believe is the 7281
primary physical aggressor, but, pursuant to division (B)(1) of 7282
this section, the peace officer may arrest and detain until a 7283
warrant can be obtained any other family or household member who 7284
committed the offense and whom the officer does not have 7285
reasonable cause to believe is the primary physical aggressor. 7286

(c) If a peace officer described in division (A) of this 7287
section does not arrest and detain a person whom the officer has 7288
reasonable cause to believe committed the offense of domestic 7289
violence or the offense of violating a protection order when it is 7290
the preferred course of action in this state pursuant to division 7291
(B)(3)(b) of this section that the officer arrest that person, the 7292
officer shall articulate in the written report of the incident 7293
required by section 2935.032 of the Revised Code a clear statement 7294
of the officer's reasons for not arresting and detaining that 7295
person until a warrant can be obtained. 7296

(d) In determining for purposes of division (B)(3)(b) of this 7297
section which family or household member is the primary physical 7298
aggressor in a situation in which family or household members have 7299
committed the offense of domestic violence or the offense of 7300
violating a protection order against each other, a peace officer 7301
described in division (A) of this section, in addition to any 7302
other relevant circumstances, should consider all of the 7303
following: 7304

(i) Any history of domestic violence or of any other violent 7305
acts by either person involved in the alleged offense that the 7306
officer reasonably can ascertain; 7307

(ii) If violence is alleged, whether the alleged violence was 7308
caused by a person acting in self-defense; 7309

(iii) Each person's fear of physical harm, if any, resulting 7310

from the other person's threatened use of force against any person 7311
or resulting from the other person's use or history of the use of 7312
force against any person, and the reasonableness of that fear; 7313

(iv) The comparative severity of any injuries suffered by the 7314
persons involved in the alleged offense. 7315

(e)(i) A peace officer described in division (A) of this 7316
section shall not require, as a prerequisite to arresting or 7317
charging a person who has committed the offense of domestic 7318
violence or the offense of violating a protection order, that the 7319
victim of the offense specifically consent to the filing of 7320
charges against the person who has committed the offense or sign a 7321
complaint against the person who has committed the offense. 7322

(ii) If a person is arrested for or charged with committing 7323
the offense of domestic violence or the offense of violating a 7324
protection order and if the victim of the offense does not 7325
cooperate with the involved law enforcement or prosecuting 7326
authorities in the prosecution of the offense or, subsequent to 7327
the arrest or the filing of the charges, informs the involved law 7328
enforcement or prosecuting authorities that the victim does not 7329
wish the prosecution of the offense to continue or wishes to drop 7330
charges against the alleged offender relative to the offense, the 7331
involved prosecuting authorities, in determining whether to 7332
continue with the prosecution of the offense or whether to dismiss 7333
charges against the alleged offender relative to the offense and 7334
notwithstanding the victim's failure to cooperate or the victim's 7335
wishes, shall consider all facts and circumstances that are 7336
relevant to the offense, including, but not limited to, the 7337
statements and observations of the peace officers who responded to 7338
the incident that resulted in the arrest or filing of the charges 7339
and of all witnesses to that incident. 7340

(f) In determining pursuant to divisions (B)(3)(a) to (g) of 7341
this section whether to arrest a person pursuant to division 7342

(B)(1) of this section, a peace officer described in division (A) 7343
of this section shall not consider as a factor any possible 7344
shortage of cell space at the detention facility to which the 7345
person will be taken subsequent to the person's arrest or any 7346
possibility that the person's arrest might cause, contribute to, 7347
or exacerbate overcrowding at that detention facility or at any 7348
other detention facility. 7349

(g) If a peace officer described in division (A) of this 7350
section intends pursuant to divisions (B)(3)(a) to (g) of this 7351
section to arrest a person pursuant to division (B)(1) of this 7352
section and if the officer is unable to do so because the person 7353
is not present, the officer promptly shall seek a warrant for the 7354
arrest of the person. 7355

(h) If a peace officer described in division (A) of this 7356
section responds to a report of an alleged incident of the offense 7357
of domestic violence or an alleged incident of the offense of 7358
violating a protection order and if the circumstances of the 7359
incident involved the use or threatened use of a deadly weapon or 7360
any person involved in the incident brandished a deadly weapon 7361
during or in relation to the incident, the deadly weapon that was 7362
used, threatened to be used, or brandished constitutes contraband, 7363
and, to the extent possible, the officer shall seize the deadly 7364
weapon as contraband pursuant to Chapter 2981. of the Revised 7365
Code. Upon the seizure of a deadly weapon pursuant to division 7366
(B)(3)(h) of this section, section 2981.12 of the Revised Code 7367
shall apply regarding the treatment and disposition of the deadly 7368
weapon. For purposes of that section, the "underlying criminal 7369
offense" that was the basis of the seizure of a deadly weapon 7370
under division (B)(3)(h) of this section and to which the deadly 7371
weapon had a relationship is any of the following that is 7372
applicable: 7373

(i) The alleged incident of the offense of domestic violence 7374

or the alleged incident of the offense of violating a protection 7375
order to which the officer who seized the deadly weapon responded; 7376

(ii) Any offense that arose out of the same facts and 7377
circumstances as the report of the alleged incident of the offense 7378
of domestic violence or the alleged incident of the offense of 7379
violating a protection order to which the officer who seized the 7380
deadly weapon responded. 7381

(4) If, in the circumstances described in divisions (B)(3)(a) 7382
to (g) of this section, a peace officer described in division (A) 7383
of this section arrests and detains a person pursuant to division 7384
(B)(1) of this section, or if, pursuant to division (B)(3)(h) of 7385
this section, a peace officer described in division (A) of this 7386
section seizes a deadly weapon, the officer, to the extent 7387
described in and in accordance with section 9.86 or 2744.03 of the 7388
Revised Code, is immune in any civil action for damages for 7389
injury, death, or loss to person or property that arises from or 7390
is related to the arrest and detention or the seizure. 7391

(C) When there is reasonable ground to believe that a 7392
violation of division (A)(1), (2), (3), (4), or (5) of section 7393
4506.15 or a violation of section 4511.19 of the Revised Code has 7394
been committed by a person operating a motor vehicle subject to 7395
regulation by the public utilities commission of Ohio under Title 7396
XLIX of the Revised Code, a peace officer with authority to 7397
enforce that provision of law may stop or detain the person whom 7398
the officer has reasonable cause to believe was operating the 7399
motor vehicle in violation of the division or section and, after 7400
investigating the circumstances surrounding the operation of the 7401
vehicle, may arrest and detain the person. 7402

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 7403
municipal police officer, member of a police force employed by a 7404
metropolitan housing authority under division (D) of section 7405
3735.31 of the Revised Code, member of a police force employed by 7406

a regional transit authority under division (Y) of section 306.35 7407
of the Revised Code, special police officer employed by a port 7408
authority under section 4582.04 or 4582.28 of the Revised Code, 7409
special police officer employed by a municipal corporation at a 7410
municipal airport or other municipal air navigation facility 7411
described in division (A) of this section, township constable, 7412
police officer of a township or joint township police district, 7413
state university law enforcement officer appointed under section 7414
3345.04 of the Revised Code, peace officer of the department of 7415
natural resources, individual designated to perform law 7416
enforcement duties under section 511.232, 1545.13, or 6101.75 of 7417
the Revised Code, the house sergeant at arms if the house sergeant 7418
at arms has arrest authority pursuant to division (E)(1) of 7419
section 101.311 of the Revised Code, or an assistant house 7420
sergeant at arms is authorized by division (A) or (B) of this 7421
section to arrest and detain, within the limits of the political 7422
subdivision, metropolitan housing authority housing project, 7423
regional transit authority facilities or those areas of a 7424
municipal corporation that have been agreed to by a regional 7425
transit authority and a municipal corporation located within its 7426
territorial jurisdiction, port authority, municipal airport or 7427
other municipal air navigation facility, college, or university in 7428
which the officer is appointed, employed, or elected or within the 7429
limits of the territorial jurisdiction of the peace officer, a 7430
person until a warrant can be obtained, the peace officer, outside 7431
the limits of that territory, may pursue, arrest, and detain that 7432
person until a warrant can be obtained if all of the following 7433
apply: 7434

(1) The pursuit takes place without unreasonable delay after 7435
the offense is committed; 7436

(2) The pursuit is initiated within the limits of the 7437
political subdivision, metropolitan housing authority housing 7438

project, regional transit authority facilities or those areas of a 7439
municipal corporation that have been agreed to by a regional 7440
transit authority and a municipal corporation located within its 7441
territorial jurisdiction, port authority, municipal airport or 7442
other municipal air navigation facility, college, or university in 7443
which the peace officer is appointed, employed, or elected or 7444
within the limits of the territorial jurisdiction of the peace 7445
officer; 7446

(3) The offense involved is a felony, a misdemeanor of the 7447
first degree or a substantially equivalent municipal ordinance, a 7448
misdemeanor of the second degree or a substantially equivalent 7449
municipal ordinance, or any offense for which points are 7450
chargeable pursuant to section 4510.036 of the Revised Code. 7451

(E) In addition to the authority granted under division (A) 7452
or (B) of this section: 7453

(1) A sheriff or deputy sheriff may arrest and detain, until 7454
a warrant can be obtained, any person found violating section 7455
4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 7456
4549.62, or Chapter 4511. or 4513. of the Revised Code on the 7457
portion of any street or highway that is located immediately 7458
adjacent to the boundaries of the county in which the sheriff or 7459
deputy sheriff is elected or appointed. 7460

(2) A member of the police force of a township police 7461
district created under section 505.48 of the Revised Code, a 7462
member of the police force of a joint township police district 7463
created under section 505.481 of the Revised Code, or a township 7464
constable appointed in accordance with section 509.01 of the 7465
Revised Code, who has received a certificate from the Ohio peace 7466
officer training commission under section 109.75 of the Revised 7467
Code, may arrest and detain, until a warrant can be obtained, any 7468
person found violating any section or chapter of the Revised Code 7469
listed in division (E)(1) of this section, other than sections 7470

4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the township police district or joint township police district, in the case of a member of a township police district or joint township police district police force, or the unincorporated territory of the township, in the case of a township constable. However, if the population of the township that created the township police district served by the member's police force, or the townships that created the joint township police district served by the member's police force, or the township that is served by the township constable, is sixty thousand or less, the member of the township police district or joint police district police force or the township constable may not make an arrest under division (E)(2) of this section on a state highway that is included as part of the interstate system.

(3) A police officer or village marshal appointed, elected, or employed by a municipal corporation may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section on the portion of any street or highway that is located immediately adjacent to the boundaries of the municipal corporation in which the police officer or village marshal is appointed, elected, or employed.

(4) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code, or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or

highway that is located immediately adjacent to the boundaries of 7503
the lands and waters that constitute the territorial jurisdiction 7504
of the peace officer or state fire marshal law enforcement 7505
officer. 7506

(F)(1) A department of mental health special police officer 7507
or a department of ~~mental retardation and~~ developmental 7508
disabilities special police officer may arrest without a warrant 7509
and detain until a warrant can be obtained any person found 7510
committing on the premises of any institution under the 7511
jurisdiction of the particular department a misdemeanor under a 7512
law of the state. 7513

A department of mental health special police officer or a 7514
department of ~~mental retardation and~~ developmental disabilities 7515
special police officer may arrest without a warrant and detain 7516
until a warrant can be obtained any person who has been 7517
hospitalized, institutionalized, or confined in an institution 7518
under the jurisdiction of the particular department pursuant to or 7519
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 7520
2945.40, 2945.401, or 2945.402 of the Revised Code and who is 7521
found committing on the premises of any institution under the 7522
jurisdiction of the particular department a violation of section 7523
2921.34 of the Revised Code that involves an escape from the 7524
premises of the institution. 7525

(2)(a) If a department of mental health special police 7526
officer or a department of ~~mental retardation and~~ developmental 7527
disabilities special police officer finds any person who has been 7528
hospitalized, institutionalized, or confined in an institution 7529
under the jurisdiction of the particular department pursuant to or 7530
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 7531
2945.40, 2945.401, or 2945.402 of the Revised Code committing a 7532
violation of section 2921.34 of the Revised Code that involves an 7533
escape from the premises of the institution, or if there is 7534

reasonable ground to believe that a violation of section 2921.34 7535
of the Revised Code has been committed that involves an escape 7536
from the premises of an institution under the jurisdiction of the 7537
department of mental health or the department of ~~mental~~ 7538
~~retardation and~~ developmental disabilities and if a department of 7539
mental health special police officer or a department of ~~mental~~ 7540
~~retardation and~~ developmental disabilities special police officer 7541
has reasonable cause to believe that a particular person who has 7542
been hospitalized, institutionalized, or confined in the 7543
institution pursuant to or under authority of section 2945.37, 7544
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 7545
Revised Code is guilty of the violation, the special police 7546
officer, outside of the premises of the institution, may pursue, 7547
arrest, and detain that person for that violation of section 7548
2921.34 of the Revised Code, until a warrant can be obtained, if 7549
both of the following apply: 7550

(i) The pursuit takes place without unreasonable delay after 7551
the offense is committed; 7552

(ii) The pursuit is initiated within the premises of the 7553
institution from which the violation of section 2921.34 of the 7554
Revised Code occurred. 7555

(b) For purposes of division (F)(2)(a) of this section, the 7556
execution of a written statement by the administrator of the 7557
institution in which a person had been hospitalized, 7558
institutionalized, or confined pursuant to or under authority of 7559
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 7560
2945.402 of the Revised Code alleging that the person has escaped 7561
from the premises of the institution in violation of section 7562
2921.34 of the Revised Code constitutes reasonable ground to 7563
believe that the violation was committed and reasonable cause to 7564
believe that the person alleged in the statement to have committed 7565
the offense is guilty of the violation. 7566

(G) As used in this section:	7567
(1) A "department of mental health special police officer" means a special police officer of the department of mental health designated under section 5119.14 of the Revised Code who is certified by the Ohio peace officer training commission under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.	7568 7569 7570 7571 7572 7573
(2) A "department of mental retardation and developmental disabilities special police officer" means a special police officer of the department of mental retardation and developmental disabilities designated under section 5123.13 of the Revised Code who is certified by the Ohio peace officer training council under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.	7574 7575 7576 7577 7578 7579 7580
(3) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.	7581 7582
(4) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.	7583 7584
(5) "Street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.	7585 7586
(6) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.	7587 7588
(7) "Peace officer of the department of natural resources" means an employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer	7589 7590 7591 7592 7593 7594 7595 7596 7597

designated pursuant to section 1547.521 of the Revised Code. 7598

(8) "Portion of any street or highway" means all lanes of the 7599
street or highway irrespective of direction of travel, including 7600
designated turn lanes, and any berm, median, or shoulder. 7601

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 of 7602
the Revised Code: 7603

(1) "Prosecutor" means a prosecuting attorney or a city 7604
director of law, village solicitor, or similar chief legal officer 7605
of a municipal corporation who has authority to prosecute a 7606
criminal case that is before the court or the criminal case in 7607
which a defendant in a criminal case has been found incompetent to 7608
stand trial or not guilty by reason of insanity. 7609

(2) "Examiner" means either of the following: 7610

(a) A psychiatrist or a licensed clinical psychologist who 7611
satisfies the criteria of division (I)(1) of section 5122.01 of 7612
the Revised Code or is employed by a certified forensic center 7613
designated by the department of mental health to conduct 7614
examinations or evaluations. 7615

(b) For purposes of a separate mental retardation evaluation 7616
that is ordered by a court pursuant to division (H) of section 7617
2945.371 of the Revised Code, a psychologist designated by the 7618
director of ~~mental retardation and~~ developmental disabilities 7619
pursuant to that section to conduct that separate mental 7620
retardation evaluation. 7621

(3) "Nonsecured status" means any unsupervised, off-grounds 7622
movement or trial visit from a hospital or institution, or any 7623
conditional release, that is granted to a person who is found 7624
incompetent to stand trial and is committed pursuant to section 7625
2945.39 of the Revised Code or to a person who is found not guilty 7626
by reason of insanity and is committed pursuant to section 2945.40 7627

of the Revised Code. 7628

(4) "Unsupervised, off-grounds movement" includes only 7629
off-grounds privileges that are unsupervised and that have an 7630
expectation of return to the hospital or institution on a daily 7631
basis. 7632

(5) "Trial visit" means a patient privilege of a longer 7633
stated duration of unsupervised community contact with an 7634
expectation of return to the hospital or institution at designated 7635
times. 7636

(6) "Conditional release" means a commitment status under 7637
which the trial court at any time may revoke a person's 7638
conditional release and order the rehospitalization or 7639
reinstitutionalization of the person as described in division (A) 7640
of section 2945.402 of the Revised Code and pursuant to which a 7641
person who is found incompetent to stand trial or a person who is 7642
found not guilty by reason of insanity lives and receives 7643
treatment in the community for a period of time that does not 7644
exceed the maximum prison term or term of imprisonment that the 7645
person could have received for the offense in question had the 7646
person been convicted of the offense instead of being found 7647
incompetent to stand trial on the charge of the offense or being 7648
found not guilty by reason of insanity relative to the offense. 7649

(7) "Licensed clinical psychologist," "mentally ill person 7650
subject to hospitalization by court order," and "psychiatrist" 7651
have the same meanings as in section 5122.01 of the Revised Code. 7652

(8) "Mentally retarded person subject to institutionalization 7653
by court order" has the same meaning as in section 5123.01 of the 7654
Revised Code. 7655

(B) In a criminal action in a court of common pleas, a county 7656
court, or a municipal court, the court, prosecutor, or defense may 7657
raise the issue of the defendant's competence to stand trial. If 7658

the issue is raised before the trial has commenced, the court 7659
shall hold a hearing on the issue as provided in this section. If 7660
the issue is raised after the trial has commenced, the court shall 7661
hold a hearing on the issue only for good cause shown or on the 7662
court's own motion. 7663

(C) The court shall conduct the hearing required or 7664
authorized under division (B) of this section within thirty days 7665
after the issue is raised, unless the defendant has been referred 7666
for evaluation in which case the court shall conduct the hearing 7667
within ten days after the filing of the report of the evaluation 7668
or, in the case of a defendant who is ordered by the court 7669
pursuant to division (H) of section 2945.371 of the Revised Code 7670
to undergo a separate mental retardation evaluation conducted by a 7671
psychologist designated by the director of ~~mental retardation and~~ 7672
developmental disabilities, within ten days after the filing of 7673
the report of the separate mental retardation evaluation under 7674
that division. A hearing may be continued for good cause. 7675

(D) The defendant shall be represented by counsel at the 7676
hearing conducted under division (C) of this section. If the 7677
defendant is unable to obtain counsel, the court shall appoint 7678
counsel under Chapter 120. of the Revised Code or under the 7679
authority recognized in division (C) of section 120.06, division 7680
(E) of section 120.16, division (E) of section 120.26, or section 7681
2941.51 of the Revised Code before proceeding with the hearing. 7682

(E) The prosecutor and defense counsel may submit evidence on 7683
the issue of the defendant's competence to stand trial. A written 7684
report of the evaluation of the defendant may be admitted into 7685
evidence at the hearing by stipulation, but, if either the 7686
prosecution or defense objects to its admission, the report may be 7687
admitted under sections 2317.36 to 2317.38 of the Revised Code or 7688
any other applicable statute or rule. 7689

(F) The court shall not find a defendant incompetent to stand 7690

trial solely because the defendant is receiving or has received 7691
treatment as a voluntary or involuntary mentally ill patient under 7692
Chapter 5122. or a voluntary or involuntary mentally retarded 7693
resident under Chapter 5123. of the Revised Code or because the 7694
defendant is receiving or has received psychotropic drugs or other 7695
medication, even if the defendant might become incompetent to 7696
stand trial without the drugs or medication. 7697

(G) A defendant is presumed to be competent to stand trial. 7698
If, after a hearing, the court finds by a preponderance of the 7699
evidence that, because of the defendant's present mental 7700
condition, the defendant is incapable of understanding the nature 7701
and objective of the proceedings against the defendant or of 7702
assisting in the defendant's defense, the court shall find the 7703
defendant incompetent to stand trial and shall enter an order 7704
authorized by section 2945.38 of the Revised Code. 7705

(H) Municipal courts shall follow the procedures set forth in 7706
sections 2945.37 to 2945.402 of the Revised Code. Except as 7707
provided in section 2945.371 of the Revised Code, a municipal 7708
court shall not order an evaluation of the defendant's competence 7709
to stand trial or the defendant's mental condition at the time of 7710
the commission of the offense to be conducted at any hospital 7711
operated by the department of mental health. Those evaluations 7712
shall be performed through community resources including, but not 7713
limited to, certified forensic centers, court probation 7714
departments, and community mental health agencies. All expenses of 7715
the evaluations shall be borne by the legislative authority of the 7716
municipal court, as defined in section 1901.03 of the Revised 7717
Code, and shall be taxed as costs in the case. If a defendant is 7718
found incompetent to stand trial or not guilty by reason of 7719
insanity, a municipal court may commit the defendant as provided 7720
in sections 2945.38 to 2945.402 of the Revised Code. 7721

Sec. 2945.371. (A) If the issue of a defendant's competence 7722
to stand trial is raised or if a defendant enters a plea of not 7723
guilty by reason of insanity, the court may order one or more 7724
evaluations of the defendant's present mental condition or, in the 7725
case of a plea of not guilty by reason of insanity, of the 7726
defendant's mental condition at the time of the offense charged. 7727
An examiner shall conduct the evaluation. 7728

(B) If the court orders more than one evaluation under 7729
division (A) of this section, the prosecutor and the defendant may 7730
recommend to the court an examiner whom each prefers to perform 7731
one of the evaluations. If a defendant enters a plea of not guilty 7732
by reason of insanity and if the court does not designate an 7733
examiner recommended by the defendant, the court shall inform the 7734
defendant that the defendant may have independent expert 7735
evaluation and that, if the defendant is unable to obtain 7736
independent expert evaluation, it will be obtained for the 7737
defendant at public expense if the defendant is indigent. 7738

(C) If the court orders an evaluation under division (A) of 7739
this section, the defendant shall be available at the times and 7740
places established by the examiners who are to conduct the 7741
evaluation. The court may order a defendant who has been released 7742
on bail or recognizance to submit to an evaluation under this 7743
section. If a defendant who has been released on bail or 7744
recognizance refuses to submit to a complete evaluation, the court 7745
may amend the conditions of bail or recognizance and order the 7746
sheriff to take the defendant into custody and deliver the 7747
defendant to a center, program, or facility operated or certified 7748
by the department of mental health or the department of ~~mental~~ 7749
~~retardation and~~ developmental disabilities where the defendant may 7750
be held for evaluation for a reasonable period of time not to 7751
exceed twenty days. 7752

(D) A defendant who has not been released on bail or 7753
recognizance may be evaluated at the defendant's place of 7754
detention. Upon the request of the examiner, the court may order 7755
the sheriff to transport the defendant to a program or facility 7756
operated by the department of mental health or the department of 7757
~~mental retardation and~~ developmental disabilities, where the 7758
defendant may be held for evaluation for a reasonable period of 7759
time not to exceed twenty days, and to return the defendant to the 7760
place of detention after the evaluation. A municipal court may 7761
make an order under this division only upon the request of a 7762
certified forensic center examiner. 7763

(E) If a court orders the evaluation to determine a 7764
defendant's mental condition at the time of the offense charged, 7765
the court shall inform the examiner of the offense with which the 7766
defendant is charged. 7767

(F) In conducting an evaluation of a defendant's mental 7768
condition at the time of the offense charged, the examiner shall 7769
consider all relevant evidence. If the offense charged involves 7770
the use of force against another person, the relevant evidence to 7771
be considered includes, but is not limited to, any evidence that 7772
the defendant suffered, at the time of the commission of the 7773
offense, from the "battered woman syndrome." 7774

(G) The examiner shall file a written report with the court 7775
within thirty days after entry of a court order for evaluation, 7776
and the court shall provide copies of the report to the prosecutor 7777
and defense counsel. The report shall include all of the 7778
following: 7779

(1) The examiner's findings; 7780

(2) The facts in reasonable detail on which the findings are 7781
based; 7782

(3) If the evaluation was ordered to determine the 7783

defendant's competence to stand trial, all of the following 7784
findings or recommendations that are applicable: 7785

(a) Whether the defendant is capable of understanding the 7786
nature and objective of the proceedings against the defendant or 7787
of assisting in the defendant's defense; 7788

(b) If the examiner's opinion is that the defendant is 7789
incapable of understanding the nature and objective of the 7790
proceedings against the defendant or of assisting in the 7791
defendant's defense, whether the defendant presently is mentally 7792
ill or mentally retarded and, if the examiner's opinion is that 7793
the defendant presently is mentally retarded, whether the 7794
defendant appears to be a mentally retarded person subject to 7795
institutionalization by court order; 7796

(c) If the examiner's opinion is that the defendant is 7797
incapable of understanding the nature and objective of the 7798
proceedings against the defendant or of assisting in the 7799
defendant's defense, the examiner's opinion as to the likelihood 7800
of the defendant becoming capable of understanding the nature and 7801
objective of the proceedings against the defendant and of 7802
assisting in the defendant's defense within one year if the 7803
defendant is provided with a course of treatment; 7804

(d) 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 and that the defendant presently is mentally 7808
ill or mentally retarded, the examiner's recommendation as to the 7809
least restrictive treatment alternative, consistent with the 7810
defendant's treatment needs for restoration to competency and with 7811
the safety of the community. 7812

(4) If the evaluation was ordered to determine the 7813
defendant's mental condition at the time of the offense charged, 7814

the examiner's findings as to whether the defendant, at the time 7815
of the offense charged, did not know, as a result of a severe 7816
mental disease or defect, the wrongfulness of the defendant's acts 7817
charged. 7818

(H) If the examiner's report filed under division (G) of this 7819
section indicates that in the examiner's opinion the defendant is 7820
incapable of understanding the nature and objective of the 7821
proceedings against the defendant or of assisting in the 7822
defendant's defense and that in the examiner's opinion the 7823
defendant appears to be a mentally retarded person subject to 7824
institutionalization by court order, the court shall order the 7825
defendant to undergo a separate mental retardation evaluation 7826
conducted by a psychologist designated by the director of ~~mental~~ 7827
~~retardation and~~ developmental disabilities. Divisions (C) to (F) 7828
of this section apply in relation to a separate mental retardation 7829
evaluation conducted under this division. The psychologist 7830
appointed under this division to conduct the separate mental 7831
retardation evaluation shall file a written report with the court 7832
within thirty days after the entry of the court order requiring 7833
the separate mental retardation evaluation, and the court shall 7834
provide copies of the report to the prosecutor and defense 7835
counsel. The report shall include all of the information described 7836
in divisions (G)(1) to (4) of this section. If the court orders a 7837
separate mental retardation evaluation of a defendant under this 7838
division, the court shall not conduct a hearing under divisions 7839
(B) to (H) of section 2945.37 of the Revised Code regarding that 7840
defendant until a report of the separate mental retardation 7841
evaluation conducted under this division has been filed. Upon the 7842
filing of that report, the court shall conduct the hearing within 7843
the period of time specified in division (C) of section 2945.37 of 7844
the Revised Code. 7845

(I) An examiner appointed under divisions (A) and (B) of this 7846

section or under division (H) of this section to evaluate a 7847
defendant to determine the defendant's competence to stand trial 7848
also may be appointed to evaluate a defendant who has entered a 7849
plea of not guilty by reason of insanity, but an examiner of that 7850
nature shall prepare separate reports on the issue of competence 7851
to stand trial and the defense of not guilty by reason of 7852
insanity. 7853

(J) No statement that a defendant makes in an evaluation or 7854
hearing under divisions (A) to (H) of this section relating to the 7855
defendant's competence to stand trial or to the defendant's mental 7856
condition at the time of the offense charged shall be used against 7857
the defendant on the issue of guilt in any criminal action or 7858
proceeding, but, in a criminal action or proceeding, the 7859
prosecutor or defense counsel may call as a witness any person who 7860
evaluated the defendant or prepared a report pursuant to a 7861
referral under this section. Neither the appointment nor the 7862
testimony of an examiner appointed under this section precludes 7863
the prosecutor or defense counsel from calling other witnesses or 7864
presenting other evidence on competency or insanity issues. 7865

(K) Persons appointed as examiners under divisions (A) and 7866
(B) of this section or under division (H) of this section shall be 7867
paid a reasonable amount for their services and expenses, as 7868
certified by the court. The certified amount shall be paid by the 7869
county in the case of county courts and courts of common pleas and 7870
by the legislative authority, as defined in section 1901.03 of the 7871
Revised Code, in the case of municipal courts. 7872

Sec. 2945.38. (A) If the issue of a defendant's competence to 7873
stand trial is raised and if the court, upon conducting the 7874
hearing provided for in section 2945.37 of the Revised Code, finds 7875
that the defendant is competent to stand trial, the defendant 7876
shall be proceeded against as provided by law. If the court finds 7877

the defendant competent to stand trial and the defendant is 7878
receiving psychotropic drugs or other medication, the court may 7879
authorize the continued administration of the drugs or medication 7880
or other appropriate treatment in order to maintain the 7881
defendant's competence to stand trial, unless the defendant's 7882
attending physician advises the court against continuation of the 7883
drugs, other medication, or treatment. 7884

(B)(1)(a) If, after taking into consideration all relevant 7885
reports, information, and other evidence, the court finds that the 7886
defendant is incompetent to stand trial and that there is a 7887
substantial probability that the defendant will become competent 7888
to stand trial within one year if the defendant is provided with a 7889
course of treatment, the court shall order the defendant to 7890
undergo treatment. If the defendant has been charged with a felony 7891
offense and if, after taking into consideration all relevant 7892
reports, information, and other evidence, the court finds that the 7893
defendant is incompetent to stand trial, but the court is unable 7894
at that time to determine whether there is a substantial 7895
probability that the defendant will become competent to stand 7896
trial within one year if the defendant is provided with a course 7897
of treatment, the court shall order continuing evaluation and 7898
treatment of the defendant for a period not to exceed four months 7899
to determine whether there is a substantial probability that the 7900
defendant will become competent to stand trial within one year if 7901
the defendant is provided with a course of treatment. 7902

(b) The court order for the defendant to undergo treatment or 7903
continuing evaluation and treatment under division (B)(1)(a) of 7904
this section shall specify that the treatment or continuing 7905
evaluation and treatment shall occur at a facility operated by the 7906
department of mental health or the department of ~~mental~~ 7907
~~retardation and~~ developmental disabilities, at a facility 7908
certified by either of those departments as being qualified to 7909

treat mental illness or mental retardation, at a public or private 7910
community mental health or mental retardation facility, or by a 7911
psychiatrist or another mental health or mental retardation 7912
professional. The order may restrict the defendant's freedom of 7913
movement as the court considers necessary. The prosecutor in the 7914
defendant's case shall send to the chief clinical officer of the 7915
hospital or facility, the managing officer of the institution, the 7916
director of the program, or the person to which the defendant is 7917
committed copies of relevant police reports and other background 7918
information that pertains to the defendant and is available to the 7919
prosecutor unless the prosecutor determines that the release of 7920
any of the information in the police reports or any of the other 7921
background information to unauthorized persons would interfere 7922
with the effective prosecution of any person or would create a 7923
substantial risk of harm to any person. 7924

In determining placement alternatives, the court shall 7925
consider the extent to which the person is a danger to the person 7926
and to others, the need for security, and the type of crime 7927
involved and shall order the least restrictive alternative 7928
available that is consistent with public safety and treatment 7929
goals. In weighing these factors, the court shall give preference 7930
to protecting public safety. 7931

(c) If the defendant is found incompetent to stand trial, if 7932
the chief clinical officer of the hospital or facility, the 7933
managing officer of the institution, the director of the program, 7934
or the person to which the defendant is committed for treatment or 7935
continuing evaluation and treatment under division (B)(1)(b) of 7936
this section determines that medication is necessary to restore 7937
the defendant's competency to stand trial, and if the defendant 7938
lacks the capacity to give informed consent or refuses medication, 7939
the chief clinical officer, managing officer, director, or person 7940
to which the defendant is committed for treatment or continuing 7941

evaluation and treatment may petition the court for authorization 7942
for the involuntary administration of medication. The court shall 7943
hold a hearing on the petition within five days of the filing of 7944
the petition if the petition was filed in a municipal court or a 7945
county court regarding an incompetent defendant charged with a 7946
misdemeanor or within ten days of the filing of the petition if 7947
the petition was filed in a court of common pleas regarding an 7948
incompetent defendant charged with a felony offense. Following the 7949
hearing, the court may authorize the involuntary administration of 7950
medication or may dismiss the petition. 7951

(2) If the court finds that the defendant is incompetent to 7952
stand trial and that, even if the defendant is provided with a 7953
course of treatment, there is not a substantial probability that 7954
the defendant will become competent to stand trial within one 7955
year, the court shall order the discharge of the defendant, unless 7956
upon motion of the prosecutor or on its own motion, the court 7957
either seeks to retain jurisdiction over the defendant pursuant to 7958
section 2945.39 of the Revised Code or files an affidavit in the 7959
probate court for the civil commitment of the defendant pursuant 7960
to Chapter 5122. or 5123. of the Revised Code alleging that the 7961
defendant is a mentally ill person subject to hospitalization by 7962
court order or a mentally retarded person subject to 7963
institutionalization by court order. If an affidavit is filed in 7964
the probate court, the trial court shall send to the probate court 7965
copies of all written reports of the defendant's mental condition 7966
that were prepared pursuant to section 2945.371 of the Revised 7967
Code. 7968

The trial court may issue the temporary order of detention 7969
that a probate court may issue under section 5122.11 or 5123.71 of 7970
the Revised Code, to remain in effect until the probable cause or 7971
initial hearing in the probate court. Further proceedings in the 7972
probate court are civil proceedings governed by Chapter 5122. or 7973

5123. of the Revised Code. 7974

(C) No defendant shall be required to undergo treatment, 7975
including any continuing evaluation and treatment, under division 7976
(B)(1) of this section for longer than whichever of the following 7977
periods is applicable: 7978

(1) One year, if the most serious offense with which the 7979
defendant is charged is one of the following offenses: 7980

(a) Aggravated murder, murder, or an offense of violence for 7981
which a sentence of death or life imprisonment may be imposed; 7982

(b) An offense of violence that is a felony of the first or 7983
second degree; 7984

(c) A conspiracy to commit, an attempt to commit, or 7985
complicity in the commission of an offense described in division 7986
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 7987
complicity is a felony of the first or second degree. 7988

(2) Six months, if the most serious offense with which the 7989
defendant is charged is a felony other than a felony described in 7990
division (C)(1) of this section; 7991

(3) Sixty days, if the most serious offense with which the 7992
defendant is charged is a misdemeanor of the first or second 7993
degree; 7994

(4) Thirty days, if the most serious offense with which the 7995
defendant is charged is a misdemeanor of the third or fourth 7996
degree, a minor misdemeanor, or an unclassified misdemeanor. 7997

(D) Any defendant who is committed pursuant to this section 7998
shall not voluntarily admit the defendant or be voluntarily 7999
admitted to a hospital or institution pursuant to section 5122.02, 8000
5122.15, 5123.69, or 5123.76 of the Revised Code. 8001

(E) Except as otherwise provided in this division, a 8002
defendant who is charged with an offense and is committed to a 8003

hospital or other institution by the court under this section 8004
shall not be granted unsupervised on-grounds movement, supervised 8005
off-grounds movement, or nonsecured status. The court may grant a 8006
defendant supervised off-grounds movement to obtain medical 8007
treatment or specialized habilitation treatment services if the 8008
person who supervises the treatment or the continuing evaluation 8009
and treatment of the defendant ordered under division (B)(1)(a) of 8010
this section informs the court that the treatment or continuing 8011
evaluation and treatment cannot be provided at the hospital or the 8012
institution to which the defendant is committed. The chief 8013
clinical officer of the hospital or the managing officer of the 8014
institution to which the defendant is committed or a designee of 8015
either of those persons may grant a defendant movement to a 8016
medical facility for an emergency medical situation with 8017
appropriate supervision to ensure the safety of the defendant, 8018
staff, and community during that emergency medical situation. The 8019
chief clinical officer of the hospital or the managing officer of 8020
the institution shall notify the court within twenty-four hours of 8021
the defendant's movement to the medical facility for an emergency 8022
medical situation under this division. 8023

(F) The person who supervises the treatment or continuing 8024
evaluation and treatment of a defendant ordered to undergo 8025
treatment or continuing evaluation and treatment under division 8026
(B)(1)(a) of this section shall file a written report with the 8027
court at the following times: 8028

(1) Whenever the person believes the defendant is capable of 8029
understanding the nature and objective of the proceedings against 8030
the defendant and of assisting in the defendant's defense; 8031

(2) For a felony offense, fourteen days before expiration of 8032
the maximum time for treatment as specified in division (C) of 8033
this section and fourteen days before the expiration of the 8034
maximum time for continuing evaluation and treatment as specified 8035

in division (B)(1)(a) of this section, and, for a misdemeanor 8036
offense, ten days before the expiration of the maximum time for 8037
treatment, as specified in division (C) of this section; 8038

(3) At a minimum, after each six months of treatment; 8039

(4) Whenever the person who supervises the treatment or 8040
continuing evaluation and treatment of a defendant ordered under 8041
division (B)(1)(a) of this section believes that there is not a 8042
substantial probability that the defendant will become capable of 8043
understanding the nature and objective of the proceedings against 8044
the defendant or of assisting in the defendant's defense even if 8045
the defendant is provided with a course of treatment. 8046

(G) A report under division (F) of this section shall contain 8047
the examiner's findings, the facts in reasonable detail on which 8048
the findings are based, and the examiner's opinion as to the 8049
defendant's capability of understanding the nature and objective 8050
of the proceedings against the defendant and of assisting in the 8051
defendant's defense. If, in the examiner's opinion, the defendant 8052
remains incapable of understanding the nature and objective of the 8053
proceedings against the defendant and of assisting in the 8054
defendant's defense and there is a substantial probability that 8055
the defendant will become capable of understanding the nature and 8056
objective of the proceedings against the defendant and of 8057
assisting in the defendant's defense if the defendant is provided 8058
with a course of treatment, if in the examiner's opinion the 8059
defendant remains mentally ill or mentally retarded, and if the 8060
maximum time for treatment as specified in division (C) of this 8061
section has not expired, the report also shall contain the 8062
examiner's recommendation as to the least restrictive treatment 8063
alternative that is consistent with the defendant's treatment 8064
needs for restoration to competency and with the safety of the 8065
community. The court shall provide copies of the report to the 8066
prosecutor and defense counsel. 8067

(H) If a defendant is committed pursuant to division (B)(1) 8068
of this section, within ten days after the treating physician of 8069
the defendant or the examiner of the defendant who is employed or 8070
retained by the treating facility advises that there is not a 8071
substantial probability that the defendant will become capable of 8072
understanding the nature and objective of the proceedings against 8073
the defendant or of assisting in the defendant's defense even if 8074
the defendant is provided with a course of treatment, within ten 8075
days after the expiration of the maximum time for treatment as 8076
specified in division (C) of this section, within ten days after 8077
the expiration of the maximum time for continuing evaluation and 8078
treatment as specified in division (B)(1)(a) of this section, 8079
within thirty days after a defendant's request for a hearing that 8080
is made after six months of treatment, or within thirty days after 8081
being advised by the treating physician or examiner that the 8082
defendant is competent to stand trial, whichever is the earliest, 8083
the court shall conduct another hearing to determine if the 8084
defendant is competent to stand trial and shall do whichever of 8085
the following is applicable: 8086

(1) If the court finds that the defendant is competent to 8087
stand trial, the defendant shall be proceeded against as provided 8088
by law. 8089

(2) If the court finds that the defendant is incompetent to 8090
stand trial, but that there is a substantial probability that the 8091
defendant will become competent to stand trial if the defendant is 8092
provided with a course of treatment, and the maximum time for 8093
treatment as specified in division (C) of this section has not 8094
expired, the court, after consideration of the examiner's 8095
recommendation, shall order that treatment be continued, may 8096
change the facility or program at which the treatment is to be 8097
continued, and shall specify whether the treatment is to be 8098
continued at the same or a different facility or program. 8099

(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 same conduct. The court shall discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment pursuant to Chapter 5122. or 5123. of the Revised Code. If an affidavit for civil commitment is filed, the court may detain the defendant for ten days pending civil commitment. All of the following provisions apply to persons charged with a misdemeanor or a felony other than a felony listed in division (C)(1) of this section who are committed by the probate court subsequent to the court's or prosecutor's filing of an affidavit for civil commitment under authority of this division:

(a) The chief clinical officer of the hospital or facility, the managing officer of the institution, the director of the

program, or the person to which the defendant is committed or 8132
admitted shall do all of the following: 8133

(i) Notify the prosecutor, in writing, of the discharge of 8134
the defendant, send the notice at least ten days prior to the 8135
discharge unless the discharge is by the probate court, and state 8136
in the notice the date on which the defendant will be discharged; 8137

(ii) Notify the prosecutor, in writing, when the defendant is 8138
absent without leave or is granted unsupervised, off-grounds 8139
movement, and send this notice promptly after the discovery of the 8140
absence without leave or prior to the granting of the 8141
unsupervised, off-grounds movement, whichever is applicable; 8142

(iii) Notify the prosecutor, in writing, of the change of the 8143
defendant's commitment or admission to voluntary status, send the 8144
notice promptly upon learning of the change to voluntary status, 8145
and state in the notice the date on which the defendant was 8146
committed or admitted on a voluntary status. 8147

(b) Upon receiving notice that the defendant will be granted 8148
unsupervised, off-grounds movement, the prosecutor either shall 8149
re-indict the defendant or promptly notify the court that the 8150
prosecutor does not intend to prosecute the charges against the 8151
defendant. 8152

(I) If a defendant is convicted of a crime and sentenced to a 8153
jail or workhouse, the defendant's sentence shall be reduced by 8154
the total number of days the defendant is confined for evaluation 8155
to determine the defendant's competence to stand trial or 8156
treatment under this section and sections 2945.37 and 2945.371 of 8157
the Revised Code or by the total number of days the defendant is 8158
confined for evaluation to determine the defendant's mental 8159
condition at the time of the offense charged. 8160

Sec. 2945.39. (A) If a defendant who is charged with an 8161

offense described in division (C)(1) of section 2945.38 of the Revised Code is found incompetent to stand trial, after the expiration of the maximum time for treatment as specified in division (C) of that section or after 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, one of the following applies:

(1) The court or the prosecutor may file an affidavit in probate court for civil commitment of the defendant in the manner provided in Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may detain the defendant for ten days pending civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for civil commitment, the chief clinical officer of the hospital or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code within the periods of time and under the circumstances specified in those divisions.

(2) On the motion of the prosecutor or on its own motion, the court may retain jurisdiction over the defendant if, at a hearing, the court finds both of the following by clear and convincing evidence:

(a) The defendant committed the offense with which the defendant is charged.

(b) The defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order.

(B) In making its determination under division (A)(2) of this

section as to whether to retain jurisdiction over the defendant, 8193
the court may consider all relevant evidence, including, but not 8194
limited to, any relevant psychiatric, psychological, or medical 8195
testimony or reports, the acts constituting the offense charged, 8196
and any history of the defendant that is relevant to the 8197
defendant's ability to conform to the law. 8198

(C) If the court conducts a hearing as described in division 8199
(A)(2) of this section and if the court does not make both 8200
findings described in divisions (A)(2)(a) and (b) of this section 8201
by clear and convincing evidence, the court shall dismiss the 8202
indictment, information, or complaint against the defendant. Upon 8203
the dismissal, the court shall discharge the defendant unless the 8204
court or prosecutor files an affidavit in probate court for civil 8205
commitment of the defendant pursuant to Chapter 5122. or 5123. of 8206
the Revised Code. If the court or prosecutor files an affidavit 8207
for civil commitment, the court may order that the defendant be 8208
detained for up to ten days pending the civil commitment. If the 8209
probate court commits the defendant subsequent to the court's or 8210
prosecutor's filing of an affidavit for civil commitment, the 8211
chief clinical officer of the hospital or facility, the managing 8212
officer of the institution, the director of the program, or the 8213
person to which the defendant is committed or admitted shall send 8214
to the prosecutor the notices described in divisions (H)(4)(a)(i) 8215
to (iii) of section 2945.38 of the Revised Code within the periods 8216
of time and under the circumstances specified in those divisions. 8217
A dismissal of charges under this division is not a bar to further 8218
criminal proceedings based on the same conduct. 8219

(D)(1) If the court conducts a hearing as described in 8220
division (A)(2) of this section and if the court makes the 8221
findings described in divisions (A)(2)(a) and (b) of this section 8222
by clear and convincing evidence, the court shall commit the 8223
defendant to a hospital operated by the department of mental 8224

health, a facility operated by the department of ~~mental~~ 8225
~~retardation and~~ developmental disabilities, or another medical or 8226
psychiatric facility, as appropriate. In determining the place and 8227
nature of the commitment, the court shall order the least 8228
restrictive commitment alternative available that is consistent 8229
with public safety and the welfare of the defendant. In weighing 8230
these factors, the court shall give preference to protecting 8231
public safety. 8232

(2) If a court makes a commitment of a defendant under 8233
division (D)(1) of this section, the prosecutor shall send to the 8234
place of commitment all reports of the defendant's current mental 8235
condition and, except as otherwise provided in this division, any 8236
other relevant information, including, but not limited to, a 8237
transcript of the hearing held pursuant to division (A)(2) of this 8238
section, copies of relevant police reports, and copies of any 8239
prior arrest and conviction records that pertain to the defendant 8240
and that the prosecutor possesses. The prosecutor shall send the 8241
reports of the defendant's current mental condition in every case 8242
of commitment, and, unless the prosecutor determines that the 8243
release of any of the other relevant information to unauthorized 8244
persons would interfere with the effective prosecution of any 8245
person or would create a substantial risk of harm to any person, 8246
the prosecutor also shall send the other relevant information. 8247
Upon admission of a defendant committed under division (D)(1) of 8248
this section, the place of commitment shall send to the board of 8249
alcohol, drug addiction, and mental health services or the 8250
community mental health board serving the county in which the 8251
charges against the defendant were filed a copy of all reports of 8252
the defendant's current mental condition and a copy of the other 8253
relevant information provided by the prosecutor under this 8254
division, including, if provided, a transcript of the hearing held 8255
pursuant to division (A)(2) of this section, the relevant police 8256
reports, and the prior arrest and conviction records that pertain 8257

to the defendant and that the prosecutor possesses. 8258

(3) If a court makes a commitment under division (D)(1) of 8259
this section, all further proceedings shall be in accordance with 8260
sections 2945.401 and 2945.402 of the Revised Code. 8261

Sec. 2945.40. (A) If a person is found not guilty by reason 8262
of insanity, the verdict shall state that finding, and the trial 8263
court shall conduct a full hearing to determine whether the person 8264
is a mentally ill person subject to hospitalization by court order 8265
or a mentally retarded person subject to institutionalization by 8266
court order. Prior to the hearing, if the trial judge believes 8267
that there is probable cause that the person found not guilty by 8268
reason of insanity is a mentally ill person subject to 8269
hospitalization by court order or mentally retarded person subject 8270
to institutionalization by court order, the trial judge may issue 8271
a temporary order of detention for that person to remain in effect 8272
for ten court days or until the hearing, whichever occurs first. 8273

Any person detained pursuant to a temporary order of 8274
detention issued under this division shall be held in a suitable 8275
facility, taking into consideration the place and type of 8276
confinement prior to and during trial. 8277

(B) The court shall hold the hearing under division (A) of 8278
this section to determine whether the person found not guilty by 8279
reason of insanity is a mentally ill person subject to 8280
hospitalization by court order or a mentally retarded person 8281
subject to institutionalization by court order within ten court 8282
days after the finding of not guilty by reason of insanity. 8283
Failure to conduct the hearing within the ten-day period shall 8284
cause the immediate discharge of the respondent, unless the judge 8285
grants a continuance for not longer than ten court days for good 8286
cause shown or for any period of time upon motion of the 8287
respondent. 8288

(C) If a person is found not guilty by reason of insanity, 8289
the person has the right to attend all hearings conducted pursuant 8290
to sections 2945.37 to 2945.402 of the Revised Code. At any 8291
hearing conducted pursuant to one of those sections, the court 8292
shall inform the person that the person has all of the following 8293
rights: 8294

(1) The right to be represented by counsel and to have that 8295
counsel provided at public expense if the person is indigent, with 8296
the counsel to be appointed by the court under Chapter 120. of the 8297
Revised Code or under the authority recognized in division (C) of 8298
section 120.06, division (E) of section 120.16, division (E) of 8299
section 120.26, or section 2941.51 of the Revised Code; 8300

(2) The right to have independent expert evaluation and to 8301
have that independent expert evaluation provided at public expense 8302
if the person is indigent; 8303

(3) The right to subpoena witnesses and documents, to present 8304
evidence on the person's behalf, and to cross-examine witnesses 8305
against the person; 8306

(4) The right to testify in the person's own behalf and to 8307
not be compelled to testify; 8308

(5) The right to have copies of any relevant medical or 8309
mental health document in the custody of the state or of any place 8310
of commitment other than a document for which the court finds that 8311
the release to the person of information contained in the document 8312
would create a substantial risk of harm to any person. 8313

(D) The hearing under division (A) of this section shall be 8314
open to the public, and the court shall conduct the hearing in 8315
accordance with the Rules of Civil Procedure. The court shall make 8316
and maintain a full transcript and record of the hearing 8317
proceedings. The court may consider all relevant evidence, 8318
including, but not limited to, any relevant psychiatric, 8319

psychological, or medical testimony or reports, the acts 8320
constituting the offense in relation to which the person was found 8321
not guilty by reason of insanity, and any history of the person 8322
that is relevant to the person's ability to conform to the law. 8323

(E) Upon completion of the hearing under division (A) of this 8324
section, if the court finds there is not clear and convincing 8325
evidence that the person is a mentally ill person subject to 8326
hospitalization by court order or a mentally retarded person 8327
subject to institutionalization by court order, the court shall 8328
discharge the person, unless a detainer has been placed upon the 8329
person by the department of rehabilitation and correction, in 8330
which case the person shall be returned to that department. 8331

(F) If, at the hearing under division (A) of this section, 8332
the court finds by clear and convincing evidence that the person 8333
is a mentally ill person subject to hospitalization by court order 8334
or a mentally retarded person subject to institutionalization by 8335
court order, it shall commit the person to a hospital operated by 8336
the department of mental health, a facility operated by the 8337
department of ~~mental retardation and~~ developmental disabilities, 8338
or another medical or psychiatric facility, as appropriate, and 8339
further proceedings shall be in accordance with sections 2945.401 8340
and 2945.402 of the Revised Code. In determining the place and 8341
nature of the commitment, the court shall order the least 8342
restrictive commitment alternative available that is consistent 8343
with public safety and the welfare of the person. In weighing 8344
these factors, the court shall give preference to protecting 8345
public safety. 8346

(G) If a court makes a commitment of a person under division 8347
(F) of this section, the prosecutor shall send to the place of 8348
commitment all reports of the person's current mental condition, 8349
and, except as otherwise provided in this division, any other 8350
relevant information, including, but not limited to, a transcript 8351

of the hearing held pursuant to division (A) of this section, 8352
copies of relevant police reports, and copies of any prior arrest 8353
and conviction records that pertain to the person and that the 8354
prosecutor possesses. The prosecutor shall send the reports of the 8355
person's current mental condition in every case of commitment, 8356
and, unless the prosecutor determines that the release of any of 8357
the other relevant information to unauthorized persons would 8358
interfere with the effective prosecution of any person or would 8359
create a substantial risk of harm to any person, the prosecutor 8360
also shall send the other relevant information. Upon admission of 8361
a person committed under division (F) of this section, the place 8362
of commitment shall send to the board of alcohol, drug addiction, 8363
and mental health services or the community mental health board 8364
serving the county in which the charges against the person were 8365
filed a copy of all reports of the person's current mental 8366
condition and a copy of the other relevant information provided by 8367
the prosecutor under this division, including, if provided, a 8368
transcript of the hearing held pursuant to division (A) of this 8369
section, the relevant police reports, and the prior arrest and 8370
conviction records that pertain to the person and that the 8371
prosecutor possesses. 8372

(H) A person who is committed pursuant to this section shall 8373
not voluntarily admit the person or be voluntarily admitted to a 8374
hospital or institution pursuant to ~~sections~~ section 5122.02, 8375
5122.15, 5123.69, or 5123.76 of the Revised Code. 8376

Sec. 2945.401. (A) A defendant found incompetent to stand 8377
trial and committed pursuant to section 2945.39 of the Revised 8378
Code or a person found not guilty by reason of insanity and 8379
committed pursuant to section 2945.40 of the Revised Code shall 8380
remain subject to the jurisdiction of the trial court pursuant to 8381
that commitment, and to the provisions of this section, until the 8382
final termination of the commitment as described in division 8383

(J)(1) of this section. If the jurisdiction is terminated under 8384
this division because of the final termination of the commitment 8385
resulting from the expiration of the maximum prison term or term 8386
of imprisonment described in division (J)(1)(b) of this section, 8387
the court or prosecutor may file an affidavit for the civil 8388
commitment of the defendant or person pursuant to Chapter 5122. or 8389
5123. of the Revised Code. 8390

(B) A hearing conducted under any provision of sections 8391
2945.37 to 2945.402 of the Revised Code shall not be conducted in 8392
accordance with Chapters 5122. and 5123. of the Revised Code. Any 8393
person who is committed pursuant to section 2945.39 or 2945.40 of 8394
the Revised Code shall not voluntarily admit the person or be 8395
voluntarily admitted to a hospital or institution pursuant to 8396
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 8397
All other provisions of Chapters 5122. and 5123. of the Revised 8398
Code regarding hospitalization or institutionalization shall apply 8399
to the extent they are not in conflict with this chapter. A 8400
commitment under section 2945.39 or 2945.40 of the Revised Code 8401
shall not be terminated and the conditions of the commitment shall 8402
not be changed except as otherwise provided in division (D)(2) of 8403
this section with respect to a mentally retarded person subject to 8404
institutionalization by court order or except by order of the 8405
trial court. 8406

(C) The hospital, facility, or program to which a defendant 8407
or person has been committed under section 2945.39 or 2945.40 of 8408
the Revised Code shall report in writing to the trial court, at 8409
the times specified in this division, as to whether the defendant 8410
or person remains a mentally ill person subject to hospitalization 8411
by court order or a mentally retarded person subject to 8412
institutionalization by court order and, in the case of a 8413
defendant committed under section 2945.39 of the Revised Code, as 8414
to whether the defendant remains incompetent to stand trial. The 8415

hospital, facility, or program shall make the reports after the 8416
initial six months of treatment and every two years after the 8417
initial report is made. The trial court shall provide copies of 8418
the reports to the prosecutor and to the counsel for the defendant 8419
or person. Within thirty days after its receipt pursuant to this 8420
division of a report from a hospital, facility, or program, the 8421
trial court shall hold a hearing on the continued commitment of 8422
the defendant or person or on any changes in the conditions of the 8423
commitment of the defendant or person. The defendant or person may 8424
request a change in the conditions of confinement, and the trial 8425
court shall conduct a hearing on that request if six months or 8426
more have elapsed since the most recent hearing was conducted 8427
under this section. 8428

(D)(1) Except as otherwise provided in division (D)(2) of 8429
this section, when a defendant or person has been committed under 8430
section 2945.39 or 2945.40 of the Revised Code, at any time after 8431
evaluating the risks to public safety and the welfare of the 8432
defendant or person, the chief clinical officer of the hospital, 8433
facility, or program to which the defendant or person is committed 8434
may recommend a termination of the defendant's or person's 8435
commitment or a change in the conditions of the defendant's or 8436
person's commitment. 8437

Except as otherwise provided in division (D)(2) of this 8438
section, if the chief clinical officer recommends on-grounds 8439
unsupervised movement, off-grounds supervised movement, or 8440
nonsecured status for the defendant or person or termination of 8441
the defendant's or person's commitment, the following provisions 8442
apply: 8443

(a) If the chief clinical officer recommends on-grounds 8444
unsupervised movement or off-grounds supervised movement, the 8445
chief clinical officer shall file with the trial court an 8446
application for approval of the movement and shall send a copy of 8447

the application to the prosecutor. Within fifteen days after 8448
receiving the application, the prosecutor may request a hearing on 8449
the application and, if a hearing is requested, shall so inform 8450
the chief clinical officer. If the prosecutor does not request a 8451
hearing within the fifteen-day period, the trial court shall 8452
approve the application by entering its order approving the 8453
requested movement or, within five days after the expiration of 8454
the fifteen-day period, shall set a date for a hearing on the 8455
application. If the prosecutor requests a hearing on the 8456
application within the fifteen-day period, the trial court shall 8457
hold a hearing on the application within thirty days after the 8458
hearing is requested. If the trial court, within five days after 8459
the expiration of the fifteen-day period, sets a date for a 8460
hearing on the application, the trial court shall hold the hearing 8461
within thirty days after setting the hearing date. At least 8462
fifteen days before any hearing is held under this division, the 8463
trial court shall give the prosecutor written notice of the date, 8464
time, and place of the hearing. At the conclusion of each hearing 8465
conducted under this division, the trial court either shall 8466
approve or disapprove the application and shall enter its order 8467
accordingly. 8468

(b) If the chief clinical officer recommends termination of 8469
the defendant's or person's commitment at any time or if the chief 8470
clinical officer recommends the first of any nonsecured status for 8471
the defendant or person, the chief clinical officer shall send 8472
written notice of this recommendation to the trial court and to 8473
the local forensic center. The local forensic center shall 8474
evaluate the committed defendant or person and, within thirty days 8475
after its receipt of the written notice, shall submit to the trial 8476
court and the chief clinical officer a written report of the 8477
evaluation. The trial court shall provide a copy of the chief 8478
clinical officer's written notice and of the local forensic 8479
center's written report to the prosecutor and to the counsel for 8480

the defendant or person. Upon the local forensic center's 8481
submission of the report to the trial court and the chief clinical 8482
officer, all of the following apply: 8483

(i) If the forensic center disagrees with the recommendation 8484
of the chief clinical officer, it shall inform the chief clinical 8485
officer and the trial court of its decision and the reasons for 8486
the decision. The chief clinical officer, after consideration of 8487
the forensic center's decision, shall either withdraw, proceed 8488
with, or modify and proceed with the recommendation. If the chief 8489
clinical officer proceeds with, or modifies and proceeds with, the 8490
recommendation, the chief clinical officer shall proceed in 8491
accordance with division (D)(1)(b)(iii) of this section. 8492

(ii) If the forensic center agrees with the recommendation of 8493
the chief clinical officer, it shall inform the chief clinical 8494
officer and the trial court of its decision and the reasons for 8495
the decision, and the chief clinical officer shall proceed in 8496
accordance with division (D)(1)(b)(iii) of this section. 8497

(iii) If the forensic center disagrees with the 8498
recommendation of the chief clinical officer and the chief 8499
clinical officer proceeds with, or modifies and proceeds with, the 8500
recommendation or if the forensic center agrees with the 8501
recommendation of the chief clinical officer, the chief clinical 8502
officer shall work with the board of alcohol, drug addiction, and 8503
mental health services or community mental health board serving 8504
the area, as appropriate, to develop a plan to implement the 8505
recommendation. If the defendant or person is on medication, the 8506
plan shall include, but shall not be limited to, a system to 8507
monitor the defendant's or person's compliance with the prescribed 8508
medication treatment plan. The system shall include a schedule 8509
that clearly states when the defendant or person shall report for 8510
a medication compliance check. The medication compliance checks 8511
shall be based upon the effective duration of the prescribed 8512

medication, taking into account the route by which it is taken, 8513
and shall be scheduled at intervals sufficiently close together to 8514
detect a potential increase in mental illness symptoms that the 8515
medication is intended to prevent. 8516

The chief clinical officer, after consultation with the board 8517
of alcohol, drug addiction, and mental health services or the 8518
community mental health board serving the area, shall send the 8519
recommendation and plan developed under division (D)(1)(b)(iii) of 8520
this section, in writing, to the trial court, the prosecutor and 8521
the counsel for the committed defendant or person. The trial court 8522
shall conduct a hearing on the recommendation and plan developed 8523
under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) 8524
and (d) and (E) to (J) of this section apply regarding the 8525
hearing. 8526

(c) If the chief clinical officer's recommendation is for 8527
nonsecured status or termination of commitment, the prosecutor may 8528
obtain an independent expert evaluation of the defendant's or 8529
person's mental condition, and the trial court may continue the 8530
hearing on the recommendation for a period of not more than thirty 8531
days to permit time for the evaluation. 8532

The prosecutor may introduce the evaluation report or present 8533
other evidence at the hearing in accordance with the Rules of 8534
Evidence. 8535

(d) The trial court shall schedule the hearing on a chief 8536
clinical officer's recommendation for nonsecured status or 8537
termination of commitment and shall give reasonable notice to the 8538
prosecutor and the counsel for the defendant or person. Unless 8539
continued for independent evaluation at the prosecutor's request 8540
or for other good cause, the hearing shall be held within thirty 8541
days after the trial court's receipt of the recommendation and 8542
plan. 8543

(2)(a) Division (D)(1) of this section does not apply to 8544
on-grounds unsupervised movement of a defendant or person who has 8545
been committed under section 2945.39 or 2945.40 of the Revised 8546
Code, who is a mentally retarded person subject to 8547
institutionalization by court order, and who is being provided 8548
residential habilitation, care, and treatment in a facility 8549
operated by the department of ~~mental retardation and~~ developmental 8550
disabilities. 8551

(b) If, pursuant to section 2945.39 of the Revised Code, the 8552
trial court commits a defendant who is found incompetent to stand 8553
trial and who is a mentally retarded person subject to 8554
institutionalization by court order, if the defendant is being 8555
provided residential habilitation, care, and treatment in a 8556
facility operated by the department of ~~mental retardation and~~ 8557
developmental disabilities, if an individual who is conducting a 8558
survey for the department of health to determine the facility's 8559
compliance with the certification requirements of the medicaid 8560
program under ~~chapter~~ Chapter 5111. of the Revised Code and Title 8561
XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 8562
301, as amended, cites the defendant's receipt of the residential 8563
habilitation, care, and treatment in the facility as being 8564
inappropriate under the certification requirements, if the 8565
defendant's receipt of the residential habilitation, care, and 8566
treatment in the facility potentially jeopardizes the facility's 8567
continued receipt of federal medicaid moneys, and if as a result 8568
of the citation the chief clinical officer of the facility 8569
determines that the conditions of the defendant's commitment 8570
should be changed, the department of ~~mental retardation and~~ 8571
developmental disabilities may cause the defendant to be removed 8572
from the particular facility and, after evaluating the risks to 8573
public safety and the welfare of the defendant and after 8574
determining whether another type of placement is consistent with 8575
the certification requirements, may place the defendant in another 8576

facility that the department selects as an appropriate facility 8577
for the defendant's continued receipt of residential habilitation, 8578
care, and treatment and that is a no less secure setting than the 8579
facility in which the defendant had been placed at the time of the 8580
citation. Within three days after the defendant's removal and 8581
alternative placement under the circumstances described in 8582
division (D)(2)(b) of this section, the department of ~~mental~~ 8583
~~retardation and~~ developmental disabilities shall notify the trial 8584
court and the prosecutor in writing of the removal and alternative 8585
placement. 8586

The trial court shall set a date for a hearing on the removal 8587
and alternative placement, and the hearing shall be held within 8588
twenty-one days after the trial court's receipt of the notice from 8589
the department of ~~mental retardation and~~ developmental 8590
disabilities. At least ~~ten days~~ ten days before the hearing is 8591
held, the trial court shall give the prosecutor, the department of 8592
~~mental retardation and~~ developmental disabilities, and the counsel 8593
for the defendant written notice of the date, time, and place of 8594
the hearing. At the hearing, the trial court shall consider the 8595
citation issued by the individual who conducted the survey for the 8596
department of health to be prima-facie evidence of the fact that 8597
the defendant's commitment to the particular facility was 8598
inappropriate under the certification requirements of the medicaid 8599
program under Chapter 5111. of the Revised Code and Title XIX of 8600
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 8601
as amended, and potentially jeopardizes the particular facility's 8602
continued receipt of federal medicaid moneys. At the conclusion of 8603
the hearing, the trial court may approve or disapprove the 8604
defendant's removal and alternative placement. If the trial court 8605
approves the defendant's removal and alternative placement, the 8606
department of ~~mental retardation and~~ developmental disabilities 8607
may continue the defendant's alternative placement. If the trial 8608
court disapproves the defendant's removal and alternative 8609

placement, it shall enter an order modifying the defendant's 8610
removal and alternative placement, but that order shall not 8611
require the department of ~~mental retardation and~~ developmental 8612
disabilities to replace the defendant for purposes of continued 8613
residential habilitation, care, and treatment in the facility 8614
associated with the citation issued by the individual who 8615
conducted the survey for the department of health. 8616

(E) In making a determination under this section regarding 8617
nonsecured status or termination of commitment, the trial court 8618
shall consider all relevant factors, including, but not limited 8619
to, all of the following: 8620

(1) Whether, in the trial court's view, the defendant or 8621
person currently represents a substantial risk of physical harm to 8622
the defendant or person or others; 8623

(2) Psychiatric and medical testimony as to the current 8624
mental and physical condition of the defendant or person; 8625

(3) Whether the defendant or person has insight into the 8626
defendant's or person's condition so that the defendant or person 8627
will continue treatment as prescribed or seek professional 8628
assistance as needed; 8629

(4) The grounds upon which the state relies for the proposed 8630
commitment; 8631

(5) Any past history that is relevant to establish the 8632
defendant's or person's degree of conformity to the laws, rules, 8633
regulations, and values of society; 8634

(6) If there is evidence that the defendant's or person's 8635
mental illness is in a state of remission, the medically suggested 8636
cause and degree of the remission and the probability that the 8637
defendant or person will continue treatment to maintain the 8638
remissive state of the defendant's or person's illness should the 8639
defendant's or person's commitment conditions be altered. 8640

(F) At any hearing held pursuant to division (C) or (D)(1) or 8641
(2) of this section, the defendant or the person shall have all 8642
the rights of a defendant or person at a commitment hearing as 8643
described in section 2945.40 of the Revised Code. 8644

(G) In a hearing held pursuant to division (C) or (D)(1) of 8645
this section, the prosecutor has the burden of proof as follows: 8646

(1) For a recommendation of termination of commitment, to 8647
show by clear and convincing evidence that the defendant or person 8648
remains a mentally ill person subject to hospitalization by court 8649
order or a mentally retarded person subject to 8650
institutionalization by court order; 8651

(2) For a recommendation for a change in the conditions of 8652
the commitment to a less restrictive status, to show by clear and 8653
convincing evidence that the proposed change represents a threat 8654
to public safety or a threat to the safety of any person. 8655

(H) In a hearing held pursuant to division (C) or (D)(1) or 8656
(2) of this section, the prosecutor shall represent the state or 8657
the public interest. 8658

(I) At the conclusion of a hearing conducted under division 8659
(D)(1) of this section regarding a recommendation from the chief 8660
clinical officer of a hospital, program, or facility, the trial 8661
court may approve, disapprove, or modify the recommendation and 8662
shall enter an order accordingly. 8663

(J)(1) A defendant or person who has been committed pursuant 8664
to section 2945.39 or 2945.40 of the Revised Code continues to be 8665
under the jurisdiction of the trial court until the final 8666
termination of the commitment. For purposes of division (J) of 8667
this section, the final termination of a commitment occurs upon 8668
the earlier of one of the following: 8669

(a) The defendant or person no longer is a mentally ill 8670
person subject to hospitalization by court order or a mentally 8671

retarded person subject to institutionalization by court order, as 8672
determined by the trial court; 8673

(b) The expiration of the maximum prison term or term of 8674
imprisonment that the defendant or person could have received if 8675
the defendant or person had been convicted of the most serious 8676
offense with which the defendant or person is charged or in 8677
relation to which the defendant or person was found not guilty by 8678
reason of insanity; 8679

(c) The trial court enters an order terminating the 8680
commitment under the circumstances described in division 8681
(J)(2)(a)(ii) of this section. 8682

(2)(a) If a defendant is found incompetent to stand trial and 8683
committed pursuant to section 2945.39 of the Revised Code, if 8684
neither of the circumstances described in divisions (J)(1)(a) and 8685
(b) of this section applies to that defendant, and if a report 8686
filed with the trial court pursuant to division (C) of this 8687
section indicates that the defendant presently is competent to 8688
stand trial or if, at any other time during the period of the 8689
defendant's commitment, the prosecutor, the counsel for the 8690
defendant, or the chief clinical officer of the hospital, 8691
facility, or program to which the defendant is committed files an 8692
application with the trial court alleging that the defendant 8693
presently is competent to stand trial and requesting a hearing on 8694
the competency issue or the trial court otherwise has reasonable 8695
cause to believe that the defendant presently is competent to 8696
stand trial and determines on its own motion to hold a hearing on 8697
the competency issue, the trial court shall schedule a hearing on 8698
the competency of the defendant to stand trial, shall give the 8699
prosecutor, the counsel for the defendant, and the chief clinical 8700
officer notice of the date, time, and place of the hearing at 8701
least fifteen days before the hearing, and shall conduct the 8702
hearing within thirty days of the filing of the application or of 8703

its own motion. If, at the conclusion of the hearing, the trial court determines that the defendant presently is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense, the trial court shall order that the defendant is competent to stand trial and shall be proceeded against as provided by law with respect to the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code and shall enter whichever of the following additional orders is appropriate:

(i) If the trial court determines that the defendant remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the trial court shall order that the defendant's commitment to the hospital, facility, or program be continued during the pendency of the trial on the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code.

(ii) If the trial court determines that the defendant no longer is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the trial court shall order that the defendant's commitment to the hospital, facility, or program shall not be continued during the pendency of the trial on the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code. This order shall be a final termination of the commitment for purposes of division (J)(1)(c) of this section.

(b) If, at the conclusion of the hearing described in division (J)(2)(a) of this section, the trial court determines that the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the trial court shall order

that the defendant continues to be incompetent to stand trial, 8736
that the defendant's commitment to the hospital, facility, or 8737
program shall be continued, and that the defendant remains subject 8738
to the jurisdiction of the trial court pursuant to that 8739
commitment, and to the provisions of this section, until the final 8740
termination of the commitment as described in division (J)(1) of 8741
this section. 8742

Sec. 2967.22. Whenever it is brought to the attention of the 8743
adult parole authority or a department of probation that a 8744
parolee, person under a community control sanction, person under 8745
transitional control, or releasee appears to be a mentally ill 8746
person subject to hospitalization by court order, as defined in 8747
section 5122.01 of the Revised Code, or a mentally retarded person 8748
subject to institutionalization by court order, as defined in 8749
section 5123.01 of the Revised Code, the parole or probation 8750
officer, subject to the approval of the chief of the adult parole 8751
authority, the designee of the chief of the adult parole 8752
authority, or the chief probation officer, may file an affidavit 8753
under section 5122.11 or 5123.71 of the Revised Code. A parolee, 8754
person under a community control sanction, or releasee who is 8755
involuntarily detained under Chapter 5122. or 5123. of the Revised 8756
Code shall receive credit against the period of parole or 8757
community control or the term of post-release control for the 8758
period of involuntary detention. 8759

If a parolee, person under a community control sanction, 8760
person under transitional control, or releasee escapes from an 8761
institution or facility within the department of mental health or 8762
the department of ~~mental retardation and~~ developmental 8763
disabilities, the superintendent of the institution immediately 8764
shall notify the chief of the adult parole authority or the chief 8765
probation officer. Notwithstanding the provisions of section 8766
5122.26 of the Revised Code, the procedure for the apprehension, 8767

detention, and return of the parolee, person under a community control sanction, person under transitional control, or releasee is the same as that provided for the apprehension, detention, and return of persons who escape from institutions operated by the department of rehabilitation and correction. If the escaped parolee, person under transitional control, or releasee is not apprehended and returned to the custody of the department of mental health or the department of ~~mental retardation and~~ developmental disabilities within ninety days after the escape, the parolee, person under transitional control, or releasee shall be discharged from the custody of the department of mental health or the department of ~~mental retardation and~~ developmental disabilities and returned to the custody of the department of rehabilitation and correction. If the escaped person under a community control sanction is not apprehended and returned to the custody of the department of mental health or the department of ~~mental retardation and~~ developmental disabilities within ninety days after the escape, the person under a community control sanction shall be discharged from the custody of the department of mental health or the department of ~~mental retardation and~~ developmental disabilities and returned to the custody of the court that sentenced that person.

Sec. 3109.18. (A)(1) A board of county commissioners may establish a child abuse and child neglect prevention advisory board or may designate the county family and children first council to serve as the child abuse and child neglect prevention advisory board. The boards of county commissioners of two or more contiguous counties may instead form a multicounty district to be served by a child abuse and child neglect prevention advisory board or may designate a regional family and children first council to serve as the district child abuse and child neglect prevention advisory board. Each advisory board shall meet at least

twice a year. 8800

(2) The county auditor is hereby designated as the auditor 8801
and fiscal officer of the advisory board. In the case of a 8802
multicounty district, the boards of county commissioners that 8803
formed the district shall designate the auditor of one of the 8804
counties as the auditor and fiscal officer of the advisory board. 8805

(B) Each county that establishes an advisory board or, in a 8806
multicounty district, the auditor who has been designated as the 8807
auditor and fiscal officer of the advisory board, shall establish 8808
a fund in the county treasury known as the county or district 8809
children's trust fund. The auditor shall deposit all funds 8810
received from the children's trust fund board into that fund, and 8811
the auditor shall distribute money from the fund at the request of 8812
the advisory board. 8813

(C) Each January, the board of county commissioners of a 8814
county that has established an advisory board or, in a multicounty 8815
district, the board of county commissioners of the county served 8816
by the auditor who has been designated as the auditor and fiscal 8817
officer for the advisory board, shall appropriate the amount 8818
described in division (B)(2) of section 3109.17 of the Revised 8819
Code for distribution by the advisory board to child abuse and 8820
child neglect prevention programs. 8821

(D)(1) Except in the case of a county or regional family and 8822
children first council that is designated to serve as a child 8823
abuse and child neglect prevention advisory board, each advisory 8824
board shall consist of an odd number of members from both the 8825
public and private sectors, including all of the following: 8826

(a) A representative of an agency responsible for the 8827
administration of children's services in the county or district; 8828

(b) A provider of alcohol or drug addiction services or a 8829
representative of a board of alcohol, drug addiction, and mental 8830

health services that serves the county or district; 8831

(c) A provider of mental health services or a representative 8832
of a board of alcohol, drug addiction, and mental health services 8833
that serves the county or district; 8834

(d) A representative of a county board of ~~mental retardation~~ 8835
~~and~~ developmental disabilities that serves the county or district; 8836

(e) A representative of the educational community appointed 8837
by the superintendent of the school district with largest 8838
enrollment in the county or multicounty district. 8839

(2) The following groups and entities may be represented on 8840
the advisory board: 8841

(a) Parent groups; 8842

(b) Juvenile justice officials; 8843

(c) Pediatricians, health department nurses, and other 8844
representatives of the medical community; 8845

(d) School personnel; 8846

(e) Counselors and social workers; 8847

(f) Head start agencies; 8848

(g) Child care providers; 8849

(h) Other persons with demonstrated knowledge in programs for 8850
children. 8851

(3) Of the members first appointed, at least one shall serve 8852
for a term of three years, at least one for a term of two years, 8853
and at least one for a term of one year. Thereafter, each member 8854
shall serve a term of three years. Each member shall serve until 8855
the member's successor is appointed. All vacancies on the board 8856
shall be filled for the balance of the unexpired term in the same 8857
manner as the original appointment. 8858

(E) Each child abuse and child neglect prevention advisory 8859

board may incur reasonable costs not to exceed five per cent of 8860
the funds allocated to the county or district under section 8861
3109.17 of the Revised Code, for the purpose of carrying out the 8862
functions of the advisory board. 8863

(F) Each child abuse and child neglect prevention advisory 8864
board shall do all of the following: 8865

(1) For each fiscal biennium, develop a local allocation plan 8866
for the purpose of preventing child abuse and child neglect and 8867
submit the plan to the children's trust fund board on or before 8868
the first day of April preceding the fiscal year for which the 8869
plan is developed; 8870

(2) Provide effective public notice, as defined by the 8871
children's trust fund board in the state plan or, if the board 8872
does not define the term in the state plan, as defined in rules 8873
adopted by the department of job and family services, to potential 8874
applicants about the availability of funds from the children's 8875
trust fund, including an estimate of the amount of money available 8876
for grants within each county or district, the date of at least 8877
one public hearing, information on obtaining a copy of the grant 8878
application form, and the deadline for submitting grant 8879
applications; 8880

(3) Review all applications received using criteria specified 8881
in the state plan adopted by the board under section 3109.17 of 8882
the Revised Code; 8883

(4) Consistent with the local allocation plan developed 8884
pursuant to division (F)(1) of this section, make grants to child 8885
abuse and child neglect prevention programs. 8886

(5) Establish any reporting requirements for grant 8887
recipients, in addition to those specified by the children's trust 8888
fund board, and for children's advocacy centers for which funds 8889
are used in accordance with section 3109.172 of the Revised Code. 8890

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

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

(I) A children's advocacy center for which a child abuse and child neglect prevention advisory board uses any amount out of the funds allocated to the advisory board under section 3109.172 of the Revised Code, as start-up costs for the establishment and operation of the center, shall use the moneys so received only for establishment and operation of the center in accordance with sections 2151.425 to 2151.428 of the Revised Code. Any other person or entity that is a recipient of a grant from the children's trust fund shall use the grant funds only to fund primary and secondary child abuse and child neglect prevention programs. Any grant funds that are not spent by the recipient of the funds within the time specified by the terms of the grant

shall be returned to the county treasurer. Any grant funds 8923
returned that are not redistributed by the advisory board within 8924
the state fiscal year in which they are received shall be returned 8925
to the treasurer of state. The treasurer of state shall deposit 8926
such unspent moneys into the children's trust fund to be spent for 8927
purposes consistent with the state plan adopted under section 8928
3109.17 of the Revised Code. 8929

(J) Applications for grants from the children's trust fund 8930
shall be made to the advisory board on forms prescribed by the 8931
children's trust fund board. 8932

(K)(1) Each children's advocacy center for which a child 8933
abuse and child neglect prevention advisory board uses any amount 8934
out of the funds allocated to the advisory board under section 8935
3109.172 of the Revised Code, as start-up costs for the 8936
establishment and operation of the center, and each other person 8937
or entity that is a recipient of a children's trust fund grant 8938
from an advisory board shall file with the advisory board a copy 8939
of a semi-annual and an annual report that includes the 8940
information required by the children's trust fund board. 8941

(2) Each advisory board shall file with the children's trust 8942
fund board, not later than the fifteenth day of August following 8943
the year for which the report is written, a copy of an annual 8944
report regarding the county or district local allocation plan that 8945
contains the information required by the children's trust fund 8946
board, and regarding the advisory board's use of any amount out of 8947
the funds allocated to the advisory board under section 3109.172 8948
of the Revised Code as start-up costs for the establishment and 8949
operation of a children's advocacy center. 8950

Sec. 3301.07. The state board of education shall exercise 8951
under the acts of the general assembly general supervision of the 8952
system of public education in the state. In addition to the powers 8953

otherwise imposed on the state board under the provisions of law, 8954
the board shall have the following powers: 8955

(A) Exercise policy forming, planning, and evaluative 8956
functions for the public schools of the state, and for adult 8957
education, except as otherwise provided by law; 8958

(B) Exercise leadership in the improvement of public 8959
education in this state, and administer the educational policies 8960
of this state relating to public schools, and relating to 8961
instruction and instructional material, building and equipment, 8962
transportation of pupils, administrative responsibilities of 8963
school officials and personnel, and finance and organization of 8964
school districts, educational service centers, and territory. 8965
Consultative and advisory services in such matters shall be 8966
provided by the board to school districts and educational service 8967
centers of this state. The board also shall develop a standard of 8968
financial reporting which shall be used by all school districts 8969
and educational service centers to make their financial 8970
information available to the public in a format understandable by 8971
the average citizen and provide year-to-year comparisons for at 8972
least five years. The format shall show, among other things, 8973
district and educational service center revenue by source; 8974
expenditures for salaries, wages, and benefits of employees, 8975
showing such amounts separately for classroom teachers, other 8976
employees required to hold licenses issued pursuant to sections 8977
3319.22 to 3319.31 of the Revised Code, and all other employees; 8978
expenditures other than for personnel, by category, including 8979
utilities, textbooks and other educational materials, equipment, 8980
permanent improvements, pupil transportation, extracurricular 8981
athletics, and other extracurricular activities; and per pupil 8982
expenditures. 8983

(C) Administer and supervise the allocation and distribution 8984
of all state and federal funds for public school education under 8985

the provisions of law, and may prescribe such systems of 8986
accounting as are necessary and proper to this function. It may 8987
require county auditors and treasurers, boards of education, 8988
educational service center governing boards, treasurers of such 8989
boards, teachers, and other school officers and employees, or 8990
other public officers or employees, to file with it such reports 8991
as it may prescribe relating to such funds, or to the management 8992
and condition of such funds. 8993

(D) Formulate and prescribe minimum standards to be applied 8994
to all elementary and secondary schools in this state for the 8995
purpose of requiring a general education of high quality. Such 8996
standards shall provide adequately for: the licensing of teachers, 8997
administrators, and other professional personnel and their 8998
assignment according to training and qualifications; efficient and 8999
effective instructional materials and equipment, including library 9000
facilities; the proper organization, administration, and 9001
supervision of each school, including regulations for preparing 9002
all necessary records and reports and the preparation of a 9003
statement of policies and objectives for each school; buildings, 9004
grounds, health and sanitary facilities and services; admission of 9005
pupils, and such requirements for their promotion from grade to 9006
grade as will assure that they are capable and prepared for the 9007
level of study to which they are certified; requirements for 9008
graduation; and such other factors as the board finds necessary. 9009

In the formulation and administration of such standards for 9010
nonpublic schools the board shall also consider the particular 9011
needs, methods and objectives of those schools, provided they do 9012
not conflict with the provision of a general education of a high 9013
quality and provided that regular procedures shall be followed for 9014
promotion from grade to grade of pupils who have met the 9015
educational requirements prescribed. 9016

(E) May require as part of the health curriculum information 9017

developed under section 2108.34 of the Revised Code promoting the 9018
donation of anatomical gifts pursuant to Chapter 2108. of the 9019
Revised Code and may provide the information to high schools, 9020
educational service centers, and joint vocational school district 9021
boards of education; 9022

(F) Prepare and submit annually to the governor and the 9023
general assembly a report on the status, needs, and major problems 9024
of the public schools of the state, with recommendations for 9025
necessary legislative action and a ten-year projection of the 9026
state's public and nonpublic school enrollment, by year and by 9027
grade level; 9028

(G) Prepare and submit to the director of budget and 9029
management the biennial budgetary requests of the state board of 9030
education, for its agencies and for the public schools of the 9031
state; 9032

(H) Cooperate with federal, state, and local agencies 9033
concerned with the health and welfare of children and youth of the 9034
state; 9035

(I) Require such reports from school districts and 9036
educational service centers, school officers, and employees as are 9037
necessary and desirable. The superintendents and treasurers of 9038
school districts and educational service centers shall certify as 9039
to the accuracy of all reports required by law or state board or 9040
state department of education rules to be submitted by the 9041
district or educational service center and which contain 9042
information necessary for calculation of state funding. Any 9043
superintendent who knowingly falsifies such report shall be 9044
subject to license revocation pursuant to section 3319.31 of the 9045
Revised Code. 9046

(J) In accordance with Chapter 119. of the Revised Code, 9047
adopt procedures, standards, and guidelines for the education of 9048

children with disabilities pursuant to Chapter 3323. of the 9049
Revised Code, including procedures, standards, and guidelines 9050
governing programs and services operated by county boards of 9051
~~mental retardation and~~ developmental disabilities pursuant to 9052
section 3323.09 of the Revised Code; 9053

(K) For the purpose of encouraging the development of special 9054
programs of education for academically gifted children, employ 9055
competent persons to analyze and publish data, promote research, 9056
advise and counsel with boards of education, and encourage the 9057
training of teachers in the special instruction of gifted 9058
children. The board may provide financial assistance out of any 9059
funds appropriated for this purpose to boards of education and 9060
educational service center governing boards for developing and 9061
conducting programs of education for academically gifted children. 9062

(L) Require that all public schools emphasize and encourage, 9063
within existing units of study, the teaching of energy and 9064
resource conservation as recommended to each district board of 9065
education by leading business persons involved in energy 9066
production and conservation, beginning in the primary grades; 9067

(M) Formulate and prescribe minimum standards requiring the 9068
use of phonics as a technique in the teaching of reading in grades 9069
kindergarten through three. In addition, the state board shall 9070
provide in-service training programs for teachers on the use of 9071
phonics as a technique in the teaching of reading in grades 9072
kindergarten through three. 9073

(N) Develop and modify as necessary a state plan for 9074
technology to encourage and promote the use of technological 9075
advancements in educational settings. 9076

The board may adopt rules necessary for carrying out any 9077
function imposed on it by law, and may provide rules as are 9078
necessary for its government and the government of its employees, 9079

and may delegate to the superintendent of public instruction the 9080
management and administration of any function imposed on it by 9081
law. It may provide for the appointment of board members to serve 9082
on temporary committees established by the board for such purposes 9083
as are necessary. Permanent or standing committees shall not be 9084
created. 9085

Sec. 3301.15. The state board of education or its authorized 9086
representatives may inspect all institutions under the control of 9087
the department of job and family services, the department of 9088
mental health, the department of ~~mental retardation and~~ 9089
developmental disabilities, and the department of rehabilitation 9090
and correction which employ teachers, and may make a report on the 9091
teaching, discipline, and school equipment in these institutions 9092
to the director of job and family services, the director of mental 9093
health, the director of ~~mental retardation and~~ developmental 9094
disabilities, the director of rehabilitation and correction, and 9095
the governor. 9096

Sec. 3301.52. As used in sections 3301.52 to 3301.59 of the 9097
Revised Code: 9098

(A) "Preschool program" means either of the following: 9099

(1) A child care program for preschool children that is 9100
operated by a school district board of education or an eligible 9101
nonpublic school. 9102

(2) A child care program for preschool children age three or 9103
older that is operated by a county ~~MR/DD~~ DD board. 9104

(B) "Preschool child" or "child" means a child who has not 9105
entered kindergarten and is not of compulsory school age. 9106

(C) "Parent, guardian, or custodian" means the person or 9107
government agency that is or will be responsible for a child's 9108
school attendance under section 3321.01 of the Revised Code. 9109

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

(E) "Director" means the director, head teacher, elementary principal, or site administrator who is the individual on site and responsible for supervision of a preschool program.

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

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

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

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

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

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

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

Sec. 3301.53. (A) The state board of education, in consultation with the director of job and family services, shall

formulate and prescribe by rule adopted under Chapter 119. of the 9140
Revised Code minimum standards to be applied to preschool programs 9141
operated by school district boards of education, county ~~MR/DD~~ DD 9142
boards, or eligible nonpublic schools. The rules shall include the 9143
following: 9144

(1) Standards ensuring that the preschool program is located 9145
in a safe and convenient facility that accommodates the enrollment 9146
of the program, is of the quality to support the growth and 9147
development of the children according to the program objectives, 9148
and meets the requirements of section 3301.55 of the Revised Code; 9149

(2) Standards ensuring that supervision, discipline, and 9150
programs will be administered according to established objectives 9151
and procedures; 9152

(3) Standards ensuring that preschool staff members and 9153
nonteaching employees are recruited, employed, assigned, 9154
evaluated, and provided inservice education without discrimination 9155
on the basis of age, color, national origin, race, or sex; and 9156
that preschool staff members and nonteaching employees are 9157
assigned responsibilities in accordance with written position 9158
descriptions commensurate with their training and experience; 9159

(4) A requirement that boards of education intending to 9160
establish a preschool program demonstrate a need for a preschool 9161
program prior to establishing the program; 9162

(5) Requirements that children participating in preschool 9163
programs have been immunized to the extent considered appropriate 9164
by the state board to prevent the spread of communicable disease; 9165

(6) Requirements that the parents of preschool children 9166
complete the emergency medical authorization form specified in 9167
section 3313.712 of the Revised Code. 9168

(B) The state board of education in consultation with the 9169
director of job and family services shall ensure that the rules 9170

adopted by the state board under sections 3301.52 to 3301.58 of 9171
the Revised Code are consistent with and meet or exceed the 9172
requirements of Chapter 5104. of the Revised Code with regard to 9173
child day-care centers. The state board and the director of job 9174
and family services shall review all such rules at least once 9175
every five years. 9176

(C) The state board of education, in consultation with the 9177
director of job and family services, shall adopt rules for school 9178
child programs that are consistent with and meet or exceed the 9179
requirements of the rules adopted for school child day-care 9180
centers under Chapter 5104. of the Revised Code. 9181

Sec. 3301.55. (A) A school district, county ~~MR/DD~~ DD board, 9182
or eligible nonpublic school operating a preschool program shall 9183
house the program in buildings that meet the following 9184
requirements: 9185

(1) The building is operated by the district, county ~~MR/DD~~ DD 9186
board, or eligible nonpublic school and has been approved by the 9187
division of industrial compliance in the department of commerce or 9188
a certified municipal, township, or county building department for 9189
the purpose of operating a program for preschool children. Any 9190
such structure shall be constructed, equipped, repaired, altered, 9191
and maintained in accordance with applicable provisions of 9192
Chapters 3781. and 3791. and with rules adopted by the board of 9193
building standards under Chapter 3781. of the Revised Code for the 9194
safety and sanitation of structures erected for this purpose. 9195

(2) The building is in compliance with fire and safety laws 9196
and regulations as evidenced by reports of annual school fire and 9197
safety inspections as conducted by appropriate local authorities. 9198

(3) The school is in compliance with rules established by the 9199
state board of education regarding school food services. 9200

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

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

(B) Each school district, county ~~MR/DD~~ DD board, or eligible nonpublic school that operates, or proposes to operate, a preschool program shall submit a building plan including all information specified by the state board of education to the board not later than the first day of September of the school year in which the program is to be initiated. The board shall determine whether the buildings meet the requirements of this section and section 3301.53 of the Revised Code, and notify the superintendent 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 9232
nonteaching employees. 9233

(B) The department and the school district board of 9234
education, county ~~MR/DD~~ DD board, or eligible nonpublic school 9235
shall jointly monitor each preschool program and each school child 9236
program. 9237

If the program receives any grant or other funding from the 9238
state or federal government, the department annually shall monitor 9239
all reports on attendance, financial support, and expenditures 9240
according to provisions for use of the funds. 9241

(C) The department of education, at least twice during every 9242
twelve-month period of operation of a preschool program or a 9243
licensed school child program, shall inspect the program and 9244
provide a written inspection report to the superintendent of the 9245
school district, county ~~MR/DD~~ DD board, or eligible nonpublic 9246
school. At least one inspection shall be unannounced, and all 9247
inspections may be unannounced. No person shall interfere with any 9248
inspection conducted pursuant to this division or to the rules 9249
adopted pursuant to sections 3301.52 to 3301.59 of the Revised 9250
Code. 9251

Upon receipt of any complaint that a preschool program or a 9252
licensed school child program is out of compliance with the 9253
requirements in sections 3301.52 to 3301.59 of the Revised Code or 9254
the rules adopted under those sections, the department shall 9255
investigate and may inspect the program. 9256

(D) If a preschool program or a licensed school child program 9257
is determined to be out of compliance with the requirements of 9258
sections 3301.52 to 3301.59 of the Revised Code or the rules 9259
adopted under those sections, the department of education shall 9260
notify the appropriate superintendent, county ~~MR/DD~~ DD board, or 9261
eligible nonpublic school in writing regarding the nature of the 9262

violation, what must be done to correct the violation, and by what 9263
date the correction must be made. If the correction is not made by 9264
the date established by the department, it may commence action 9265
under Chapter 119. of the Revised Code to close the program or to 9266
revoke the license of the program. If a program does not comply 9267
with an order to cease operation issued in accordance with Chapter 9268
119. of the Revised Code, the department shall notify the attorney 9269
general, the prosecuting attorney of the county in which the 9270
program is located, or the city attorney, village solicitor, or 9271
other chief legal officer of the municipal corporation in which 9272
the program is located that the program is operating in violation 9273
of sections 3301.52 to 3301.59 of the Revised Code or the rules 9274
adopted under those sections and in violation of an order to cease 9275
operation issued in accordance with Chapter 119. of the Revised 9276
Code. Upon receipt of the notification, the attorney general, 9277
prosecuting attorney, city attorney, village solicitor, or other 9278
chief legal officer shall file a complaint in the court of common 9279
pleas of the county in which the program is located requesting the 9280
court to issue an order enjoining the program from operating. The 9281
court shall grant the requested injunctive relief upon a showing 9282
that the program named in the complaint is operating in violation 9283
of sections 3301.52 to 3301.59 of the Revised Code or the rules 9284
adopted under those sections and in violation of an order to cease 9285
operation issued in accordance with Chapter 119. of the Revised 9286
Code. 9287

(E) The department of education shall prepare an annual 9288
report on inspections conducted under this section. The report 9289
shall include the number of inspections conducted, the number and 9290
types of violations found, and the steps taken to address the 9291
violations. The department shall file the report with the 9292
governor, the president and minority leader of the senate, and the 9293
speaker and minority leader of the house of representatives on or 9294
before the first day of January of each year, beginning in 1999. 9295

Sec. 3301.58. (A) The department of education is responsible 9296
for the licensing of preschool programs and school child programs 9297
and for the enforcement of sections 3301.52 to 3301.59 of the 9298
Revised Code and of any rules adopted under those sections. No 9299
school district board of education, county ~~MR/DD~~ DD board, or 9300
eligible nonpublic school shall operate, establish, manage, 9301
conduct, or maintain a preschool program without a license issued 9302
under this section. A school district board of education, county 9303
~~MR/DD~~ DD board, or eligible nonpublic school may obtain a license 9304
under this section for a school child program. The school district 9305
board of education, county ~~MR/DD~~ DD board, or eligible nonpublic 9306
school shall post the current license for each preschool program 9307
and licensed school child program it operates, establishes, 9308
manages, conducts, or maintains in a conspicuous place in the 9309
preschool program or licensed school child program that is 9310
accessible to parents, custodians, or guardians and employees and 9311
staff members of the program at all times when the program is in 9312
operation. 9313

(B) Any school district board of education, county ~~MR/DD~~ DD 9314
board, or eligible nonpublic school that desires to operate, 9315
establish, manage, conduct, or maintain a preschool program shall 9316
apply to the department of education for a license on a form that 9317
the department shall prescribe by rule. Any school district board 9318
of education, county ~~MR/DD~~ DD board, or eligible nonpublic school 9319
that desires to obtain a license for a school child program shall 9320
apply to the department for a license on a form that the 9321
department shall prescribe by rule. The department shall provide 9322
at no charge to each applicant for a license under this section a 9323
copy of the requirements under sections 3301.52 to 3301.59 of the 9324
Revised Code and any rules adopted under those sections. The 9325
department shall mail application forms for the renewal of a 9326
license at least one hundred twenty days prior to the date of the 9327

expiration of the license, and the application for renewal of a 9328
license shall be filed with the department at least sixty days 9329
before the date of the expiration of the existing license. The 9330
department may establish application fees by rule adopted under 9331
Chapter 119. of the Revised Code, and all applicants for a license 9332
shall pay any fee established by the department at the time of 9333
making an application for a license. All fees collected pursuant 9334
to this section shall be paid into the state treasury to the 9335
credit of the general revenue fund. 9336

(C) Upon the filing of an application for a license, the 9337
department of education shall investigate and inspect the 9338
preschool program or school child program to determine the license 9339
capacity for each age category of children of the program and to 9340
determine whether the program complies with sections 3301.52 to 9341
3301.59 of the Revised Code and any rules adopted under those 9342
sections. When, after investigation and inspection, the department 9343
of education is satisfied that sections 3301.52 to 3301.59 of the 9344
Revised Code and any rules adopted under those sections are 9345
complied with by the applicant, the department of education shall 9346
issue the program a provisional license as soon as practicable in 9347
the form and manner prescribed by the rules of the department. The 9348
provisional license shall be valid for six months from the date of 9349
issuance unless revoked. 9350

(D) The department of education shall investigate and inspect 9351
a preschool program or school child program that has been issued a 9352
provisional license at least once during operation under the 9353
provisional license. If, after the investigation and inspection, 9354
the department of education determines that the requirements of 9355
sections 3301.52 to 3301.59 of the Revised Code and any rules 9356
adopted under those sections are met by the provisional licensee, 9357
the department of education shall issue a license that is 9358
effective for two years from the date of the issuance of the 9359

provisional license. 9360

(E) Upon the filing of an application for the renewal of a 9361
license by a preschool program or school child program, the 9362
department of education shall investigate and inspect the 9363
preschool program or school child program. If the department of 9364
education determines that the requirements of sections 3301.52 to 9365
3301.59 of the Revised Code and any rules adopted under those 9366
sections are met by the applicant, the department of education 9367
shall renew the license for two years from the date of the 9368
expiration date of the previous license. 9369

(F) The license or provisional license shall state the name 9370
of the school district board of education, county ~~MR/DD~~ DD board, 9371
or eligible nonpublic school that operates the preschool program 9372
or school child program and the license capacity of the program. 9373
The license shall include any other information required by 9374
section 5104.03 of the Revised Code for the license of a child 9375
day-care center. 9376

(G) The department of education may revoke the license of any 9377
preschool program or school child program that is not in 9378
compliance with the requirements of sections 3301.52 to 3301.59 of 9379
the Revised Code and any rules adopted under those sections. 9380

(H) If the department of education revokes a license or 9381
refuses to renew a license to a program, the department shall not 9382
issue a license to the program within two years from the date of 9383
the revocation or refusal. All actions of the department with 9384
respect to licensing preschool programs and school child programs 9385
shall be in accordance with Chapter 119. of the Revised Code. 9386

Sec. 3304.231. There is hereby created a brain injury 9387
advisory committee, which shall advise the administrator of the 9388
rehabilitation services commission and the brain injury program 9389
with regard to unmet needs of survivors of brain injury, 9390

development of programs for survivors and their families, 9391
establishment of training programs for health care professionals, 9392
and any other matter within the province of the brain injury 9393
program. The committee shall consist of not less than eighteen and 9394
not more than twenty-one members as follows: 9395

(A) Not less than ten and not more than twelve members 9396
appointed by the administrator of the rehabilitation services 9397
commission, including all of the following: a survivor of brain 9398
injury, a relative of a survivor of brain injury, a licensed 9399
physician recommended by the Ohio chapter of the American college 9400
of emergency physicians, a licensed physician recommended by the 9401
Ohio state medical association, one other health care 9402
professional, a rehabilitation professional, an individual who 9403
represents the brain injury association of Ohio, and not less than 9404
three nor more than five individuals who shall represent the 9405
public; 9406

(B) The directors of the departments of health, alcohol and 9407
drug addiction services, ~~mental retardation and~~ developmental 9408
disabilities, mental health, job and family services, and highway 9409
safety; the administrator of workers' compensation; the 9410
superintendent of public instruction; and the administrator of the 9411
rehabilitation services commission. Any of the officials specified 9412
in this division may designate an individual to serve in the 9413
official's place as a member of the committee. 9414

The director of health shall make initial appointments to the 9415
committee by November 1, 1990. Appointments made after July 26, 9416
1991, shall be made by the administrator of the rehabilitation 9417
services commission. Terms of office shall be two years. Members 9418
may be reappointed. Vacancies shall be filled in the manner 9419
provided for original appointments. Any member appointed to fill a 9420
vacancy occurring prior to the expiration date of the term for 9421
which the member's predecessor was appointed shall hold office as 9422

a member for the remainder of that term. 9423

Members of the committee shall serve without compensation, 9424
but shall be reimbursed for actual and necessary expenses incurred 9425
in the performance of their duties. 9426

Sec. 3313.65. (A) As used in this section and section 3313.64 9427
of the Revised Code: 9428

(1) A person is "in a residential facility" if the person is 9429
a resident or a resident patient of an institution, home, or other 9430
residential facility that is: 9431

(a) Licensed as a nursing home, residential care facility, or 9432
home for the aging by the director of health under section 3721.02 9433
of the Revised Code or licensed as a community alternative home by 9434
the director of health under section 3724.03 of the Revised Code; 9435

(b) Licensed as an adult care facility by the director of 9436
health under Chapter 3722. of the Revised Code; 9437

(c) Maintained as a county home or district home by the board 9438
of county commissioners or a joint board of county commissioners 9439
under Chapter 5155. of the Revised Code; 9440

(d) Operated or administered by a board of alcohol, drug 9441
addiction, and mental health services under section 340.03 or 9442
340.06 of the Revised Code, or provides residential care pursuant 9443
to contracts made under section 340.03 or 340.033 of the Revised 9444
Code; 9445

(e) Maintained as a state institution for the mentally ill 9446
under Chapter 5119. of the Revised Code; 9447

(f) Licensed by the department of mental health under section 9448
5119.20 or 5119.22 of the Revised Code; 9449

(g) Licensed as a residential facility by the department of 9450
~~mental retardation and~~ developmental disabilities under section 9451

5123.19 of the Revised Code;	9452
(h) Operated by the veteran's administration or another	9453
agency of the United States government;	9454
(i) The Ohio soldiers' and sailors' home.	9455
(2) A person is "in a correctional facility" if any of the	9456
following apply:	9457
(a) The person is an Ohio resident and is:	9458
(i) Imprisoned, as defined in section 1.05 of the Revised	9459
Code;	9460
(ii) Serving a term in a community-based correctional	9461
facility or a district community-based correctional facility;	9462
(iii) Required, as a condition of parole, a post-release	9463
control sanction, a community control sanction, transitional	9464
control, or early release from imprisonment, as a condition of	9465
shock parole or shock probation granted under the law in effect	9466
prior to July 1, 1996, or as a condition of a furlough granted	9467
under the version of section 2967.26 of the Revised Code in effect	9468
prior to March 17, 1998, to reside in a halfway house or other	9469
community residential center licensed under section 2967.14 of the	9470
Revised Code or a similar facility designated by the court of	9471
common pleas that established the condition or by the adult parole	9472
authority.	9473
(b) The person is imprisoned in a state correctional	9474
institution of another state or a federal correctional institution	9475
but was an Ohio resident at the time the sentence was imposed for	9476
the crime for which the person is imprisoned.	9477
(3) A person is "in a juvenile residential placement" if the	9478
person is an Ohio resident who is under twenty-one years of age	9479
and has been removed, by the order of a juvenile court, from the	9480
place the person resided at the time the person became subject to	9481

the court's jurisdiction in the matter that resulted in the 9482
person's removal. 9483

(4) "Community control sanction" has the same meaning as in 9484
section 2929.01 of the Revised Code. 9485

(5) "Post-release control sanction" has the same meaning as 9486
in section 2967.01 of the Revised Code. 9487

(B) If the circumstances described in division (C) of this 9488
section apply, the determination of what school district must 9489
admit a child to its schools and what district, if any, is liable 9490
for tuition shall be made in accordance with this section, rather 9491
than section 3313.64 of the Revised Code. 9492

(C) A child who does not reside in the school district in 9493
which the child's parent resides and for whom a tuition obligation 9494
previously has not been established under division (C)(2) of 9495
section 3313.64 of the Revised Code shall be admitted to the 9496
schools of the district in which the child resides if at least one 9497
of the child's parents is in a residential or correctional 9498
facility or a juvenile residential placement and the other parent, 9499
if living and not in such a facility or placement, is not known to 9500
reside in this state. 9501

(D) Regardless of who has custody or care of the child, 9502
whether the child resides in a home, or whether the child receives 9503
special education, if a district admits a child under division (C) 9504
of this section, tuition shall be paid to that district as 9505
follows: 9506

(1) If the child's parent is in a juvenile residential 9507
placement, by the district in which the child's parent resided at 9508
the time the parent became subject to the jurisdiction of the 9509
juvenile court; 9510

(2) If the child's parent is in a correctional facility, by 9511
the district in which the child's parent resided at the time the 9512

sentence was imposed; 9513

(3) If the child's parent is in a residential facility, by 9514
the district in which the parent resided at the time the parent 9515
was admitted to the residential facility, except that if the 9516
parent was transferred from another residential facility, tuition 9517
shall be paid by the district in which the parent resided at the 9518
time the parent was admitted to the facility from which the parent 9519
first was transferred; 9520

(4) In the event of a disagreement as to which school 9521
district is liable for tuition under division (C)(1), (2), or (3) 9522
of this section, the superintendent of public instruction shall 9523
determine which district shall pay tuition. 9524

(E) If a child covered by division (D) of this section 9525
receives special education in accordance with Chapter 3323. of the 9526
Revised Code, the tuition shall be paid in accordance with section 9527
3323.13 or 3323.14 of the Revised Code. Tuition for children who 9528
do not receive special education shall be paid in accordance with 9529
division (J) of section 3313.64 of the Revised Code. 9530

Sec. 3313.715. The board of education of a school district 9531
may request from the director of ~~mental retardation and~~ 9532
developmental disabilities the appropriate identification numbers 9533
for all students residing in the district who are medical 9534
assistance recipients under Chapter 5111. of the Revised Code. The 9535
director shall furnish such numbers upon receipt of lists of 9536
student names furnished by the district board, in such form as the 9537
director may require. 9538

The director of job and family services shall provide the 9539
director of ~~mental retardation and~~ developmental disabilities with 9540
the data necessary for compliance with this section. 9541

Section 3319.321 of the Revised Code does not apply to the 9542

release of student names or other data to the director of ~~mental~~ 9543
~~retardation~~ and developmental disabilities for the purposes of 9544
this section. Chapter 1347. of the Revised Code does not apply to 9545
information required to be kept by a school board or the 9546
departments of job and family services or ~~mental retardation~~ and 9547
developmental disabilities to the extent necessary to comply with 9548
this section and section 3313.714 of the Revised Code. However, 9549
any such information or data shall be used only for the specific 9550
legal purposes of such boards and departments and shall not be 9551
released to any unauthorized person. 9552

Sec. 3314.022. The governing authority of any community 9553
school established under this chapter may contract with the 9554
governing authority of another community school, the board of 9555
education of a school district, the governing board of an 9556
educational service center, a county ~~MR/DD~~ DD board, or the 9557
administrative authority of a nonpublic school for provision of 9558
services for any disabled student enrolled at the school. Any 9559
school district board of education or educational service center 9560
governing board shall negotiate with a community school governing 9561
authority that seeks to contract for the provision of services for 9562
a disabled student under this section in the same manner as it 9563
would with the board of education of a school district that seeks 9564
to contract for such services. 9565

Sec. 3314.99. (A) Whoever violates division (F) of section 9566
3314.40 of the Revised Code shall be punished as follows: 9567

(1) Except as otherwise provided in division (A)(2) of this 9568
section, the person is guilty of a misdemeanor of the fourth 9569
degree. 9570

(2) The person is guilty of a misdemeanor of the first degree 9571
if both of the following conditions apply: 9572

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

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

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

Sec. 3317.01. As used in this section and section 3317.011 of the Revised Code, "school district," unless otherwise specified, means any city, local, exempted village, joint vocational, or cooperative education school district and any educational service center.

This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. As soon as possible after such amounts are calculated, the superintendent shall certify to the treasurer of each school district the district's adjusted charge-off increase, as defined in section

5705.211 of the Revised Code. No moneys shall be distributed 9604
pursuant to this chapter without the approval of the controlling 9605
board. 9606

The state board of education shall, in accordance with 9607
appropriations made by the general assembly, meet the financial 9608
obligations of this chapter. 9609

Annually, the department of education shall calculate and 9610
report to each school district the district's total state and 9611
local funds for providing an adequate basic education to the 9612
district's nondisabled students, utilizing the determination in 9613
section 3317.012 of the Revised Code. In addition, the department 9614
shall calculate and report separately for each school district the 9615
district's total state and local funds for providing an adequate 9616
education for its students with disabilities, utilizing the 9617
determinations in both sections 3317.012 and 3317.013 of the 9618
Revised Code. 9619

Not later than the thirty-first day of August of each fiscal 9620
year, the department of education shall provide to each school 9621
district and county ~~MR/DD~~ DD board a preliminary estimate of the 9622
amount of funding that the department calculates the district will 9623
receive under each of divisions (C)(1) and (4) of section 3317.022 9624
of the Revised Code. No later than the first day of December of 9625
each fiscal year, the department shall update that preliminary 9626
estimate. 9627

Moneys distributed pursuant to this chapter shall be 9628
calculated and paid on a fiscal year basis, beginning with the 9629
first day of July and extending through the thirtieth day of June. 9630
The moneys appropriated for each fiscal year shall be distributed 9631
at least monthly to each school district unless otherwise provided 9632
for. The state board shall submit a yearly distribution plan to 9633
the controlling board at its first meeting in July. The state 9634
board shall submit any proposed midyear revision of the plan to 9635

the controlling board in January. Any year-end revision of the 9636
plan shall be submitted to the controlling board in June. If 9637
moneys appropriated for each fiscal year are distributed other 9638
than monthly, such distribution shall be on the same basis for 9639
each school district. 9640

The total amounts paid each month shall constitute, as nearly 9641
as possible, one-twelfth of the total amount payable for the 9642
entire year. 9643

Until fiscal year 2007, payments made during the first six 9644
months of the fiscal year may be based on an estimate of the 9645
amounts payable for the entire year. Payments made in the last six 9646
months shall be based on the final calculation of the amounts 9647
payable to each school district for that fiscal year. Payments 9648
made in the last six months may be adjusted, if necessary, to 9649
correct the amounts distributed in the first six months, and to 9650
reflect enrollment increases when such are at least three per 9651
cent. 9652

Beginning in fiscal year 2007, payments shall be calculated 9653
to reflect the biannual reporting of average daily membership. In 9654
fiscal year 2007 and in each fiscal year thereafter, annualized 9655
periodic payments for each school district shall be based on the 9656
district's final student counts verified by the superintendent of 9657
public instruction based on reports under section 3317.03 of the 9658
Revised Code, as adjusted, if so ordered, under division (K) of 9659
that section, as follows: 9660

the sum of one-half of the number of students verified 9661
and adjusted for the first full week in October 9662
plus one-half of the average of the numbers 9663
verified and adjusted for the first full week 9664
in October and for the first full week in February 9665

Except as otherwise provided, payments under this chapter 9666
shall be made only to those school districts in which: 9667

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

(B) The school year next preceding the fiscal year for which such payments are authorized meets the requirement of section 3313.48 or 3313.481 of the Revised Code, with regard to the minimum number of days or hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and reporting periods, and for professional meetings of teachers. This requirement shall be waived by the superintendent of public instruction if it had been necessary for a school to be closed because of disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, provided that for those school districts operating pursuant to section 3313.48 of the Revised Code the number of days the school was actually open for instruction with pupils in attendance and for individualized parent-teacher conference and reporting periods is not less than one hundred seventy-five, or for those school districts operating on a trimester plan the number of days the school was actually open for instruction with pupils in attendance not less than seventy-nine days in any trimester, for those school

districts operating on a quarterly plan the number of days the 9701
school was actually open for instruction with pupils in attendance 9702
not less than fifty-nine days in any quarter, or for those school 9703
districts operating on a pentamester plan the number of days the 9704
school was actually open for instruction with pupils in attendance 9705
not less than forty-four days in any pentamester. 9706

A school district shall not be considered to have failed to 9707
comply with this division or section 3313.481 of the Revised Code 9708
because schools were open for instruction but either twelfth grade 9709
students were excused from attendance for up to three days or only 9710
a portion of the kindergarten students were in attendance for up 9711
to three days in order to allow for the gradual orientation to 9712
school of such students. 9713

The superintendent of public instruction shall waive the 9714
requirements of this section with reference to the minimum number 9715
of days or hours school must be in session with pupils in 9716
attendance for the school year succeeding the school year in which 9717
a board of education initiates a plan of operation pursuant to 9718
section 3313.481 of the Revised Code. The minimum requirements of 9719
this section shall again be applicable to such a district 9720
beginning with the school year commencing the second July 9721
succeeding the initiation of one such plan, and for each school 9722
year thereafter. 9723

A school district shall not be considered to have failed to 9724
comply with this division or section 3313.48 or 3313.481 of the 9725
Revised Code because schools were open for instruction but the 9726
length of the regularly scheduled school day, for any number of 9727
days during the school year, was reduced by not more than two 9728
hours due to hazardous weather conditions. 9729

(C) The school district has on file, and is paying in 9730
accordance with, a teachers' salary schedule which complies with 9731
section 3317.13 of the Revised Code. 9732

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

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

Sec. 3317.02. As used in this chapter:

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

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

(C) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM or in category one or two vocational education ADM in the same proportion the student is counted in formula ADM.

(D) "Formula ADM" means, for a city, local, or exempted village school district, the final number verified by the superintendent of public instruction, based on the number reported pursuant to division (A) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section. "Formula ADM" means, for a joint vocational school district, the

final number verified by the superintendent of public instruction, 9763
based on the number reported pursuant to division (D) of section 9764
3317.03 of the Revised Code, as adjusted, if so ordered, under 9765
division (K) of that section. Beginning in fiscal year 2007, for 9766
payments in which formula ADM is a factor, the formula ADM for 9767
each school district for the fiscal year is the sum of one-half of 9768
the number verified and adjusted for October of that fiscal year 9769
plus one-half of the average of the numbers verified and adjusted 9770
for October and February of that fiscal year. 9771

9772

(E) "Three-year average formula ADM" means the average of 9773
formula ADMs for the preceding three fiscal years. 9774

(F)(1) "Category one special education ADM" means the average 9775
daily membership of children with disabilities receiving special 9776
education services for the disability specified in division (A) of 9777
section 3317.013 of the Revised Code and reported under division 9778
(B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code. 9779
Beginning in fiscal year 2007, the district's category one special 9780
education ADM for a fiscal year is the sum of one-half of the 9781
number reported for October of that fiscal year plus one-half of 9782
the average of the numbers reported for October and February of 9783
that fiscal year. 9784

(2) "Category two special education ADM" means the average 9785
daily membership of children with disabilities receiving special 9786
education services for those disabilities specified in division 9787
(B) of section 3317.013 of the Revised Code and reported under 9788
division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised 9789
Code. Beginning in fiscal year 2007, the district's category two 9790
special education ADM for a fiscal year is the sum of one-half of 9791
the number reported for October of that fiscal year plus one-half 9792
of the average of the numbers reported for October and February of 9793
that fiscal year. 9794

(3) "Category three special education ADM" means the average 9795
daily membership of students receiving special education services 9796
for those disabilities specified in division (C) of section 9797
3317.013 of the Revised Code, and reported under division (B)(7) 9798
or (D)(2)(d) of section 3317.03 of the Revised Code. Beginning in 9799
fiscal year 2007, the district's category three special education 9800
ADM for a fiscal year is the sum of one-half of the number 9801
reported for October of that fiscal year plus one-half of the 9802
average of the numbers reported for October and February of that 9803
fiscal year. 9804

(4) "Category four special education ADM" means the average 9805
daily membership of students receiving special education services 9806
for those disabilities specified in division (D) of section 9807
3317.013 of the Revised Code and reported under division (B)(8) or 9808
(D)(2)(e) of section 3317.03 of the Revised Code. Beginning in 9809
fiscal year 2007, the district's category four special education 9810
ADM for a fiscal year is the sum of one-half of the number 9811
reported for October of that fiscal year plus one-half of the 9812
average of the numbers reported for October and February of that 9813
fiscal year. 9814

(5) "Category five special education ADM" means the average 9815
daily membership of students receiving special education services 9816
for the disabilities specified in division (E) of section 3317.013 9817
of the Revised Code and reported under division (B)(9) or 9818
(D)(2)(f) of section 3317.03 of the Revised Code. Beginning in 9819
fiscal year 2007, the district's category five special education 9820
ADM for a fiscal year is the sum of one-half of the number 9821
reported for October of that fiscal year plus one-half of the 9822
average of the numbers reported for October and February of that 9823
fiscal year. 9824

(6) "Category six special education ADM" means the average 9825
daily membership of students receiving special education services 9826

for the disabilities specified in division (F) of section 3317.013 9827
of the Revised Code and reported under division (B)(10) or 9828
(D)(2)(g) of section 3317.03 of the Revised Code. Beginning in 9829
fiscal year 2007, the district's category six special education 9830
ADM for a fiscal year is the sum of one-half of the number 9831
reported for October of that fiscal year plus one-half of the 9832
average of the numbers reported for October and February of that 9833
fiscal year. 9834

(7) "Category one vocational education ADM" means the average 9835
daily membership of students receiving vocational education 9836
services described in division (A) of section 3317.014 of the 9837
Revised Code and reported under division (B)(11) or (D)(2)(h) of 9838
section 3317.03 of the Revised Code. Beginning in fiscal year 9839
2007, the district's category one vocational education ADM for a 9840
fiscal year is the sum of one-half of the number reported for 9841
October of that fiscal year plus one-half of the average of the 9842
numbers reported for October and February of that fiscal year. 9843

(8) "Category two vocational education ADM" means the average 9844
daily membership of students receiving vocational education 9845
services described in division (B) of section 3317.014 of the 9846
Revised Code and reported under division (B)(12) or (D)(2)(i) of 9847
section 3317.03 of the Revised Code. Beginning in fiscal year 9848
2007, the district's category two vocational education ADM for a 9849
fiscal year is the sum of one-half of the number reported for 9850
October of that fiscal year plus one-half of the average of the 9851
numbers reported for October and February of that fiscal year. 9852

(G) "Preschool child with a disability" means a child with a 9853
disability, as defined in section 3323.01 of the Revised Code, who 9854
is at least age three but is not of compulsory school age, as 9855
defined in section 3321.01 of the Revised Code, and who is not 9856
currently enrolled in kindergarten. 9857

(H) "County ~~MR/DD~~ DD board" means a county board of ~~mental~~ 9858

retardation and developmental disabilities.	9859
(I) "Recognized valuation" means the amount calculated for a school district pursuant to section 3317.015 of the Revised Code.	9860 9861
(J) "Transportation ADM" means the number of children reported under division (B)(13) of section 3317.03 of the Revised Code.	9862 9863 9864
(K) "Average efficient transportation use cost per student" means a statistical representation of transportation costs as calculated under division (D)(2) of section 3317.022 of the Revised Code.	9865 9866 9867 9868
(L) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property.	9869 9870 9871 9872
(M) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.	9873 9874 9875 9876
(N) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.	9877 9878 9879
(O) "Potential value" of a school district means the recognized valuation of a school district plus the tax exempt value of the district.	9880 9881 9882
(P) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education and the office of budget and management for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of	9883 9884 9885 9886 9887 9888

the school district determined on the basis of tax returns filed 9889
for the second preceding tax year by the residents of the 9890
district. 9891

(Q) "Statewide median income" means the median district 9892
median income of all city, exempted village, and local school 9893
districts in the state. 9894

(R) "Income factor" for a city, exempted village, or local 9895
school district means the quotient obtained by dividing that 9896
district's median income by the statewide median income. 9897

(S) "Medically fragile child" means a child to whom all of 9898
the following apply: 9899

(1) The child requires the services of a doctor of medicine 9900
or osteopathic medicine at least once a week due to the 9901
instability of the child's medical condition. 9902

(2) The child requires the services of a registered nurse on 9903
a daily basis. 9904

(3) The child is at risk of institutionalization in a 9905
hospital, skilled nursing facility, or intermediate care facility 9906
for the mentally retarded. 9907

(T) A child may be identified as having an "other health 9908
impairment-major" if the child's condition meets the definition of 9909
"other health impaired" established in rules adopted by the state 9910
board of education prior to July 1, 2001, and if either of the 9911
following apply: 9912

(1) The child is identified as having a medical condition 9913
that is among those listed by the superintendent of public 9914
instruction as conditions where a substantial majority of cases 9915
fall within the definition of "medically fragile child." The 9916
superintendent of public instruction shall issue an initial list 9917
no later than September 1, 2001. 9918

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

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

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

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

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

Sec. 3317.024. In addition to the moneys paid to eligible school districts pursuant to section 3317.022 of the Revised Code, moneys appropriated for the education programs in divisions (A) to (I), (K), (L), and (N) of this section shall be distributed to school districts meeting the requirements of section 3317.01 of the Revised Code; in the case of divisions (G) and (L) of this section, to educational service centers as provided in section 3317.11 of the Revised Code; in the case of divisions (D) and (J) of this section, to county ~~MR/DD~~ DD boards; in the case of division (N) of this section, to joint vocational school districts; in the case of division (H) of this section, to cooperative education school districts; and in the case of

division (M) of this section, to the institutions defined under 9950
section 3317.082 of the Revised Code providing elementary or 9951
secondary education programs to children other than children 9952
receiving special education under section 3323.091 of the Revised 9953
Code. The following shall be distributed monthly, quarterly, or 9954
annually as may be determined by the state board of education: 9955

(A) An amount for each island school district and each joint 9956
state school district for the operation of each high school and 9957
each elementary school maintained within such district and for 9958
capital improvements for such schools. Such amounts shall be 9959
determined on the basis of standards adopted by the state board of 9960
education. 9961

(B) An amount for each school district operating classes for 9962
children of migrant workers who are unable to be in attendance in 9963
an Ohio school during the entire regular school year. The amounts 9964
shall be determined on the basis of standards adopted by the state 9965
board of education, except that payment shall be made only for 9966
subjects regularly offered by the school district providing the 9967
classes. 9968

(C) An amount for each school district with guidance, 9969
testing, and counseling programs approved by the state board of 9970
education. The amount shall be determined on the basis of 9971
standards adopted by the state board of education. 9972

(D) An amount for the emergency purchase of school buses as 9973
provided for in section 3317.07 of the Revised Code; 9974

(E) An amount for each school district required to pay 9975
tuition for a child in an institution maintained by the department 9976
of youth services pursuant to section 3317.082 of the Revised 9977
Code, provided the child was not included in the calculation of 9978
the district's average daily membership for the preceding school 9979
year. 9980

(F) An amount for adult basic literacy education for each 9981
district participating in programs approved by the state board of 9982
education. The amount shall be determined on the basis of 9983
standards adopted by the state board of education. 9984

(G) An amount for the approved cost of transporting eligible 9985
pupils with disabilities attending a special education program 9986
approved by the department of education whom it is impossible or 9987
impractical to transport by regular school bus in the course of 9988
regular route transportation provided by the district or service 9989
center. No district or service center is eligible to receive a 9990
payment under this division for the cost of transporting any pupil 9991
whom it transports by regular school bus and who is included in 9992
the district's transportation ADM. The state board of education 9993
shall establish standards and guidelines for use by the department 9994
of education in determining the approved cost of such 9995
transportation for each district or service center. 9996

(H) An amount to each school district, including each 9997
cooperative education school district, pursuant to section 3313.81 9998
of the Revised Code to assist in providing free lunches to needy 9999
children and an amount to assist needy school districts in 10000
purchasing necessary equipment for food preparation. The amounts 10001
shall be determined on the basis of rules adopted by the state 10002
board of education. 10003

(I) An amount to each school district, for each pupil 10004
attending a chartered nonpublic elementary or high school within 10005
the district. The amount shall equal the amount appropriated for 10006
the implementation of section 3317.06 of the Revised Code divided 10007
by the average daily membership in grades kindergarten through 10008
twelve in nonpublic elementary and high schools within the state 10009
as determined during the first full week in October of each school 10010
year. 10011

(J) An amount for each county ~~MR/DD~~ DD board, distributed on 10012

the basis of standards adopted by the state board of education, 10013
for the approved cost of transportation required for children 10014
attending special education programs operated by the county ~~MR/DD~~ 10015
DD board under section 3323.09 of the Revised Code; 10016

(K) An amount for each school district that establishes a 10017
mentor teacher program that complies with rules of the state board 10018
of education. No school district shall be required to establish or 10019
maintain such a program in any year unless sufficient funds are 10020
appropriated to cover the district's total costs for the program. 10021

(L) An amount to each school district or educational service 10022
center for the total number of gifted units approved pursuant to 10023
section 3317.05 of the Revised Code. The amount for each such unit 10024
shall be the sum of the minimum salary for the teacher of the 10025
unit, calculated on the basis of the teacher's training level and 10026
years of experience pursuant to the salary schedule prescribed in 10027
the version of section 3317.13 of the Revised Code in effect prior 10028
to July 1, 2001, plus fifteen per cent of that minimum salary 10029
amount, plus two thousand six hundred seventy-eight dollars. 10030

(M) An amount to each institution defined under section 10031
3317.082 of the Revised Code providing elementary or secondary 10032
education to children other than children receiving special 10033
education under section 3323.091 of the Revised Code. This amount 10034
for any institution in any fiscal year shall equal the total of 10035
all tuition amounts required to be paid to the institution under 10036
division (A)(1) of section 3317.082 of the Revised Code. 10037

(N) A grant to each school district and joint vocational 10038
school district that operates a "graduation, reality, and 10039
dual-role skills" (GRADS) program for pregnant and parenting 10040
students that is approved by the department. The amount of the 10041
payment shall be the district's state share percentage, as defined 10042
in section 3317.022 or 3317.16 of the Revised Code, times the 10043
GRADS personnel allowance times the full-time-equivalent number of 10044

GRADS teachers approved by the department. The GRADS personnel 10045
allowance is \$47,555 in fiscal years 2008 and 2009. The GRADS 10046
program shall include instruction on adoption as an option for 10047
unintended pregnancies. 10048

The state board of education or any other board of education 10049
or governing board may provide for any resident of a district or 10050
educational service center territory any educational service for 10051
which funds are made available to the board by the United States 10052
under the authority of public law, whether such funds come 10053
directly or indirectly from the United States or any agency or 10054
department thereof or through the state or any agency, department, 10055
or political subdivision thereof. 10056

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and 10057
(C) of this section, except as provided in division (A)(2)(h) of 10058
this section, any student enrolled in kindergarten more than half 10059
time shall be reported as one-half student under this section. 10060

(A) The superintendent of each city and exempted village 10061
school district and of each educational service center shall, for 10062
the schools under the superintendent's supervision, certify to the 10063
state board of education on or before the fifteenth day of October 10064
in each year for the first full school week in October the formula 10065
ADM. Beginning in fiscal year 2007, each superintendent also shall 10066
certify to the state board, for the schools under the 10067
superintendent's supervision, the formula ADM for the first full 10068
week in February. If a school under the superintendent's 10069
supervision is closed for one or more days during that week due to 10070
hazardous weather conditions or other circumstances described in 10071
the first paragraph of division (B) of section 3317.01 of the 10072
Revised Code, the superintendent may apply to the superintendent 10073
of public instruction for a waiver, under which the superintendent 10074
of public instruction may exempt the district superintendent from 10075

certifying the formula ADM for that school for that week and 10076
specify an alternate week for certifying the formula ADM of that 10077
school. 10078

The formula ADM shall consist of the average daily membership 10079
during such week of the sum of the following: 10080

(1) On an FTE basis, the number of students in grades 10081
kindergarten through twelve receiving any educational services 10082
from the district, except that the following categories of 10083
students shall not be included in the determination: 10084

(a) Students enrolled in adult education classes; 10085

(b) Adjacent or other district students enrolled in the 10086
district under an open enrollment policy pursuant to section 10087
3313.98 of the Revised Code; 10088

(c) Students receiving services in the district pursuant to a 10089
compact, cooperative education agreement, or a contract, but who 10090
are entitled to attend school in another district pursuant to 10091
section 3313.64 or 3313.65 of the Revised Code; 10092

(d) Students for whom tuition is payable pursuant to sections 10093
3317.081 and 3323.141 of the Revised Code; 10094

(e) Students receiving services in the district through a 10095
scholarship awarded under section 3310.41 of the Revised Code. 10096

(2) On an FTE basis, except as provided in division (A)(2)(h) 10097
of this section, the number of students entitled to attend school 10098
in the district pursuant to section 3313.64 or 3313.65 of the 10099
Revised Code, but receiving educational services in grades 10100
kindergarten through twelve from one or more of the following 10101
entities: 10102

(a) A community school pursuant to Chapter 3314. of the 10103
Revised Code, including any participation in a college pursuant to 10104
Chapter 3365. of the Revised Code while enrolled in such community 10105

school;	10106
(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;	10107 10108 10109
(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;	10110 10111 10112 10113 10114
(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;	10115 10116 10117
(e) An educational service center or cooperative education district;	10118 10119
(f) Another school district under a cooperative education agreement, compact, or contract;	10120 10121
(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	10122 10123
(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.	10124 10125 10126 10127 10128
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.	10129 10130 10131
(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.	10132 10133 10134 10135

(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;

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

(5) Beginning in fiscal year 2007, in the case of the report submitted for the first full week in February, or the alternative week if specified by the superintendent of public instruction, the number of students reported under division (A)(1) or (2) of this section for the first full week of the preceding October but who since that week have received high school diplomas.

(B) 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 following student counts for the same week for which formula ADM is certified:

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

(2) The number of all preschool children with disabilities enrolled as of the first day of December in classes in the district that are eligible for approval under division (B) of section 3317.05 of the Revised Code and the number of those classes, which shall be reported not later than the fifteenth day of December, in accordance with rules adopted under that section;	10167 10168 10169 10170 10171 10172
(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are:	10173 10174 10175
(a) Participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;	10176 10177 10178
(b) Enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;	10179 10180 10181 10182 10183
(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code;	10184 10185
(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;	10186 10187 10188 10189 10190 10191
(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	10192 10193 10194 10195
(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	10196 10197

(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	10198 10199 10200
(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	10201 10202 10203
(i) Participating in a program operated by a county MR/DD <u>DD</u> board or a state institution;	10204 10205
(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school.	10206 10207 10208 10209
(4) The number of pupils enrolled in joint vocational schools;	10210 10211
(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;	10212 10213 10214 10215 10216
(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;	10217 10218 10219 10220 10221
(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;	10222 10223 10224 10225 10226
(8) The average daily membership of children with	10227

disabilities reported under division (A)(1) or (2) of this section 10228
receiving special education services for category four 10229
disabilities described in division (D) of section 3317.013 of the 10230
Revised Code; 10231

(9) The average daily membership of children with 10232
disabilities reported under division (A)(1) or (2) of this section 10233
receiving special education services for the category five 10234
disabilities described in division (E) of section 3317.013 of the 10235
Revised Code; 10236

(10) The combined average daily membership of children with 10237
disabilities reported under division (A)(1) or (2) and under 10238
division (B)(3)(h) of this section receiving special education 10239
services for category six disabilities described in division (F) 10240
of section 3317.013 of the Revised Code, including children 10241
attending a special education program operated by an alternative 10242
public provider or a registered private provider with a 10243
scholarship awarded under section 3310.41 of the Revised Code; 10244

(11) The average daily membership of pupils reported under 10245
division (A)(1) or (2) of this section enrolled in category one 10246
vocational education programs or classes, described in division 10247
(A) of section 3317.014 of the Revised Code, operated by the 10248
school district or by another district, other than a joint 10249
vocational school district, or by an educational service center, 10250
excluding any student reported under division (B)(3)(e) of this 10251
section as enrolled in an internet- or computer-based community 10252
school, notwithstanding division (C) of section 3317.02 of the 10253
Revised Code and division (C)(3) of this section; 10254

(12) The average daily membership of pupils reported under 10255
division (A)(1) or (2) of this section enrolled in category two 10256
vocational education programs or services, described in division 10257
(B) of section 3317.014 of the Revised Code, operated by the 10258
school district or another school district, other than a joint 10259

vocational school district, or by an educational service center, 10260
excluding any student reported under division (B)(3)(e) of this 10261
section as enrolled in an internet- or computer-based community 10262
school, notwithstanding division (C) of section 3317.02 of the 10263
Revised Code and division (C)(3) of this section; 10264

(13) The average number of children transported by the school 10265
district on board-owned or contractor-owned and -operated buses, 10266
reported in accordance with rules adopted by the department of 10267
education; 10268

(14)(a) The number of children, other than preschool children 10269
with disabilities, the district placed with a county ~~MR/DD~~ DD 10270
board in fiscal year 1998; 10271

(b) The number of children with disabilities, other than 10272
preschool children with disabilities, placed with a county ~~MR/DD~~ 10273
DD board in the current fiscal year to receive special education 10274
services for the category one disability described in division (A) 10275
of section 3317.013 of the Revised Code; 10276

(c) The number of children with disabilities, other than 10277
preschool children with disabilities, placed with a county ~~MR/DD~~ 10278
DD board in the current fiscal year to receive special education 10279
services for category two disabilities described in division (B) 10280
of section 3317.013 of the Revised Code; 10281

(d) The number of children with disabilities, other than 10282
preschool children with disabilities, placed with a county ~~MR/DD~~ 10283
DD board in the current fiscal year to receive special education 10284
services for category three disabilities described in division (C) 10285
of section 3317.013 of the Revised Code; 10286

(e) The number of children with disabilities, other than 10287
preschool children with disabilities, placed with a county ~~MR/DD~~ 10288
DD board in the current fiscal year to receive special education 10289
services for category four disabilities described in division (D) 10290

of section 3317.013 of the Revised Code; 10291

(f) The number of children with disabilities, other than 10292
preschool children with disabilities, placed with a county ~~MR/DD~~ 10293
DD board in the current fiscal year to receive special education 10294
services for the category five disabilities described in division 10295
(E) of section 3317.013 of the Revised Code; 10296

(g) The number of children with disabilities, other than 10297
preschool children with disabilities, placed with a county ~~MR/DD~~ 10298
DD board in the current fiscal year to receive special education 10299
services for category six disabilities described in division (F) 10300
of section 3317.013 of the Revised Code. 10301

(C)(1) Except as otherwise provided in this section for 10302
kindergarten students, the average daily membership in divisions 10303
(B)(1) to (12) of this section shall be based upon the number of 10304
full-time equivalent students. The state board of education shall 10305
adopt rules defining full-time equivalent students and for 10306
determining the average daily membership therefrom for the 10307
purposes of divisions (A), (B), and (D) of this section. 10308

(2) A student enrolled in a community school established 10309
under Chapter 3314. or a science, technology, engineering, and 10310
mathematics school established under Chapter 3326. of the Revised 10311
Code shall be counted in the formula ADM and, if applicable, the 10312
category one, two, three, four, five, or six special education ADM 10313
of the school district in which the student is entitled to attend 10314
school under section 3313.64 or 3313.65 of the Revised Code for 10315
the same proportion of the school year that the student is counted 10316
in the enrollment of the community school or the science, 10317
technology, engineering, and mathematics school for purposes of 10318
section 3314.08 or 3326.33 of the Revised Code. Notwithstanding 10319
the number of students reported pursuant to division (B)(3)(d), 10320
(e), or (j) of this section, the department may adjust the formula 10321
ADM of a school district to account for students entitled to 10322

attend school in the district under section 3313.64 or 3313.65 of 10323
the Revised Code who are enrolled in a community school or a 10324
science, technology, engineering, and mathematics school for only 10325
a portion of the school year. 10326

(3) No child shall be counted as more than a total of one 10327
child in the sum of the average daily memberships of a school 10328
district under division (A), divisions (B)(1) to (12), or division 10329
(D) of this section, except as follows: 10330

(a) A child with a disability described in section 3317.013 10331
of the Revised Code may be counted both in formula ADM and in 10332
category one, two, three, four, five, or six special education ADM 10333
and, if applicable, in category one or two vocational education 10334
ADM. As provided in division (C) of section 3317.02 of the Revised 10335
Code, such a child shall be counted in category one, two, three, 10336
four, five, or six special education ADM in the same proportion 10337
that the child is counted in formula ADM. 10338

(b) A child enrolled in vocational education programs or 10339
classes described in section 3317.014 of the Revised Code may be 10340
counted both in formula ADM and category one or two vocational 10341
education ADM and, if applicable, in category one, two, three, 10342
four, five, or six special education ADM. Such a child shall be 10343
counted in category one or two vocational education ADM in the 10344
same proportion as the percentage of time that the child spends in 10345
the vocational education programs or classes. 10346

(4) Based on the information reported under this section, the 10347
department of education shall determine the total student count, 10348
as defined in section 3301.011 of the Revised Code, for each 10349
school district. 10350

(D)(1) The superintendent of each joint vocational school 10351
district shall certify to the superintendent of public instruction 10352
on or before the fifteenth day of October in each year for the 10353

first full school week in October the formula ADM. Beginning in 10354
fiscal year 2007, each superintendent also shall certify to the 10355
state superintendent the formula ADM for the first full week in 10356
February. If a school operated by the joint vocational school 10357
district is closed for one or more days during that week due to 10358
hazardous weather conditions or other circumstances described in 10359
the first paragraph of division (B) of section 3317.01 of the 10360
Revised Code, the superintendent may apply to the superintendent 10361
of public instruction for a waiver, under which the superintendent 10362
of public instruction may exempt the district superintendent from 10363
certifying the formula ADM for that school for that week and 10364
specify an alternate week for certifying the formula ADM of that 10365
school. 10366

The formula ADM, except as otherwise provided in this 10367
division, shall consist of the average daily membership during 10368
such week, on an FTE basis, of the number of students receiving 10369
any educational services from the district, including students 10370
enrolled in a community school established under Chapter 3314. or 10371
a science, technology, engineering, and mathematics school 10372
established under Chapter 3326. of the Revised Code who are 10373
attending the joint vocational district under an agreement between 10374
the district board of education and the governing authority of the 10375
community school or the science, technology, engineering, and 10376
mathematics school and are entitled to attend school in a city, 10377
local, or exempted village school district whose territory is part 10378
of the territory of the joint vocational district. Beginning in 10379
fiscal year 2007, in the case of the report submitted for the 10380
first week in February, or the alternative week if specified by 10381
the superintendent of public instruction, the superintendent of 10382
the joint vocational school district may include the number of 10383
students reported under division (D)(1) of this section for the 10384
first full week of the preceding October but who since that week 10385
have received high school diplomas. 10386

10387

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

(a) Students enrolled in adult education classes;

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

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

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

(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:

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

(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;

(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;

(d) Children with disabilities receiving special education

services for category three disabilities described in division (C)	10417
of section 3317.013 of the Revised Code;	10418
(e) Children with disabilities receiving special education	10419
services for category four disabilities described in division (D)	10420
of section 3317.013 of the Revised Code;	10421
(f) Children with disabilities receiving special education	10422
services for the category five disabilities described in division	10423
(E) of section 3317.013 of the Revised Code;	10424
(g) Children with disabilities receiving special education	10425
services for category six disabilities described in division (F)	10426
of section 3317.013 of the Revised Code;	10427
(h) Students receiving category one vocational education	10428
services, described in division (A) of section 3317.014 of the	10429
Revised Code;	10430
(i) Students receiving category two vocational education	10431
services, described in division (B) of section 3317.014 of the	10432
Revised Code.	10433
The superintendent of each joint vocational school district	10434
shall also indicate the city, local, or exempted village school	10435
district in which each joint vocational district pupil is entitled	10436
to attend school pursuant to section 3313.64 or 3313.65 of the	10437
Revised Code.	10438
(E) In each school of each city, local, exempted village,	10439
joint vocational, and cooperative education school district there	10440
shall be maintained a record of school membership, which record	10441
shall accurately show, for each day the school is in session, the	10442
actual membership enrolled in regular day classes. For the purpose	10443
of determining average daily membership, the membership figure of	10444
any school shall not include any pupils except those pupils	10445
described by division (A) of this section. The record of	10446
membership for each school shall be maintained in such manner that	10447

no pupil shall be counted as in membership prior to the actual 10448
date of entry in the school and also in such manner that where for 10449
any cause a pupil permanently withdraws from the school that pupil 10450
shall not be counted as in membership from and after the date of 10451
such withdrawal. There shall not be included in the membership of 10452
any school any of the following: 10453

(1) Any pupil who has graduated from the twelfth grade of a 10454
public or nonpublic high school; 10455

(2) Any pupil who is not a resident of the state; 10456

(3) Any pupil who was enrolled in the schools of the district 10457
during the previous school year when tests were administered under 10458
section 3301.0711 of the Revised Code but did not take one or more 10459
of the tests required by that section and was not excused pursuant 10460
to division (C)(1) or (3) of that section; 10461

(4) Any pupil who has attained the age of twenty-two years, 10462
except for veterans of the armed services whose attendance was 10463
interrupted before completing the recognized twelve-year course of 10464
the public schools by reason of induction or enlistment in the 10465
armed forces and who apply for reenrollment in the public school 10466
system of their residence not later than four years after 10467
termination of war or their honorable discharge. 10468

If, however, any veteran described by division (E)(4) of this 10469
section elects to enroll in special courses organized for veterans 10470
for whom tuition is paid under the provisions of federal laws, or 10471
otherwise, that veteran shall not be included in average daily 10472
membership. 10473

Notwithstanding division (E)(3) of this section, the 10474
membership of any school may include a pupil who did not take a 10475
test required by section 3301.0711 of the Revised Code if the 10476
superintendent of public instruction grants a waiver from the 10477
requirement to take the test to the specific pupil and a parent is 10478

not paying tuition for the pupil pursuant to section 3313.6410 of 10479
the Revised Code. The superintendent may grant such a waiver only 10480
for good cause in accordance with rules adopted by the state board 10481
of education. 10482

Except as provided in divisions (B)(2) and (F) of this 10483
section, the average daily membership figure of any local, city, 10484
exempted village, or joint vocational school district shall be 10485
determined by dividing the figure representing the sum of the 10486
number of pupils enrolled during each day the school of attendance 10487
is actually open for instruction during the week for which the 10488
formula ADM is being certified by the total number of days the 10489
school was actually open for instruction during that week. For 10490
purposes of state funding, "enrolled" persons are only those 10491
pupils who are attending school, those who have attended school 10492
during the current school year and are absent for authorized 10493
reasons, and those children with disabilities currently receiving 10494
home instruction. 10495

The average daily membership figure of any cooperative 10496
education school district shall be determined in accordance with 10497
rules adopted by the state board of education. 10498

(F)(1) If the formula ADM for the first full school week in 10499
February is at least three per cent greater than that certified 10500
for the first full school week in the preceding October, the 10501
superintendent of schools of any city, exempted village, or joint 10502
vocational school district or educational service center shall 10503
certify such increase to the superintendent of public instruction. 10504
Such certification shall be submitted no later than the fifteenth 10505
day of February. For the balance of the fiscal year, beginning 10506
with the February payments, the superintendent of public 10507
instruction shall use the increased formula ADM in calculating or 10508
recalculating the amounts to be allocated in accordance with 10509
section 3317.022 or 3317.16 of the Revised Code. In no event shall 10510

the superintendent use an increased membership certified to the 10511
superintendent after the fifteenth day of February. Division 10512
(F)(1) of this section does not apply after fiscal year 2006. 10513

(2) If on the first school day of April the total number of 10514
classes or units for preschool children with disabilities that are 10515
eligible for approval under division (B) of section 3317.05 of the 10516
Revised Code exceeds the number of units that have been approved 10517
for the year under that division, the superintendent of schools of 10518
any city, exempted village, or cooperative education school 10519
district or educational service center shall make the 10520
certifications required by this section for that day. If the 10521
department determines additional units can be approved for the 10522
fiscal year within any limitations set forth in the acts 10523
appropriating moneys for the funding of such units, the department 10524
shall approve additional units for the fiscal year on the basis of 10525
such average daily membership. For each unit so approved, the 10526
department shall pay an amount computed in the manner prescribed 10527
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 10528
Code. 10529

(3) If a student attending a community school under Chapter 10530
3314. or a science, technology, engineering, and mathematics 10531
school established under Chapter 3326. of the Revised Code is not 10532
included in the formula ADM certified for the school district in 10533
which the student is entitled to attend school under section 10534
3313.64 or 3313.65 of the Revised Code, the department of 10535
education shall adjust the formula ADM of that school district to 10536
include the student in accordance with division (C)(2) of this 10537
section, and shall recalculate the school district's payments 10538
under this chapter for the entire fiscal year on the basis of that 10539
adjusted formula ADM. This requirement applies regardless of 10540
whether the student was enrolled, as defined in division (E) of 10541
this section, in the community school or the science, technology, 10542

engineering, and mathematics school during the week for which the 10543
formula ADM is being certified. 10544

(4) If a student awarded an educational choice scholarship is 10545
not included in the formula ADM of the school district from which 10546
the department deducts funds for the scholarship under section 10547
3310.08 of the Revised Code, the department shall adjust the 10548
formula ADM of that school district to include the student to the 10549
extent necessary to account for the deduction, and shall 10550
recalculate the school district's payments under this chapter for 10551
the entire fiscal year on the basis of that adjusted formula ADM. 10552
This requirement applies regardless of whether the student was 10553
enrolled, as defined in division (E) of this section, in the 10554
chartered nonpublic school, the school district, or a community 10555
school during the week for which the formula ADM is being 10556
certified. 10557

(G)(1)(a) The superintendent of an institution operating a 10558
special education program pursuant to section 3323.091 of the 10559
Revised Code shall, for the programs under such superintendent's 10560
supervision, certify to the state board of education, in the 10561
manner prescribed by the superintendent of public instruction, 10562
both of the following: 10563

(i) The average daily membership of all children with 10564
disabilities other than preschool children with disabilities 10565
receiving services at the institution for each category of 10566
disability described in divisions (A) to (F) of section 3317.013 10567
of the Revised Code; 10568

(ii) The average daily membership of all preschool children 10569
with disabilities in classes or programs approved annually by the 10570
department of education for unit funding under section 3317.05 of 10571
the Revised Code. 10572

(b) The superintendent of an institution with vocational 10573

education units approved under division (A) of section 3317.05 of 10574
the Revised Code shall, for the units under the superintendent's 10575
supervision, certify to the state board of education the average 10576
daily membership in those units, in the manner prescribed by the 10577
superintendent of public instruction. 10578

(2) The superintendent of each county ~~MR/DD~~ DD board that 10579
maintains special education classes under section 3317.20 of the 10580
Revised Code or units approved pursuant to section 3317.05 of the 10581
Revised Code shall do both of the following: 10582

(a) Certify to the state board, in the manner prescribed by 10583
the board, the average daily membership in classes under section 10584
3317.20 of the Revised Code for each school district that has 10585
placed children in the classes; 10586

(b) Certify to the state board, in the manner prescribed by 10587
the board, the number of all preschool children with disabilities 10588
enrolled as of the first day of December in classes eligible for 10589
approval under division (B) of section 3317.05 of the Revised 10590
Code, and the number of those classes. 10591

(3)(a) If on the first school day of April the number of 10592
classes or units maintained for preschool children with 10593
disabilities by the county ~~MR/DD~~ DD board that are eligible for 10594
approval under division (B) of section 3317.05 of the Revised Code 10595
is greater than the number of units approved for the year under 10596
that division, the superintendent shall make the certification 10597
required by this section for that day. 10598

(b) If the department determines that additional classes or 10599
units can be approved for the fiscal year within any limitations 10600
set forth in the acts appropriating moneys for the funding of the 10601
classes and units described in division (G)(3)(a) of this section, 10602
the department shall approve and fund additional units for the 10603
fiscal year on the basis of such average daily membership. For 10604

each unit so approved, the department shall pay an amount computed 10605
in the manner prescribed in sections 3317.052 and 3317.053 of the 10606
Revised Code. 10607

(H) Except as provided in division (I) of this section, when 10608
any city, local, or exempted village school district provides 10609
instruction for a nonresident pupil whose attendance is 10610
unauthorized attendance as defined in section 3327.06 of the 10611
Revised Code, that pupil's membership shall not be included in 10612
that district's membership figure used in the calculation of that 10613
district's formula ADM or included in the determination of any 10614
unit approved for the district under section 3317.05 of the 10615
Revised Code. The reporting official shall report separately the 10616
average daily membership of all pupils whose attendance in the 10617
district is unauthorized attendance, and the membership of each 10618
such pupil shall be credited to the school district in which the 10619
pupil is entitled to attend school under division (B) of section 10620
3313.64 or section 3313.65 of the Revised Code as determined by 10621
the department of education. 10622

(I)(1) A city, local, exempted village, or joint vocational 10623
school district admitting a scholarship student of a pilot project 10624
district pursuant to division (C) of section 3313.976 of the 10625
Revised Code may count such student in its average daily 10626
membership. 10627

(2) In any year for which funds are appropriated for pilot 10628
project scholarship programs, a school district implementing a 10629
state-sponsored pilot project scholarship program that year 10630
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 10631
count in average daily membership: 10632

(a) All children residing in the district and utilizing a 10633
scholarship to attend kindergarten in any alternative school, as 10634
defined in section 3313.974 of the Revised Code; 10635

(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend any such alternative school.

(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(K) If the superintendent of public instruction determines that a component of the formula ADM certified or reported by a district superintendent, or other reporting entity, is not correct, the superintendent of public instruction may order that the formula ADM used for the purposes of payments under any section of Title XXXVIII of the Revised Code be adjusted in the amount of the error.

Sec. 3317.032. (A) Each city, local, exempted village, and cooperative education school district, each educational service center, each county ~~MR/DD~~ DD board, and each institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, in accordance with procedures adopted by the state board of education, maintain a record of district membership of both of the following:

(1) All preschool children with disabilities in units approved under division (B) of section 3317.05 of the Revised Code;

(2) All preschool children with disabilities who are not in units approved under division (B) of section 3317.05 of the Revised Code but who are otherwise served by a special education

program. 10667

(B) The superintendent of each district, board, or 10668
institution subject to division (A) of this section shall certify 10669
to the state board of education, in accordance with procedures 10670
adopted by that board, membership figures of all preschool 10671
children with disabilities whose membership is maintained under 10672
division (A)(2) of this section. The figures certified under this 10673
division shall be used in the determination of the ADM used to 10674
compute funds for educational service center governing boards 10675
under section 3317.11 of the Revised Code. 10676

Sec. 3317.05. (A) For the purpose of calculating payments 10677
under sections 3317.052 and 3317.053 of the Revised Code, the 10678
department of education shall determine for each institution, by 10679
the last day of January of each year and based on information 10680
certified under section 3317.03 of the Revised Code, the number of 10681
vocational education units or fractions of units approved by the 10682
department on the basis of standards and rules adopted by the 10683
state board of education. As used in this division, "institution" 10684
means an institution operated by a department specified in section 10685
3323.091 of the Revised Code and that provides vocational 10686
education programs under the supervision of the division of 10687
vocational education of the department that meet the standards and 10688
rules for these programs, including licensure of professional 10689
staff involved in the programs, as established by the state board. 10690
10691

(B) For the purpose of calculating payments under sections 10692
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 10693
department shall determine, based on information certified under 10694
section 3317.03 of the Revised Code, the following by the last day 10695
of January of each year for each educational service center, for 10696
each school district, including each cooperative education school 10697

district, for each institution eligible for payment under section 10698
3323.091 of the Revised Code, and for each county ~~MR/DD~~ DD board: 10699
the number of classes operated by the school district, service 10700
center, institution, or county ~~MR/DD~~ DD board for preschool 10701
children with disabilities, or fraction thereof, including in the 10702
case of a district or service center that is a funding agent, 10703
classes taught by a licensed teacher employed by that district or 10704
service center under section 3313.841 of the Revised Code, 10705
approved annually by the department on the basis of standards and 10706
rules adopted by the state board. 10707

(C) 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 school district, including each 10712
cooperative education school district, for each institution 10713
eligible for payment under section 3323.091 of the Revised Code, 10714
and for each county ~~MR/DD~~ DD board: the number of units for 10715
related services, as defined in section 3323.01 of the Revised 10716
Code, for preschool children with disabilities approved annually 10717
by the department on the basis of standards and rules adopted by 10718
the state board. 10719

(D) All of the arithmetical calculations made under this 10720
section shall be carried to the second decimal place. The total 10721
number of units for school districts, service centers, and 10722
institutions approved annually under this section shall not exceed 10723
the number of units included in the estimate of cost for these 10724
units and appropriations made for them by the general assembly. 10725

In the case of units for preschool children with disabilities 10726
described in division (B) of this section, the department shall 10727
approve only preschool units for children who are under age six on 10728
the thirtieth day of September of the academic year, or on the 10729

first day of August of the academic year if the school district in 10730
which the child is enrolled has adopted a resolution under 10731
division (A)(3) of section 3321.01 of the Revised Code, but not 10732
less than age three on the first day of December of the academic 10733
year, except that such a unit may include one or more children who 10734
are under age three or are age six or over on the applicable date, 10735
as reported under division (B)(2) or (G)(2)(b) of section 3317.03 10736
of the Revised Code, if such children have been admitted to the 10737
unit pursuant to rules of the state board. The number of units for 10738
county ~~MR/DD~~ DD boards and institutions eligible for payment under 10739
section 3323.091 of the Revised Code approved under this section 10740
shall not exceed the number that can be funded with appropriations 10741
made for such purposes by the general assembly. 10742

10743

No unit shall be approved under divisions (B) and (C) of this 10744
section unless a plan has been submitted and approved under 10745
Chapter 3323. of the Revised Code. 10746

(E) The department shall approve units or fractions thereof 10747
for gifted children on the basis of standards and rules adopted by 10748
the state board. 10749

Sec. 3317.051. (A)(1) Notwithstanding sections 3317.05 and 10750
3317.11 of the Revised Code, a unit funded pursuant to division 10751
(L) of section 3317.024 or division (A)(2) of section 3317.052 of 10752
the Revised Code shall not be approved for state funding in one 10753
school district, including any cooperative education school 10754
district or any educational service center, to the extent that 10755
such unit provides programs in or services to another district 10756
which receives payment pursuant to section 3317.04 of the Revised 10757
Code. 10758

(2) Any city, local, exempted village, or cooperative 10759
education school district or any educational service center may 10760

combine partial unit eligibility for programs for preschool 10761
children with disabilities pursuant to section 3317.05 of the 10762
Revised Code, and such combined partial units may be approved for 10763
state funding in one school district or service center. 10764

(B) After units have been initially approved for any fiscal 10765
year under section 3317.05 of the Revised Code, no unit shall be 10766
subsequently transferred from a school district or educational 10767
service center to another city, exempted village, local, or 10768
cooperative education school district or educational service 10769
center or to an institution or county ~~MR/DD~~ DD board solely for 10770
the purpose of reducing the financial obligations of the school 10771
district in a fiscal year it receives payment pursuant to section 10772
3317.04 of the Revised Code. 10773

Sec. 3317.052. As used in this section, "institution" means 10774
an institution operated by a department specified in division (A) 10775
of section 3323.091 of the Revised Code. 10776

(A)(1) The department of education shall pay each school 10777
district, educational service center, institution eligible for 10778
payment under section 3323.091 of the Revised Code, or county 10779
~~MR/DD~~ DD board an amount for the total of all classroom units for 10780
preschool children with disabilities approved under division (B) 10781
of section 3317.05 of the Revised Code. For each unit, the amount 10782
shall be the sum of the minimum salary for the teacher of the 10783
unit, calculated on the basis of the teacher's training level and 10784
years of experience pursuant to the salary schedule prescribed in 10785
the version of section 3317.13 of the Revised Code in effect prior 10786
to July 1, 2001, plus fifteen per cent of that minimum salary 10787
amount, and eight thousand twenty-three dollars. 10788

(2) The department shall pay each school district, 10789
educational service center, institution eligible for payment under 10790
section 3323.091 of the Revised Code, or county ~~MR/DD~~ DD board an 10791

amount for the total of all related services units for preschool 10792
children with disabilities approved under division (C) of section 10793
3317.05 of the Revised Code. For each such unit, the amount shall 10794
be the sum of the minimum salary for the teacher of the unit 10795
calculated on the basis of the teacher's training level and years 10796
of experience pursuant to the salary schedule prescribed in the 10797
version of section 3317.13 of the Revised Code in effect prior to 10798
July 1, 2001, fifteen per cent of that minimum salary amount, and 10799
two thousand one hundred thirty-two dollars. 10800

(B) If a school district, educational service center, or 10801
county ~~MR/DD~~ DD board has had additional units for preschool 10802
children with disabilities approved for the year under division 10803
(F)(2) or (G)(3) of section 3317.03 of the Revised Code, the 10804
district, educational service center, or board shall receive an 10805
additional amount during the last half of the fiscal year. For 10806
each district, center, or board, the additional amount for each 10807
unit shall equal fifty per cent of the amounts computed for the 10808
unit in the manner prescribed by division (A) of this section and 10809
division (C) of section 3317.053 of the Revised Code. 10810

(C) The department shall pay each institution approved for 10811
vocational education units under division (A) of section 3317.05 10812
of the Revised Code an amount for the total of all the units 10813
approved under that division. The amount for each unit shall be 10814
the sum of the minimum salary for the teacher of the unit, 10815
calculated on the basis of the teacher's training level and years 10816
of experience pursuant to the salary schedule prescribed in the 10817
version of section 3317.13 of the Revised Code in effect prior to 10818
July 1, 2001, plus fifteen per cent of that minimum salary amount, 10819
and nine thousand five hundred ten dollars. Each institution that 10820
receives units funds under this division annually shall report to 10821
the department on the delivery of services and the performance of 10822
students and any other information required by the department to 10823

evaluate the institution's vocational education program. 10824

Sec. 3317.07. The state board of education shall establish 10825
rules for the purpose of distributing subsidies for the purchase 10826
of school buses under division (D) of section 3317.024 of the 10827
Revised Code. 10828

No school bus subsidy payments shall be paid to any district 10829
unless such district can demonstrate that pupils residing more 10830
than one mile from the school could not be transported without 10831
such additional aid. 10832

The amount paid to a county ~~MR/DD~~ DD board for buses 10833
purchased for transportation of children in special education 10834
programs operated by the board shall be based on a per pupil 10835
allocation for eligible students. 10836

The amount paid to a school district for buses purchased for 10837
transportation of pupils with disabilities and nonpublic school 10838
pupils shall be determined by a per pupil allocation based on the 10839
number of special education and nonpublic school pupils for whom 10840
transportation is provided. 10841

The state board of education shall adopt a formula to 10842
determine the amount of payments that shall be distributed to 10843
school districts to purchase school buses for pupils other than 10844
pupils with disabilities or nonpublic school pupils. 10845

If any district or ~~MR/DD~~ county DD board obtains bus services 10846
for pupil transportation pursuant to a contract, such district or 10847
board may use payments received under this section to defray the 10848
costs of contracting for bus services in lieu of for purchasing 10849
buses. 10850

If the department of education determines that a county ~~MR/DD~~ 10851
DD board no longer needs a school bus because the board no longer 10852
transports children to a special education program operated by the 10853

board, or if the department determines that a school district no longer needs a school bus to transport pupils to a nonpublic school or special education program, the department may reassign a bus that was funded with payments provided pursuant to this section for the purpose of transporting such pupils. The department may reassign a bus to a county ~~MR/DD~~ DD board or school district that transports children to a special education program designated in the children's individualized education plans, or to a school district that transports pupils to a nonpublic school, and needs an additional school bus.

Sec. 3317.15. (A) As used in this section, "child with a disability" has the same meaning as in section 3323.01 of the Revised Code.

(B) Each city, exempted village, local, and joint vocational school district shall continue to comply with all requirements of federal statutes and regulations, the Revised Code, and rules adopted by the state board of education governing education of children with disabilities, including, but not limited to, requirements that children with disabilities be served by appropriately licensed or certificated education personnel.

(C) Each city, exempted village, local, and joint vocational school district shall consult with the educational service center serving the county in which the school district is located and, if it elects to participate pursuant to section 5126.04 of the Revised Code, the county ~~MR/DD~~ DD board of that county, in providing services that serve the best interests of children with disabilities.

(D) Each school district shall annually provide documentation to the department of education that it employs the appropriate number of licensed or certificated personnel to serve the district's students with disabilities.

(E) The department annually shall audit a sample of school districts to ensure that children with disabilities are being appropriately reported.

(F) Each school district shall provide speech-language pathology services at a ratio of one speech-language pathologist per two thousand students receiving any educational services from the district other than adult education. Each district shall provide school psychological services at a ratio of one school psychologist per two thousand five hundred students receiving any educational services from the district other than adult education. A district may obtain the services of speech-language pathologists and school psychologists by any means permitted by law, including contracting with an educational service center. If, however, a district is unable to obtain the services of the required number of speech-language pathologists or school psychologists, the district may request from the superintendent of public instruction, and the superintendent may grant, a waiver of this provision for a period of time established by the superintendent.

Sec. 3317.20. This section does not apply to preschool children with disabilities.

(A) As used in this section:

(1) "Applicable weight" means the multiple specified in section 3317.013 of the Revised Code for a disability described in that section.

(2) "Child's school district" means the school district in which a child is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) "State share percentage" means the state share percentage of the child's school district as defined in section 3317.022 of the Revised Code.

(B) Except as provided in division (C) of this section, the department shall annually pay each county ~~MR/DD~~ DD board for each child with a disability, other than a preschool child with a disability, for whom the county ~~MR/DD~~ DD board provides special education and related services an amount equal to the formula amount + (state share percentage X formula amount X the applicable weight).

(C) If any school district places with a county ~~MR/DD~~ DD board more children with disabilities than it had placed with a county ~~MR/DD~~ DD board in fiscal year 1998, the department shall not make a payment under division (B) of this section for the number of children exceeding the number placed in fiscal year 1998. The department instead shall deduct from the district's payments under this chapter, and pay to the county ~~MR/DD~~ DD board, an amount calculated in accordance with the formula prescribed in division (B) of this section for each child over the number of children placed in fiscal year 1998.

(D) The department shall calculate for each county ~~MR/DD~~ DD board receiving payments under divisions (B) and (C) of this section the following amounts:

(1) The amount received by the county ~~MR/DD~~ DD board for approved special education and related services units, other than units for preschool children with disabilities, in fiscal year 1998, divided by the total number of children served in the units that year;

(2) The product of the quotient calculated under division (D)(1) of this section times the number of children for whom payments are made under divisions (B) and (C) of this section.

If the amount calculated under division (D)(2) of this section is greater than the total amount calculated under divisions (B) and (C) of this section, the department shall pay

the county ~~MR/DD~~ DD board one hundred per cent of the difference 10946
in addition to the payments under divisions (B) and (C) of this 10947
section. 10948

(E) Each county ~~MR/DD~~ DD board shall report to the 10949
department, in the manner specified by the department, the name of 10950
each child for whom the county ~~MR/DD~~ DD board provides special 10951
education and related services and the child's school district. 10952

(F)(1) For the purpose of verifying the accuracy of the 10953
payments under this section, the department may request from 10954
either of the following entities the data verification code 10955
assigned under division (D)(2) of section 3301.0714 of the Revised 10956
Code to any child who is placed with a county ~~MR/DD~~ DD board: 10957

(a) The child's school district; 10958

(b) The independent contractor engaged to create and maintain 10959
data verification codes. 10960

(2) Upon a request by the department under division (F)(1) of 10961
this section for the data verification code of a child, the 10962
child's school district shall submit that code to the department 10963
in the manner specified by the department. If the child has not 10964
been assigned a code, the district shall assign a code to that 10965
child and submit the code to the department by a date specified by 10966
the department. If the district does not assign a code to the 10967
child by the specified date, the department shall assign a code to 10968
the child. 10969

The department annually shall submit to each school district 10970
the name and data verification code of each child residing in the 10971
district for whom the department has assigned a code under this 10972
division. 10973

(3) The department shall not release any data verification 10974
code that it receives under division (F) of this section to any 10975
person except as provided by law. 10976

(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.

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.

(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 11008
date prescribed by section 3319.23 of the Revised Code. 11009

(2) Notwithstanding the authority to adopt, amend, or rescind 11010
emergency rules in division (F) of section 119.03 of the Revised 11011
Code, this authority shall not apply to the state board of 11012
education with regard to rules for educator licenses. 11013

(C)(1) The rules adopted under this section establishing 11014
standards requiring additional coursework for the renewal of any 11015
educator license shall require a school district and a chartered 11016
nonpublic school to establish local professional development 11017
committees. In a nonpublic school, the chief administrative 11018
officer shall establish the committees in any manner acceptable to 11019
such officer. The committees established under this division shall 11020
determine whether coursework that a district or chartered 11021
nonpublic school teacher proposes to complete meets the 11022
requirement of the rules. The department of education shall 11023
provide technical assistance and support to committees as the 11024
committees incorporate the professional development standards 11025
adopted by the state board of education pursuant to section 11026
3319.61 of the Revised Code into their review of coursework that 11027
is appropriate for license renewal. The rules shall establish a 11028
procedure by which a teacher may appeal the decision of a local 11029
professional development committee. 11030

(2) In any school district in which there is no exclusive 11031
representative established under Chapter 4117. of the Revised 11032
Code, the professional development committees shall be established 11033
as described in division (C)(2) of this section. 11034

Not later than the effective date of the rules adopted under 11035
this section, the board of education of each school district shall 11036
establish the structure for one or more local professional 11037
development committees to be operated by such school district. The 11038
committee structure so established by a district board shall 11039

remain in effect unless within thirty days prior to an anniversary 11040
of the date upon which the current committee structure was 11041
established, the board provides notice to all affected district 11042
employees that the committee structure is to be modified. 11043
Professional development committees may have a district-level or 11044
building-level scope of operations, and may be established with 11045
regard to particular grade or age levels for which an educator 11046
license is designated. 11047

Each professional development committee shall consist of at 11048
least three classroom teachers employed by the district, one 11049
principal employed by the district, and one other employee of the 11050
district appointed by the district superintendent. For committees 11051
with a building-level scope, the teacher and principal members 11052
shall be assigned to that building, and the teacher members shall 11053
be elected by majority vote of the classroom teachers assigned to 11054
that building. For committees with a district-level scope, the 11055
teacher members shall be elected by majority vote of the classroom 11056
teachers of the district, and the principal member shall be 11057
elected by a majority vote of the principals of the district, 11058
unless there are two or fewer principals employed by the district, 11059
in which case the one or two principals employed shall serve on 11060
the committee. If a committee has a particular grade or age level 11061
scope, the teacher members shall be licensed to teach such grade 11062
or age levels, and shall be elected by majority vote of the 11063
classroom teachers holding such a license and the principal shall 11064
be elected by all principals serving in buildings where any such 11065
teachers serve. The district superintendent shall appoint a 11066
replacement to fill any vacancy that occurs on a professional 11067
development committee, except in the case of vacancies among the 11068
elected classroom teacher members, which shall be filled by vote 11069
of the remaining members of the committee so selected. 11070

Terms of office on professional development committees shall 11071

be prescribed by the district board establishing the committees. 11072
The conduct of elections for members of professional development 11073
committees shall be prescribed by the district board establishing 11074
the committees. A professional development committee may include 11075
additional members, except that the majority of members on each 11076
such committee shall be classroom teachers employed by the 11077
district. Any member appointed to fill a vacancy occurring prior 11078
to the expiration date of the term for which a predecessor was 11079
appointed shall hold office as a member for the remainder of that 11080
term. 11081

The initial meeting of any professional development 11082
committee, upon election and appointment of all committee members, 11083
shall be called by a member designated by the district 11084
superintendent. At this initial meeting, the committee shall 11085
select a chairperson and such other officers the committee deems 11086
necessary, and shall adopt rules for the conduct of its meetings. 11087
Thereafter, the committee shall meet at the call of the 11088
chairperson or upon the filing of a petition with the district 11089
superintendent signed by a majority of the committee members 11090
calling for the committee to meet. 11091

(3) In the case of a school district in which an exclusive 11092
representative has been established pursuant to Chapter 4117. of 11093
the Revised Code, professional development committees shall be 11094
established in accordance with any collective bargaining agreement 11095
in effect in the district that includes provisions for such 11096
committees. 11097

If the collective bargaining agreement does not specify a 11098
different method for the selection of teacher members of the 11099
committees, the exclusive representative of the district's 11100
teachers shall select the teacher members. 11101

If the collective bargaining agreement does not specify a 11102
different structure for the committees, the board of education of 11103

the school district shall establish the structure, including the 11104
number of committees and the number of teacher and administrative 11105
members on each committee; the specific administrative members to 11106
be part of each committee; whether the scope of the committees 11107
will be district levels, building levels, or by type of grade or 11108
age levels for which educator licenses are designated; the lengths 11109
of terms for members; the manner of filling vacancies on the 11110
committees; and the frequency and time and place of meetings. 11111
However, in all cases, except as provided in division (C)(4) of 11112
this section, there shall be a majority of teacher members of any 11113
professional development committee, there shall be at least five 11114
total members of any professional development committee, and the 11115
exclusive representative shall designate replacement members in 11116
the case of vacancies among teacher members, unless the collective 11117
bargaining agreement specifies a different method of selecting 11118
such replacements. 11119

(4) Whenever an administrator's coursework plan is being 11120
discussed or voted upon, the local professional development 11121
committee shall, at the request of one of its administrative 11122
members, cause a majority of the committee to consist of 11123
administrative members by reducing the number of teacher members 11124
voting on the plan. 11125

(D)(1) The department of education, educational service 11126
centers, county boards of ~~mental retardation and~~ developmental 11127
disabilities, regional professional development centers, special 11128
education regional resource centers, college and university 11129
departments of education, head start programs, the eTech Ohio 11130
commission, and the Ohio education computer network may establish 11131
local professional development committees to determine whether the 11132
coursework proposed by their employees who are licensed or 11133
certificated under this section or section 3319.222 of the Revised 11134
Code meet the requirements of the rules adopted under this 11135

section. They may establish local professional development 11136
committees on their own or in collaboration with a school district 11137
or other agency having authority to establish them. 11138

Local professional development committees established by 11139
county boards of ~~mental retardation and~~ developmental disabilities 11140
shall be structured in a manner comparable to the structures 11141
prescribed for school districts in divisions (C)(2) and (3) of 11142
this section, as shall the committees established by any other 11143
entity specified in division (D)(1) of this section that provides 11144
educational services by employing or contracting for services of 11145
classroom teachers licensed or certificated under this section or 11146
section 3319.222 of the Revised Code. All other entities specified 11147
in division (D)(1) of this section shall structure their 11148
committees in accordance with guidelines which shall be issued by 11149
the state board. 11150

(2) Any public agency that is not specified in division 11151
(D)(1) of this section but provides educational services and 11152
employs or contracts for services of classroom teachers licensed 11153
or certificated under this section or section 3319.222 of the 11154
Revised Code may establish a local professional development 11155
committee, subject to the approval of the department of education. 11156
The committee shall be structured in accordance with guidelines 11157
issued by the state board. 11158

Sec. 3319.99. (A) Whoever violates division (A) of section 11159
3319.151 of the Revised Code is guilty of a minor misdemeanor. 11160

(B) Whoever violates division (H)(1) of section 3319.311 of 11161
the Revised Code is guilty of a misdemeanor of the first degree. 11162

(C) Whoever violates division (F) of section 3319.313 of the 11163
Revised Code shall be punished as follows: 11164

(1) Except as otherwise provided in division (C)(2) of this 11165

section, the person is guilty of a misdemeanor of the fourth 11166
degree. 11167

(2) The person is guilty of a misdemeanor of the first degree 11168
if both of the following conditions apply: 11169

(a) The employee who is the subject of the report that the 11170
person fails to submit was required to be reported for the 11171
commission or alleged commission of an act or offense involving 11172
the infliction on a child of any physical or mental wound, injury, 11173
disability, or condition of a nature that constitutes abuse or 11174
neglect of the child; 11175

(b) During the period between the violation of division (F) 11176
of section 3319.313 of the Revised Code and the conviction of or 11177
plea of guilty by the person for that violation, the employee who 11178
is the subject of the report that the person fails to submit 11179
inflicts on any child attending a school district, educational 11180
service center, public or nonpublic school, or county board of 11181
~~mental retardation and~~ developmental disabilities where the 11182
employee works any physical or mental wound, injury, disability, 11183
or condition of a nature that constitutes abuse or neglect of the 11184
child. 11185

(D) Whoever violates division (B) or (D) of section 3319.317 11186
of the Revised Code is guilty of a misdemeanor of the first 11187
degree. 11188

Sec. 3323.01. As used in this chapter: 11189

(A) "Child with a disability" means a child who is at least 11190
three years of age and less than twenty-two years of age; who has 11191
mental retardation, a hearing impairment (including deafness), a 11192
speech or language impairment, a visual impairment (including 11193
blindness), a serious emotional disturbance, an orthopedic 11194
impairment, autism, traumatic brain injury, an other health 11195

impairment, a specific learning disability, deaf-blindness, or 11196
multiple disabilities; and who, by reason thereof, needs special 11197
education and related services. 11198

A "child with a disability" may include a child who is at 11199
least three years of age and less than six years of age; who is 11200
experiencing developmental delays, as defined by standards adopted 11201
by the state board of education and as measured by appropriate 11202
diagnostic instruments and procedures in one or more of the 11203
following areas: physical development, cognitive development, 11204
communication development, social or emotional development, or 11205
adaptive development; and who, by reason thereof, needs special 11206
education and related services. 11207

(B) "County ~~MR/DD~~ DD board" means a county board of ~~mental~~ 11208
~~retardation and~~ developmental disabilities. 11209

(C) "Free appropriate public education" means special 11210
education and related services that meet all of the following: 11211

(1) Are provided at public expense, under public supervision 11212
and direction, and without charge; 11213

(2) Meet the standards of the state board of education; 11214

(3) Include an appropriate preschool, elementary, or 11215
secondary education as otherwise provided by the law of this 11216
state; 11217

(4) Are provided for each child with a disability in 11218
conformity with the child's individualized education program. 11219

(D) "Homeless children" means "homeless children and youths" 11220
as defined in section 725 of the "McKinney-Vento Homeless 11221
Assistance Act," 42 U.S.C. 11434a. 11222

(E) "Individualized education program" or "IEP" means the 11223
written statement described in section 3323.011 of the Revised 11224
Code. 11225

(F) "Individualized education program team" or "IEP team"	11226
means a group of individuals composed of:	11227
(1) The parents of a child with a disability;	11228
(2) At least one regular education teacher of the child, if	11229
the child is or may be participating in the regular education	11230
environment;	11231
(3) At least one special education teacher, or where	11232
appropriate, at least one special education provider of the child;	11233
(4) A representative of the school district who meets all of	11234
the following:	11235
(a) Is qualified to provide, or supervise the provision of,	11236
specially designed instruction to meet the unique needs of	11237
children with disabilities;	11238
(b) Is knowledgeable about the general education curriculum;	11239
(c) Is knowledgeable about the availability of resources of	11240
the school district.	11241
(5) An individual who can interpret the instructional	11242
implications of evaluation results, who may be a member of the	11243
team as described in divisions (F)(2) to (4) of this section;	11244
(6) At the discretion of the parent or the school district,	11245
other individuals who have knowledge or special expertise	11246
regarding the child, including related services personnel as	11247
appropriate;	11248
(7) Whenever appropriate, the child with a disability.	11249
(G) "Instruction in braille reading and writing" means the	11250
teaching of the system of reading and writing through touch	11251
commonly known as standard English braille.	11252
(H) "Other educational agency" means a department, division,	11253
bureau, office, institution, board, commission, committee,	11254

authority, or other state or local agency, which is not a city, 11255
local, or exempted village school district or an agency 11256
administered by the department of ~~mental retardation and~~ 11257
developmental disabilities, that provides or seeks to provide 11258
special education or related services to children with 11259
disabilities. The term "other educational agency" includes a joint 11260
vocational school district. 11261

(I) "Parent" of a child with a disability, except as used in 11262
sections 3323.09 and 3323.141 of the Revised Code, means: 11263

(1) A natural or adoptive parent of a child but not a foster 11264
parent of a child; 11265

(2) A guardian, but not the state if the child is a ward of 11266
the state; 11267

(3) An individual acting in the place of a natural or 11268
adoptive parent, including a grandparent, stepparent, or other 11269
relative, with whom the child lives, or an individual who is 11270
legally responsible for the child's welfare; 11271

(4) An individual assigned to be a surrogate parent, provided 11272
the individual is not prohibited by this chapter from serving as a 11273
surrogate parent for a child. 11274

(J) "Preschool child with a disability" means a child with a 11275
disability who is at least three years of age but is not of 11276
compulsory school age, as defined under section 3321.01 of the 11277
Revised Code, and who is not currently enrolled in kindergarten. 11278

(K) "Related services" means transportation, and such 11279
developmental, corrective, and other supportive services 11280
(including speech-language pathology and audiology services, 11281
interpreting services, psychological services, physical and 11282
occupational therapy, recreation, including therapeutic 11283
recreation, school nurse services designed to enable a child with 11284
a disability to receive a free appropriate public education as 11285

described in the individualized education program of the child, 11286
counseling services, including rehabilitation counseling, 11287
orientation and mobility services, school health services, social 11288
work services in schools, and parent counseling and training, and 11289
medical services, except that such medical services shall be for 11290
diagnostic and evaluation purposes only) as may be required to 11291
assist a child with a disability to benefit from special 11292
education, and includes the early identification and assessment of 11293
disabling conditions in children. "Related services" does not 11294
include a medical device that is surgically implanted, or the 11295
replacement of such device. 11296

(L) "School district" means a city, local, or exempted 11297
village school district. 11298

(M) "School district of residence," as used in sections 11299
3323.09, 3323.091, 3323.13, and 3323.14 of the Revised Code, 11300
means: 11301

(1) The school district in which the child's natural or 11302
adoptive parents reside; 11303

(2) If the school district specified in division (M)(1) of 11304
this section cannot be determined, the last school district in 11305
which the child's natural or adoptive parents are known to have 11306
resided if the parents' whereabouts are unknown; 11307

(3) If the school district specified in division (M)(2) of 11308
this section cannot be determined, the school district determined 11309
under section 2151.362 of the Revised Code, or if no district has 11310
been so determined, the school district as determined by the 11311
probate court of the county in which the child resides. 11312

(4) Notwithstanding divisions (M)(1) to (3) of this section, 11313
if a school district is required by section 3313.65 of the Revised 11314
Code to pay tuition for a child, that district shall be the 11315
child's school district of residence. 11316

(N) "Special education" means specially designed instruction, 11317
at no cost to parents, to meet the unique needs of a child with a 11318
disability. "Special education" includes instruction conducted in 11319
the classroom, in the home, in hospitals and institutions, and in 11320
other settings, including an early childhood education setting, 11321
and instruction in physical education. 11322

(O) "Student with a visual impairment" means any person who 11323
is less than twenty-two years of age and who has a visual 11324
impairment as that term is defined in this section. 11325

(P) "Transition services" means a coordinated set of 11326
activities for a child with a disability that meet all of the 11327
following: 11328

(1) Is designed to be within a results-oriented process, that 11329
is focused on improving the academic and functional achievement of 11330
the child with a disability to facilitate the child's movement 11331
from school to post-school activities, including post-secondary 11332
education; vocational education; integrated employment (including 11333
supported employment); continuing and adult education; adult 11334
services; independent living; or community participation; 11335

(2) Is based on the individual child's needs, taking into 11336
account the child's strengths, preferences, and interests; 11337

(3) Includes instruction, related services, community 11338
experiences, the development of employment and other post-school 11339
adult living objectives, and, when appropriate, acquisition of 11340
daily living skills and functional vocational evaluation. 11341

"Transition services" for children with disabilities may be 11342
special education, if provided as specially designed instruction, 11343
or may be a related service, if required to assist a child with a 11344
disability to benefit from special education. 11345

(Q) "Visual impairment" for any individual means that one of 11346
the following applies to the individual: 11347

(1) The individual has a visual acuity of 20/200 or less in 11348
the better eye with correcting lenses or has a limited field of 11349
vision in the better eye such that the widest diameter subtends an 11350
angular distance of no greater than twenty degrees. 11351

(2) The individual has a medically indicated expectation of 11352
meeting the requirements of division (Q)(1) of this section over a 11353
period of time. 11354

(3) The individual has a medically diagnosed and medically 11355
uncorrectable limitation in visual functioning that adversely 11356
affects the individual's ability to read and write standard print 11357
at levels expected of the individual's peers of comparable ability 11358
and grade level. 11359

(R) "Ward of the state" has the same meaning as in section 11360
602(36) of the "Individuals with Disabilities Education 11361
Improvement Act of 2004," 20 U.S.C. 1401(36). 11362

Sec. 3323.02. As used in this section, "IDEIA" means the 11363
"Individuals with Disabilities Education Improvement Act of 2004," 11364
Pub. L. No. 108-446. 11365

It is the purpose of this chapter to ensure that all children 11366
with disabilities residing in this state who are at least three 11367
years of age and less than twenty-two years of age, including 11368
children with disabilities who have been suspended or expelled 11369
from school, have available to them a free appropriate public 11370
education. No school district, county ~~MR/DD~~ DD board, or other 11371
educational agency shall receive state or federal funds for 11372
special education and related services unless those services for 11373
children with disabilities are provided in accordance with IDEIA 11374
and related provisions of the Code of Federal Regulations, the 11375
provisions of this chapter, rules and standards adopted by the 11376
state board of education, and any procedures or guidelines issued 11377
by the superintendent of public instruction. Any options or 11378

discretion provided to the state by IDEIA may be exercised in 11379
state law or in rules or standards adopted by the state board of 11380
education. 11381

The state board of education shall establish rules or 11382
standards for the provision of special education and related 11383
services for all children with disabilities who are at least three 11384
years of age and less than twenty-two years of age residing in the 11385
state, regardless of the severity of their disabilities, including 11386
children with disabilities who have been suspended or expelled 11387
from school. The state law and the rules or standards of the state 11388
board of education may impose requirements that are not required 11389
by IDEIA or related provisions of the Code of Federal Regulations. 11390
The school district of residence is responsible, in all instances, 11391
for ensuring that the requirements of Part B of IDEIA are met for 11392
every eligible child in its jurisdiction, regardless of whether 11393
services are provided by another school district, other 11394
educational agency, or other agency, department, or entity, unless 11395
IDEIA or related provisions of the Code of Federal Regulations, 11396
another section of this chapter, or a rule adopted by the state 11397
board of education specifies that another school district, other 11398
educational agency, or other agency, department, or entity is 11399
responsible for ensuring compliance with Part B of IDEIA. 11400

Notwithstanding division (A)(4) of section 3301.53 of the 11401
Revised Code and any rules adopted pursuant to that section and 11402
division (A) of section 3313.646 of the Revised Code, a board of 11403
education of a school district may provide special education and 11404
related services for preschool children with disabilities in 11405
accordance with this chapter and section 3301.52, divisions (A)(1) 11406
to (3) and (A)(5) and (6) of section 3301.53, and sections 3301.54 11407
to 3301.59 of the Revised Code. 11408

The superintendent of public instruction may require any 11409
state or local agency to provide documentation that special 11410

education and related services for children with disabilities 11411
provided by the agency are in compliance with the requirements of 11412
this chapter. 11413

Not later than the first day of February of each year the 11414
superintendent of public instruction shall furnish the 11415
chairpersons of the education committees of the house of 11416
representatives and the senate with a report on the status of 11417
implementation of special education and related services for 11418
children with disabilities required by this chapter. The report 11419
shall include but shall not be limited to the following items: the 11420
most recent available figures on the number of children identified 11421
as children with disabilities and the number of identified 11422
children receiving special education and related services. The 11423
information contained in these reports shall be public 11424
information. 11425

Sec. 3323.021. As used in this section, "participating county 11426
~~MR/DD~~ DD board" means a county board of ~~mental retardation and~~ 11427
developmental disabilities electing to participate in the 11428
provision of or contracting for educational services for children 11429
under division (D) of section 5126.05 of the Revised Code. 11430

(A) When a school district, educational service center, or 11431
participating county ~~MR/DD~~ DD board enters into an agreement or 11432
contract with another school district, educational service center, 11433
or participating county ~~MR/DD~~ DD board to provide educational 11434
services to a disabled child during a school year, both of the 11435
following shall apply: 11436

(1) Beginning with fiscal year 1999, if the provider of the 11437
services intends to increase the amount it charges for some or all 11438
of those services during the next school year or if the provider 11439
intends to cease offering all or part of those services during the 11440
next school year, the provider shall notify the entity for which 11441

the services are provided of these intended changes no later ~~that~~ 11442
than the first day of March of the current fiscal year. 11443

(2) Beginning with fiscal year 1999, if the entity for which 11444
services are provided intends to cease obtaining those services 11445
from the provider for the next school year or intends to change 11446
the type or amount of services it obtains from the provider for 11447
the next school year, the entity shall notify the service provider 11448
of these intended changes no later than the first day of March of 11449
the current fiscal year. 11450

(B) School districts, educational service centers, 11451
participating county ~~MR/DD~~ DD boards, and other applicable 11452
governmental entities shall collaborate where possible to maximize 11453
federal sources of revenue to provide additional funds for special 11454
education related services for disabled children. Annually, each 11455
school district shall report to the department of education any 11456
amounts of money the district received through such medical 11457
assistance program. 11458

(C) The state board of education, the department of ~~mental~~ 11459
~~retardation and~~ developmental disabilities, and the department of 11460
job and family services shall develop working agreements for 11461
pursuing additional funds for services for disabled children. 11462

Sec. 3323.03. The state board of education shall, in 11463
consultation with the department of health, the department of 11464
mental health, and the department of ~~mental retardation and~~ 11465
developmental disabilities, establish standards and procedures for 11466
the identification, location, and evaluation of all children with 11467
disabilities residing in the state, including children with 11468
disabilities who are homeless children or are wards of the state 11469
and children with disabilities attending nonpublic schools, 11470
regardless of the severity of their disabilities, and who are in 11471
need of special education and related services. The state board 11472

shall develop and implement a practical method to determine which 11473
children with disabilities are currently receiving needed special 11474
education and related services. 11475

In conducting the evaluation, the board of education of each 11476
school district shall use a variety of assessment tools and 11477
strategies to gather relevant functional, developmental, and 11478
academic information about the child, including information 11479
provided by the child's parent. The board of education of each 11480
school district, in consultation with the county ~~MR/DD~~ DD board, 11481
the county family and children first council, and the board of 11482
alcohol, drug addiction, and mental health services of each county 11483
in which the school district has territory, shall identify, 11484
locate, and evaluate all children with disabilities residing 11485
within the district to determine which children with disabilities 11486
are not receiving appropriate special education and related 11487
services. In addition, the board of education of each school 11488
district, in consultation with such county boards or council, 11489
shall identify, locate, and evaluate all children with 11490
disabilities who are enrolled by their parents in nonpublic 11491
elementary and secondary schools located within the public school 11492
district, without regard to where those children reside in 11493
accordance with rules of the state board of education or 11494
guidelines of the superintendent of public instruction. 11495

Each county ~~MR/DD~~ DD board, county family and children first 11496
council, and board of alcohol, drug addiction, and mental health 11497
services and the board's or council's contract agencies may 11498
transmit to boards of education the names and addresses of 11499
children with disabilities who are not receiving appropriate 11500
special education and related services. 11501

Sec. 3323.04. The state board of education, in consultation 11502
with the department of mental health and the department of ~~mental~~ 11503

~~retardation~~ and developmental disabilities, shall establish 11504
procedures and standards for the development of individualized 11505
education programs for children with disabilities. 11506

The state board shall require the board of education of each 11507
school district to develop an individualized education program for 11508
each child with a disability who is at least three years of age 11509
and less than twenty-two years of age residing in the district in 11510
a manner that is in accordance with rules of the state board. 11511

Prior to the placement of a child with a disability in a 11512
program operated under section 3323.09 of the Revised Code, the 11513
district board of education shall consult the county ~~MR/DD~~ DD 11514
board of the county in which the child resides regarding the 11515
proposed placement. 11516

A child with a disability enrolled in a nonpublic school or 11517
facility shall be provided special education and related services, 11518
in accordance with an individualized education program, at no cost 11519
for those services, if the child is placed in, or referred to, 11520
that nonpublic school or facility by the department of education 11521
or a school district. 11522

The IEP team shall review the individualized education 11523
program of each child with a disability periodically, but at least 11524
annually, to determine whether the annual goals for the child are 11525
being achieved, and shall revise the individualized education 11526
program as appropriate. 11527

The state board shall establish procedures and standards to 11528
assure that to the maximum extent appropriate, children with 11529
disabilities, including children in public or private institutions 11530
or other care facilities, shall be educated with children who are 11531
not disabled. Special classes, separate schools, or other removal 11532
of children with disabilities from the regular educational 11533
environment shall be used only when the nature or severity of a 11534

child's disability is such that education in regular classes with 11535
supplementary aids and services cannot be achieved satisfactorily. 11536
11537

If an agency directly affected by a placement decision 11538
objects to such decision, an impartial hearing officer, appointed 11539
by the department of education from a list prepared by the 11540
department, shall conduct a hearing to review the placement 11541
decision. The agencies that are parties to a hearing shall divide 11542
the costs of such hearing equally. The decision of the hearing 11543
officer shall be final, except that any party to the hearing who 11544
is aggrieved by the findings or the decision of the hearing 11545
officer may appeal the findings or decision in accordance with 11546
division (H) of section 3323.05 of the Revised Code or the parent 11547
of any child affected by such decision may present a complaint in 11548
accordance with that section. 11549

Sec. 3323.05. The state board of education shall establish 11550
procedures to ensure that children with disabilities and their 11551
parents are guaranteed procedural safeguards under this chapter 11552
with respect to a free appropriate public education. 11553

The procedures shall include, but need not be limited to: 11554

(A) An opportunity for the parents of a child with a 11555
disability to examine all records related to the child and to 11556
participate in meetings with respect to identification, 11557
evaluation, and educational placement of the child, and to obtain 11558
an independent educational evaluation of the child; 11559

(B) Procedures to protect the rights of the child whenever 11560
the parents of the child are not known, an agency after making 11561
reasonable efforts cannot find the parents, or the child is a ward 11562
of the state, including the assignment, in accordance with section 11563
3323.051 of the Revised Code, of an individual to act as a 11564
surrogate for the parents; 11565

(C) Prior written notice to the child's parents of a school district's proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate education for the child. The procedures established under this division shall:

(1) Be designed to ensure that the written prior notice is in the native language of the parents, unless it clearly is not feasible to do so.

(2) Specify that the prior written notice shall include:

(a) A description of the action proposed or refused by the district;

(b) An explanation of why the district proposes or refuses to take the action and a description of each evaluation procedure, assessment, record, or report the district used as a basis for the proposed or refused action;

(c) A statement that the parents of a child with a disability have protection under the procedural safeguards and, if the notice is not in regard to an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

(d) Sources for parents to contact to obtain assistance in understanding the provisions of Part B of the "Individuals with Disabilities Education Improvement Act of 2004";

(e) A description of other options considered by the IEP team and the reason why those options were rejected;

(f) A description of the factors that are relevant to the agency's proposal or refusal.

(D) An opportunity for the child's parents to present complaints to the superintendent of the child's school district of residence with respect to any matter relating to the

identification, evaluation, or educational placement of the child, 11596
or the provision of a free appropriate public education under this 11597
chapter. 11598

Within twenty school days after receipt of a complaint, the 11599
district superintendent or the superintendent's designee, without 11600
undue delay and at a time and place convenient to all parties, 11601
shall review the case, may conduct an administrative review, and 11602
shall notify all parties in writing of the superintendent's or 11603
designee's decision. Where the child is placed in a program 11604
operated by a county ~~MR/DD~~ DD board or other educational agency, 11605
the superintendent shall consult with the administrator of that 11606
county ~~MR/DD~~ DD board or agency. 11607

Any party aggrieved by the decision of the district 11608
superintendent or the superintendent's designee may file a 11609
complaint with the state board as provided under division (E) of 11610
this section, request mediation as provided under division (F) of 11611
this section, or present a due process complaint notice and 11612
request for a due process hearing in writing to the superintendent 11613
of the district, with a copy to the state board, as provided under 11614
division (G) of this section. 11615

(E) An opportunity for a party to file a complaint with the 11616
state board of education with respect to the identification, 11617
evaluation, or educational placement of the child, or the 11618
provision of a free appropriate public education to such child. 11619
The department of education shall review and, where appropriate, 11620
investigate the complaint and issue findings. 11621

(F) An opportunity for parents and a school district to 11622
resolve through mediation disputes involving any matter. 11623

(1) The procedures established under this section shall 11624
ensure that the mediation process is voluntary on the part of the 11625
parties, is not used to deny or delay a parent's right to a due 11626

process hearing or to deny any other rights afforded under this 11627
chapter, and is conducted by a qualified and impartial mediator 11628
who is trained in effective mediation techniques. 11629

(2) A school district may establish procedures to offer to 11630
parents and schools that choose not to use the mediation process, 11631
an opportunity to meet, at a time and location convenient to the 11632
parents, with a disinterested party to encourage the use, and 11633
explain the benefits, of the mediation process to the parents. The 11634
disinterested party shall be an individual who is under contract 11635
with a parent training and information center or community parent 11636
resource center in the state or is under contract with an 11637
appropriate alternative dispute resolution entity. 11638

(3) The department shall maintain a list of individuals who 11639
are qualified mediators and knowledgeable in laws and regulations 11640
relating to the provision of special education and related 11641
services. 11642

(4) The department shall bear the cost of the mediation 11643
process, including the costs of meetings described in division 11644
(F)(2) of this section. 11645

(5) Each session in the mediation process shall be scheduled 11646
in a timely manner and shall be held in a location that is 11647
convenient to the parties to the dispute. 11648

(6) Discussions that occur during the mediation process shall 11649
be confidential and shall not be used as evidence in any 11650
subsequent due process hearing or civil proceeding. 11651

(7) In the case that a resolution is reached to resolve the 11652
complaint through the mediation process, the parties shall execute 11653
a legally binding agreement that sets forth the resolution and 11654
that: 11655

(a) States that all discussions that occurred during the 11656
mediation process shall be confidential and shall not be used as 11657

evidence in any subsequent due process hearing or civil proceeding; 11658
11659

(b) Is signed by both the parent and a representative for the school district who has the authority to bind the district; 11660
11661

(c) Is enforceable in any state court of competent jurisdiction or in a district court of the United States. 11662
11663

(G)(1) An opportunity for parents or a school district to present a due process complaint and request for a due process hearing to the superintendent of the school district of the child's residence with respect to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child. The party presenting the due process complaint and request for a due process hearing shall provide due process complaint notice to the other party and forward a copy of the notice to the state board. The due process complaint notice shall include: 11664
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(a) The name of the child, the address of the residence of the child, or the available contact information in the case of a homeless child, and the name of the school the child is attending; 11674
11675
11676

(b) A description of the nature of the problem of the child relating to the proposed initiation or change, including facts relating to the problem; 11677
11678
11679

(c) A proposed resolution of the problem to the extent known and available to the party at the time. 11680
11681

A party shall not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirement for filing a due process complaint notice. 11682
11683
11684

A due process hearing shall be conducted by an impartial hearing officer in accordance with standards and procedures adopted by the state board. A hearing officer shall not be an 11685
11686
11687

employee of the state board or any agency involved in the 11688
education or care of the child or a person having a personal or 11689
professional interest that conflicts with the person's objectivity 11690
in the hearing. A hearing officer shall possess knowledge of, and 11691
the ability to understand, the provisions of the "Individuals with 11692
Disabilities Education Improvement Act of 2004," federal and state 11693
regulations pertaining to that act, and legal interpretations of 11694
that act by federal and state courts; possess the knowledge and 11695
ability to conduct hearings in accordance with appropriate 11696
standard legal practice; and possess the knowledge and ability to 11697
render and write decisions in accordance with appropriate standard 11698
legal practice. The due process requirements of section 615 of the 11699
"Individuals with Disabilities Education Improvement Act of 2004," 11700
20 U.S.C. 1415, apply to due process complaint notices and 11701
requests for due process hearings and to due process hearings held 11702
under division (G) of this section, including, but not limited to, 11703
timelines for requesting hearings, requirements for sufficient 11704
complaint notices, resolution sessions, and sufficiency and 11705
hearing decisions. 11706

(2) Discussions that occur during a resolution session shall 11707
be confidential and shall not be used as evidence in any 11708
subsequent due process hearing or civil proceeding. If a 11709
resolution to the dispute is reached at a resolution session, the 11710
parties must execute a legally binding written settlement 11711
agreement which shall state that all discussions that occurred 11712
during the resolution process shall be confidential and shall not 11713
be used as evidence in any subsequent due process hearing or civil 11714
proceeding. 11715

(3) A party to a hearing under division (G) of this section 11716
shall be accorded: 11717

(a) The right to be accompanied and advised by counsel and by 11718
individuals with special knowledge or training with respect to the 11719

problems of children with disabilities; 11720

(b) The right to present evidence and confront, 11721
cross-examine, and compel the attendance of witnesses; 11722

(c) The right to a written or electronic verbatim record of 11723
the hearing; 11724

(d) The right to written findings of fact and decisions, 11725
which findings of fact and decisions shall be made available to 11726
the public consistent with the requirements relating to the 11727
confidentiality of personally identifiable data, information, and 11728
records collected and maintained by state educational agencies and 11729
local educational agencies; and shall be transmitted to the 11730
advisory panel established and maintained by the department for 11731
the purpose of providing policy guidance with respect to special 11732
education and related services for children with disabilities in 11733
the state. 11734

(H) An opportunity for any party aggrieved by the findings 11735
and decision rendered in a hearing under division (G) of this 11736
section to appeal within forty-five days of notification of the 11737
decision to the state board, which shall appoint a state level 11738
officer who shall review the case and issue a final order. The 11739
state level officer shall be appointed and shall review the case 11740
in accordance with standards and procedures adopted by the state 11741
board. 11742

Any party aggrieved by the final order of the state level 11743
officer may appeal the final order, in accordance with Chapter 11744
119. of the Revised Code, within forty-five days after 11745
notification of the order to the court of common pleas of the 11746
county in which the child's school district of residence is 11747
located, or to a district court of the United States within ninety 11748
days after the date of the decision of the state level review 11749
officer, as provided in section 615(i)(2) of the "Individuals with 11750

Disabilities Education Improvement Act of 2004," 20 U.S.C. 11751
1415(i)(2). 11752

Sec. 3323.07. The state board of education shall authorize 11753
the establishment and maintenance of special education and related 11754
services for all children with disabilities who are at least three 11755
years of age and less than twenty-two years of age, including 11756
children with disabilities who have been suspended or expelled 11757
from school, and may authorize special education and related 11758
services for children with disabilities who are less than three 11759
years of age in accordance with rules adopted by the state board. 11760
The state board shall require the boards of education of school 11761
districts, shall authorize the department of mental health and the 11762
department of ~~mental retardation~~ and developmental disabilities, 11763
and may authorize any other educational agency, to establish and 11764
maintain such special education and related services in accordance 11765
with standards adopted by the state board. 11766

Sec. 3323.09. (A) As used in this section: 11767

(1) "Home" has the meaning given in section 3313.64 of the 11768
Revised Code. 11769

(2) "Preschool child" means a child who is at least age three 11770
but under age six on the thirtieth day of September of an academic 11771
year. 11772

(B) Each county ~~MR/DD~~ DD board shall establish special 11773
education programs for all children with disabilities who in 11774
accordance with section 3323.04 of the Revised Code have been 11775
placed in special education programs operated by the county board 11776
and for preschool children who are developmentally delayed or at 11777
risk of being developmentally delayed. The board annually shall 11778
submit to the department of education a plan for the provision of 11779
these programs and, if applicable, a request for approval of units 11780

under section 3317.05 of the Revised Code. The superintendent of 11781
public instruction shall review the plan and approve or modify it 11782
in accordance with rules adopted by the state board of education 11783
under section 3301.07 of the Revised Code. The superintendent of 11784
public instruction shall compile the plans submitted by county 11785
boards and shall submit a comprehensive plan to the state board. 11786

A county ~~MR/DD~~ DD board may combine transportation for 11787
children enrolled in classes funded under section 3317.20 or units 11788
approved under section 3317.05 with transportation for children 11789
and adults enrolled in programs and services offered by the board 11790
under section 5126.12 of the Revised Code. 11791

(C) A county ~~MR/DD~~ DD board that during the school year 11792
provided special education pursuant to this section for any child 11793
with mental disabilities under twenty-two years of age shall 11794
prepare and submit the following reports and statements: 11795

(1) The board shall prepare a statement for each child who at 11796
the time of receiving such special education was a resident of a 11797
home and was not in the legal or permanent custody of an Ohio 11798
resident or a government agency in this state, and whose natural 11799
or adoptive parents are not known to have been residents of this 11800
state subsequent to the child's birth. The statement shall contain 11801
the child's name, the name of the child's school district of 11802
residence, the name of the county board providing the special 11803
education, and the number of months, including any fraction of a 11804
month, it was provided. Not later than the thirtieth day of June, 11805
the board shall forward a certified copy of such statement to both 11806
the director of ~~mental retardation and~~ developmental disabilities 11807
and to the home. 11808

Within thirty days after its receipt of a statement, the home 11809
shall pay tuition to the county board computed in the manner 11810
prescribed by section 3323.141 of the Revised Code. 11811

(2) The board shall prepare a report for each school district 11812
that is the school district of residence of one or more of such 11813
children for whom statements are not required by division (C)(1) 11814
of this section. The report shall contain the name of the county 11815
board providing special education, the name of each child 11816
receiving special education, the number of months, including 11817
fractions of a month, that the child received it, and the name of 11818
the child's school district of residence. Not later than the 11819
thirtieth day of June, the board shall forward certified copies of 11820
each report to the school district named in the report, the 11821
superintendent of public instruction, and the director of ~~mental~~ 11822
~~retardation and~~ developmental disabilities. 11823

Sec. 3323.091. (A) The department of mental health, the 11824
department of ~~mental retardation and~~ developmental disabilities, 11825
the department of youth services, and the department of 11826
rehabilitation and correction shall establish and maintain special 11827
education programs for children with disabilities in institutions 11828
under their jurisdiction according to standards adopted by the 11829
state board of education. 11830

(B) The superintendent of each state institution required to 11831
provide services under division (A) of this section, and each 11832
county ~~MR/DD~~ DD board, providing special education for preschool 11833
children with disabilities under this chapter may apply to the 11834
state department of education for unit funding, which shall be 11835
paid in accordance with sections 3317.052 and 3317.053 of the 11836
Revised Code. 11837

The superintendent of each state institution required to 11838
provide services under division (A) of this section may apply to 11839
the department of education for special education and related 11840
services weighted funding for children with disabilities other 11841
than preschool children with disabilities, calculated in 11842

accordance with section 3317.201 of the Revised Code. 11843

Each county ~~MR/DD~~ DD board providing special education for 11844
children with disabilities other than preschool children with 11845
disabilities may apply to the department of education for base 11846
cost and special education and related services weighted funding 11847
calculated in accordance with section 3317.20 of the Revised Code. 11848
11849

(C) In addition to the authorization to apply for state 11850
funding described in division (B) of this section, each state 11851
institution required to provide services under division (A) of 11852
this section is entitled to tuition payments calculated in the 11853
manner described in division (C) of this section. 11854

On or before the thirtieth day of June of each year, the 11855
superintendent of each institution that during the school year 11856
provided special education pursuant to this section shall prepare 11857
a statement for each child with a disability under twenty-two 11858
years of age who has received special education. The statement 11859
shall contain the child's data verification code assigned pursuant 11860
to division (D)(2) of section 3301.0714 of the Revised Code and 11861
the name of the child's school district of residence. Within sixty 11862
days after receipt of such statement, the department of education 11863
shall perform one of the following: 11864

(1) For any child except a preschool child with a disability 11865
described in division (C)(2) of this section, pay to the 11866
institution submitting the statement an amount equal to the 11867
tuition calculated under division (A) of section 3317.08 of the 11868
Revised Code for the period covered by the statement, and deduct 11869
the same from the amount of state funds, if any, payable under 11870
sections 3317.022 and 3317.023 of the Revised Code, to the child's 11871
school district of residence or, if the amount of such state funds 11872
is insufficient, require the child's school district of residence 11873
to pay the institution submitting the statement an amount equal to 11874

the amount determined under this division. 11875

(2) For any preschool child with a disability not included in 11876
a unit approved under division (B) of section 3317.05 of the 11877
Revised Code, perform the following: 11878

(a) Pay to the institution submitting the statement an amount 11879
equal to the tuition calculated under division (B) of section 11880
3317.08 of the Revised Code for the period covered by the 11881
statement, except that in calculating the tuition under that 11882
section the operating expenses of the institution submitting the 11883
statement under this section shall be used instead of the 11884
operating expenses of the school district of residence; 11885

(b) Deduct from the amount of state funds, if any, payable 11886
under sections 3317.022 and 3317.023 of the Revised Code to the 11887
child's school district of residence an amount equal to the amount 11888
paid under division (C)(2)(a) of this section. 11889

Sec. 3323.12. The board of education of a school district 11890
shall provide home instruction for children with disabilities who 11891
are at least three years of age and less than twenty-two years of 11892
age and who are unable to attend school, even with the help of 11893
special transportation. The board may arrange for the provision of 11894
home instruction for a child by a cooperative agreement or 11895
contract with a county ~~MR/DD~~ DD board or other educational agency. 11896
For the purposes of determining formula ADM under section 3317.03 11897
of the Revised Code, five hours of home instruction shall be 11898
equivalent to attendance for five school days. 11899

Sec. 3323.141. (A) When a child who is not in the legal or 11900
permanent custody of an Ohio resident or a government agency in 11901
this state and whose natural or adoptive parents are not known to 11902
have been residents of this state subsequent to the child's birth 11903
is a resident of a home as defined in section 3313.64 of the 11904

Revised Code and receives special education and related services 11905
from a school district or county MR/DD board, the home shall pay 11906
tuition to the board providing the special education. 11907

(B) In the case of a child described in division (A) of this 11908
section who receives special education and related services from a 11909
school district, tuition shall be the amount determined under 11910
division (B)(1) or (2) of this section. 11911

(1) For a child other than a child described in division 11912
(B)(2) of this section the tuition shall be an amount equal to the 11913
sum of the following: 11914

(a) Tuition as determined in the manner provided for by 11915
division (B) of section 3317.081 of the Revised Code for the 11916
district that provides the special education; 11917

(b) Such excess cost as is determined by using a formula 11918
established by rule of the department of education. The excess 11919
cost computed in this section shall not be used as excess cost 11920
computed under section 3323.14 of the Revised Code. 11921

(2) For a child who is a preschool child with a disability 11922
not included in a unit approved under division (B) of section 11923
3317.05 of the Revised Code, the tuition shall be computed as 11924
follows: 11925

(a) Determine the amount of the tuition of the district 11926
providing the education for the child as calculated under division 11927
(B) of section 3317.08 of the Revised Code; 11928

(b) For each type of special education service included in 11929
the computation of the amount of tuition under division (B)(2)(a) 11930
of this section, divide the amount determined for that computation 11931
under division (B)(2) of section 3317.08 of the Revised Code by 11932
the total number of preschool children with disabilities used for 11933
that computation under division (B)(3) of section 3317.08 of the 11934
Revised Code; 11935

(c) Determine the sum of the quotients obtained under 11936
division (B)(2)(b) of this section; 11937

(d) Determine the sum of the amounts determined under 11938
divisions (B)(2)(a) and (c) of this section. 11939

(C) In the case of a child described in division (A) of this 11940
section who receives special education and related services from a 11941
county MR/DD board, tuition shall be the amount determined under 11942
division (C)(1) or (2) of this section. 11943

(1) For a child other than a child described in division 11944
(C)(2) of this section, the tuition shall be an amount equal to 11945
such board's per capita cost of providing special education and 11946
related services for children at least three but less than 11947
twenty-two years of age as determined by using a formula 11948
established by rule of the department of ~~mental retardation and~~ 11949
developmental disabilities. 11950

(2) For a child who is a preschool child with a disability 11951
not included in a unit approved under division (B) of section 11952
3317.05 of the Revised Code, the tuition shall equal the sum of 11953
the amounts of each such board's per capita cost of providing each 11954
of the special education or related service that the child 11955
receives. The calculation of tuition shall be made by using a 11956
formula established by rule of the department of ~~mental~~ 11957
~~retardation and~~ developmental disabilities. The formula for the 11958
calculation of per capita costs under division (C)(2) of this 11959
section shall be based only on each such MR/DD board's cost of 11960
providing each type of special education or related service to 11961
preschool children with disabilities not included in a unit 11962
approved under division (B) of section 3317.05 of the Revised 11963
Code. 11964

(D) If a home fails to pay the tuition required under this 11965
section, the board of education or county MR/DD board providing 11966

the education may recover in a civil action the tuition and the 11967
expenses incurred in prosecuting the action, including court costs 11968
and reasonable attorney's fees. If the prosecuting attorney or 11969
city director of law represents the board in such action, costs 11970
and reasonable attorney's fees awarded by the court, based upon 11971
the time spent preparing and presenting the case by the 11972
prosecuting attorney, director, or a designee of either, shall be 11973
deposited in the county or city general fund. 11974

Sec. 3323.142. This section does not apply to any preschool 11975
child with a disability except if included in a unit approved 11976
under division (B) of section 3317.05 of the Revised Code. 11977

As used in this section, "per pupil amount" for a preschool 11978
child with a disability included in such an approved unit means 11979
the amount determined by dividing the amount received for the 11980
classroom unit in which the child has been placed by the number of 11981
children in the unit. For any other child, "per pupil amount" 11982
means the amount paid for the child under section 3317.20 of the 11983
Revised Code. 11984

When a school district places or has placed a child with a 11985
county ~~MR/DD~~ DD board for special education, but another district 11986
is responsible for tuition under section 3313.64 or 3313.65 of the 11987
Revised Code and the child is not a resident of the territory 11988
served by the county ~~MR/DD~~ DD board, the board may charge the 11989
district responsible for tuition with the educational costs in 11990
excess of the per pupil amount received by the board under Chapter 11991
3317. of the Revised Code. The amount of the excess cost shall be 11992
determined by the formula established by rule of the department of 11993
education under section 3323.14 of the Revised Code, and the 11994
payment for such excess cost shall be made by the school district 11995
directly to the county ~~MR/DD~~ DD board. 11996

A school district board of education and the county ~~MR/DD~~ DD 11997

board that serves the school district may negotiate and contract, 11998
at or after the time of placement, for payments by the board of 11999
education to the county ~~MR/DD~~ DD board for additional services 12000
provided to a child placed with the county ~~MR/DD~~ DD board and 12001
whose individualized education program established pursuant to 12002
section 3323.08 of the Revised Code requires additional services 12003
that are not routinely provided children in the county ~~MR/DD~~ DD 12004
board's program but are necessary to maintain the child's 12005
enrollment and participation in the program. Additional services 12006
may include, but are not limited to, specialized supplies and 12007
equipment for the benefit of the child and instruction, training, 12008
or assistance provided by staff members other than staff members 12009
for which funding is received under Chapter 3317. of the Revised 12010
Code. 12011

Sec. 3323.31. The Franklin county educational service center 12012
shall establish the Ohio Center for Autism and Low Incidence. The 12013
Center shall administer programs and coordinate services for 12014
infants, preschool and school-age children, and adults with autism 12015
and low incidence disabilities. The Center's principal focus shall 12016
be programs and services for persons with autism. The Center shall 12017
be under the direction of an executive director, appointed by the 12018
superintendent of the service center in consultation with the 12019
advisory board established under section 3323.33 of the Revised 12020
Code. 12021

In addition to its other duties, the Ohio Center for Autism 12022
and Low Incidence shall participate as a member of an interagency 12023
workgroup on autism, as it is established by the department of 12024
~~mental retardation and~~ developmental disabilities and shall 12025
provide technical assistance and support to the department in the 12026
department's leadership role to develop and implement the 12027
initiatives identified by the workgroup. 12028

Sec. 3326.99. (A) Whoever violates division (F) of section 12029
3326.24 of the Revised Code shall be punished as follows: 12030

(1) Except as otherwise provided in division (A)(2) of this 12031
section, the person is guilty of a misdemeanor of the fourth 12032
degree. 12033

(2) The person is guilty of a misdemeanor of the first degree 12034
if both of the following conditions apply: 12035

(a) The employee who is the subject of the report that the 12036
person fails to submit was required to be reported for the 12037
commission or alleged commission of an act or offense involving 12038
the infliction on a child of any physical or mental wound, injury, 12039
disability, or condition of a nature that constitutes abuse or 12040
neglect of the child; 12041

(b) During the period between the violation of division (F) 12042
of section 3326.24 of the Revised Code and the conviction of or 12043
plea of guilty by the person for that violation, the employee who 12044
is the subject of the report that the person fails to submit 12045
inflicts on any child attending a school district, educational 12046
service center, public or nonpublic school, or county board of 12047
~~mental retardation and~~ developmental disabilities where the 12048
employee works any physical or mental wound, injury, disability, 12049
or condition of a nature that constitutes abuse or neglect of the 12050
child. 12051

(B) Whoever violates division (B) of section 3326.243 of the 12052
Revised Code is guilty of a misdemeanor of the first degree. 12053

Sec. 3501.01. As used in the sections of the Revised Code 12054
relating to elections and political communications: 12055

(A) "General election" means the election held on the first 12056
Tuesday after the first Monday in each November. 12057

(B) "Regular municipal election" means the election held on 12058
the first Tuesday after the first Monday in November in each 12059
odd-numbered year. 12060

(C) "Regular state election" means the election held on the 12061
first Tuesday after the first Monday in November in each 12062
even-numbered year. 12063

(D) "Special election" means any election other than those 12064
elections defined in other divisions of this section. A special 12065
election may be held only on the first Tuesday after the first 12066
Monday in February, May, August, or November, or on the day 12067
authorized by a particular municipal or county charter for the 12068
holding of a primary election, except that in any year in which a 12069
presidential primary election is held, no special election shall 12070
be held in February or May, except as authorized by a municipal or 12071
county charter, but may be held on the first Tuesday after the 12072
first Monday in March. 12073

(E)(1) "Primary" or "primary election" means an election held 12074
for the purpose of nominating persons as candidates of political 12075
parties for election to offices, and for the purpose of electing 12076
persons as members of the controlling committees of political 12077
parties and as delegates and alternates to the conventions of 12078
political parties. Primary elections shall be held on the first 12079
Tuesday after the first Monday in May of each year except in years 12080
in which a presidential primary election is held. 12081

(2) "Presidential primary election" means a primary election 12082
as defined by division (E)(1) of this section at which an election 12083
is held for the purpose of choosing delegates and alternates to 12084
the national conventions of the major political parties pursuant 12085
to section 3513.12 of the Revised Code. Unless otherwise 12086
specified, presidential primary elections are included in 12087
references to primary elections. In years in which a presidential 12088
primary election is held, all primary elections shall be held on 12089

the first Tuesday after the first Monday in March except as 12090
otherwise authorized by a municipal or county charter. 12091

(F) "Political party" means any group of voters meeting the 12092
requirements set forth in section 3517.01 of the Revised Code for 12093
the formation and existence of a political party. 12094

(1) "Major political party" means any political party 12095
organized under the laws of this state whose candidate for 12096
governor or nominees for presidential electors received no less 12097
than twenty per cent of the total vote cast for such office at the 12098
most recent regular state election. 12099

(2) "Intermediate political party" means any political party 12100
organized under the laws of this state whose candidate for 12101
governor or nominees for presidential electors received less than 12102
twenty per cent but not less than ten per cent of the total vote 12103
cast for such office at the most recent regular state election. 12104

(3) "Minor political party" means any political party 12105
organized under the laws of this state whose candidate for 12106
governor or nominees for presidential electors received less than 12107
ten per cent but not less than five per cent of the total vote 12108
cast for such office at the most recent regular state election or 12109
which has filed with the secretary of state, subsequent to any 12110
election in which it received less than five per cent of such 12111
vote, a petition signed by qualified electors equal in number to 12112
at least one per cent of the total vote cast for such office in 12113
the last preceding regular state election, except that a newly 12114
formed political party shall be known as a minor political party 12115
until the time of the first election for governor or president 12116
which occurs not less than twelve months subsequent to the 12117
formation of such party, after which election the status of such 12118
party shall be determined by the vote for the office of governor 12119
or president. 12120

(G) "Dominant party in a precinct" or "dominant political party in a precinct" means that political party whose candidate for election to the office of governor at the most recent regular state election at which a governor was elected received more votes than any other person received for election to that office in such precinct at such election.

(H) "Candidate" means any qualified person certified in accordance with the provisions of the Revised Code for placement on the official ballot of a primary, general, or special election to be held in this state, or any qualified person who claims to be a write-in candidate, or who knowingly assents to being represented as a write-in candidate by another at either a primary, general, or special election to be held in this state.

(I) "Independent candidate" means any candidate who claims not to be affiliated with a political party, and whose name has been certified on the office-type ballot at a general or special election through the filing of a statement of candidacy and nominating petition, as prescribed in section 3513.257 of the Revised Code.

(J) "Nonpartisan candidate" means any candidate whose name is required, pursuant to section 3505.04 of the Revised Code, to be listed on the nonpartisan ballot, including all candidates for judicial office, for member of any board of education, for municipal or township offices in which primary elections are not held for nominating candidates by political parties, and for offices of municipal corporations having charters that provide for separate ballots for elections for these offices.

(K) "Party candidate" means any candidate who claims to be a member of a political party, whose name has been certified on the office-type ballot at a general or special election through the filing of a declaration of candidacy and petition of candidate, and who has won the primary election of the candidate's party for

the public office the candidate seeks or is selected by party 12153
committee in accordance with section 3513.31 of the Revised Code. 12154

(L) "Officer of a political party" includes, but is not 12155
limited to, any member, elected or appointed, of a controlling 12156
committee, whether representing the territory of the state, a 12157
district therein, a county, township, a city, a ward, a precinct, 12158
or other territory, of a major, intermediate, or minor political 12159
party. 12160

(M) "Question or issue" means any question or issue certified 12161
in accordance with the Revised Code for placement on an official 12162
ballot at a general or special election to be held in this state. 12163

(N) "Elector" or "qualified elector" means a person having 12164
the qualifications provided by law to be entitled to vote. 12165

(O) "Voter" means an elector who votes at an election. 12166

(P) "Voting residence" means that place of residence of an 12167
elector which shall determine the precinct in which the elector 12168
may vote. 12169

(Q) "Precinct" means a district within a county established 12170
by the board of elections of such county within which all 12171
qualified electors having a voting residence therein may vote at 12172
the same polling place. 12173

(R) "Polling place" means that place provided for each 12174
precinct at which the electors having a voting residence in such 12175
precinct may vote. 12176

(S) "Board" or "board of elections" means the board of 12177
elections appointed in a county pursuant to section 3501.06 of the 12178
Revised Code. 12179

(T) "Political subdivision" means a county, township, city, 12180
village, or school district. 12181

(U) "Election officer" or "election official" means any of 12182

the following:	12183
(1) Secretary of state;	12184
(2) Employees of the secretary of state serving the division of elections in the capacity of attorney, administrative officer, administrative assistant, elections administrator, office manager, or clerical supervisor;	12185 12186 12187 12188
(3) Director of a board of elections;	12189
(4) Deputy director of a board of elections;	12190
(5) Member of a board of elections;	12191
(6) Employees of a board of elections;	12192
(7) Precinct polling place judges;	12193
(8) Employees appointed by the boards of elections on a temporary or part-time basis.	12194 12195
(V) "Acknowledgment notice" means a notice sent by a board of elections, on a form prescribed by the secretary of state, informing a voter registration applicant or an applicant who wishes to change the applicant's residence or name of the status of the application; the information necessary to complete or update the application, if any; and if the application is complete, the precinct in which the applicant is to vote.	12196 12197 12198 12199 12200 12201 12202
(W) "Confirmation notice" means a notice sent by a board of elections, on a form prescribed by the secretary of state, to a registered elector to confirm the registered elector's current address.	12203 12204 12205 12206
(X) "Designated agency" means an office or agency in the state that provides public assistance or that provides state-funded programs primarily engaged in providing services to persons with disabilities and that is required by the National Voter Registration Act of 1993 to implement a program designed and administered by the secretary of state for registering voters, or	12207 12208 12209 12210 12211 12212

any other public or government office or agency that implements a 12213
program designed and administered by the secretary of state for 12214
registering voters, including the department of job and family 12215
services, the program administered under section 3701.132 of the 12216
Revised Code by the department of health, the department of mental 12217
health, the department of ~~mental retardation and~~ developmental 12218
disabilities, the rehabilitation services commission, and any 12219
other agency the secretary of state designates. "Designated 12220
agency" does not include public high schools and vocational 12221
schools, public libraries, or the office of a county treasurer. 12222

(Y) "National Voter Registration Act of 1993" means the 12223
"National Voter Registration Act of 1993," 107 Stat. 77, 42 12224
U.S.C.A. 1973gg. 12225

(Z) "Voting Rights Act of 1965" means the "Voting Rights Act 12226
of 1965," 79 Stat. 437, 42 U.S.C.A. 1973, as amended. 12227

(AA) "Photo identification" means a document that meets each 12228
of the following requirements: 12229

(1) It shows the name of the individual to whom it was 12230
issued, which shall conform to the name in the poll list or 12231
signature pollbook. 12232

(2) It shows the current address of the individual to whom it 12233
was issued, which shall conform to the address in the poll list or 12234
signature pollbook, except for a driver's license or a state 12235
identification card issued under section 4507.50 of the Revised 12236
Code, which may show either the current or former address of the 12237
individual to whom it was issued, regardless of whether that 12238
address conforms to the address in the poll list or signature 12239
pollbook. 12240

(3) It shows a photograph of the individual to whom it was 12241
issued. 12242

(4) It includes an expiration date that has not passed. 12243

(5) It was issued by the government of the United States or 12244
this state. 12245

Sec. 3701.78. (A) There is hereby created the commission on 12246
minority health, consisting of eighteen members. The governor 12247
shall appoint to the commission nine members from among health 12248
researchers, health planners, and health professionals. The 12249
speaker of the house of representatives shall appoint to the 12250
commission two members of the house of representatives, not more 12251
than one of whom is a member of the same political party, and the 12252
president of the senate shall appoint to the commission two 12253
members of the senate, not more than one of whom is a member of 12254
the same political party. The directors of health, mental health, 12255
~~mental retardation and~~ developmental disabilities, and job and 12256
family services, or their designees, and the superintendent of 12257
public instruction, or the superintendent's designee, shall be 12258
members of the commission. The commission shall elect a 12259
chairperson from among its members. Of the members appointed by 12260
the governor, five shall be appointed to initial terms of one 12261
year, and four shall be appointed to initial terms of two years. 12262
Thereafter, all members appointed by the governor shall be 12263
appointed to terms of two years. All members of the commission 12264
appointed by the speaker of the house of representatives or the 12265
president of the senate shall be nonvoting members of the 12266
commission and be appointed within thirty days after the 12267
commencement of the first regular session of each general 12268
assembly, and shall serve until the expiration of the session of 12269
the general assembly during which they were appointed. Members of 12270
the commission shall serve without compensation, but shall be 12271
reimbursed for the actual and necessary expenses they incur in the 12272
performance of their official duties. 12273

(B) The commission shall promote health and the prevention of 12274
disease among members of minority groups. Each year the commission 12275

shall distribute grants from available funds to community-based 12276
health groups to be used to promote health and the prevention of 12277
disease among members of minority groups. As used in this 12278
division, "minority group" means any of the following economically 12279
disadvantaged groups: Blacks, American Indians, Hispanics, and 12280
Orientals. The commission shall adopt and maintain rules pursuant 12281
to Chapter 119. of the Revised Code to provide for the 12282
distribution of these grants. No group shall qualify to receive a 12283
grant from the commission unless it receives at least twenty per 12284
cent of its funds from sources other than grants distributed under 12285
this section. 12286

(C) The commission may appoint such employees as it considers 12287
necessary to carry out its duties under this section. The 12288
department of health shall provide office space for the 12289
commission. 12290

(D) The commission shall meet at the call of its chairperson 12291
to conduct its official business. A majority of the voting members 12292
of the commission constitute a quorum. The votes of at least eight 12293
voting members of the commission are necessary for the commission 12294
to take any official action or to approve the distribution of 12295
grants under this section. 12296

Sec. 3701.93. As used in sections 3701.931 to 3701.936 of the 12297
Revised Code: 12298

(A) "Board of health" has the same meaning as in section 12299
3717.01 of the Revised Code. 12300

(B) "Nonpublic school" means a chartered nonpublic school 12301
that meets the minimum education standards prescribed by the state 12302
board of education under section 3301.07 of the Revised Code. 12303
"Nonpublic school" includes facilities used for child care 12304
programs for preschool children operated by the school. 12305

(C) "Public school" means either of the following: 12306

(1) A school operated by a school district, educational 12307
service center, or county board of ~~mental retardation and~~ 12308
developmental disabilities, including facilities used for child 12309
care programs for preschool children operated by the district, 12310
center, or board; 12311

(2) A community school established under Chapter 3314. of the 12312
Revised Code, including a facility operated by an internet- or 12313
computer-based community school, as defined in section 3314.02 of 12314
the Revised Code, that is used as a classroom or laboratory for 12315
one or more students. "Public school" does not mean the residence 12316
of a student enrolled in an internet- or computer-based community 12317
school. 12318

(D) "School" does not mean any of the following: 12319

(1) A child care program for preschool children that is 12320
licensed by the department of job and family services pursuant to 12321
Chapter 5104. of the Revised Code; 12322

(2) A child care program for preschool children that is not 12323
operated by a public or nonpublic school; 12324

(3) A chartered kindergarten that is associated with a 12325
freestanding preschool and that is not operated by a school 12326
district, educational service center, or county board of ~~mental~~ 12327
~~retardation and~~ developmental disabilities. 12328

Sec. 3701.932. (A) Each board of health shall report the 12329
findings from the inspection of each public and nonpublic school 12330
building and associated grounds conducted under section 3701.931 12331
of the Revised Code to all of the following: 12332

(1) The principal or chief administrator of the building; 12333

(2) The administrator responsible for facility operations and 12334
maintenance on behalf of the school district, educational service 12335

center, county board of ~~mental retardation and~~ developmental 12336
disabilities, or community school controlling the inspected 12337
building and grounds; 12338

(3) In the case of a school operated by a school district, 12339
the superintendent and board of education of that district; 12340

(4) In the case of a school operated by an educational 12341
service center or county board of ~~mental retardation and~~ 12342
developmental disabilities, the center or board; 12343

(5) The auditor of state. 12344

(B) Each report shall include recommendations for changes 12345
that the board of health determines may be needed to abate 12346
conditions that are hazardous to occupants. The report shall 12347
include recommendations made pursuant to an inspection conducted 12348
under section 3707.26 of the Revised Code. 12349

(C) The report is a public record under section 149.43 of the 12350
Revised Code. 12351

Sec. 3701.933. The board of education of each school 12352
district, the governing board of each educational service center, 12353
the county board of ~~mental retardation and~~ developmental 12354
disabilities, the governing authority of each community school, 12355
and the chief administrator of each nonpublic school shall submit 12356
to the board of health, by a deadline and in a manner established 12357
by the director of health, a written plan for abatement of the 12358
conditions determined to be hazardous to occupants, as described 12359
in the report submitted under section 3701.932 of the Revised 12360
Code. The plan shall include a schedule for completion of the 12361
abatement. 12362

The board of health shall determine compliance with the 12363
written plan for abatement. On completion of any plan for 12364
abatement, the board of health shall submit a supplemental report 12365

to all parties specified in division (A) of section 3701.932 of 12366
the Revised Code. 12367

The plan submitted under this section is a public record 12368
under section 149.43 of the Revised Code. 12369

Sec. 3705.36. Three years after the date a birth defects 12370
information system is implemented pursuant to section 3705.30 of 12371
the Revised Code, and annually thereafter, the department of 12372
health shall prepare a report regarding the birth defects 12373
information system. The council created under section 3705.34 of 12374
the Revised Code shall, not later than two years after the date a 12375
birth defects information system is implemented, specify the 12376
information the department is to include in each report. The 12377
department shall file the report with the governor, the president 12378
and minority leader of the senate, the speaker and minority leader 12379
of the house of representatives, the departments of ~~mental~~ 12380
~~retardation~~ and developmental disabilities, education, and job and 12381
family services, the commission on minority health, and the news 12382
media. 12383

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 12384
3721.99 of the Revised Code: 12385

(1)(a) "Home" means an institution, residence, or facility 12386
that provides, for a period of more than twenty-four hours, 12387
whether for a consideration or not, accommodations to three or 12388
more unrelated individuals who are dependent upon the services of 12389
others, including a nursing home, residential care facility, home 12390
for the aging, and a veterans' home operated under Chapter 5907. 12391
of the Revised Code. 12392

(b) "Home" also means both of the following: 12393

(i) Any facility that a person, as defined in section 3702.51 12394
of the Revised Code, proposes for certification as a skilled 12395

nursing facility or nursing facility under Title XVIII or XIX of 12396
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 12397
as amended, and for which a certificate of need, other than a 12398
certificate to recategorize hospital beds as described in section 12399
3702.522 of the Revised Code or division (R)(7)(d) of the version 12400
of section 3702.51 of the Revised Code in effect immediately prior 12401
to April 20, 1995, has been granted to the person under sections 12402
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 12403

(ii) A county home or district home that is or has been 12404
licensed as a residential care facility. 12405

(c) "Home" does not mean any of the following: 12406

(i) Except as provided in division (A)(1)(b) of this section, 12407
a public hospital or hospital as defined in section 3701.01 or 12408
5122.01 of the Revised Code; 12409

(ii) A residential facility for mentally ill persons as 12410
defined under section 5119.22 of the Revised Code; 12411

(iii) A residential facility as defined in section 5123.19 of 12412
the Revised Code; 12413

(iv) A community alternative home as defined in section 12414
3724.01 of the Revised Code; 12415

(v) An adult care facility as defined in section 3722.01 of 12416
the Revised Code; 12417

(vi) An alcohol or drug addiction program as defined in 12418
section 3793.01 of the Revised Code; 12419

(vii) A facility licensed to provide methadone treatment 12420
under section 3793.11 of the Revised Code; 12421

(viii) A facility providing services under contract with the 12422
department of ~~mental retardation and~~ developmental disabilities 12423
under section 5123.18 of the Revised Code; 12424

(ix) A facility operated by a hospice care program licensed 12425

under section 3712.04 of the Revised Code that is used exclusively 12426
for care of hospice patients; 12427

(x) A facility, infirmary, or other entity that is operated 12428
by a religious order, provides care exclusively to members of 12429
religious orders who take vows of celibacy and live by virtue of 12430
their vows within the orders as if related, and does not 12431
participate in the medicare program established under Title XVIII 12432
of the "Social Security Act" or the medical assistance program 12433
established under Chapter 5111. of the Revised Code and Title XIX 12434
of the "Social Security Act," if on January 1, 1994, the facility, 12435
infirmary, or entity was providing care exclusively to members of 12436
the religious order; 12437

(xi) A county home or district home that has never been 12438
licensed as a residential care facility. 12439

(2) "Unrelated individual" means one who is not related to 12440
the owner or operator of a home or to the spouse of the owner or 12441
operator as a parent, grandparent, child, grandchild, brother, 12442
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 12443
uncle. 12444

(3) "Mental impairment" does not mean mental illness as 12445
defined in section 5122.01 of the Revised Code or mental 12446
retardation as defined in section 5123.01 of the Revised Code. 12447

(4) "Skilled nursing care" means procedures that require 12448
technical skills and knowledge beyond those the untrained person 12449
possesses and that are commonly employed in providing for the 12450
physical, mental, and emotional needs of the ill or otherwise 12451
incapacitated. "Skilled nursing care" includes, but is not limited 12452
to, the following: 12453

(a) Irrigations, catheterizations, application of dressings, 12454
and supervision of special diets; 12455

(b) Objective observation of changes in the patient's 12456

condition as a means of analyzing and determining the nursing care	12457
required and the need for further medical diagnosis and treatment;	12458
(c) Special procedures contributing to rehabilitation;	12459
(d) Administration of medication by any method ordered by a	12460
physician, such as hypodermically, rectally, or orally, including	12461
observation of the patient after receipt of the medication;	12462
(e) Carrying out other treatments prescribed by the physician	12463
that involve a similar level of complexity and skill in	12464
administration.	12465
(5)(a) "Personal care services" means services including, but	12466
not limited to, the following:	12467
(i) Assisting residents with activities of daily living;	12468
(ii) Assisting residents with self-administration of	12469
medication, in accordance with rules adopted under section 3721.04	12470
of the Revised Code;	12471
(iii) Preparing special diets, other than complex therapeutic	12472
diets, for residents pursuant to the instructions of a physician	12473
or a licensed dietitian, in accordance with rules adopted under	12474
section 3721.04 of the Revised Code.	12475
(b) "Personal care services" does not include "skilled	12476
nursing care" as defined in division (A)(4) of this section. A	12477
facility need not provide more than one of the services listed in	12478
division (A)(5)(a) of this section to be considered to be	12479
providing personal care services.	12480
(6) "Nursing home" means a home used for the reception and	12481
care of individuals who by reason of illness or physical or mental	12482
impairment require skilled nursing care and of individuals who	12483
require personal care services but not skilled nursing care. A	12484
nursing home is licensed to provide personal care services and	12485
skilled nursing care.	12486

(7) "Residential care facility" means a home that provides 12487
either of the following: 12488

(a) Accommodations for seventeen or more unrelated 12489
individuals and supervision and personal care services for three 12490
or more of those individuals who are dependent on the services of 12491
others by reason of age or physical or mental impairment; 12492

(b) Accommodations for three or more unrelated individuals, 12493
supervision and personal care services for at least three of those 12494
individuals who are dependent on the services of others by reason 12495
of age or physical or mental impairment, and, to at least one of 12496
those individuals, any of the skilled nursing care authorized by 12497
section 3721.011 of the Revised Code. 12498

(8) "Home for the aging" means a home that provides services 12499
as a residential care facility and a nursing home, except that the 12500
home provides its services only to individuals who are dependent 12501
on the services of others by reason of both age and physical or 12502
mental impairment. 12503

The part or unit of a home for the aging that provides 12504
services only as a residential care facility is licensed as a 12505
residential care facility. The part or unit that may provide 12506
skilled nursing care beyond the extent authorized by section 12507
3721.011 of the Revised Code is licensed as a nursing home. 12508

(9) "County home" and "district home" mean a county home or 12509
district home operated under Chapter 5155. of the Revised Code. 12510

(B) The public health council may further classify homes. For 12511
the purposes of this chapter, any residence, institution, hotel, 12512
congregate housing project, or similar facility that meets the 12513
definition of a home under this section is such a home regardless 12514
of how the facility holds itself out to the public. 12515

(C) For purposes of this chapter, personal care services or 12516
skilled nursing care shall be considered to be provided by a 12517

facility if they are provided by a person employed by or 12518
associated with the facility or by another person pursuant to an 12519
agreement to which neither the resident who receives the services 12520
nor the resident's sponsor is a party. 12521

(D) Nothing in division (A)(4) of this section shall be 12522
construed to permit skilled nursing care to be imposed on an 12523
individual who does not require skilled nursing care. 12524

Nothing in division (A)(5) of this section shall be construed 12525
to permit personal care services to be imposed on an individual 12526
who is capable of performing the activity in question without 12527
assistance. 12528

(E) Division (A)(1)(c)(x) of this section does not prohibit a 12529
facility, infirmary, or other entity described in that division 12530
from seeking licensure under sections 3721.01 to 3721.09 of the 12531
Revised Code or certification under Title XVIII or XIX of the 12532
"Social Security Act." However, such a facility, infirmary, or 12533
entity that applies for licensure or certification must meet the 12534
requirements of those sections or titles and the rules adopted 12535
under them and obtain a certificate of need from the director of 12536
health under section 3702.52 of the Revised Code. 12537

(F) Nothing in this chapter, or rules adopted pursuant to it, 12538
shall be construed as authorizing the supervision, regulation, or 12539
control of the spiritual care or treatment of residents or 12540
patients in any home who rely upon treatment by prayer or 12541
spiritual means in accordance with the creed or tenets of any 12542
recognized church or religious denomination. 12543

Sec. 3721.14. To assist in the implementation of the rights 12544
granted in division (A) of section 3721.13 of the Revised Code, 12545
each home shall provide: 12546

(A) Appropriate staff training to implement each resident's 12547

rights under division (A) of section 3721.13 of the Revised Code,	12548
including, but not limited to, explaining:	12549
(1) The resident's rights and the staff's responsibility in the implementation of the rights;	12550 12551
(2) The staff's obligation to provide all residents who have similar needs with comparable service.	12552 12553
(B) Arrangements for a resident's needed ancillary services;	12554
(C) Protected areas outside the home for residents to enjoy outdoor activity, within the capacity of the facility, consistent with applicable laws and rules;	12555 12556 12557
(D) Adequate indoor space, which need not be dedicated to that purpose, for families of residents to meet privately with families of other residents;	12558 12559 12560
(E) Access to the following persons to enter the home during reasonable hours, except where such access would interfere with resident care or the privacy of residents:	12561 12562 12563
(1) Employees of the department of health, department of mental health, department of mental retardation and developmental disabilities, department of aging, department of job and family services, and county departments of job and family services;	12564 12565 12566 12567
(2) Prospective residents and their sponsors;	12568
(3) A resident's sponsors;	12569
(4) Residents' rights advocates;	12570
(5) A resident's attorney;	12571
(6) A minister, priest, rabbi, or other person ministering to a resident's religious needs.	12572 12573
(F) In writing, a description of the home's grievance procedures.	12574 12575

Sec. 3722.01. (A) As used in this chapter:	12576
(1) "Owner" means the person who owns the business of and who ultimately controls the operation of an adult care facility and to whom the manager, if different from the owner, is responsible.	12577 12578 12579
(2) "Manager" means the person responsible for the daily operation of an adult care facility. The manager and the owner of a facility may be the same person.	12580 12581 12582
(3) "Adult" means an individual eighteen years of age or older.	12583 12584
(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.	12585 12586 12587 12588 12589
(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code.	12590 12591
(6)(a) "Personal care services" means services including, but not limited to, the following:	12592 12593
(i) Assisting residents with activities of daily living;	12594
(ii) Assisting residents with self-administration of medication, in accordance with rules adopted by the public health council pursuant to this chapter;	12595 12596 12597
(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.	12598 12599 12600 12601
(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	12602 12603 12604

division (A)(6)(a) of this section to be considered to be 12605
providing personal care services. 12606

(7) "Adult family home" means a residence or facility that 12607
provides accommodations to three to five unrelated adults and 12608
supervision and personal care services to at least three of those 12609
adults. 12610

(8) "Adult group home" means a residence or facility that 12611
provides accommodations to six to sixteen unrelated adults and 12612
provides supervision and personal care services to at least three 12613
of the unrelated adults. 12614

(9) "Adult care facility" means an adult family home or an 12615
adult group home. For the purposes of this chapter, any residence, 12616
facility, institution, hotel, congregate housing project, or 12617
similar facility that provides accommodations and supervision to 12618
three to sixteen unrelated adults, at least three of whom are 12619
provided personal care services, is an adult care facility 12620
regardless of how the facility holds itself out to the public. 12621
"Adult care facility" does not include: 12622

(a) A facility operated by a hospice care program licensed 12623
under section 3712.04 of the Revised Code that is used exclusively 12624
for care of hospice patients; 12625

(b) A nursing home, residential care facility, or home for 12626
the aging as defined in section 3721.01 of the Revised Code; 12627

(c) A community alternative home as defined in section 12628
3724.01 of the Revised Code; 12629

(d) An alcohol and drug addiction program as defined in 12630
section 3793.01 of the Revised Code; 12631

(e) A residential facility for the mentally ill licensed by 12632
the department of mental health under section 5119.22 of the 12633
Revised Code; 12634

- (f) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code; 12635
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- (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; 12637
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- (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 services or skilled nursing care; 12640
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- (i) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless; 12647
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- (j) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code; 12651
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- (k) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for the placement and care of veterans; 12654
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- (l) Until January 1, 1994, the portion of a facility in which care is provided exclusively to members of a religious order if the facility is owned by or part of a nonprofit institution of higher education authorized to award degrees by the Ohio board of regents under Chapter 1713. of the Revised Code. 12658
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- (10) "Residents' rights advocate" means: 12663
- (a) An employee or representative of any state or local 12664

government entity that has a responsibility for residents of adult care facilities and has registered with the department of health under section 3701.07 of the Revised Code;

(b) An employee or representative, other than a manager or employee of an adult care facility or nursing home, of any private nonprofit corporation or association that qualifies for tax-exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has registered with the department of health under section 3701.07 of the Revised Code, and whose purposes include educating and counseling residents, assisting residents in resolving problems and complaints concerning their care and treatment, and assisting them in securing adequate services.

(11) "Sponsor" means an adult relative, friend, or guardian of a resident of an adult care facility who has an interest in or responsibility for the resident's welfare.

(12) "Ombudsperson" means a "representative of the office of the state long-term care ombudsperson program" as defined in section 173.14 of the Revised Code.

(13) "Mental health agency" means a community mental health agency, as defined in section 5119.22 of the Revised Code, under contract with a board of alcohol, drug addiction, and mental health services pursuant to division (A)(8)(a) of section 340.03 of the Revised Code.

(B) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(C) Nothing in division (A)(6) of this section shall be

construed to permit personal care services to be imposed upon a 12696
resident who is capable of performing the activity in question 12697
without assistance. 12698

Sec. 3727.01. (A) As used in this section, "health 12699
maintenance organization" means a public or private organization 12700
organized under the law of any state that is qualified under 12701
section 1310(d) of Title XIII of the "Public Health Service Act," 12702
87 Stat. 931 (1973), 42 U.S.C. 300e-9, or that does all of the 12703
following: 12704

(1) Provides or otherwise makes available to enrolled 12705
participants health care services including at least the following 12706
basic health care services: usual physician services, 12707
hospitalization, laboratory, x-ray, emergency and preventive 12708
service, and out-of-area coverage; 12709

(2) Is compensated, except for copayments, for the provision 12710
of basic health care services to enrolled participants by a 12711
payment that is paid on a periodic basis without regard to the 12712
date the health care services are provided and that is fixed 12713
without regard to the frequency, extent, or kind of health service 12714
actually provided; 12715

(3) Provides physician services primarily in either of the 12716
following ways: 12717

(a) Directly through physicians who are either employees or 12718
partners of the organization; 12719

(b) Through arrangements with individual physicians or one or 12720
more groups of physicians organized on a group-practice or 12721
individual-practice basis. 12722

(B) As used in this chapter: 12723

(1) "Children's hospital" has the same meaning as in section 12724
3702.51 of the Revised Code. 12725

(2) "Hospital" means an institution classified as a hospital 12726
under section 3701.07 of the Revised Code in which are provided to 12727
inpatients diagnostic, medical, surgical, obstetrical, 12728
psychiatric, or rehabilitation care for a continuous period longer 12729
than twenty-four hours or a hospital operated by a health 12730
maintenance organization. "Hospital" does not include a facility 12731
licensed under Chapter 3721. of the Revised Code, a health care 12732
facility operated by the department of mental health or the 12733
department of ~~mental retardation and~~ developmental disabilities, a 12734
health maintenance organization that does not operate a hospital, 12735
the office of any private licensed health care professional, 12736
whether organized for individual or group practice, or a clinic 12737
that provides ambulatory patient services and where patients are 12738
not regularly admitted as inpatients. "Hospital" also does not 12739
include an institution for the sick that is operated exclusively 12740
for patients who use spiritual means for healing and for whom the 12741
acceptance of medical care is inconsistent with their religious 12742
beliefs, accredited by a national accrediting organization, exempt 12743
from federal income taxation under section 501 of the Internal 12744
Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, 12745
and providing twenty-four hour nursing care pursuant to the 12746
exemption in division (E) of section 4723.32 of the Revised Code 12747
from the licensing requirements of Chapter 4723. of the Revised 12748
Code. 12749

(3) "Joint commission" means the commission formerly known as 12750
the joint commission on accreditation of healthcare organizations 12751
or the joint commission on accreditation of hospitals. 12752

Sec. 3735.58. (A) The director of mental health, the director 12753
of ~~mental retardation and~~ developmental disabilities, or the 12754
director of rehabilitation and correction may enter into contracts 12755
for the sale of land not needed by their departments and under 12756
their jurisdiction or supervision to metropolitan housing 12757

authorities for use by such an authority for a housing project or 12758
projects. Such contract may contain such conditions and terms as 12759
are, in the discretion of the directors, in the best interests of 12760
the state and the welfare of the residents of the state. 12761

(B) The director may, upon receipt of a request from a 12762
metropolitan housing authority, request the approval of the 12763
governor to sell and convey land not needed by ~~his~~ the director's 12764
department and under ~~his~~ the director's jurisdiction or 12765
supervision to an authority, subject to such terms and conditions 12766
consistent with the public interest and welfare of the residents 12767
of the state as the director considers necessary. The governor, 12768
with the approval of the controlling board, may approve the 12769
request. Such property shall be appraised at its fair market value 12770
before it is conveyed. The director of administrative services 12771
shall cause it to be appraised by three disinterested persons and 12772
shall determine the fee which each appraiser shall receive, not to 12773
exceed fifty dollars. All appraisal fees shall be paid by the 12774
authority which shall deposit with the director one hundred fifty 12775
dollars before the appraisal is made. If the deposit exceeds the 12776
appraisal fee, the balance shall be returned to the authority. The 12777
appraisal value, when approved by the director, is the purchase 12778
price. If the purchase price is not paid within ninety days after 12779
notice to the authority of the approved appraisal value, the 12780
director shall withdraw ~~his~~ approval of the appraisal value and no 12781
deed shall be delivered to the authority without the written 12782
approval of the director of the purchase price. If the purchase 12783
price is paid within ninety days, a deed shall be prepared and 12784
recorded pursuant to section 5301.13 of the Revised Code. 12785

(C) Moneys received from sales of land to a metropolitan 12786
housing authority shall be placed in the state treasury in special 12787
funds, to be used for such purposes of the department of mental 12788
health, the department of ~~mental retardation and~~ developmental 12789

disabilities, or the department of rehabilitation and correction 12790
as is appropriate. 12791

Sec. 4109.06. (A) This chapter does not apply to the 12792
following: 12793

(1) Minors who are students working on any properly guarded 12794
machines in the manual training department of any school when the 12795
work is performed under the personal supervision of an instructor; 12796

(2) Students participating in a vocational program approved 12797
by the Ohio department of education; 12798

(3) A minor participating in a play, pageant, or concert 12799
produced by an outdoor historical drama corporation, a 12800
professional traveling theatrical production, a professional 12801
concert tour, or a personal appearance tour as a professional 12802
motion picture star, or as an actor or performer in motion 12803
pictures or in radio or television productions in accordance with 12804
the rules adopted pursuant to division (A) of section 4109.05 of 12805
the Revised Code; 12806

(4) The participation, without remuneration of a minor and 12807
with the consent of a parent or guardian, in a performance given 12808
by a church, school, or academy, or at a concert or entertainment 12809
given solely for charitable purposes, or by a charitable or 12810
religious institution; 12811

(5) Minors who are employed by their parents in occupations 12812
other than occupations prohibited by rule adopted under this 12813
chapter; 12814

(6) Minors engaged in the delivery of newspapers to the 12815
consumer; 12816

(7) Minors who have received a high school diploma or a 12817
certificate of attendance from an accredited secondary school or a 12818
certificate of high school equivalence; 12819

(8) Minors who are currently heads of households or are	12820
parents contributing to the support of their children;	12821
(9) Minors engaged in lawn mowing, snow shoveling, and other	12822
related employment;	12823
(10) Minors employed in agricultural employment in connection	12824
with farms operated by their parents, grandparents, or guardians	12825
where they are members of the guardians' household. Minors are not	12826
exempt from this chapter if they reside in agricultural labor	12827
camps as defined in section 3733.41 of the Revised Code;	12828
(11) Students participating in a program to serve as precinct	12829
officers as authorized by section 3501.22 of the Revised Code.	12830
(B) Sections 4109.02, 4109.08, 4109.09, and 4109.11 of the	12831
Revised Code do not apply to the following:	12832
(1) Minors who work in a sheltered workshop operated by a	12833
county board of mental retardation <u>developmental disabilities</u> ;	12834
(2) Minors performing services for a nonprofit organization	12835
where the minor receives no compensation, except for any expenses	12836
incurred by the minor or except for meals provided to the minor;	12837
(3) Minors who are employed in agricultural employment and	12838
who do not reside in agricultural labor camps.	12839
(C) Division (D) of section 4109.07 of the Revised Code does	12840
not apply to minors who have their employment hours established as	12841
follows:	12842
(1) A minor adjudicated to be an unruly child or delinquent	12843
child who, as a result of the adjudication, is placed on probation	12844
may either file a petition in the juvenile court in whose	12845
jurisdiction the minor resides, or apply to the superintendent or	12846
to the chief administrative officer who issued the minor's age and	12847
schooling certificate pursuant to section 3331.01 of the Revised	12848
Code, alleging the restrictions on the hours of employment	12849

described in division (D) of section 4109.07 of the Revised Code 12850
will cause a substantial hardship or are not in the minor's best 12851
interests. Upon receipt of a petition or application, the court, 12852
the superintendent, or the chief administrative officer, as 12853
appropriate, shall consult with the person required to supervise 12854
the minor on probation. If after that consultation, the court, the 12855
superintendent, or the chief administrative officer finds the 12856
minor has failed to show the restrictions will result in a 12857
substantial hardship or that the restrictions are not in the 12858
minor's best interests, the court, the superintendent, or the 12859
chief administrative officer shall uphold the restrictions. If 12860
after that consultation, the court, the superintendent, or the 12861
chief administrative officer finds the minor has shown the 12862
restricted hours will cause a substantial hardship or are not in 12863
the minor's best interests, the court, the superintendent, or the 12864
chief administrative officer shall establish differing hours of 12865
employment for the minor and notify the minor and the minor's 12866
employer of those hours, which shall be binding in lieu of the 12867
restrictions on the hours of employment described in division (D) 12868
of section 4109.07 of the Revised Code. 12869

(2) Any minor to whom division (C)(1) of this section does 12870
not apply may either file a petition in the juvenile court in 12871
whose jurisdiction the person resides, or apply to the 12872
superintendent or to the chief administrative officer who issued 12873
the minor's age and schooling certificate pursuant to section 12874
3331.01 of the Revised Code, alleging the restrictions on the 12875
hours of employment described in division (D) of section 4109.07 12876
of the Revised Code will cause a substantial hardship or are not 12877
in the minor's best interests. 12878

If, as a result of a petition or application, the court, the 12879
superintendent, or the chief administrative officer, as 12880
appropriate, finds the minor has failed to show such restrictions 12881

will result in a substantial hardship or that the restrictions are 12882
not in the minor's best interests, the court, the superintendent, 12883
or the chief administrative officer shall uphold the restrictions. 12884
If the court, the superintendent, or the chief administrative 12885
officer finds the minor has shown the restricted hours will cause 12886
a substantial hardship or are not in the minor's best interests, 12887
the court, the superintendent, or the chief administrative officer 12888
shall establish the hours of employment for the minor and shall 12889
notify the minor and the minor's employer of those hours. 12890

(D) Section 4109.03, divisions (A) and (C) of section 12891
4109.02, and division (B) of section 4109.08 of the Revised Code 12892
do not apply to minors who are sixteen or seventeen years of age 12893
and who are employed at a seasonal amusement or recreational 12894
establishment. 12895

(E) As used in this section, "certificate of high school 12896
equivalence" means a statement issued by the state board of 12897
education or an equivalent agency of another state that the holder 12898
of the statement has achieved the equivalent of a high school 12899
education as measured by scores obtained on the tests of general 12900
educational development published by the American council on 12901
education. 12902

Sec. 4115.32. (A) Subject to section 4115.36 of the Revised 12903
Code, there is hereby created the state committee for the purchase 12904
of products and services provided by persons with severe 12905
disabilities. The committee shall be composed ex officio of the 12906
following persons, or their designees: 12907

(1) The directors of administrative services, mental health, 12908
~~mental retardation and~~ developmental disabilities, transportation, 12909
natural resources, and commerce; 12910

(2) The administrators of the rehabilitation services 12911
commission and the bureau of workers' compensation; 12912

(3) The secretary of state;	12913
(4) One representative of a purchasing department of a political subdivision who is designated by the governor.	12914 12915
The governor shall appoint two representatives of a qualified nonprofit agency for persons with severe disabilities, and a person with a severe disability to the committee.	12916 12917 12918
(B) Within thirty days after September 29, 1995, the governor shall appoint the representatives of a qualified nonprofit agency for persons with severe disabilities to the committee for a term ending August 31, 1996. Thereafter, terms for such representatives are for three years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each committee member shall serve from the date of the member's appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall serve as a member for the remainder of that term. A member shall serve subsequent to the expiration of the member's term and shall continue to serve until the member's successor takes office.	12919 12920 12921 12922 12923 12924 12925 12926 12927 12928 12929 12930 12931 12932 12933
(C) Members of the committee shall serve without compensation. Except as otherwise provided in divisions (C)(1) and (2) of this section, members shall be reimbursed for actual and necessary expenses, including travel expenses, incurred while away from their homes or regular places of business and incurred while performing services for the committee.	12934 12935 12936 12937 12938 12939
(1) The members listed in divisions (A)(1) to (3) of this section, or their designees, shall not be reimbursed for any expenses.	12940 12941 12942
(2) No member of the committee who is entitled to receive	12943

reimbursement for the performance of services for the committee 12944
from another agency or entity shall receive reimbursement from the 12945
committee. 12946

(D) The committee shall elect from among its members a 12947
chairperson. The committee may request from any agency of the 12948
state, political subdivision, or instrumentality of the state any 12949
information necessary to enable it to carry out the intent of 12950
sections 4115.31 to 4115.35 of the Revised Code. Upon request of 12951
the committee, the agency, subdivision, or instrumentality shall 12952
furnish the information to the chairperson of the committee. 12953

(E) The committee shall not later than one hundred eighty 12954
days following the close of each fiscal year transmit to the 12955
governor, the general assembly, and each qualified nonprofit 12956
agency for persons with severe disabilities a report that includes 12957
the names of the committee members serving during the preceding 12958
fiscal year, the dates of committee meetings in that year, and any 12959
recommendations for changes in sections 4115.31 to 4115.35 of the 12960
Revised Code that the committee determines are necessary. 12961

(F) The director of administrative services shall designate a 12962
subordinate to act as executive director of the committee and 12963
shall furnish other staff and clerical assistance, office space, 12964
and supplies required by the committee. 12965

Sec. 4141.29. Each eligible individual shall receive benefits 12966
as compensation for loss of remuneration due to involuntary total 12967
or partial unemployment in the amounts and subject to the 12968
conditions stipulated in this chapter. 12969

(A) No individual is entitled to a waiting period or benefits 12970
for any week unless the individual: 12971

(1) Has filed a valid application for determination of 12972
benefit rights in accordance with section 4141.28 of the Revised 12973

Code;	12974
(2) Has made a claim for benefits in accordance with section 4141.28 of the Revised Code;	12975 12976
(3) Has registered at an employment office or other registration place maintained or designated by the director of job and family services. Registration shall be made in accordance with the time limits, frequency, and manner prescribed by the director.	12977 12978 12979 12980
(4)(a)(i) Is able to work and available for suitable work and, except as provided in division (A)(4)(a)(ii) of this section, is actively seeking suitable work either in a locality in which the individual has earned wages subject to this chapter during the individual's base period, or if the individual leaves that locality, then in a locality where suitable work normally is performed.	12981 12982 12983 12984 12985 12986 12987
(ii) The director may waive the requirement that a claimant be actively seeking work when the director finds that the individual has been laid off and the employer who laid the individual off has notified the director within ten days after the layoff, that work is expected to be available for the individual within a specified number of days not to exceed forty-five calendar days following the last day the individual worked. In the event the individual is not recalled within the specified period, this waiver shall cease to be operative with respect to that layoff.	12988 12989 12990 12991 12992 12993 12994 12995 12996 12997
(b) The individual shall be instructed as to the efforts that the individual must make in the search for suitable work, except where the active search for work requirement has been waived under division (A)(4)(a) of this section, and shall keep a record of where and when the individual has sought work in complying with those instructions and, upon request, shall produce that record for examination by the director.	12998 12999 13000 13001 13002 13003 13004

(c) An individual who is attending a training course approved 13005
by the director meets the requirement of this division, if 13006
attendance was recommended by the director and the individual is 13007
regularly attending the course and is making satisfactory 13008
progress. An individual also meets the requirements of this 13009
division if the individual is participating and advancing in a 13010
training program, as defined in division (P) of section 5709.61 of 13011
the Revised Code, and if an enterprise, defined in division (B) of 13012
section 5709.61 of the Revised Code, is paying all or part of the 13013
cost of the individual's participation in the training program 13014
with the intention of hiring the individual for employment as a 13015
new employee, as defined in division (L) of section 5709.61 of the 13016
Revised Code, for at least ninety days after the individual's 13017
completion of the training program. 13018

(d) An individual who becomes unemployed while attending a 13019
regularly established school and whose base period qualifying 13020
weeks were earned in whole or in part while attending that school, 13021
meets the availability and active search for work requirements of 13022
division (A)(4)(a) of this section if the individual regularly 13023
attends the school during weeks with respect to which the 13024
individual claims unemployment benefits and makes self available 13025
on any shift of hours for suitable employment with the 13026
individual's most recent employer or any other employer in the 13027
individual's base period, or for any other suitable employment to 13028
which the individual is directed, under this chapter. 13029

(e) The director shall adopt any rules that the director 13030
deems necessary for the administration of division (A)(4) of this 13031
section. 13032

(f) Notwithstanding any other provisions of this section, no 13033
otherwise eligible individual shall be denied benefits for any 13034
week because the individual is in training approved under section 13035
236(a)(1) of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 13036

2296, nor shall that individual be denied benefits by reason of 13037
leaving work to enter such training, provided the work left is not 13038
suitable employment, or because of the application to any week in 13039
training of provisions in this chapter, or any applicable federal 13040
unemployment compensation law, relating to availability for work, 13041
active search for work, or refusal to accept work. 13042

For the purposes of division (A)(4)(f) of this section, 13043
"suitable employment" means with respect to an individual, work of 13044
a substantially equal or higher skill level than the individual's 13045
past adversely affected employment, as defined for the purposes of 13046
the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, and 13047
wages for such work at not less than eighty per cent of the 13048
individual's average weekly wage as determined for the purposes of 13049
that federal act. 13050

(5) Is unable to obtain suitable work. An individual who is 13051
provided temporary work assignments by the individual's employer 13052
under agreed terms and conditions of employment, and who is 13053
required pursuant to those terms and conditions to inquire with 13054
the individual's employer for available work assignments upon the 13055
conclusion of each work assignment, is not considered unable to 13056
obtain suitable employment if suitable work assignments are 13057
available with the employer but the individual fails to contact 13058
the employer to inquire about work assignments. 13059

(6) Participates in reemployment services, such as job search 13060
assistance services, if the individual has been determined to be 13061
likely to exhaust benefits under this chapter, including 13062
compensation payable pursuant to 5 U.S.C.A. Chapter 85, other than 13063
extended compensation, and needs reemployment services pursuant to 13064
the profiling system established by the director under division 13065
(K) of this section, unless the director determines that: 13066

(a) The individual has completed such services; or 13067

(b) There is justifiable cause for the claimant's failure to participate in such services. 13068
13069

(B) An individual suffering total or partial unemployment is eligible for benefits for unemployment occurring subsequent to a waiting period of one week and no benefits shall be payable during this required waiting period. Not more than one week of waiting period shall be required of any individual in any benefit year in order to establish the individual's eligibility for total or partial unemployment benefits. 13070
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(C) The waiting period for total or partial unemployment shall commence on the first day of the first week with respect to which the individual first files a claim for benefits at an employment office or other place of registration maintained or designated by the director or on the first day of the first week with respect to which the individual has otherwise filed a claim for benefits in accordance with the rules of the department of job and family services, provided such claim is allowed by the director. 13077
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(D) Notwithstanding division (A) of this section, no individual may serve a waiting period or be paid benefits under the following conditions: 13086
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13088

(1) For any week with respect to which the director finds that: 13089
13090

(a) The individual's unemployment was due to a labor dispute other than a lockout at any factory, establishment, or other premises located in this or any other state and owned or operated by the employer by which the individual is or was last employed; and for so long as the individual's unemployment is due to such labor dispute. No individual shall be disqualified under this provision if either of the following applies: 13091
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(i) The individual's employment was with such employer at any 13098

factory, establishment, or premises located in this state, owned 13099
or operated by such employer, other than the factory, 13100
establishment, or premises at which the labor dispute exists, if 13101
it is shown that the individual is not financing, participating 13102
in, or directly interested in such labor dispute; 13103

(ii) The individual's employment was with an employer not 13104
involved in the labor dispute but whose place of business was 13105
located within the same premises as the employer engaged in the 13106
dispute, unless the individual's employer is a wholly owned 13107
subsidiary of the employer engaged in the dispute, or unless the 13108
individual actively participates in or voluntarily stops work 13109
because of such dispute. If it is established that the claimant 13110
was laid off for an indefinite period and not recalled to work 13111
prior to the dispute, or was separated by the employer prior to 13112
the dispute for reasons other than the labor dispute, or that the 13113
individual obtained a bona fide job with another employer while 13114
the dispute was still in progress, such labor dispute shall not 13115
render the employee ineligible for benefits. 13116

(b) The individual has been given a disciplinary layoff for 13117
misconduct in connection with the individual's work. 13118

(2) For the duration of the individual's unemployment if the 13119
director finds that: 13120

(a) The individual quit work without just cause or has been 13121
discharged for just cause in connection with the individual's 13122
work, provided division (D)(2) of this section does not apply to 13123
the separation of a person under any of the following 13124
circumstances: 13125

(i) Separation from employment for the purpose of entering 13126
the armed forces of the United States if the individual is 13127
inducted into the armed forces within one of the following 13128
periods: 13129

(I) Thirty days after separation;	13130
(II) One hundred eighty days after separation if the individual's date of induction is delayed solely at the discretion of the armed forces.	13131 13132 13133
(ii) Separation from employment pursuant to a labor-management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employee, because of lack of work, to accept a separation from employment;	13134 13135 13136 13137 13138
(iii) The individual has left employment to accept a recall from a prior employer or, except as provided in division (D)(2)(a)(iv) of this section, to accept other employment as provided under section 4141.291 of the Revised Code, or left or was separated from employment that was concurrent employment at the time of the most recent separation or within six weeks prior to the most recent separation where the remuneration, hours, or other conditions of such concurrent employment were substantially less favorable than the individual's most recent employment and where such employment, if offered as new work, would be considered not suitable under the provisions of divisions (E) and (F) of this section. Any benefits that would otherwise be chargeable to the account of the employer from whom an individual has left employment or was separated from employment that was concurrent employment under conditions described in division (D)(2)(a)(iii) of this section, shall instead be charged to the mutualized account created by division (B) of section 4141.25 of the Revised Code, except that any benefits chargeable to the account of a reimbursing employer under division (D)(2)(a)(iii) of this section shall be charged to the account of the reimbursing employer and not to the mutualized account, except as provided in division (D)(2) of section 4141.24 of the Revised Code.	13139 13140 13141 13142 13143 13144 13145 13146 13147 13148 13149 13150 13151 13152 13153 13154 13155 13156 13157 13158 13159 13160
(iv) When an individual has been issued a definite layoff	13161

date by the individual's employer and before the layoff date, the 13162
individual quits to accept other employment, the provisions of 13163
division (D)(2)(a)(iii) of this section apply and no 13164
disqualification shall be imposed under division (D) of this 13165
section. However, if the individual fails to meet the employment 13166
and earnings requirements of division (A)(2) of section 4141.291 13167
of the Revised Code, then the individual, pursuant to division 13168
(A)(5) of this section, shall be ineligible for benefits for any 13169
week of unemployment that occurs prior to the layoff date. 13170

(b) The individual has refused without good cause to accept 13171
an offer of suitable work when made by an employer either in 13172
person or to the individual's last known address, or has refused 13173
or failed to investigate a referral to suitable work when directed 13174
to do so by a local employment office of this state or another 13175
state, provided that this division shall not cause a 13176
disqualification for a waiting week or benefits under the 13177
following circumstances: 13178

(i) When work is offered by the individual's employer and the 13179
individual is not required to accept the offer pursuant to the 13180
terms of the labor-management contract or agreement; or 13181

(ii) When the individual is attending a training course 13182
pursuant to division (A)(4) of this section except, in the event 13183
of a refusal to accept an offer of suitable work or a refusal or 13184
failure to investigate a referral, benefits thereafter paid to 13185
such individual shall not be charged to the account of any 13186
employer and, except as provided in division (B)(1)(b) of section 13187
4141.241 of the Revised Code, shall be charged to the mutualized 13188
account as provided in division (B) of section 4141.25 of the 13189
Revised Code. 13190

(c) Such individual quit work to marry or because of marital, 13191
parental, filial, or other domestic obligations. 13192

(d) The individual became unemployed by reason of commitment 13193
to any correctional institution. 13194

(e) The individual became unemployed because of dishonesty in 13195
connection with the individual's most recent or any base period 13196
work. Remuneration earned in such work shall be excluded from the 13197
individual's total base period remuneration and qualifying weeks 13198
that otherwise would be credited to the individual for such work 13199
in the individual's base period shall not be credited for the 13200
purpose of determining the total benefits to which the individual 13201
is eligible and the weekly benefit amount to be paid under section 13202
4141.30 of the Revised Code. Such excluded remuneration and 13203
noncredited qualifying weeks shall be excluded from the 13204
calculation of the maximum amount to be charged, under division 13205
(D) of section 4141.24 and section 4141.33 of the Revised Code, 13206
against the accounts of the individual's base period employers. In 13207
addition, no benefits shall thereafter be paid to the individual 13208
based upon such excluded remuneration or noncredited qualifying 13209
weeks. 13210

For purposes of division (D)(2)(e) of this section, 13211
"dishonesty" means the commission of substantive theft, fraud, or 13212
deceitful acts. 13213

(E) No individual otherwise qualified to receive benefits 13214
shall lose the right to benefits by reason of a refusal to accept 13215
new work if: 13216

(1) As a condition of being so employed the individual would 13217
be required to join a company union, or to resign from or refrain 13218
from joining any bona fide labor organization, or would be denied 13219
the right to retain membership in and observe the lawful rules of 13220
any such organization. 13221

(2) The position offered is vacant due directly to a strike, 13222
lockout, or other labor dispute. 13223

(3) The work is at an unreasonable distance from the individual's residence, having regard to the character of the work the individual has been accustomed to do, and travel to the place of work involves expenses substantially greater than that required for the individual's former work, unless the expense is provided for.

(4) The remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(F) Subject to the special exceptions contained in division (A)(4)(f) of this section and section 4141.301 of the Revised Code, in determining whether any work is suitable for a claimant in the administration of this chapter, the director, in addition to the determination required under division (E) of this section, shall consider the degree of risk to the claimant's health, safety, and morals, the individual's physical fitness for the work, the individual's prior training and experience, the length of the individual's unemployment, the distance of the available work from the individual's residence, and the individual's prospects for obtaining local work.

(G) The "duration of unemployment" as used in this section means the full period of unemployment next ensuing after a separation from any base period or subsequent work and until an individual has become reemployed in employment subject to this chapter, or the unemployment compensation act of another state, or of the United States, and until such individual has worked six weeks and for those weeks has earned or been paid remuneration equal to six times an average weekly wage of not less than: eighty-five dollars and ten cents per week beginning on June 26, 1990; and beginning on and after January 1, 1992, twenty-seven and one-half per cent of the statewide average weekly wage as computed each first day of January under division (B)(3) of section 4141.30

of the Revised Code, rounded down to the nearest dollar, except 13256
for purposes of division (D)(2)(c) of this section, such term 13257
means the full period of unemployment next ensuing after a 13258
separation from such work and until such individual has become 13259
reemployed subject to the terms set forth above, and has earned 13260
wages equal to one-half of the individual's average weekly wage or 13261
sixty dollars, whichever is less. 13262

(H) If a claimant is disqualified under division (D)(2)(a), 13263
(c), or (d) of this section or found to be qualified under the 13264
exceptions provided in division (D)(2)(a)(i), (iii), or (iv) of 13265
this section or division (A)(2) of section 4141.291 of the Revised 13266
Code, then benefits that may become payable to such claimant, 13267
which are chargeable to the account of the employer from whom the 13268
individual was separated under such conditions, shall be charged 13269
to the mutualized account provided in section 4141.25 of the 13270
Revised Code, provided that no charge shall be made to the 13271
mutualized account for benefits chargeable to a reimbursing 13272
employer, except as provided in division (D)(2) of section 4141.24 13273
of the Revised Code. In the case of a reimbursing employer, the 13274
director shall refund or credit to the account of the reimbursing 13275
employer any over-paid benefits that are recovered under division 13276
(B) of section 4141.35 of the Revised Code. Amounts chargeable to 13277
other states, the United States, or Canada that are subject to 13278
agreements and arrangements that are established pursuant to 13279
section 4141.43 of the Revised Code shall be credited or 13280
reimbursed according to the agreements and arrangements to which 13281
the chargeable amounts are subject. 13282

(I)(1) Benefits based on service in employment as provided in 13283
divisions (B)(2)(a) and (b) of section 4141.01 of the Revised Code 13284
shall be payable in the same amount, on the same terms, and 13285
subject to the same conditions as benefits payable on the basis of 13286
other service subject to this chapter; except that after December 13287

31, 1977: 13288

(a) Benefits based on service in an instructional, research, 13289
or principal administrative capacity in an institution of higher 13290
education, as defined in division (Y) of section 4141.01 of the 13291
Revised Code; or for an educational institution as defined in 13292
division (CC) of section 4141.01 of the Revised Code, shall not be 13293
paid to any individual for any week of unemployment that begins 13294
during the period between two successive academic years or terms, 13295
or during a similar period between two regular but not successive 13296
terms or during a period of paid sabbatical leave provided for in 13297
the individual's contract, if the individual performs such 13298
services in the first of those academic years or terms and has a 13299
contract or a reasonable assurance that the individual will 13300
perform services in any such capacity for any such institution in 13301
the second of those academic years or terms. 13302

(b) Benefits based on service for an educational institution 13303
or an institution of higher education in other than an 13304
instructional, research, or principal administrative capacity, 13305
shall not be paid to any individual for any week of unemployment 13306
which begins during the period between two successive academic 13307
years or terms of the employing educational institution or 13308
institution of higher education, provided the individual performed 13309
those services for the educational institution or institution of 13310
higher education during the first such academic year or term and, 13311
there is a reasonable assurance that such individual will perform 13312
those services for any educational institution or institution of 13313
higher education in the second of such academic years or terms. 13314

If compensation is denied to any individual for any week 13315
under division (I)(1)(b) of this section and the individual was 13316
not offered an opportunity to perform those services for an 13317
institution of higher education or for an educational institution 13318
for the second of such academic years or terms, the individual is 13319

entitled to a retroactive payment of compensation for each week 13320
for which the individual timely filed a claim for compensation and 13321
for which compensation was denied solely by reason of division 13322
(I)(1)(b) of this section. An application for retroactive benefits 13323
shall be timely filed if received by the director or the 13324
director's deputy within or prior to the end of the fourth full 13325
calendar week after the end of the period for which benefits were 13326
denied because of reasonable assurance of employment. The 13327
provision for the payment of retroactive benefits under division 13328
(I)(1)(b) of this section is applicable to weeks of unemployment 13329
beginning on and after November 18, 1983. The provisions under 13330
division (I)(1)(b) of this section shall be retroactive to 13331
September 5, 1982, only if, as a condition for full tax credit 13332
against the tax imposed by the "Federal Unemployment Tax Act," 53 13333
Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311, the United States 13334
secretary of labor determines that retroactivity is required by 13335
federal law. 13336

(c) With respect to weeks of unemployment beginning after 13337
December 31, 1977, benefits shall be denied to any individual for 13338
any week which commences during an established and customary 13339
vacation period or holiday recess, if the individual performs any 13340
services described in divisions (I)(1)(a) and (b) of this section 13341
in the period immediately before the vacation period or holiday 13342
recess, and there is a reasonable assurance that the individual 13343
will perform any such services in the period immediately following 13344
the vacation period or holiday recess. 13345

(d) With respect to any services described in division 13346
(I)(1)(a), (b), or (c) of this section, benefits payable on the 13347
basis of services in any such capacity shall be denied as 13348
specified in division (I)(1)(a), (b), or (c) of this section to 13349
any individual who performs such services in an educational 13350
institution or institution of higher education while in the employ 13351

of an educational service agency. For this purpose, the term 13352
"educational service agency" means a governmental agency or 13353
governmental entity that is established and operated exclusively 13354
for the purpose of providing services to one or more educational 13355
institutions or one or more institutions of higher education. 13356

(e) Any individual employed by a public school district or a 13357
county board of ~~mental retardation~~ developmental disabilities 13358
shall be notified by the thirtieth day of April each year if the 13359
individual is not to be reemployed the following academic year. 13360

(2) No disqualification will be imposed, between academic 13361
years or terms or during a vacation period or holiday recess under 13362
this division, unless the director or the director's deputy has 13363
received a statement in writing from the educational institution 13364
or institution of higher education that the claimant has a 13365
contract for, or a reasonable assurance of, reemployment for the 13366
ensuing academic year or term. 13367

(3) If an individual has employment with an educational 13368
institution or an institution of higher education and employment 13369
with a noneducational employer, during the base period of the 13370
individual's benefit year, then the individual may become eligible 13371
for benefits during the between-term, or vacation or holiday 13372
recess, disqualification period, based on employment performed for 13373
the noneducational employer, provided that the employment is 13374
sufficient to qualify the individual for benefit rights separately 13375
from the benefit rights based on school employment. The weekly 13376
benefit amount and maximum benefits payable during a 13377
disqualification period shall be computed based solely on the 13378
nonschool employment. 13379

(J) Benefits shall not be paid on the basis of employment 13380
performed by an alien, unless the alien had been lawfully admitted 13381
to the United States for permanent residence at the time the 13382
services were performed, was lawfully present for purposes of 13383

performing the services, or was otherwise permanently residing in 13384
the United States under color of law at the time the services were 13385
performed, under section 212(d)(5) of the "Immigration and 13386
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101: 13387

(1) Any data or information required of individuals applying 13388
for benefits to determine whether benefits are not payable to them 13389
because of their alien status shall be uniformly required from all 13390
applicants for benefits. 13391

(2) In the case of an individual whose application for 13392
benefits would otherwise be approved, no determination that 13393
benefits to the individual are not payable because of the 13394
individual's alien status shall be made except upon a 13395
preponderance of the evidence that the individual had not, in 13396
fact, been lawfully admitted to the United States. 13397

(K) The director shall establish and utilize a system of 13398
profiling all new claimants under this chapter that: 13399

(1) Identifies which claimants will be likely to exhaust 13400
regular compensation and will need job search assistance services 13401
to make a successful transition to new employment; 13402

(2) Refers claimants identified pursuant to division (K)(1) 13403
of this section to reemployment services, such as job search 13404
assistance services, available under any state or federal law; 13405

(3) Collects follow-up information relating to the services 13406
received by such claimants and the employment outcomes for such 13407
claimant's subsequent to receiving such services and utilizes such 13408
information in making identifications pursuant to division (K)(1) 13409
of this section; and 13410

(4) Meets such other requirements as the United States 13411
secretary of labor determines are appropriate. 13412

Sec. 4511.21. (A) No person shall operate a motor vehicle, 13413

trackless trolley, or streetcar at a speed greater or less than is 13414
reasonable or proper, having due regard to the traffic, surface, 13415
and width of the street or highway and any other conditions, and 13416
no person shall drive any motor vehicle, trackless trolley, or 13417
streetcar in and upon any street or highway at a greater speed 13418
than will permit the person to bring it to a stop within the 13419
assured clear distance ahead. 13420

(B) It is prima-facie lawful, in the absence of a lower limit 13421
declared pursuant to this section by the director of 13422
transportation or local authorities, for the operator of a motor 13423
vehicle, trackless trolley, or streetcar to operate the same at a 13424
speed not exceeding the following: 13425

(1)(a) Twenty miles per hour in school zones during school 13426
recess and while children are going to or leaving school during 13427
the opening or closing hours, and when twenty miles per hour 13428
school speed limit signs are erected; except that, on 13429
controlled-access highways and expressways, if the right-of-way 13430
line fence has been erected without pedestrian opening, the speed 13431
shall be governed by division (B)(4) of this section and on 13432
freeways, if the right-of-way line fence has been erected without 13433
pedestrian opening, the speed shall be governed by divisions 13434
(B)(9) and (10) of this section. The end of every school zone may 13435
be marked by a sign indicating the end of the zone. Nothing in 13436
this section or in the manual and specifications for a uniform 13437
system of traffic control devices shall be construed to require 13438
school zones to be indicated by signs equipped with flashing or 13439
other lights, or giving other special notice of the hours in which 13440
the school zone speed limit is in effect. 13441

(b) As used in this section and in section 4511.212 of the 13442
Revised Code, "school" means any school chartered under section 13443
3301.16 of the Revised Code and any nonchartered school that 13444
during the preceding year filed with the department of education 13445

in compliance with rule 3301-35-08 of the Ohio Administrative Code, a copy of the school's report for the parents of the school's pupils certifying that the school meets Ohio minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone. "School" also includes a special elementary school that in writing requests the county engineer of the county in which the special elementary school is located to create a school zone at the location of that school. Upon receipt of such a written request, the county engineer shall create a school zone at that location by erecting the appropriate signs.

(c) As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway, and also includes that portion of a state highway. Upon request from local authorities for streets and highways under their jurisdiction and that portion of a state highway under the jurisdiction of the director of transportation or a request from a county engineer in the case of a school zone for a special elementary school, the director may extend the traditional school zone boundaries. The distances in divisions (B)(1)(c)(i), (ii), and (iii) of this section shall not exceed three hundred feet per approach per direction and are bounded by whichever of the following distances or combinations thereof the director approves as most appropriate:

(i) The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of three hundred feet on each approach direction;

(ii) The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of three hundred feet on each approach direction;

(iii) The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of three hundred feet on each approach direction of the highway.

Nothing in this section shall be construed to invalidate the director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in divisions (B)(1)(a) and (c) of this section.

(d) As used in this division, "crosswalk" has the meaning given that term in division (LL)(2) of section 4511.01 of the Revised Code.

The director may, upon request by resolution of the legislative authority of a municipal corporation, the board of trustees of a township, or a county board of ~~mental retardation~~ and developmental disabilities created pursuant to Chapter 5126. of the Revised Code, and upon submission by the municipal corporation, township, or county board of such engineering, traffic, and other information as the director considers necessary, designate a school zone on any portion of a state route lying within the municipal corporation, lying within the unincorporated territory of the township, or lying adjacent to the property of a school that is operated by such county board, that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than one thousand three hundred twenty feet. Such a school zone shall include the distance encompassed by the crosswalk and extending three hundred feet on each approach direction of the state route.

(e) As used in this section, "special elementary school"

means a school that meets all of the following criteria:	13510
(i) It is not chartered and does not receive tax revenue from any source.	13511 13512
(ii) It does not educate children beyond the eighth grade.	13513
(iii) It is located outside the limits of a municipal corporation.	13514 13515
(iv) A majority of the total number of students enrolled at the school are not related by blood.	13516 13517
(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.	13518 13519 13520 13521 13522 13523
(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;	13524 13525 13526 13527
(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;	13528 13529 13530
(4) Fifty miles per hour on controlled-access highways and expressways within municipal corporations;	13531 13532
(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 division (B)(13) of this section;	13533 13534 13535 13536
(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;	13537 13538 13539

(7) Fifteen miles per hour on all alleys within the municipal corporation;	13540 13541
(8) Thirty-five miles per hour on highways outside municipal corporations that are within an island jurisdiction;	13542 13543
(9) Fifty-five miles per hour at all times on freeways with paved shoulders inside municipal corporations, other than freeways as provided in division (B)(13) of this section;	13544 13545 13546
(10) Fifty-five miles per hour at all times on freeways outside municipal corporations, other than freeways as provided in division (B)(13) of this section;	13547 13548 13549
(11) Fifty-five miles per hour at all times on all portions of freeways that are part of the interstate system and on all portions of freeways that are not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system for operators of any motor vehicle weighing in excess of eight thousand pounds empty weight and any noncommercial bus;	13550 13551 13552 13553 13554 13555 13556
(12) Fifty-five miles per hour for operators of any motor vehicle weighing eight thousand pounds or less empty weight and any commercial bus at all times on all portions of freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995, and freeways that are not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995, unless a higher speed limit is established under division (L) of this section;	13557 13558 13559 13560 13561 13562 13563 13564 13565 13566
(13) Sixty-five miles per hour for operators of any motor vehicle weighing eight thousand pounds or less empty weight and any commercial bus at all times on all portions of the following:	13567 13568 13569
(a) Freeways that are part of the interstate system and that	13570

had such a speed limit established prior to October 1, 1995, and 13571
freeways that are not part of the interstate system, but are built 13572
to the standards and specifications that are applicable to 13573
freeways that are part of the interstate system and that had such 13574
a speed limit established prior to October 1, 1995; 13575

(b) Freeways that are part of the interstate system and 13576
freeways that are not part of the interstate system but are built 13577
to the standards and specifications that are applicable to 13578
freeways that are part of the interstate system, and that had such 13579
a speed limit established under division (L) of this section; 13580

(c) Rural, divided, multi-lane highways that are designated 13581
as part of the national highway system under the "National Highway 13582
System Designation Act of 1995," 109 Stat. 568, 23 U.S.C.A. 103, 13583
and that had such a speed limit established under division (M) of 13584
this section. 13585

(C) It is prima-facie unlawful for any person to exceed any 13586
of the speed limitations in divisions (B)(1)(a), (2), (3), (4), 13587
(6), (7), and (8) of this section, or any declared pursuant to 13588
this section by the director or local authorities and it is 13589
unlawful for any person to exceed any of the speed limitations in 13590
division (D) of this section. No person shall be convicted of more 13591
than one violation of this section for the same conduct, although 13592
violations of more than one provision of this section may be 13593
charged in the alternative in a single affidavit. 13594

(D) No person shall operate a motor vehicle, trackless 13595
trolley, or streetcar upon a street or highway as follows: 13596

(1) At a speed exceeding fifty-five miles per hour, except 13597
upon a freeway as provided in division (B)(13) of this section; 13598

(2) At a speed exceeding sixty-five miles per hour upon a 13599
freeway as provided in division (B)(13) of this section except as 13600
otherwise provided in division (D)(3) of this section; 13601

(3) If a motor vehicle weighing in excess of eight thousand 13602
pounds empty weight or a noncommercial bus as prescribed in 13603
division (B)(11) of this section, at a speed exceeding fifty-five 13604
miles per hour upon a freeway as provided in that division; 13605

(4) At a speed exceeding the posted speed limit upon a 13606
freeway for which the director has determined and declared a speed 13607
limit of not more than sixty-five miles per hour pursuant to 13608
division (L)(2) or (M) of this section; 13609

(5) At a speed exceeding sixty-five miles per hour upon a 13610
freeway for which such a speed limit has been established through 13611
the operation of division (L)(3) of this section; 13612

(6) At a speed exceeding the posted speed limit upon a 13613
freeway for which the director has determined and declared a speed 13614
limit pursuant to division (I)(2) of this section. 13615

(E) In every charge of violation of this section the 13616
affidavit and warrant shall specify the time, place, and speed at 13617
which the defendant is alleged to have driven, and in charges made 13618
in reliance upon division (C) of this section also the speed which 13619
division (B)(1)(a), (2), (3), (4), (6), (7), or (8) of, or a limit 13620
declared pursuant to, this section declares is prima-facie lawful 13621
at the time and place of such alleged violation, except that in 13622
affidavits where a person is alleged to have driven at a greater 13623
speed than will permit the person to bring the vehicle to a stop 13624
within the assured clear distance ahead the affidavit and warrant 13625
need not specify the speed at which the defendant is alleged to 13626
have driven. 13627

(F) When a speed in excess of both a prima-facie limitation 13628
and a limitation in division (D)(1), (2), (3), (4), (5), or (6) of 13629
this section is alleged, the defendant shall be charged in a 13630
single affidavit, alleging a single act, with a violation 13631
indicated of both division (B)(1)(a), (2), (3), (4), (6), (7), or 13632

(8) of this section, or of a limit declared pursuant to this 13633
section by the director or local authorities, and of the 13634
limitation in division (D)(1), (2), (3), (4), (5), or (6) of this 13635
section. If the court finds a violation of division (B)(1)(a), 13636
(2), (3), (4), (6), (7), or (8) of, or a limit declared pursuant 13637
to, this section has occurred, it shall enter a judgment of 13638
conviction under such division and dismiss the charge under 13639
division (D)(1), (2), (3), (4), (5), or (6) of this section. If it 13640
finds no violation of division (B)(1)(a), (2), (3), (4), (6), (7), 13641
or (8) of, or a limit declared pursuant to, this section, it shall 13642
then consider whether the evidence supports a conviction under 13643
division (D)(1), (2), (3), (4), (5), or (6) of this section. 13644

(G) Points shall be assessed for violation of a limitation 13645
under division (D) of this section in accordance with section 13646
4510.036 of the Revised Code. 13647

(H) Whenever the director determines upon the basis of a 13648
geometric and traffic characteristic study that any speed limit 13649
set forth in divisions (B)(1)(a) to (D) of this section is greater 13650
or less than is reasonable or safe under the conditions found to 13651
exist at any portion of a street or highway under the jurisdiction 13652
of the director, the director shall determine and declare a 13653
reasonable and safe prima-facie speed limit, which shall be 13654
effective when appropriate signs giving notice of it are erected 13655
at the location. 13656

(I)(1) Except as provided in divisions (I)(2) and (K) of this 13657
section, whenever local authorities determine upon the basis of an 13658
engineering and traffic investigation that the speed permitted by 13659
divisions (B)(1)(a) to (D) of this section, on any part of a 13660
highway under their jurisdiction, is greater than is reasonable 13661
and safe under the conditions found to exist at such location, the 13662
local authorities may by resolution request the director to 13663
determine and declare a reasonable and safe prima-facie speed 13664

limit. Upon receipt of such request the director may determine and
declare a reasonable and safe prima-facie speed limit at such
location, and if the director does so, then such declared speed
limit shall become effective only when appropriate signs giving
notice thereof are erected at such location by the local
authorities. The director may withdraw the declaration of a
prima-facie speed limit whenever in the director's opinion the
altered prima-facie speed becomes unreasonable. Upon such
withdrawal, the declared prima-facie speed shall become
ineffective and the signs relating thereto shall be immediately
removed by the local authorities.

(2) A local authority may determine on the basis of a
geometric and traffic characteristic study that the speed limit of
sixty-five miles per hour on a portion of a freeway under its
jurisdiction that was established through the operation of
division (L)(3) of this section is greater than is reasonable or
safe under the conditions found to exist at that portion of the
freeway. If the local authority makes such a determination, the
local authority by resolution may request the director to
determine and declare a reasonable and safe speed limit of not
less than fifty-five miles per hour for that portion of the
freeway. If the director takes such action, the declared speed
limit becomes effective only when appropriate signs giving notice
of it are erected at such location by the local authority.

(J) Local authorities in their respective jurisdictions may
authorize by ordinance higher prima-facie speeds than those stated
in this section upon through highways, or upon highways or
portions thereof where there are no intersections, or between
widely spaced intersections, provided signs are erected giving
notice of the authorized speed, but local authorities shall not
modify or alter the basic rule set forth in division (A) of this
section or in any event authorize by ordinance a speed in excess

of fifty miles per hour. 13697

Alteration of prima-facie limits on state routes by local 13698
authorities shall not be effective until the alteration has been 13699
approved by the director. The director may withdraw approval of 13700
any altered prima-facie speed limits whenever in the director's 13701
opinion any altered prima-facie speed becomes unreasonable, and 13702
upon such withdrawal, the altered prima-facie speed shall become 13703
ineffective and the signs relating thereto shall be immediately 13704
removed by the local authorities. 13705

(K)(1) As used in divisions (K)(1), (2), (3), and (4) of this 13706
section, "unimproved highway" means a highway consisting of any of 13707
the following: 13708

(a) Unimproved earth; 13709

(b) Unimproved graded and drained earth; 13710

(c) Gravel. 13711

(2) Except as otherwise provided in divisions (K)(4) and (5) 13712
of this section, whenever a board of township trustees determines 13713
upon the basis of an engineering and traffic investigation that 13714
the speed permitted by division (B)(5) of this section on any part 13715
of an unimproved highway under its jurisdiction and in the 13716
unincorporated territory of the township is greater than is 13717
reasonable or safe under the conditions found to exist at the 13718
location, the board may by resolution declare a reasonable and 13719
safe prima-facie speed limit of fifty-five but not less than 13720
twenty-five miles per hour. An altered speed limit adopted by a 13721
board of township trustees under this division becomes effective 13722
when appropriate traffic control devices, as prescribed in section 13723
4511.11 of the Revised Code, giving notice thereof are erected at 13724
the location, which shall be no sooner than sixty days after 13725
adoption of the resolution. 13726

(3)(a) Whenever, in the opinion of a board of township 13727

trustees, any altered prima-facie speed limit established by the 13728
board under this division becomes unreasonable, the board may 13729
adopt a resolution withdrawing the altered prima-facie speed 13730
limit. Upon the adoption of such a resolution, the altered 13731
prima-facie speed limit becomes ineffective and the traffic 13732
control devices relating thereto shall be immediately removed. 13733

(b) Whenever a highway ceases to be an unimproved highway and 13734
the board has adopted an altered prima-facie speed limit pursuant 13735
to division (K)(2) of this section, the board shall, by 13736
resolution, withdraw the altered prima-facie speed limit as soon 13737
as the highway ceases to be unimproved. Upon the adoption of such 13738
a resolution, the altered prima-facie speed limit becomes 13739
ineffective and the traffic control devices relating thereto shall 13740
be immediately removed. 13741

(4)(a) If the boundary of two townships rests on the 13742
centerline of an unimproved highway in unincorporated territory 13743
and both townships have jurisdiction over the highway, neither of 13744
the boards of township trustees of such townships may declare an 13745
altered prima-facie speed limit pursuant to division (K)(2) of 13746
this section on the part of the highway under their joint 13747
jurisdiction unless the boards of township trustees of both of the 13748
townships determine, upon the basis of an engineering and traffic 13749
investigation, that the speed permitted by division (B)(5) of this 13750
section is greater than is reasonable or safe under the conditions 13751
found to exist at the location and both boards agree upon a 13752
reasonable and safe prima-facie speed limit of less than 13753
fifty-five but not less than twenty-five miles per hour for that 13754
location. If both boards so agree, each shall follow the procedure 13755
specified in division (K)(2) of this section for altering the 13756
prima-facie speed limit on the highway. Except as otherwise 13757
provided in division (K)(4)(b) of this section, no speed limit 13758
altered pursuant to division (K)(4)(a) of this section may be 13759

withdrawn unless the boards of township trustees of both townships 13760
determine that the altered prima-facie speed limit previously 13761
adopted becomes unreasonable and each board adopts a resolution 13762
withdrawing the altered prima-facie speed limit pursuant to the 13763
procedure specified in division (K)(3)(a) of this section. 13764

(b) Whenever a highway described in division (K)(4)(a) of 13765
this section ceases to be an unimproved highway and two boards of 13766
township trustees have adopted an altered prima-facie speed limit 13767
pursuant to division (K)(4)(a) of this section, both boards shall, 13768
by resolution, withdraw the altered prima-facie speed limit as 13769
soon as the highway ceases to be unimproved. Upon the adoption of 13770
the resolution, the altered prima-facie speed limit becomes 13771
ineffective and the traffic control devices relating thereto shall 13772
be immediately removed. 13773

(5) As used in division (K)(5) of this section: 13774

(a) "Commercial subdivision" means any platted territory 13775
outside the limits of a municipal corporation and fronting a 13776
highway where, for a distance of three hundred feet or more, the 13777
frontage is improved with buildings in use for commercial 13778
purposes, or where the entire length of the highway is less than 13779
three hundred feet long and the frontage is improved with 13780
buildings in use for commercial purposes. 13781

(b) "Residential subdivision" means any platted territory 13782
outside the limits of a municipal corporation and fronting a 13783
highway, where, for a distance of three hundred feet or more, the 13784
frontage is improved with residences or residences and buildings 13785
in use for business, or where the entire length of the highway is 13786
less than three hundred feet long and the frontage is improved 13787
with residences or residences and buildings in use for business. 13788

Whenever a board of township trustees finds upon the basis of 13789
an engineering and traffic investigation that the prima-facie 13790

speed permitted by division (B)(5) of this section on any part of 13791
a highway under its jurisdiction that is located in a commercial 13792
or residential subdivision, except on highways or portions thereof 13793
at the entrances to which vehicular traffic from the majority of 13794
intersecting highways is required to yield the right-of-way to 13795
vehicles on such highways in obedience to stop or yield signs or 13796
traffic control signals, is greater than is reasonable and safe 13797
under the conditions found to exist at the location, the board may 13798
by resolution declare a reasonable and safe prima-facie speed 13799
limit of less than fifty-five but not less than twenty-five miles 13800
per hour at the location. An altered speed limit adopted by a 13801
board of township trustees under this division shall become 13802
effective when appropriate signs giving notice thereof are erected 13803
at the location by the township. Whenever, in the opinion of a 13804
board of township trustees, any altered prima-facie speed limit 13805
established by it under this division becomes unreasonable, it may 13806
adopt a resolution withdrawing the altered prima-facie speed, and 13807
upon such withdrawal, the altered prima-facie speed shall become 13808
ineffective, and the signs relating thereto shall be immediately 13809
removed by the township. 13810

(L)(1) Within one hundred twenty days of February 29, 1996, 13811
the director of transportation, based upon a geometric and traffic 13812
characteristic study of a freeway that is part of the interstate 13813
system or that is not part of the interstate system, but is built 13814
to the standards and specifications that are applicable to 13815
freeways that are part of the interstate system, in consultation 13816
with the director of public safety and, if applicable, the local 13817
authority having jurisdiction over a portion of such freeway, may 13818
determine and declare that the speed limit of less than sixty-five 13819
miles per hour established on such freeway or portion of freeway 13820
either is reasonable and safe or is less than that which is 13821
reasonable and safe. 13822

(2) If the established speed limit for such a freeway or portion of freeway is determined to be less than that which is reasonable and safe, the director of transportation, in consultation with the director of public safety and, if applicable, the local authority having jurisdiction over the portion of freeway, shall determine and declare a reasonable and safe speed limit of not more than sixty-five miles per hour for that freeway or portion of freeway.

The director of transportation or local authority having jurisdiction over the freeway or portion of freeway shall erect appropriate signs giving notice of the speed limit at such location within one hundred fifty days of February 29, 1996. Such speed limit becomes effective only when such signs are erected at the location.

(3) If, within one hundred twenty days of February 29, 1996, the director of transportation does not make a determination and declaration of a reasonable and safe speed limit for a freeway or portion of freeway that is part of the interstate system or that is not part of the interstate system, but is built to the standards and specifications that are applicable to freeways that are part of the interstate system and that has a speed limit of less than sixty-five miles per hour, the speed limit on that freeway or portion of a freeway shall be sixty-five miles per hour. The director of transportation or local authority having jurisdiction over the freeway or portion of the freeway shall erect appropriate signs giving notice of the speed limit of sixty-five miles per hour at such location within one hundred fifty days of February 29, 1996. Such speed limit becomes effective only when such signs are erected at the location. A speed limit established through the operation of division (L)(3) of this section is subject to reduction under division (I)(2) of this section.

(M) Within three hundred sixty days after February 29, 1996, the director of transportation, based upon a geometric and traffic characteristic study of a rural, divided, multi-lane highway that has been designated as part of the national highway system under the "National Highway System Designation Act of 1995," 109 Stat. 568, 23 U.S.C.A. 103, in consultation with the director of public safety and, if applicable, the local authority having jurisdiction over a portion of the highway, may determine and declare that the speed limit of less than sixty-five miles per hour established on the highway or portion of highway either is reasonable and safe or is less than that which is reasonable and safe.

If the established speed limit for the highway or portion of highway is determined to be less than that which is reasonable and safe, the director of transportation, in consultation with the director of public safety and, if applicable, the local authority having jurisdiction over the portion of highway, shall determine and declare a reasonable and safe speed limit of not more than sixty-five miles per hour for that highway or portion of highway. The director of transportation or local authority having jurisdiction over the highway or portion of highway shall erect appropriate signs giving notice of the speed limit at such location within three hundred ninety days after February 29, 1996. The speed limit becomes effective only when such signs are erected at the location.

(N)(1)(a) If the boundary of two local authorities rests on the centerline of a highway and both authorities have jurisdiction over the highway, the speed limit for the part of the highway within their joint jurisdiction shall be either one of the following as agreed to by both authorities:

(i) Either prima-facie speed limit permitted by division (B) of this section;

(ii) An altered speed limit determined and posted in

accordance with this section. 13887

(b) If the local authorities are unable to reach an 13888
agreement, the speed limit shall remain as established and posted 13889
under this section. 13890

(2) Neither local authority may declare an altered 13891
prima-facie speed limit pursuant to this section on the part of 13892
the highway under their joint jurisdiction unless both of the 13893
local authorities determine, upon the basis of an engineering and 13894
traffic investigation, that the speed permitted by this section is 13895
greater than is reasonable or safe under the conditions found to 13896
exist at the location and both authorities agree upon a uniform 13897
reasonable and safe prima-facie speed limit of less than 13898
fifty-five but not less than twenty-five miles per hour for that 13899
location. If both authorities so agree, each shall follow the 13900
procedure specified in this section for altering the prima-facie 13901
speed limit on the highway, and the speed limit for the part of 13902
the highway within their joint jurisdiction shall be uniformly 13903
altered. No altered speed limit may be withdrawn unless both local 13904
authorities determine that the altered prima-facie speed limit 13905
previously adopted becomes unreasonable and each adopts a 13906
resolution withdrawing the altered prima-facie speed limit 13907
pursuant to the procedure specified in this section. 13908

(0) As used in this section: 13909

(1) "Interstate system" has the same meaning as in 23 13910
U.S.C.A. 101. 13911

(2) "Commercial bus" means a motor vehicle designed for 13912
carrying more than nine passengers and used for the transportation 13913
of persons for compensation. 13914

(3) "Noncommercial bus" includes but is not limited to a 13915
school bus or a motor vehicle operated solely for the 13916
transportation of persons associated with a charitable or 13917

nonprofit organization. 13918

(P)(1) A violation of any provision of this section is one of 13919
the following: 13920

(a) Except as otherwise provided in divisions (P)(1)(b), 13921
(1)(c), (2), and (3) of this section, a minor misdemeanor; 13922

(b) If, within one year of the offense, the offender 13923
previously has been convicted of or pleaded guilty to two 13924
violations of any provision of this section or of any provision of 13925
a municipal ordinance that is substantially similar to any 13926
provision of this section, a misdemeanor of the fourth degree; 13927

(c) If, within one year of the offense, the offender 13928
previously has been convicted of or pleaded guilty to three or 13929
more violations of any provision of this section or of any 13930
provision of a municipal ordinance that is substantially similar 13931
to any provision of this section, a misdemeanor of the third 13932
degree. 13933

(2) If the offender has not previously been convicted of or 13934
pleaded guilty to a violation of any provision of this section or 13935
of any provision of a municipal ordinance that is substantially 13936
similar to this section and operated a motor vehicle faster than 13937
thirty-five miles an hour in a business district of a municipal 13938
corporation, faster than fifty miles an hour in other portions of 13939
a municipal corporation, or faster than thirty-five miles an hour 13940
in a school zone during recess or while children are going to or 13941
leaving school during the school's opening or closing hours, a 13942
misdemeanor of the fourth degree. 13943

(3) Notwithstanding division (P)(1) of this section, if the 13944
offender operated a motor vehicle in a construction zone where a 13945
sign was then posted in accordance with section 4511.98 of the 13946
Revised Code, the court, in addition to all other penalties 13947
provided by law, shall impose upon the offender a fine of two 13948

times the usual amount imposed for the violation. No court shall 13949
impose a fine of two times the usual amount imposed for the 13950
violation upon an offender if the offender alleges, in an 13951
affidavit filed with the court prior to the offender's sentencing, 13952
that the offender is indigent and is unable to pay the fine 13953
imposed pursuant to this division and if the court determines that 13954
the offender is an indigent person and unable to pay the fine. 13955

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 13956
trackless trolley upon meeting or overtaking from either direction 13957
any school bus stopped for the purpose of receiving or discharging 13958
any school child, person attending programs offered by community 13959
boards of mental health and county boards of ~~mental retardation~~ 13960
~~and~~ developmental disabilities, or child attending a program 13961
offered by a head start agency, shall stop at least ten feet from 13962
the front or rear of the school bus and shall not proceed until 13963
such school bus resumes motion, or until signaled by the school 13964
bus driver to proceed. 13965

It is no defense to a charge under this division that the 13966
school bus involved failed to display or be equipped with an 13967
automatically extended stop warning sign as required by division 13968
(B) of this section. 13969

(B) Every school bus shall be equipped with amber and red 13970
visual signals meeting the requirements of section 4511.771 of the 13971
Revised Code, and an automatically extended stop warning sign of a 13972
type approved by the state board of education, which shall be 13973
actuated by the driver of the bus whenever but only whenever the 13974
bus is stopped or stopping on the roadway for the purpose of 13975
receiving or discharging school children, persons attending 13976
programs offered by community boards of mental health and county 13977
boards of ~~mental retardation and~~ developmental disabilities, or 13978
children attending programs offered by head start agencies. A 13979

school bus driver shall not actuate the visual signals or the stop 13980
warning sign in designated school bus loading areas where the bus 13981
is entirely off the roadway or at school buildings when children 13982
or persons attending programs offered by community boards of 13983
mental health and county boards of ~~mental retardation and~~ 13984
developmental disabilities are loading or unloading at curbside or 13985
at buildings when children attending programs offered by head 13986
start agencies are loading or unloading at curbside. The visual 13987
signals and stop warning sign shall be synchronized or otherwise 13988
operated as required by rule of the board. 13989

(C) Where a highway has been divided into four or more 13990
traffic lanes, a driver of a vehicle, streetcar, or trackless 13991
trolley need not stop for a school bus approaching from the 13992
opposite direction which has stopped for the purpose of receiving 13993
or discharging any school child, persons attending programs 13994
offered by community boards of mental health and county boards of 13995
~~mental retardation and~~ developmental disabilities, or children 13996
attending programs offered by head start agencies. The driver of 13997
any vehicle, streetcar, or trackless trolley overtaking the school 13998
bus shall comply with division (A) of this section. 13999

(D) School buses operating on divided highways or on highways 14000
with four or more traffic lanes shall receive and discharge all 14001
school children, persons attending programs offered by community 14002
boards of mental health and county boards of ~~mental retardation~~ 14003
~~and~~ developmental disabilities, and children attending programs 14004
offered by head start agencies on their residence side of the 14005
highway. 14006

(E) No school bus driver shall start the driver's bus until 14007
after any child, person attending programs offered by community 14008
boards of mental health and county boards of ~~mental retardation~~ 14009
~~and~~ developmental disabilities, or child attending a program 14010
offered by a head start agency who may have alighted therefrom has 14011

reached a place of safety on the child's or person's residence 14012
side of the road. 14013

(F)(1) Whoever violates division (A) of this section may be 14014
fined an amount not to exceed five hundred dollars. A person who 14015
is issued a citation for a violation of division (A) of this 14016
section is not permitted to enter a written plea of guilty and 14017
waive the person's right to contest the citation in a trial but 14018
instead must appear in person in the proper court to answer the 14019
charge. 14020

(2) In addition to and independent of any other penalty 14021
provided by law, the court or mayor may impose upon an offender 14022
who violates this section a class seven suspension of the 14023
offender's driver's license, commercial driver's license, 14024
temporary instruction permit, probationary license, or nonresident 14025
operating privilege from the range specified in division (A)(7) of 14026
section 4510.02 of the Revised Code. When a license is suspended 14027
under this section, the court or mayor shall cause the offender to 14028
deliver the license to the court, and the court or clerk of the 14029
court immediately shall forward the license to the registrar of 14030
motor vehicles, together with notice of the court's action. 14031

(G) As used in this section: 14032

(1) "Head start agency" has the same meaning as in section 14033
3301.32 of the Revised Code. 14034

(2) "School bus," as used in relation to children who attend 14035
a program offered by a head start agency, means a bus that is 14036
owned and operated by a head start agency, is equipped with an 14037
automatically extended stop warning sign of a type approved by the 14038
state board of education, is painted the color and displays the 14039
markings described in section 4511.77 of the Revised Code, and is 14040
equipped with amber and red visual signals meeting the 14041
requirements of section 4511.771 of the Revised Code, irrespective 14042

of whether or not the bus has fifteen or more children aboard at 14043
any time. "School bus" does not include a van owned and operated 14044
by a head start agency, irrespective of its color, lights, or 14045
markings. 14046

Sec. 4723.071. (A) As used in this section, "health-related 14047
activities," "MR/DD personnel," "prescribed medication," and "tube 14048
feeding" have the same meanings as in section 5123.41 of the 14049
Revised Code. 14050

(B) The board of nursing shall adopt rules as it considers 14051
necessary to govern nursing delegation as it applies to MR/DD 14052
personnel who administer prescribed medications, perform 14053
health-related activities, and perform tube feedings pursuant to 14054
the authority granted under section 5123.42 of the Revised Code. 14055
The board shall not establish in the rules any requirement that is 14056
inconsistent with the authority of MR/DD personnel granted under 14057
that section. The rules shall be adopted in accordance with 14058
Chapter 119. of the Revised Code. 14059

(C) The board of nursing may accept complaints from any 14060
person or government entity regarding the performance or 14061
qualifications of MR/DD personnel who administer prescribed 14062
medications, perform health-related activities, and perform tube 14063
feedings pursuant to the authority granted under section 5123.42 14064
of the Revised Code. The board shall refer all complaints received 14065
to the department of ~~mental retardation and~~ developmental 14066
disabilities. The board may participate in an investigation of a 14067
complaint being conducted by the department under section 5123.421 14068
of the Revised Code. 14069

Sec. 5101.35. (A) As used in this section: 14070

(1) "Agency" means the following entities that administer a 14071
family services program: 14072

(a) The department of job and family services; 14073

(b) A county department of job and family services; 14074

(c) A public children services agency; 14075

(d) A private or government entity administering, in whole or 14076
in part, a family services program for or on behalf of the 14077
department of job and family services or a county department of 14078
job and family services or public children services agency. 14079

(2) "Appellant" means an applicant, participant, former 14080
participant, recipient, or former recipient of a family services 14081
program who is entitled by federal or state law to a hearing 14082
regarding a decision or order of the agency that administers the 14083
program. 14084

(3) "Family services program" means assistance provided under 14085
a Title IV-A program as defined in section 5101.80 of the Revised 14086
Code or under Chapter 5104., 5111., or 5115. or section 173.35, 14087
5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the 14088
Revised Code, other than assistance provided under section 5101.46 14089
of the Revised Code by the department of mental health, the 14090
department of ~~mental retardation and~~ developmental disabilities, a 14091
board of alcohol, drug addiction, and mental health services, or a 14092
county board of ~~mental retardation and~~ developmental disabilities. 14093

(B) Except as provided by divisions (G) and (H) of this 14094
section, an appellant who appeals under federal or state law a 14095
decision or order of an agency administering a family services 14096
program shall, at the appellant's request, be granted a state 14097
hearing by the department of job and family services. This state 14098
hearing shall be conducted in accordance with rules adopted under 14099
this section. The state hearing shall be recorded, but neither the 14100
recording nor a transcript of the recording shall be part of the 14101
official record of the proceeding. A state hearing decision is 14102
binding upon the agency and department, unless it is reversed or 14103

modified on appeal to the director of job and family services or a court of common pleas.

(C) Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. Any person designated to make an administrative appeal decision on behalf of the director shall have been admitted to the practice of law in this state. An administrative appeal decision is the final decision of the department and is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

(D) An agency shall comply with a decision issued pursuant to division (B) or (C) of this section within the time limits established by rules adopted under this section. If a county department of job and family services or a public children services agency fails to comply within these time limits, the department may take action pursuant to section 5101.24 of the Revised Code. If another agency fails to comply within the time limits, the department may force compliance by withholding funds due the agency or imposing another sanction established by rules adopted under this section.

(E) An appellant who disagrees with an administrative appeal decision of the director of job and family services or the director's designee issued under division (C) of this section may appeal from the decision to the court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by section 119.12 of the Revised Code except that:

(1) The person may appeal to the court of common pleas of the

county in which the person resides, or to the court of common 14136
pleas of Franklin county if the person does not reside in this 14137
state. 14138

(2) The person may apply to the court for designation as an 14139
indigent and, if the court grants this application, the appellant 14140
shall not be required to furnish the costs of the appeal. 14141

(3) The appellant shall mail the notice of appeal to the 14142
department of job and family services and file notice of appeal 14143
with the court within thirty days after the department mails the 14144
administrative appeal decision to the appellant. For good cause 14145
shown, the court may extend the time for mailing and filing notice 14146
of appeal, but such time shall not exceed six months from the date 14147
the department mails the administrative appeal decision. Filing 14148
notice of appeal with the court shall be the only act necessary to 14149
vest jurisdiction in the court. 14150

(4) The department shall be required to file a transcript of 14151
the testimony of the state hearing with the court only if the 14152
court orders the department to file the transcript. The court 14153
shall make such an order only if it finds that the department and 14154
the appellant are unable to stipulate to the facts of the case and 14155
that the transcript is essential to a determination of the appeal. 14156
The department shall file the transcript not later than thirty 14157
days after the day such an order is issued. 14158

(F) The department of job and family services shall adopt 14159
rules in accordance with Chapter 119. of the Revised Code to 14160
implement this section, including rules governing the following: 14161

(1) State hearings under division (B) of this section. The 14162
rules shall include provisions regarding notice of eligibility 14163
termination and the opportunity of an appellant appealing a 14164
decision or order of a county department of job and family 14165
services to request a county conference with the county department 14166

before the state hearing is held. 14167

(2) Administrative appeals under division (C) of this 14168
section; 14169

(3) Time limits for complying with a decision issued under 14170
division (B) or (C) of this section; 14171

(4) Sanctions that may be applied against an agency under 14172
division (D) of this section. 14173

(G) The department of job and family services may adopt rules 14174
in accordance with Chapter 119. of the Revised Code establishing 14175
an appeals process for an appellant who appeals a decision or 14176
order regarding a Title IV-A program identified under division 14177
(A)(4)(c), (d), (e), or (f) of section 5101.80 of the Revised Code 14178
that is different from the appeals process established by this 14179
section. The different appeals process may include having a state 14180
agency that administers the Title IV-A program pursuant to an 14181
interagency agreement entered into under section 5101.801 of the 14182
Revised Code administer the appeals process. 14183

(H) If an appellant receiving medicaid through a health 14184
insuring corporation that holds a certificate of authority under 14185
Chapter 1751. of the Revised Code is appealing a denial of 14186
medicaid services based on lack of medical necessity or other 14187
clinical issues regarding coverage by the health insuring 14188
corporation, the person hearing the appeal may order an 14189
independent medical review if that person determines that a review 14190
is necessary. The review shall be performed by a health care 14191
professional with appropriate clinical expertise in treating the 14192
recipient's condition or disease. The department shall pay the 14193
costs associated with the review. 14194

A review ordered under this division shall be part of the 14195
record of the hearing and shall be given appropriate evidentiary 14196
consideration by the person hearing the appeal. 14197

(I) The requirements of Chapter 119. of the Revised Code 14198
apply to a state hearing or administrative appeal under this 14199
section only to the extent, if any, specifically provided by rules 14200
adopted under this section. 14201

Sec. 5101.46. (A) As used in this section: 14202

(1) "Title XX" means Title XX of the "Social Security Act," 14203
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 14204

(2) "Respective local agency" means, with respect to the 14205
department of job and family services, a county department of job 14206
and family services; with respect to the department of mental 14207
health, a board of alcohol, drug addiction, and mental health 14208
services; and with respect to the department of ~~mental retardation~~ 14209
~~and~~ developmental disabilities, a county board of ~~mental~~ 14210
~~retardation and~~ developmental disabilities. 14211

(3) "Federal poverty guidelines" means the poverty guidelines 14212
as revised annually by the United States department of health and 14213
human services in accordance with section 673(2) of the "Omnibus 14214
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 14215
9902, as amended, for a family size equal to the size of the 14216
family of the person whose income is being determined. 14217

(B) The departments of job and family services, mental 14218
health, and ~~mental retardation and~~ developmental disabilities, 14219
with their respective local agencies, shall administer the 14220
provision of social services funded through grants made under 14221
Title XX. The social services furnished with Title XX funds shall 14222
be directed at the following goals: 14223

(1) Achieving or maintaining economic self-support to 14224
prevent, reduce, or eliminate dependency; 14225

(2) Achieving or maintaining self-sufficiency, including 14226
reduction or prevention of dependency; 14227

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;	14228 14229 14230
(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;	14231 14232 14233
(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.	14234 14235 14236
(C)(1) All federal funds received under Title XX shall be appropriated as follows:	14237 14238
(a) Seventy-two and one-half per cent to the department of job and family services;	14239 14240
(b) Twelve and ninety-three one-hundredths per cent to the department of mental health;	14241 14242
(c) Fourteen and fifty-seven one-hundredths per cent to the department of mental retardation and developmental disabilities.	14243 14244
(2) Each state department shall, subject to the approval of the controlling board, develop formulas for the distribution of their Title XX appropriations to their respective local agencies. The formulas shall take into account the total population of the area that is served by the agency, the percentage of the population in the area that falls below the federal poverty guidelines, and the agency's history of and ability to utilize Title XX funds.	14245 14246 14247 14248 14249 14250 14251 14252
(3) Each of the state departments shall expend no more than three per cent of its Title XX appropriation for state administrative costs. Each of the department's respective local agencies shall expend no more than fourteen per cent of its Title XX appropriation for local administrative costs.	14253 14254 14255 14256 14257

(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 Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a social services provider if there are adverse findings in an audit that are the responsibility of the provider.

(G) The department of job and family services may adopt rules to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and

family services shall be adopted as internal management rules in 14321
accordance with section 111.15 of the Revised Code. Rules 14322
governing eligibility for services, program participation, and 14323
other matters pertaining to applicants and participants shall be 14324
adopted in accordance with Chapter 119. of the Revised Code. 14325

Sec. 5101.611. If a county department of job and family 14326
services knows or has reasonable cause to believe that the subject 14327
of a report made under section 5101.61 or of an investigation 14328
conducted under sections 5101.62 to 5101.64 or on the initiative 14329
of the department is mentally retarded or developmentally disabled 14330
as defined in section 5126.01 of the Revised Code, the department 14331
shall refer the case to the county board of ~~mental retardation and~~ 14332
developmental disabilities of that county for review pursuant to 14333
section 5126.31 of the Revised Code. 14334

If a county board of ~~mental retardation and~~ developmental 14335
disabilities refers a case to the county department of job and 14336
family services in accordance with section 5126.31, the department 14337
shall proceed with the case in accordance with sections 5101.60 to 14338
5101.71 of the Revised Code. 14339

Sec. 5103.02. As used in sections 5103.03 to 5103.17 of the 14340
Revised Code: 14341

(A) "Association" or "institution" includes any incorporated 14342
or unincorporated organization, society, association, or agency, 14343
public or private, that receives or cares for children for two or 14344
more consecutive weeks; any individual, including the operator of 14345
a foster home, who, for hire, gain, or reward, receives or cares 14346
for children for two or more consecutive weeks, unless the 14347
individual is related to them by blood or marriage; and any 14348
individual not in the regular employ of a court, or of an 14349
institution or association certified in accordance with section 14350

5103.03 of the Revised Code, who in any manner becomes a party to 14351
the placing of children in foster homes, unless the individual is 14352
related to such children by blood or marriage, or is the appointed 14353
guardian of such children; provided, that any organization, 14354
society, association, school, agency, child guidance center, 14355
detention or rehabilitation facility, or children's clinic 14356
licensed, regulated, approved, operated under the direction of, or 14357
otherwise certified by the department of education, a local board 14358
of education, the department of youth services, the department of 14359
mental health, or the department of ~~mental retardation and~~ 14360
developmental disabilities, or any individual who provides care 14361
for only a single-family group, placed there by their parents or 14362
other relative having custody, shall not be considered as being 14363
within the purview of these sections. 14364

(B) "Family foster home" means a foster home that is not a 14365
specialized foster home. 14366

(C) "Foster caregiver" means a person holding a valid foster 14367
home certificate issued under section 5103.03 of the Revised Code. 14368

(D) "Foster home" means a private residence in which children 14369
are received apart from their parents, guardian, or legal 14370
custodian, by an individual reimbursed for providing the children 14371
nonsecure care, supervision, or training twenty-four hours a day. 14372
"Foster home" does not include care provided for a child in the 14373
home of a person other than the child's parent, guardian, or legal 14374
custodian while the parent, guardian, or legal custodian is 14375
temporarily away. Family foster homes and specialized foster homes 14376
are types of foster homes. 14377

(E) "Medically fragile foster home" means a foster home that 14378
provides specialized medical services designed to meet the needs 14379
of children with intensive health care needs who meet all of the 14380
following criteria: 14381

(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.	14382 14383 14384 14385
(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.	14386 14387 14388
(3) The children require the services of a registered nurse on a daily basis.	14389 14390
(4) The children are at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded.	14391 14392 14393
(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:	14394 14395 14396 14397 14398
(1) Issue a certificate;	14399
(2) Deny a certificate;	14400
(3) Renew a certificate;	14401
(4) Deny renewal of a certificate;	14402
(5) Revoke a certificate.	14403
(G) "Specialized foster home" means a medically fragile foster home or a treatment foster home.	14404 14405
(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.	14406 14407 14408 14409 14410 14411

Sec. 5103.13. (A) As used in this section and section 14412
5103.131 of the Revised Code: 14413

(1)(a) "Children's crisis care facility" means a facility 14414
that has as its primary purpose the provision of residential and 14415
other care to either or both of the following: 14416

(i) One or more preteens voluntarily placed in the facility 14417
by the preteen's parent or other caretaker who is facing a crisis 14418
that causes the parent or other caretaker to seek temporary care 14419
for the preteen and referral for support services; 14420

(ii) One or more preteens placed in the facility by a public 14421
children services agency or private child placing agency that has 14422
legal custody or permanent custody of the preteen and determines 14423
that an emergency situation exists necessitating the preteen's 14424
placement in the facility rather than an institution certified 14425
under section 5103.03 of the Revised Code or elsewhere. 14426

(b) "Children's crisis care facility" does not include either 14427
of the following: 14428

(i) Any organization, society, association, school, agency, 14429
child guidance center, detention or rehabilitation facility, or 14430
children's clinic licensed, regulated, approved, operated under 14431
the direction of, or otherwise certified by the department of 14432
education, a local board of education, the department of youth 14433
services, the department of mental health, or the department of 14434
~~mental retardation and~~ developmental disabilities; 14435

(ii) Any individual who provides care for only a 14436
single-family group, placed there by their parents or other 14437
relative having custody. 14438

(2) "Legal custody" and "permanent custody" have the same 14439
meanings as in section 2151.011 of the Revised Code. 14440

(3) "Preteen" means an individual under thirteen years of 14441

age. 14442

(B) No person shall operate a children's crisis care facility 14443
or hold a children's crisis care facility out as a certified 14444
children's crisis care facility unless there is a valid children's 14445
crisis care facility certificate issued under this section for the 14446
facility. 14447

(C) A person seeking to operate a children's crisis care 14448
facility shall apply to the director of job and family services to 14449
obtain a certificate for the facility. The director shall certify 14450
the person's children's crisis care facility if the facility meets 14451
all of the certification standards established in rules adopted 14452
under division (F) of this section and the person complies with 14453
all of the rules governing the certification of children's crisis 14454
care facilities adopted under that division. The issuance of a 14455
children's crisis care facility certificate does not exempt the 14456
facility from a requirement to obtain another certificate or 14457
license mandated by law. 14458

(D)(1) No certified children's crisis care facility shall do 14459
any of the following: 14460

(a) Provide residential care to a preteen for more than one 14461
hundred twenty days in a calendar year; 14462

(b) Subject to division (D)(1)(c) of this section and except 14463
as provided in division (D)(2) of this section, provide 14464
residential care to a preteen for more than sixty consecutive 14465
days; 14466

(c) Except as provided in division (D)(3) of this section, 14467
provide residential care to a preteen for more than seventy-two 14468
consecutive hours if a public children services agency or private 14469
child placing agency placed the preteen in the facility; 14470

(d) Fail to comply with section 2151.86 of the Revised Code. 14471

(2) A certified children's crisis care facility may provide residential care to a preteen for up to ninety consecutive days, other than a preteen placed in the facility by a public children services agency or private child placing agency, if any of the following are the case:

(a) The preteen's parent or other caretaker is enrolled in an alcohol and drug addiction program certified under section 3793.06 of the Revised Code or a community mental health service certified under section 5119.611 of the Revised Code;

(b) The preteen's parent or other caretaker is an inpatient in a hospital;

(c) The preteen's parent or other caretaker is incarcerated;

(d) A physician has diagnosed the preteen's parent or other caretaker as medically incapacitated.

(3) A certified children's crisis care facility may provide residential care to a preteen placed in the facility by a public children services agency or private child placing agency for more than seventy-two consecutive hours if the director of job and family services or the director's designee issues the agency a waiver of the seventy-two consecutive hour limitation. The waiver may authorize the certified children's crisis care facility to provide residential care to the preteen for up to fourteen consecutive days.

(E) The director of job and family services may suspend or revoke a children's crisis care facility's certificate pursuant to Chapter 119. of the Revised Code if the facility violates division (D) of this section or ceases to meet any of the certification standards established in rules adopted under division (F) of this section or the facility's operator ceases to comply with any of the rules governing the certification of children's crisis care facilities adopted under that division.

(F) Not later than ninety days after ~~the effective date of~~ 14503
~~this amendment~~ September 21, 2006, the director of job and family 14504
services shall adopt rules pursuant to Chapter 119. of the Revised 14505
Code for the certification of children's crisis care facilities. 14506
The rules shall specify that a certificate shall not be issued to 14507
an applicant if the conditions at the children's crisis care 14508
facility would jeopardize the health or safety of the preteens 14509
placed in the facility. 14510

Sec. 5104.08. (A) There is hereby created in the department 14511
of job and family services a child care advisory council to advise 14512
and assist the department in the administration of this chapter 14513
and in the development of child care. The council shall consist of 14514
twenty-two voting members appointed by the director of job and 14515
family services with the approval of the governor. The director of 14516
job and family services, the director of ~~mental retardation and~~ 14517
developmental disabilities, the director of mental health, the 14518
superintendent of public instruction, the director of health, the 14519
director of commerce, and the state fire marshal shall serve as 14520
nonvoting members of the council. 14521

Six members shall be representatives of child care centers 14522
subject to licensing, the members to represent a variety of 14523
centers, including nonprofit and proprietary, from different 14524
geographical areas of the state. At least three members shall be 14525
parents, guardians, or custodians of children receiving child care 14526
or publicly funded child care in the child's own home, a center, a 14527
type A home, a head start program, a certified type B home, or a 14528
type B home at the time of appointment. Three members shall be 14529
representatives of in-home aides, type A homes, certified type B 14530
homes, or type B homes or head start programs. At least six 14531
members shall represent county departments of job and family 14532
services. The remaining members shall be representatives of the 14533
teaching, child development, and health professions, and other 14534

individuals interested in the welfare of children. At least six 14535
members of the council shall not be employees or licensees of a 14536
child day-care center, head start program, or type A home, or 14537
providers operating a certified type B home or type B home, or 14538
in-home aides. 14539

Appointments shall be for three-year terms. Vacancies shall 14540
be filled for the unexpired terms. A member of the council is 14541
subject to removal by the director of job and family services for 14542
a willful and flagrant exercise of authority or power that is not 14543
authorized by law, for a refusal or willful neglect to perform any 14544
official duty as a member of the council imposed by law, or for 14545
being guilty of misfeasance, malfeasance, nonfeasance, or gross 14546
neglect of duty as a member of the council. 14547

There shall be two co-chairpersons of the council. One 14548
co-chairperson shall be the director of job and family services or 14549
the director's designee, and one co-chairperson shall be elected 14550
by the members of the council. The council shall meet as often as 14551
is necessary to perform its duties, provided that it shall meet at 14552
least once in each quarter of each calendar year and at the call 14553
of the co-chairpersons. The co-chairpersons or their designee 14554
shall send to each member a written notice of the date, time, and 14555
place of each meeting. 14556

Members of the council shall serve without compensation, but 14557
shall be reimbursed for necessary expenses. 14558

(B) The child care advisory council shall advise the director 14559
on matters affecting the licensing of centers and type A homes and 14560
the certification of type B homes and in-home aides. The council 14561
shall make an annual report to the director of job and family 14562
services that addresses the availability, affordability, 14563
accessibility, and quality of child care and that summarizes the 14564
recommendations and plans of action that the council has proposed 14565
to the director during the preceding fiscal year. The director of 14566

job and family services shall provide copies of the report to the 14567
governor, speaker and minority leader of the house of 14568
representatives, and the president and minority leader of the 14569
senate and, on request, shall make copies available to the public. 14570

(C) The director of job and family services shall adopt rules 14571
pursuant to Chapter 119. of the Revised Code to implement this 14572
section. 14573

Sec. 5107.24. (A) As used in this section: 14574

(1) "Adult-supervised living arrangement" means a family 14575
setting approved, licensed, or certified by the department of job 14576
and family services, the department of mental health, the 14577
department of ~~mental retardation and~~ developmental disabilities, 14578
the department of youth services, a public children services 14579
agency, a private child placing agency, or a private noncustodial 14580
agency that is maintained by a person age eighteen or older who 14581
assumes responsibility for the care and control of a minor parent, 14582
pregnant minor, or child of a minor parent or provides the minor 14583
parent, pregnant minor, or child of a minor parent supportive 14584
services, including counseling, guidance, and supervision. 14585
"Adult-supervised living arrangement" does not mean a public 14586
institution. 14587

(2) "Child of a minor parent" means a child born to a minor 14588
parent, except that the child ceases to be considered a child of 14589
minor parent when the minor parent attains age eighteen. 14590

(3) "Minor parent" means a parent who is under age eighteen 14591
and is not married. 14592

(4) "Pregnant minor" means a pregnant person who is under age 14593
eighteen and not married. 14594

(B)(1) Except as provided in division (B)(2) of this section 14595
and to the extent permitted by Title IV-A and federal regulations 14596

adopted under Title IV-A, a pregnant minor, minor parent, or child 14597
of a minor parent must reside in a place of residence maintained 14598
by a parent, guardian, custodian, or specified relative of the 14599
pregnant minor or minor parent as the parent's, guardian's, 14600
custodian's, or specified relative's own home to be eligible to 14601
participate in Ohio works first. 14602

(2) To the extent permitted by Title IV-A and federal 14603
regulations adopted under it, a pregnant minor, minor parent, or 14604
child of a minor parent is exempt from the requirement of division 14605
(B)(1) of this section if any of the following apply: 14606

(a) The minor parent or pregnant minor does not have a 14607
parent, guardian, custodian, or specified relative living or whose 14608
whereabouts are known. 14609

(b) No parent, guardian, custodian, or specified relative of 14610
the minor parent or pregnant minor will allow the pregnant minor, 14611
minor parent, or minor parent's child to live in the parent's, 14612
guardian's, custodian's, or specified relative's home. 14613

(c) The department of job and family services, a county 14614
department of job and family services, or a public children 14615
services agency determines that the physical or emotional health 14616
or safety of the pregnant minor, minor parent, or minor parent's 14617
child would be in jeopardy if the pregnant minor, minor parent, or 14618
minor parent's child lived in the same home as the parent, 14619
guardian, custodian, or specified relative. 14620

(d) The department of job and family services, a county 14621
department of job and family services, or a public children 14622
services agency otherwise determines that it is in the best 14623
interest of the pregnant minor, minor parent, or minor parent's 14624
child to waive the requirement of division (B)(1) of this section. 14625

(C) A pregnant minor, minor parent, or child of a minor 14626
parent exempt from the requirement of division (B)(1) of this 14627

section must reside in an adult-supervised living arrangement to 14628
be eligible to participate in Ohio works first. 14629

(D) The department of job and family services, whenever 14630
possible and to the extent permitted by Title IV-A and federal 14631
regulations adopted under it, shall provide cash assistance under 14632
Ohio works first to the parent, guardian, custodian, or specified 14633
relative of a pregnant minor or minor parent on behalf of the 14634
pregnant minor, minor parent, or minor parent's child. 14635

Sec. 5111.042. The departments of ~~mental retardation and~~ 14636
developmental disabilities and job and family services may 14637
approve, reduce, deny, or terminate a service included in the 14638
individualized service plan developed for a medicaid recipient 14639
with mental retardation or other developmental disability who is 14640
eligible for medicaid case management services. If either 14641
department approves, reduces, denies, or terminates a service, 14642
that department shall timely notify the medicaid recipient that 14643
the recipient may request a hearing under section 5101.35 of the 14644
Revised Code. 14645

Sec. 5111.151. (A) This section applies to eligibility 14646
determinations for all cases involving medicaid provided pursuant 14647
to this chapter, qualified medicare beneficiaries, specified 14648
low-income medicare beneficiaries, qualifying individuals-1, 14649
qualifying individuals-2, and medical assistance for covered 14650
families and children. 14651

(B) As used in this section: 14652

(1) "Trust" means any arrangement in which a grantor 14653
transfers real or personal property to a trust with the intention 14654
that it be held, managed, or administered by at least one trustee 14655
for the benefit of the grantor or beneficiaries. "Trust" includes 14656
any legal instrument or device similar to a trust. 14657

(2) "Legal instrument or device similar to a trust" includes, 14658
but is not limited to, escrow accounts, investment accounts, 14659
partnerships, contracts, and other similar arrangements that are 14660
not called trusts under state law but are similar to a trust and 14661
to which all of the following apply: 14662

(a) The property in the trust is held, managed, retained, or 14663
administered by a trustee. 14664

(b) The trustee has an equitable, legal, or fiduciary duty to 14665
hold, manage, retain, or administer the property for the benefit 14666
of the beneficiary. 14667

(c) The trustee holds identifiable property for the 14668
beneficiary. 14669

(3) "Grantor" is a person who creates a trust, including all 14670
of the following: 14671

(a) An individual; 14672

(b) An individual's spouse; 14673

(c) A person, including a court or administrative body, with 14674
legal authority to act in place of or on behalf of an individual 14675
or an individual's spouse; 14676

(d) A person, including a court or administrative body, that 14677
acts at the direction or on request of an individual or the 14678
individual's spouse. 14679

(4) "Beneficiary" is a person or persons, including a 14680
grantor, who benefits in some way from a trust. 14681

(5) "Trustee" is a person who manages a trust's principal and 14682
income for the benefit of the beneficiaries. 14683

(6) "Person" has the same meaning as in section 1.59 of the 14684
Revised Code and includes an individual, corporation, business 14685
trust, estate, trust, partnership, and association. 14686

(7) "Applicant" is an individual who applies for medicaid or the individual's spouse.	14687 14688
(8) "Recipient" is an individual who receives medicaid or the individual's spouse.	14689 14690
(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:	14691 14692 14693
(a) A trust that provides that the trust can be terminated only by a court;	14694 14695
(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.	14696 14697 14698
(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.	14699 14700 14701 14702
(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.	14703 14704 14705
(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.	14706 14707 14708
(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.	14709 14710 14711
(C) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted by the department of job and family services governing trusts. The	14712 14713 14714 14715 14716

county department of job and family services may determine that	14717
the trust or portion of the trust is one of the following:	14718
(1) A countable resource;	14719
(2) Countable income;	14720
(3) A countable resource and countable income;	14721
(4) Not a countable resource or countable income.	14722
(D)(1) A trust or legal instrument or device similar to a	14723
trust shall be considered a medicaid qualifying trust if all of	14724
the following apply:	14725
(a) The trust was established on or prior to August 10, 1993.	14726
(b) The trust was not established by a will.	14727
(c) The trust was established by an applicant or recipient.	14728
(d) The applicant or recipient is or may become the	14729
beneficiary of all or part of the trust.	14730
(e) Payment from the trust is determined by one or more	14731
trustees who are permitted to exercise any discretion with respect	14732
to the distribution to the applicant or recipient.	14733
(2) If a trust meets the requirement of division (D)(1) of	14734
this section, the amount of the trust that is considered by the	14735
county department of job and family services as an available	14736
resource to the applicant or recipient shall be the maximum amount	14737
of payments permitted under the terms of the trust to be	14738
distributed to the applicant or recipient, assuming the full	14739
exercise of discretion by the trustee or trustees. The maximum	14740
amount shall include only amounts that are permitted to be	14741
distributed but are not distributed from either the income or	14742
principal of the trust.	14743
(3) Amounts that are actually distributed from a medicaid	14744
qualifying trust to a beneficiary for any purpose shall be treated	14745

in accordance with rules adopted by the department of job and family services governing income. 14746
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(4) Availability of a medicaid qualifying trust shall be 14748
considered without regard to any of the following: 14749

(a) Whether or not the trust is irrevocable or was 14750
established for purposes other than to enable a grantor to qualify 14751
for medicaid, medical assistance for covered families and 14752
children, or as a qualified medicare beneficiary, specified 14753
low-income medicare beneficiary, qualifying individual-1, or 14754
qualifying individual-2; 14755

(b) Whether or not the trustee actually exercises discretion. 14756

(5) If any real or personal property is transferred to a 14757
medicaid qualifying trust that is not distributable to the 14758
applicant or recipient, the transfer shall be considered an 14759
improper disposition of assets and shall be subject to section 14760
5111.0116 of the Revised Code and rules to implement that section 14761
adopted under section 5111.011 of the Revised Code. 14762

(6) The baseline date for the look-back period for 14763
disposition of assets involving a medicaid qualifying trust shall 14764
be the date on which the applicant or recipient is both 14765
institutionalized and first applies for medicaid. 14766

(E)(1) A trust or legal instrument or device similar to a 14767
trust shall be considered a self-settled trust if all of the 14768
following apply: 14769

(a) The trust was established on or after August 11, 1993. 14770

(b) The trust was not established by a will. 14771

(c) The trust was established by an applicant or recipient, 14772
spouse of an applicant or recipient, or a person, including a 14773
court or administrative body, with legal authority to act in place 14774
of or on behalf of an applicant, recipient, or spouse, or acting 14775

at the direction or on request of an applicant, recipient, or spouse. 14776
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(2) A trust that meets the requirements of division (E)(1) of this section and is a revocable trust shall be treated by the county department of job and family services as follows: 14778
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(a) The corpus of the trust shall be considered a resource available to the applicant or recipient. 14781
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(b) Payments from the trust to or for the benefit of the applicant or recipient shall be considered unearned income of the applicant or recipient. 14783
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(c) Any other payments from the trust shall be considered an improper disposition of assets and shall be subject to section 5111.0116 of the Revised Code and rules to implement that section adopted under section 5111.011 of the Revised Code. 14786
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(3) A trust that meets the requirements of division (E)(1) of this section and is an irrevocable trust shall be treated by the county department of job and family services as follows: 14790
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(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made. 14793
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(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income. 14800
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(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an 14803
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improper disposition of assets and shall be subject to section 14806
5111.0116 of the Revised Code and rules to implement that section 14807
adopted under section 5111.011 of the Revised Code. 14808

(d) The date of the disposition shall be the later of the 14809
date of establishment of the trust or the date of the occurrence 14810
of the event. 14811

(e) When determining the value of the disposed asset under 14812
this provision, the value of the trust shall be its value on the 14813
date payment to the applicant or recipient was foreclosed. 14814

(f) Any income earned or other resources added subsequent to 14815
the foreclosure date shall be added to the total value of the 14816
trust. 14817

(g) Any payments to or for the benefit of the applicant or 14818
recipient after the foreclosure date but prior to the application 14819
date shall be subtracted from the total value. Any other payments 14820
shall not be subtracted from the value. 14821

(h) Any addition of assets after the foreclosure date shall 14822
be considered a separate disposition. 14823

(4) If a trust is funded with assets of another person or 14824
persons in addition to assets of the applicant or recipient, the 14825
applicable provisions of this section and rules adopted by the 14826
department of job and family services governing trusts shall apply 14827
only to the portion of the trust attributable to the applicant or 14828
recipient. 14829

(5) The availability of a self-settled trust shall be 14830
considered without regard to any of the following: 14831

(a) The purpose for which the trust is established; 14832

(b) Whether the trustees have exercised or may exercise 14833
discretion under the trust; 14834

(c) Any restrictions on when or whether distributions may be 14835

made from the trust; 14836

(d) Any restrictions on the use of distributions from the 14837
trust. 14838

(6) The baseline date for the look-back period for 14839
dispositions of assets involving a self-settled trust shall be the 14840
date on which the applicant or recipient is both institutionalized 14841
and first applies for medicaid. 14842

(F) The principal or income from any of the following shall 14843
be exempt from being counted as a resource by a county department 14844
of job and family services: 14845

(1)(a) A special needs trust that meets all of the following 14846
requirements: 14847

(i) The trust contains assets of an applicant or recipient 14848
under sixty-five years of age and may contain the assets of other 14849
individuals. 14850

(ii) The applicant or recipient is disabled as defined in 14851
rules adopted by the department of job and family services. 14852

(iii) The trust is established for the benefit of the 14853
applicant or recipient by a parent, grandparent, legal guardian, 14854
or a court. 14855

(iv) The trust requires that on the death of the applicant or 14856
recipient the state will receive all amounts remaining in the 14857
trust up to an amount equal to the total amount of medicaid paid 14858
on behalf of the applicant or recipient. 14859

(b) If a special needs trust meets the requirements of 14860
division (F)(1)(a) of this section and has been established for a 14861
disabled applicant or recipient under sixty-five years of age, the 14862
exemption for the trust granted pursuant to division (F) of this 14863
section shall continue after the disabled applicant or recipient 14864
becomes sixty-five years of age if the applicant or recipient 14865

continues to be disabled as defined in rules adopted by the 14866
department of job and family services. Except for income earned by 14867
the trust, the grantor shall not add to or otherwise augment the 14868
trust after the applicant or recipient attains sixty-five years of 14869
age. An addition or augmentation of the trust by the applicant or 14870
recipient with the applicant's own assets after the applicant or 14871
recipient attains sixty-five years of age shall be treated as an 14872
improper disposition of assets. 14873

(c) Cash distributions to the applicant or recipient shall be 14874
counted as unearned income. All other distributions from the trust 14875
shall be treated as provided in rules adopted by the department of 14876
job and family services governing in-kind income. 14877

(d) Transfers of assets to a special needs trust shall not be 14878
treated as an improper transfer of resources. Assets held prior to 14879
the transfer to the trust shall be considered as countable assets 14880
or countable income or countable assets and income. 14881

(2)(a) A qualifying income trust that meets all of the 14882
following requirements: 14883

(i) The trust is composed only of pension, social security, 14884
and other income to the applicant or recipient, including 14885
accumulated interest in the trust. 14886

(ii) The income is received by the individual and the right 14887
to receive the income is not assigned or transferred to the trust. 14888

(iii) The trust requires that on the death of the applicant 14889
or recipient the state will receive all amounts remaining in the 14890
trust up to an amount equal to the total amount of medicaid paid 14891
on behalf of the applicant or recipient. 14892

(b) No resources shall be used to establish or augment the 14893
trust. 14894

(c) If an applicant or recipient has irrevocably transferred 14895

or assigned the applicant's or recipient's right to receive income 14896
to the trust, the trust shall not be considered a qualifying 14897
income trust by the county department of job and family services. 14898

(d) Income placed in a qualifying income trust shall not be 14899
counted in determining an applicant's or recipient's eligibility 14900
for medicaid. The recipient of the funds may place any income 14901
directly into a qualifying income trust without those funds 14902
adversely affecting the applicant's or recipient's eligibility for 14903
medicaid. Income generated by the trust that remains in the trust 14904
shall not be considered as income to the applicant or recipient. 14905

(e) All income placed in a qualifying income trust shall be 14906
combined with any countable income not placed in the trust to 14907
arrive at a base income figure to be used for spend down 14908
calculations. 14909

(f) The base income figure shall be used for post-eligibility 14910
deductions, including personal needs allowance, monthly income 14911
allowance, family allowance, and medical expenses not subject to 14912
third party payment. Any income remaining shall be used toward 14913
payment of patient liability. Payments made from a qualifying 14914
income trust shall not be combined with the base income figure for 14915
post-eligibility calculations. 14916

(g) The base income figure shall be used when determining the 14917
spend down budget for the applicant or recipient. Any income 14918
remaining after allowable deductions are permitted as provided 14919
under rules adopted by the department of job and family services 14920
shall be considered the applicant's or recipient's spend down 14921
liability. 14922

(3)(a) A pooled trust that meets all of the following 14923
requirements: 14924

(i) The trust contains the assets of the applicant or 14925
recipient of any age who is disabled as defined in rules adopted 14926

by the department of job and family services.	14927
(ii) The trust is established and managed by a nonprofit association.	14928 14929
(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts.	14930 14931 14932
(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled.	14933 14934 14935 14936
(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medicaid paid on behalf of the beneficiary.	14937 14938 14939 14940 14941
(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.	14942 14943 14944 14945
(c) Transfers of assets to a pooled trust shall not be treated as an improper disposition of assets. Assets held prior to the transfer to the trust shall be considered as countable assets, countable income, or countable assets and income.	14946 14947 14948 14949
(4) A supplemental services trust that meets the requirements of section 5815.28 of the Revised Code and to which all of the following apply:	14950 14951 14952
(a) A person may establish a supplemental services trust pursuant to section 5815.28 of the Revised Code only for another person who is eligible to receive services through one of the following agencies:	14953 14954 14955 14956

(i) The department of mental retardation and developmental disabilities;	14957 14958
(ii) A county board of mental retardation and developmental disabilities;	14959 14960
(iii) The department of mental health;	14961
(iv) A board of alcohol, drug addiction, and mental health services.	14962 14963
(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following:	14964 14965 14966
(i) Provide documentation from one of the agencies listed in division (F)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust;	14967 14968 14969 14970
(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (F)(4)(a) of this section at the time of the creation of the trust.	14971 14972 14973 14974
(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2006 is two hundred twenty-two thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars.	14975 14976 14977 14978 14979
(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 5815.28 of the Revised Code.	14980 14981 14982
(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted by the department of job and family services. All supplemental services shall be purchased by the	14983 14984 14985 14986

trustee and shall not be purchased through direct cash payments to the beneficiary. 14987
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(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (F)(4) of this section and section 5815.28 of the Revised Code, the county department of job and family services shall not consider it an exempt trust. 14989
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(G)(1) A trust or legal instrument or device similar to a trust shall be considered a trust established by an individual for the benefit of the applicant or recipient if all of the following apply: 14995
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(a) The trust is created by a person other than the applicant or recipient. 14999
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(b) The trust names the applicant or recipient as a beneficiary. 15001
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(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust. 15003
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(2) Any portion of a trust that meets the requirements of division (G)(1) of this section shall be an available resource only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes. 15006
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(3) A trust that meets the requirements of division (G)(1) of this section shall be considered an available resource even if the trust contains any of the following types of provisions: 15012
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(a) A provision that prohibits the trustee from making payments that would supplant or replace medicaid or other public 15015
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assistance; 15017

(b) A provision that prohibits the trustee from making 15018
payments that would impact or have an effect on the applicant's or 15019
recipient's right, ability, or opportunity to receive medicaid or 15020
other public assistance; 15021

(c) A provision that attempts to prevent the trust or its 15022
corpus or principal from being counted as an available resource. 15023

(4) A trust that meets the requirements of division (G)(1) of 15024
this section shall not be counted as an available resource if at 15025
least one of the following circumstances applies: 15026

(a) If a trust contains a clear statement requiring the 15027
trustee to preserve a portion of the trust for another beneficiary 15028
or remainderman, that portion of the trust shall not be counted as 15029
an available resource. Terms of a trust that grant discretion to 15030
preserve a portion of the trust shall not qualify as a clear 15031
statement requiring the trustee to preserve a portion of the 15032
trust. 15033

(b) If a trust contains a clear statement requiring the 15034
trustee to use a portion of the trust for a purpose other than 15035
medical care, care, comfort, maintenance, welfare, or general well 15036
being of the applicant or recipient, that portion of the trust 15037
shall not be counted as an available resource. Terms of a trust 15038
that grant discretion to limit the use of a portion of the trust 15039
shall not qualify as a clear statement requiring the trustee to 15040
use a portion of the trust for a particular purpose. 15041

(c) If a trust contains a clear statement limiting the 15042
trustee to making fixed periodic payments, the trust shall not be 15043
counted as an available resource and payments shall be treated in 15044
accordance with rules adopted by the department of job and family 15045
services governing income. Terms of a trust that grant discretion 15046
to limit payments shall not qualify as a clear statement requiring 15047

the trustee to make fixed periodic payments. 15048

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as an available resource, the trust shall not be counted as an available resource. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust. 15049
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(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource. 15055
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(f) If a trust is specifically exempt from being counted as an available resource by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as a resource. 15061
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(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as an available resource. 15064
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(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income. 15069
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(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the 15076
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trust shall not be counted as an available resource. 15079

(5) Any actual payments to the applicant or recipient from a 15080
trust that meet the requirements of division (G)(1) of this 15081
section, including trusts that are not counted as an available 15082
resource, shall be treated as provided in rules adopted by the 15083
department of job and family services governing income. Payments 15084
to any person other than the applicant or recipient shall not be 15085
considered income to the applicant or recipient. Payments from the 15086
trust to a person other than the applicant or recipient shall not 15087
be considered an improper disposition of assets. 15088

Sec. 5111.202. (A) As used in this section: 15089

(1) "Dementia" includes Alzheimer's disease or a related 15090
disorder. 15091

(2) "Serious mental illness" means "serious mental illness," 15092
as defined by the United States department of health and human 15093
services in regulations adopted under section 1919(e)(7)(G)(i) of 15094
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 15095
as amended. 15096

(3) "Mentally ill individual" means an individual who has a 15097
serious mental illness other than either of the following: 15098

(a) A primary diagnosis of dementia; 15099

(b) A primary diagnosis that is not a primary diagnosis of 15100
dementia and a primary diagnosis of something other than a serious 15101
mental illness. 15102

(4) "Mentally retarded individual" means an individual who is 15103
mentally retarded or has a related condition, as described in 15104
section 1905(d) of the "Social Security Act." 15105

(5) "Specialized services" means the services specified by 15106
the United States department of health and human services in 15107
regulations adopted under section 1919(e)(7)(G)(iii) of the 15108

"Social Security Act."	15109
(B)(1) Except as provided in division (D) of this section, no nursing facility shall admit as a resident any mentally ill individual unless the facility has received evidence that the department of mental health has determined both of the following under section 5119.061 of the Revised Code:	15110 15111 15112 15113 15114
(a) That the individual requires the level of services provided by a nursing facility because of the individual's physical and mental condition;	15115 15116 15117
(b) Whether the individual requires specialized services for mental illness.	15118 15119
(2) Except as provided in division (D) of this section, no nursing facility shall admit as a resident any mentally retarded individual unless the facility has received evidence that the department of mental retardation and developmental disabilities has determined both of the following under section 5123.021 of the Revised Code:	15120 15121 15122 15123 15124 15125
(a) That the individual requires the level of services provided by a nursing facility because of the individual's physical and mental condition;	15126 15127 15128
(b) Whether the individual requires specialized services for mental retardation.	15129 15130
(C) The department of job and family services shall not make payments under the medical assistance program to a nursing facility on behalf of any individual who is admitted to the facility in violation of division (B) of this section for the period beginning on the date of admission and ending on the date the requirements of division (B) of this section are met.	15131 15132 15133 15134 15135 15136
(D) A determination under division (B) of this section is not required for any individual who is exempted from the requirement	15137 15138

that a determination be made by division (B)(2) of section 15139
5119.061 of the Revised Code or rules adopted by the department of 15140
mental health under division (E)(3) of that section, or by 15141
division (B)(2) of section 5123.021 of the Revised Code or rules 15142
adopted by the department of ~~mental retardation and~~ developmental 15143
disabilities under division (E)(3) of that section. 15144

Sec. 5111.203. Regardless of whether or not an applicant for 15145
admission to a nursing facility or resident of a nursing facility 15146
is an applicant for or recipient of medical assistance, the 15147
department of job and family services shall provide notice and an 15148
opportunity for a hearing to any applicant for admission to a 15149
nursing facility or resident of a nursing facility who is 15150
adversely affected by a determination made by the department of 15151
mental health under section 5119.061 of the Revised Code or by the 15152
department of ~~mental retardation and~~ developmental disabilities 15153
under section 5123.021 of the Revised Code. The hearing shall be 15154
conducted in the same manner as hearings conducted under section 15155
5101.35 of the Revised Code. Any decision made by the department 15156
of job and family services on the basis of the hearing is binding 15157
on the department of mental health and the department of ~~mental~~ 15158
~~retardation and~~ developmental disabilities. 15159

Sec. 5111.211. (A) The department of ~~mental retardation and~~ 15160
developmental disabilities is responsible for the nonfederal share 15161
of claims submitted for services that are covered by the medicaid 15162
program and provided to an eligible medicaid recipient by an 15163
intermediate care facility for the mentally retarded if all of the 15164
following are the case: 15165

(1) The services are provided on or after July 1, 2003; 15166

(2) The facility receives initial certification by the 15167
director of health as an intermediate care facility for the 15168

mentally retarded on or after June 1, 2003; 15169

(3) The facility, or a portion of the facility, is licensed 15170
by the director of ~~mental retardation and~~ developmental 15171
disabilities as a residential facility under section 5123.19 of 15172
the Revised Code; 15173

(4) There is a valid provider agreement for the facility. 15174

(B) Each month, the department of job and family services 15175
shall invoice the department of ~~mental retardation and~~ 15176
developmental disabilities by interagency transfer voucher for the 15177
claims for which the department of ~~mental retardation and~~ 15178
developmental disabilities is responsible pursuant to this 15179
section. 15180

Sec. 5111.251. (A) The department of job and family services 15181
shall pay a provider for each of the provider's eligible 15182
intermediate care facilities for the mentally retarded for its 15183
reasonable capital costs, a per resident per day rate established 15184
prospectively each fiscal year for each intermediate care facility 15185
for the mentally retarded. Except as otherwise provided in 15186
sections 5111.20 to 5111.33 of the Revised Code, the rate shall be 15187
based on the facility's capital costs for the calendar year 15188
preceding the fiscal year in which the rate will be paid. The rate 15189
shall equal the sum of the following: 15190

(1) The facility's desk-reviewed, actual, allowable, per diem 15191
cost of ownership for the preceding cost reporting period, limited 15192
as provided in divisions (C) and (F) of this section; 15193

(2) Any efficiency incentive determined under division (B) of 15194
this section; 15195

(3) Any amounts for renovations determined under division (D) 15196
of this section; 15197

(4) Any amounts for return on equity determined under 15198

division (I) of this section. 15199

Buildings shall be depreciated using the straight line method 15200
over forty years or over a different period approved by the 15201
department. Components and equipment shall be depreciated using 15202
the straight line method over a period designated by the director 15203
of job and family services in rules adopted under section 5111.02 15204
of the Revised Code, consistent with the guidelines of the 15205
American hospital association, or over a different period approved 15206
by the department of job and family services. Any rules authorized 15207
by this division that specify useful lives of buildings, 15208
components, or equipment apply only to assets acquired on or after 15209
July 1, 1993. Depreciation for costs paid or reimbursed by any 15210
government agency shall not be included in costs of ownership or 15211
renovation unless that part of the payment under sections 5111.20 15212
to 5111.33 of the Revised Code is used to reimburse the government 15213
agency. 15214

(B) The department of job and family services shall pay to a 15215
provider for each of the provider's eligible intermediate care 15216
facilities for the mentally retarded an efficiency incentive equal 15217
to fifty per cent of the difference between any desk-reviewed, 15218
actual, allowable cost of ownership and the applicable limit on 15219
cost of ownership payments under division (C) of this section. For 15220
purposes of computing the efficiency incentive, depreciation for 15221
costs paid or reimbursed by any government agency shall be 15222
considered as a cost of ownership, and the applicable limit under 15223
division (C) of this section shall apply both to facilities with 15224
more than eight beds and facilities with eight or fewer beds. The 15225
efficiency incentive paid to a provider for a facility with eight 15226
or fewer beds shall not exceed three dollars per patient day, 15227
adjusted annually for the inflation rate for the twelve-month 15228
period beginning on the first day of July of the calendar year 15229
preceding the calendar year that precedes the fiscal year for 15230

which the efficiency incentive is determined and ending on the 15231
thirtieth day of the following June, using the consumer price 15232
index for shelter costs for all urban consumers for the north 15233
central region, as published by the United States bureau of labor 15234
statistics. 15235

(C) Cost of ownership payments for intermediate care 15236
facilities for the mentally retarded with more than eight beds 15237
shall not exceed the following limits: 15238

(1) For facilities with dates of licensure prior to January 15239
1, 1958, not exceeding two dollars and fifty cents per patient 15240
day; 15241

(2) For facilities with dates of licensure after December 31, 15242
1957, but prior to January 1, 1968, not exceeding: 15243

(a) Three dollars and fifty cents per patient day if the cost 15244
of construction was three thousand five hundred dollars or more 15245
per bed; 15246

(b) Two dollars and fifty cents per patient day if the cost 15247
of construction was less than three thousand five hundred dollars 15248
per bed. 15249

(3) For facilities with dates of licensure after December 31, 15250
1967, but prior to January 1, 1976, not exceeding: 15251

(a) Four dollars and fifty cents per patient day if the cost 15252
of construction was five thousand one hundred fifty dollars or 15253
more per bed; 15254

(b) Three dollars and fifty cents per patient day if the cost 15255
of construction was less than five thousand one hundred fifty 15256
dollars per bed, but exceeds three thousand five hundred dollars 15257
per bed; 15258

(c) Two dollars and fifty cents per patient day if the cost 15259
of construction was three thousand five hundred dollars or less 15260

per bed.	15261
(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:	15262
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	15263
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	15264
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	15265
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	15266
(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;	15267
(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;	15268
(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;	15269
(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;	15270
(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed;	15271
(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed;	15272
(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed;	15273
(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed;	15274
(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	15275
(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	15276
(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	15277
(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1980, not exceeding:	15278
(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;	15279
(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;	15280
(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;	15281
(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;	15282
(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed;	15283
(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed;	15284
(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed;	15285
(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed;	15286
(c) Four dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed;	15287
(c) Four dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed;	15288
(c) Four dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed;	15289
(d) Three dollars and fifty cents per patient day if the cost	15290

of construction was five thousand one hundred fifty dollars or	15291
less but exceeds three thousand five hundred dollars per bed;	15292
(e) Two dollars and fifty cents per patient day if the cost	15293
of construction was three thousand five hundred dollars or less	15294
per bed.	15295
(6) For facilities with dates of licensure after December 31,	15296
1979, but prior to January 1, 1981, not exceeding:	15297
(a) Twelve dollars per patient day if the beds were	15298
originally licensed as residential facility beds by the department	15299
of mental retardation and developmental disabilities;	15300
(b) Six dollars per patient day if the beds were originally	15301
licensed as nursing home beds by the department of health.	15302
(7) For facilities with dates of licensure after December 31,	15303
1980, but prior to January 1, 1982, not exceeding:	15304
(a) Twelve dollars per patient day if the beds were	15305
originally licensed as residential facility beds by the department	15306
of mental retardation and developmental disabilities;	15307
(b) Six dollars and forty-five cents per patient day if the	15308
beds were originally licensed as nursing home beds by the	15309
department of health.	15310
(8) For facilities with dates of licensure after December 31,	15311
1981, but prior to January 1, 1983, not exceeding:	15312
(a) Twelve dollars per patient day if the beds were	15313
originally licensed as residential facility beds by the department	15314
of mental retardation and developmental disabilities;	15315
(b) Six dollars and seventy-nine cents per patient day if the	15316
beds were originally licensed as nursing home beds by the	15317
department of health.	15318
(9) For facilities with dates of licensure after December 31,	15319
1982, but prior to January 1, 1984, not exceeding:	15320

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	15321 15322 15323
(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	15324 15325 15326
(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:	15327 15328
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	15329 15330 15331 15332
(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	15333 15334 15335
(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:	15336 15337
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	15338 15339 15340 15341
(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	15342 15343 15344
(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:	15345 15346
(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	15347 15348 15349
(b) Seven dollars and fifty cents per patient day if the beds	15350

were originally licensed as nursing home beds by the department of health. 15351
15352

(13) For facilities with dates of licensure after December 15353
31, 1986, but prior to January 1, 1988, not exceeding: 15354

(a) Twelve dollars and ninety-nine cents per patient day if 15355
the beds were originally licensed as residential facility beds by 15356
the department of ~~mental-retardation and~~ developmental 15357
disabilities; 15358

(b) Seven dollars and sixty-seven cents per patient day if 15359
the beds were originally licensed as nursing home beds by the 15360
department of health. 15361

(14) For facilities with dates of licensure after December 15362
31, 1987, but prior to January 1, 1989, not exceeding thirteen 15363
dollars and twenty-six cents per patient day; 15364

(15) For facilities with dates of licensure after December 15365
31, 1988, but prior to January 1, 1990, not exceeding thirteen 15366
dollars and forty-six cents per patient day; 15367

(16) For facilities with dates of licensure after December 15368
31, 1989, but prior to January 1, 1991, not exceeding thirteen 15369
dollars and sixty cents per patient day; 15370

(17) For facilities with dates of licensure after December 15371
31, 1990, but prior to January 1, 1992, not exceeding thirteen 15372
dollars and forty-nine cents per patient day; 15373

(18) For facilities with dates of licensure after December 15374
31, 1991, but prior to January 1, 1993, not exceeding thirteen 15375
dollars and sixty-seven cents per patient day; 15376

(19) For facilities with dates of licensure after December 15377
31, 1992, not exceeding fourteen dollars and twenty-eight cents 15378
per patient day. 15379

(D) Beginning January 1, 1981, regardless of the original 15380

date of licensure, the department of job and family services shall 15381
pay a rate for the per diem capitalized costs of renovations to 15382
intermediate care facilities for the mentally retarded made after 15383
January 1, 1981, not exceeding six dollars per patient day using 15384
1980 as the base year and adjusting the amount annually until June 15385
30, 1993, for fluctuations in construction costs calculated by the 15386
department using the "Dodge building cost indexes, northeastern 15387
and north central states," published by Marshall and Swift. The 15388
payment provided for in this division is the only payment that 15389
shall be made for the capitalized costs of a nonextensive 15390
renovation of an intermediate care facility for the mentally 15391
retarded. Nonextensive renovation costs shall not be included in 15392
cost of ownership, and a nonextensive renovation shall not affect 15393
the date of licensure for purposes of division (C) of this 15394
section. This division applies to nonextensive renovations 15395
regardless of whether they are made by an owner or a lessee. If 15396
the tenancy of a lessee that has made renovations ends before the 15397
depreciation expense for the renovation costs has been fully 15398
reported, the former lessee shall not report the undepreciated 15399
balance as an expense. 15400

For a nonextensive renovation to qualify for payment under 15401
this division, both of the following conditions must be met: 15402

(1) At least five years have elapsed since the date of 15403
licensure or date of an extensive renovation of the portion of the 15404
facility that is proposed to be renovated, except that this 15405
condition does not apply if the renovation is necessary to meet 15406
the requirements of federal, state, or local statutes, ordinances, 15407
rules, or policies. 15408

(2) The provider has obtained prior approval from the 15409
department of job and family services. The provider shall submit a 15410
plan that describes in detail the changes in capital assets to be 15411
accomplished by means of the renovation and the timetable for 15412

completing the project. The time for completion of the project 15413
shall be no more than eighteen months after the renovation begins. 15414
The director of job and family services shall adopt rules under 15415
section 5111.02 of the Revised Code that specify criteria and 15416
procedures for prior approval of renovation projects. No provider 15417
shall separate a project with the intent to evade the 15418
characterization of the project as a renovation or as an extensive 15419
renovation. No provider shall increase the scope of a project 15420
after it is approved by the department of job and family services 15421
unless the increase in scope is approved by the department. 15422

(E) The amounts specified in divisions (C) and (D) of this 15423
section shall be adjusted beginning July 1, 1993, for the 15424
estimated inflation for the twelve-month period beginning on the 15425
first day of July of the calendar year preceding the calendar year 15426
that precedes the fiscal year for which rate will be paid and 15427
ending on the thirtieth day of the following June, using the 15428
consumer price index for shelter costs for all urban consumers for 15429
the north central region, as published by the United States bureau 15430
of labor statistics. 15431

(F)(1) For facilities of eight or fewer beds that have dates 15432
of licensure or have been granted project authorization by the 15433
department of ~~mental retardation and~~ developmental disabilities 15434
before July 1, 1993, and for facilities of eight or fewer beds 15435
that have dates of licensure or have been granted project 15436
authorization after that date if the providers of the facilities 15437
demonstrate that they made substantial commitments of funds on or 15438
before that date, cost of ownership shall not exceed eighteen 15439
dollars and thirty cents per resident per day. The eighteen-dollar 15440
and thirty-cent amount shall be increased by the change in the 15441
"Dodge building cost indexes, northeastern and north central 15442
states," published by Marshall and Swift, during the period 15443
beginning June 30, 1990, and ending July 1, 1993, and by the 15444

change in the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics, annually thereafter.

(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of ~~mental retardation and~~ developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of job and family services gives prior approval for construction of the facility. If the department does not give prior approval, cost of ownership payments shall not exceed the amount specified in division (C) of this section.

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this section, the total payment for cost of ownership, cost of ownership efficiency incentive, and capitalized costs of renovations for an intermediate care facility for the mentally retarded with eight or fewer beds shall not exceed the sum of the limitations specified in divisions (C) and (D) of this section.

(G) Notwithstanding any provision of this section or section 5111.241 of the Revised Code, the director of job and family services may adopt rules under section 5111.02 of the Revised Code that provide for a calculation of a combined maximum payment limit for indirect care costs and cost of ownership for intermediate care facilities for the mentally retarded with eight or fewer beds.

(H) After the date on which a transaction of sale is closed, the provider shall refund to the department the amount of excess depreciation paid to the provider for the facility by the department for each year the provider has operated the facility under a provider agreement and prorated according to the number of

medicaid patient days for which the provider has received payment 15477
for the facility. For the purposes of this division, "depreciation 15478
paid to the provider for the facility" means the amount paid to 15479
the provider for the intermediate care facility for the mentally 15480
retarded for cost of ownership pursuant to this section less any 15481
amount paid for interest costs. For the purposes of this division, 15482
"excess depreciation" is the intermediate care facility for the 15483
mentally retarded's depreciated basis, which is the provider's 15484
cost less accumulated depreciation, subtracted from the purchase 15485
price but not exceeding the amount of depreciation paid to the 15486
provider for the facility. 15487

(I) The department of job and family services shall pay a 15488
provider for each of the provider's eligible proprietary 15489
intermediate care facilities for the mentally retarded a return on 15490
the facility's net equity computed at the rate of one and one-half 15491
times the average of interest rates on special issues of public 15492
debt obligations issued to the federal hospital insurance trust 15493
fund for the cost reporting period. No facility's return on net 15494
equity paid under this division shall exceed one dollar per 15495
patient day. 15496

In calculating the rate for return on net equity, the 15497
department shall use the greater of the facility's inpatient days 15498
during the applicable cost reporting period or the number of 15499
inpatient days the facility would have had during that period if 15500
its occupancy rate had been ninety-five per cent. 15501

(J)(1) Except as provided in division (J)(2) of this section, 15502
if a provider leases or transfers an interest in a facility to 15503
another provider who is a related party, the related party's 15504
allowable cost of ownership shall include the lesser of the 15505
following: 15506

(a) The annual lease expense or actual cost of ownership, 15507
whichever is applicable; 15508

(b) The reasonable cost to the lessor or provider making the transfer. 15509
15510

(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: 15511
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(a) The related party is a relative of owner; 15518

(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; 15519
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15521
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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; 15523
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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: 15526
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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. 15531
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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 15537
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15539

interest in the facility in this manner, the department shall 15540
treat the facility as if the lease never occurred when the 15541
department calculates its reimbursement rates for capital costs. 15542

(iii) In the case of a transfer, once the transfer goes into 15543
effect, the provider that made the transfer has no direct or 15544
indirect interest in the provider that acquires the facility or 15545
the facility itself, including interest as an owner, officer, 15546
director, employee, independent contractor, or consultant, but 15547
excluding interest as a creditor. 15548

(iv) In the case of a transfer, the provider that made the 15549
transfer does not reacquire an interest in the facility except 15550
through the exercise of a creditor's rights in the event of a 15551
default. If the provider reacquires an interest in the facility in 15552
this manner, the department shall treat the facility as if the 15553
transfer never occurred when the department calculates its 15554
reimbursement rates for capital costs. 15555

(v) The lease or transfer satisfies any other criteria 15556
specified in the rules. 15557

(e) Except in the case of hardship caused by a catastrophic 15558
event, as determined by the department, or in the case of a lessor 15559
or provider making the transfer who is at least sixty-five years 15560
of age, not less than twenty years have elapsed since, for the 15561
same facility, allowable cost of ownership was determined most 15562
recently under this division. 15563

Sec. 5111.291. Notwithstanding sections 5111.20 to 5111.33 of 15564
the Revised Code, the department of job and family services may 15565
compute the rate for intermediate care facilities for the mentally 15566
retarded operated by the department of ~~mental retardation and~~ 15567
developmental disabilities or the department of mental health 15568
according to the reasonable cost principles of Title XVIII. 15569

Sec. 5111.65. As used in sections 5111.65 to 5111.688 of the Revised Code:

(A) "Change of operator" means an entering operator becoming the operator of a nursing facility or intermediate care facility for the mentally retarded in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the facility is also transferred;

(c) A lease of the facility to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:	15599 15600
(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;	15601 15602 15603 15604
(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;	15605 15606 15607 15608 15609
(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.	15610 15611 15612 15613
(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.	15614 15615 15616
(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.	15617 15618 15619 15620
(D) "Effective date of a voluntary termination" means the day the intermediate care facility for the mentally retarded ceases to accept medicaid patients.	15621 15622 15623
(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.	15624 15625 15626 15627 15628

(F) "Entering operator" means the person or government entity 15629
that will become the operator of a nursing facility or 15630
intermediate care facility for the mentally retarded when a change 15631
of operator occurs. 15632

(G) "Exiting operator" means any of the following: 15633

(1) An operator that will cease to be the operator of a 15634
nursing facility or intermediate care facility for the mentally 15635
retarded on the effective date of a change of operator; 15636

(2) An operator that will cease to be the operator of a 15637
nursing facility or intermediate care facility for the mentally 15638
retarded on the effective date of a facility closure; 15639

(3) An operator of an intermediate care facility for the 15640
mentally retarded that is undergoing or has undergone a voluntary 15641
termination; 15642

(4) An operator of a nursing facility that is undergoing or 15643
has undergone a voluntary withdrawal of participation. 15644

(H)(1) "Facility closure" means discontinuance of the use of 15645
the building, or part of the building, that houses the facility as 15646
a nursing facility or intermediate care facility for the mentally 15647
retarded that results in the relocation of all of the facility's 15648
residents. A facility closure occurs regardless of any of the 15649
following: 15650

(a) The operator completely or partially replacing the 15651
facility by constructing a new facility or transferring the 15652
facility's license to another facility; 15653

(b) The facility's residents relocating to another of the 15654
operator's facilities; 15655

(c) Any action the department of health takes regarding the 15656
facility's certification under Title XIX of the "Social Security 15657
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may 15658

result in the transfer of part of the facility's survey findings 15659
to another of the operator's facilities; 15660

(d) Any action the department of health takes regarding the 15661
facility's license under Chapter 3721. of the Revised Code; 15662

(e) Any action the department of ~~mental retardation and~~ 15663
developmental disabilities takes regarding the facility's license 15664
under section 5123.19 of the Revised Code. 15665

(2) A facility closure does not occur if all of the 15666
facility's residents are relocated due to an emergency evacuation 15667
and one or more of the residents return to a medicaid-certified 15668
bed in the facility not later than thirty days after the 15669
evacuation occurs. 15670

(I) "Fiscal year," "intermediate care facility for the 15671
mentally retarded," "nursing facility," "operator," "owner," and 15672
"provider agreement" have the same meanings as in section 5111.20 15673
of the Revised Code. 15674

(J) "Voluntary termination" means an operator's voluntary 15675
election to terminate the participation of an intermediate care 15676
facility for the mentally retarded in the medicaid program but to 15677
continue to provide service of the type provided by a residential 15678
facility as defined in section 5123.19 of the Revised Code. 15679

(K) "Voluntary withdrawal of participation" means an 15680
operator's voluntary election to terminate the participation of a 15681
nursing facility in the medicaid program but to continue to 15682
provide service of the type provided by a nursing facility. 15683

Sec. 5111.677. Neither of the following shall affect the 15684
department of job and family services' determination of whether or 15685
when a change of operator occurs or the effective date of an 15686
entering operator's provider agreement under section 5111.671, 15687
section 5111.672, or, pursuant to section 5111.675, section 15688

5111.22 of the Revised Code:	15689
(A) The department of health's determination that a change of operator has or has not occurred for purposes of licensure under Chapter 3721. of the Revised Code;	15690 15691 15692
(B) The department of mental retardation and developmental disabilities' determination that a change of operator has or has not occurred for purposes of licensure under section 5123.19 of the Revised Code.	15693 15694 15695 15696
Sec. 5111.709. (A) There is hereby created the medicaid buy-in advisory council. The council shall consist of all of the following:	15697 15698 15699
(1) The following voting members:	15700
(a) The executive director of assistive technology of Ohio or the executive director's designee;	15701 15702
(b) The director of the axis center for public awareness of people with disabilities or the director's designee;	15703 15704
(c) The executive director of the cerebral palsy association of Ohio or the executive director's designee;	15705 15706
(d) The chief executive officer of Ohio advocates for mental health or the chief executive officer's designee;	15707 15708
(e) The state director of the Ohio chapter of AARP or the state director's designee;	15709 15710
(f) The director of the Ohio developmental disabilities council created under section 5123.35 of the Revised Code or the director's designee;	15711 15712 15713
(g) The executive director of the governor's council on people with disabilities created under section 3303.41 of the Revised Code or the executive director's designee;	15714 15715 15716

(h) The administrator of the legal rights service created under section 5123.60 of the Revised Code or the administrator's designee;	15717 15718 15719
(i) The chairperson of the Ohio Olmstead task force or the chairperson's designee;	15720 15721
(j) The executive director of the Ohio statewide independent living council or the executive director's designee;	15722 15723
(k) The president of the Ohio chapter of the national multiple sclerosis society or the president's designee;	15724 15725
(l) The executive director of the arc of Ohio or the executive director's designee;	15726 15727
(m) The executive director of the commission on minority health or the executive director's designee;	15728 15729
(n) The executive director of the brain injury association of Ohio or the executive director's designee;	15730 15731
(o) The executive officer of any other advocacy organization who volunteers to serve on the council, or such an executive officer's designee, if the other voting members, at a meeting called by the chairperson elected under division (C) of this section, determine it is appropriate for the advocacy organization to be represented on the council;	15732 15733 15734 15735 15736 15737
(p) One or more participants who volunteer to serve on the council and are selected by the other voting members at a meeting the chairperson calls after the medicaid buy-in for workers with disabilities program is implemented.	15738 15739 15740 15741
(2) The following non-voting members:	15742
(a) The director of job and family services or the director's designee;	15743 15744
(b) The administrator of the rehabilitation services commission or the administrator's designee;	15745 15746

(c) The director of alcohol and drug addiction services or the director's designee; 15747
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(d) The director of ~~mental retardation and~~ developmental disabilities or the director's designee; 15749
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(e) The director of mental health or the director's designee; 15751

(f) The executive officer of any other government entity, or the executive officer's designee, if the voting members, at a meeting called by the chairperson, determine it is appropriate for the government entity to be represented on the council. 15752
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(B) All members of the medicaid buy-in advisory council shall serve without compensation or reimbursement, except as serving on the council is considered part of their usual job duties. 15756
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(C) The voting members of the medicaid buy-in advisory council shall elect one of the members of the council to serve as the council's chairperson for a two-year term. The chairperson may be re-elected to successive terms. 15759
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(D) The department of job and family services shall provide the Ohio medicaid buy-in advisory council with accommodations for the council to hold its meetings and shall provide the council with other administrative assistance the council needs to perform its duties. 15763
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Sec. 5111.87. (A) As used in this section and section 5111.871 of the Revised Code: 15768
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(1) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code. 15770
15771

(2) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code. 15772
15773

(B) The director of job and family services may apply to the United States secretary of health and human services for both of 15774
15775

the following: 15776

(1) One or more medicaid waiver components under which home 15777
and community-based services are provided to individuals with 15778
mental retardation or other developmental disability as an 15779
alternative to placement in an intermediate care facility for the 15780
mentally retarded; 15781

(2) One or more medicaid waiver components under which home 15782
and community-based services are provided in the form of any of 15783
the following: 15784

(a) Early intervention and supportive services for children 15785
under three years of age who have developmental delays or 15786
disabilities the director determines are significant; 15787

(b) Therapeutic services for children who have autism; 15788

(c) Specialized habilitative services for individuals who are 15789
eighteen years of age or older and have autism. 15790

(C) No medicaid waiver component authorized by division 15791
(B)(2)(b) or (c) of this section shall provide services that are 15792
available under another medicaid waiver component. No medicaid 15793
waiver component authorized by division (B)(2)(b) of this section 15794
shall provide services to an individual that the individual is 15795
eligible to receive through an individualized education program as 15796
defined in section 3323.01 of the Revised Code. 15797

(D) The director of ~~mental retardation and~~ developmental 15798
disabilities or director of health may request that the director 15799
of job and family services apply for one or more medicaid waivers 15800
under this section. 15801

(E) Before applying for a waiver under this section, the 15802
director of job and family services shall seek, accept, and 15803
consider public comments. 15804

Sec. 5111.871. The department of job and family services 15805

shall enter into a contract with the department of ~~mental~~ 15806
~~retardation and~~ developmental disabilities under section 5111.91 15807
of the Revised Code with regard to one or more of the components 15808
of the medicaid program established by the department of job and 15809
family services under one or more of the medicaid waivers sought 15810
under section 5111.87 of the Revised Code. The contract shall 15811
provide for the department of ~~mental retardation and~~ developmental 15812
disabilities to administer the components in accordance with the 15813
terms of the waivers. The directors of job and family services and 15814
~~mental retardation and~~ developmental disabilities shall adopt 15815
rules in accordance with Chapter 119. of the Revised Code 15816
governing the components. 15817

If the department of ~~mental retardation and~~ developmental 15818
disabilities or the department of job and family services denies 15819
an individual's application for home and community-based services 15820
provided under any of these medicaid components, the department 15821
that denied the services shall give timely notice to the 15822
individual that the individual may request a hearing under section 15823
5101.35 of the Revised Code. 15824

The departments of ~~mental retardation and~~ developmental 15825
disabilities and job and family services may approve, reduce, 15826
deny, or terminate a service included in the individualized 15827
service plan developed for a medicaid recipient eligible for home 15828
and community-based services provided under any of these medicaid 15829
components. The departments shall consider the recommendations a 15830
county board of ~~mental retardation and~~ developmental disabilities 15831
makes under division (A)(1)(c) of section 5126.055 of the Revised 15832
Code. If either department approves, reduces, denies, or 15833
terminates a service, that department shall give timely notice to 15834
the medicaid recipient that the recipient may request a hearing 15835
under section 5101.35 of the Revised Code. 15836

If supported living, as defined in section 5126.01 of the 15837

Revised Code, is to be provided as a service under any of these 15838
components, any person or government entity with a current, valid 15839
medicaid provider agreement and a current, valid certificate under 15840
section 5123.161 of the Revised Code may provide the service. 15841
15842

If a service is to be provided under any of these components 15843
by a residential facility, as defined in section 5123.19 of the 15844
Revised Code, any person or government entity with a current, 15845
valid medicaid provider agreement and a current, valid license 15846
under section 5123.19 of the Revised Code may provide the service. 15847

Sec. 5111.872. When the department of ~~mental retardation and~~ 15848
developmental disabilities allocates enrollment numbers to a 15849
county board of ~~mental retardation and~~ developmental disabilities 15850
for home and community-based services specified in division (B)(1) 15851
of section 5111.87 of the Revised Code and provided under any of 15852
the components of the medicaid program that the department 15853
administers under section 5111.871 of the Revised Code, the 15854
department shall consider all of the following: 15855

(A) The number of individuals with mental retardation or 15856
other developmental disability who are on a waiting list the 15857
county board establishes under division (C) of section 5126.042 of 15858
the Revised Code for those services and are given priority on the 15859
waiting list pursuant to division (D) or (E) of that section; 15860

(B) The implementation component required by division (A)(3) 15861
of section 5126.054 of the Revised Code of the county board's plan 15862
approved under section 5123.046 of the Revised Code; 15863

(C) Anything else the department considers necessary to 15864
enable county boards to provide those services to individuals in 15865
accordance with the priority requirements of divisions (D) and (E) 15866
of section 5126.042 of the Revised Code. 15867

Sec. 5111.873. (A) Not later than the effective date of the 15868
first of any medicaid waivers the United States secretary of 15869
health and human services grants pursuant to a request made under 15870
section 5111.87 of the Revised Code, the director of job and 15871
family services shall adopt rules in accordance with Chapter 119. 15872
of the Revised Code establishing statewide fee schedules for home 15873
and community-based services specified in division (B)(1) of 15874
section 5111.87 of the Revised Code and provided under the 15875
components of the medicaid program that the department of ~~mental~~ 15876
~~retardation and~~ developmental disabilities administers under 15877
section 5111.871 of the Revised Code. The rules shall provide for 15878
all of the following: 15879

(1) The department of ~~mental retardation and~~ developmental 15880
disabilities arranging for the initial and ongoing collection of 15881
cost information from a comprehensive, statistically valid sample 15882
of persons and government entities providing the services at the 15883
time the information is obtained; 15884

(2) The collection of consumer-specific information through 15885
an assessment instrument the department of ~~mental retardation and~~ 15886
developmental disabilities shall provide to the department of job 15887
and family services; 15888

(3) With the information collected pursuant to divisions 15889
(A)(1) and (2) of this section, an analysis of that information, 15890
and other information the director determines relevant, methods 15891
and standards for calculating the fee schedules that do all of the 15892
following: 15893

(a) Assure that the fees are consistent with efficiency, 15894
economy, and quality of care; 15895

(b) Consider the intensity of consumer resource need; 15896

(c) Recognize variations in different geographic areas 15897

regarding the resources necessary to assure the health and welfare of consumers; 15898
15899

(d) Recognize variations in environmental supports available to consumers. 15900
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(B) As part of the process of adopting rules under this section, the director shall consult with the director of ~~mental retardation~~ and developmental disabilities, representatives of county boards of ~~mental retardation~~ and developmental disabilities, persons who provide the home and community-based services, and other persons and government entities the director identifies. 15902
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(C) The directors of job and family services and ~~mental retardation~~ and developmental disabilities shall review the rules adopted under this section at times they determine to ensure that the methods and standards established by the rules for calculating the fee schedules continue to do everything that division (A)(3) of this section requires. 15909
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Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 of the Revised Code: 15915
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"Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code. 15917
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"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for medicaid-covered intermediate care facility for the mentally retarded services. 15919
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"Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded that is certified as in compliance with applicable standards for the 15925
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medicaid program by the director of health in accordance with 15928
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 15929
U.S.C. 1396, as amended, and licensed as a residential facility 15930
under section 5123.19 of the Revised Code. 15931

"Residential facility" has the same meaning as in section 15932
5123.19 of the Revised Code. 15933

(B) For the purpose of increasing the number of slots 15934
available for home and community-based services and subject to 15935
sections 5111.877 and 5111.878 of the Revised Code, the operator 15936
of an intermediate care facility for the mentally retarded may 15937
convert all of the beds in the facility from providing ICF/MR 15938
services to providing home and community-based services if all of 15939
the following requirements are met: 15940

(1) The operator provides the directors of health, job and 15941
family services, and ~~mental retardation and~~ developmental 15942
disabilities at least ninety days' notice of the operator's intent 15943
to relinquish the facility's certification as an intermediate care 15944
facility for the mentally retarded and to begin providing home and 15945
community-based services. 15946

(2) The operator complies with the requirements of sections 15947
5111.65 to 5111.688 of the Revised Code regarding a voluntary 15948
termination as defined in section 5111.65 of the Revised Code if 15949
those requirements are applicable. 15950

(3) The operator notifies each of the facility's residents 15951
that the facility is to cease providing ICF/MR services and inform 15952
each resident that the resident may do either of the following: 15953

(a) Continue to receive ICF/MR services by transferring to 15954
another facility that is an intermediate care facility for the 15955
mentally retarded willing and able to accept the resident if the 15956
resident continues to qualify for ICF/MR services; 15957

(b) Begin to receive home and community-based services 15958

instead of ICF/MR services from any provider of home and 15959
community-based services that is willing and able to provide the 15960
services to the resident if the resident is eligible for the 15961
services and a slot for the services is available to the resident. 15962

(4) The operator meets the requirements for providing home 15963
and community-based services, including the following: 15964

(a) Such requirements applicable to a residential facility if 15965
the operator maintains the facility's license as a residential 15966
facility; 15967

(b) Such requirements applicable to a facility that is not 15968
licensed as a residential facility if the operator surrenders the 15969
facility's residential facility license under section 5123.19 of 15970
the Revised Code. 15971

(5) The director of ~~mental retardation and~~ developmental 15972
disabilities approves the conversion. 15973

(C) The notice to the director of ~~mental retardation and~~ 15974
developmental disabilities under division (B)(1) of this section 15975
shall specify whether the operator wishes to surrender the 15976
facility's license as a residential facility under section 5123.19 15977
of the Revised Code. 15978

(D) If the director of ~~mental retardation and~~ developmental 15979
disabilities approves a conversion under division (B) of this 15980
section, the director of health shall terminate the certification 15981
of the intermediate care facility for the mentally retarded to be 15982
converted. The director of health shall notify the director of job 15983
and family services of the termination. On receipt of the director 15984
of health's notice, the director of job and family services shall 15985
terminate the operator's medicaid provider agreement that 15986
authorizes the operator to provide ICF/MR services at the 15987
facility. The operator is not entitled to notice or a hearing 15988
under Chapter 119. of the Revised Code before the director of job 15989

and family services terminates the medicaid provider agreement. 15990
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Sec. 5111.875. (A) For the purpose of increasing the number 15992
of slots available for home and community-based services and 15993
subject to sections 5111.877 and 5111.878 of the Revised Code, a 15994
person who acquires, through a request for proposals issued by the 15995
director of ~~mental retardation and~~ developmental disabilities, a 15996
residential facility that is an intermediate care facility for the 15997
mentally retarded and for which the license as a residential 15998
facility was previously surrendered or revoked may convert some or 15999
all of the facility's beds from providing ICF/MR services to 16000
providing home and community-based services if all of the 16001
following requirements are met: 16002

(1) The person provides the directors of health, job and 16003
family services, and ~~mental retardation and~~ developmental 16004
disabilities at least ninety days' notice of the person's intent 16005
to make the conversion. 16006

(2) The person complies with the requirements of sections 16007
5111.65 to 5111.688 of the Revised Code regarding a voluntary 16008
termination as defined in section 5111.65 of the Revised Code if 16009
those requirements are applicable. 16010

(3) If the person intends to convert all of the facility's 16011
beds, the person notifies each of the facility's residents that 16012
the facility is to cease providing ICF/MR services and informs 16013
each resident that the resident may do either of the following: 16014

(a) Continue to receive ICF/MR services by transferring to 16015
another facility that is an intermediate care facility for the 16016
mentally retarded willing and able to accept the resident if the 16017
resident continues to qualify for ICF/MR services; 16018

(b) Begin to receive home and community-based services 16019

instead of ICF/MR services from any provider of home and 16020
community-based services that is willing and able to provide the 16021
services to the resident if the resident is eligible for the 16022
services and a slot for the services is available to the resident. 16023

(4) If the person intends to convert some but not all of the 16024
facility's beds, the person notifies each of the facility's 16025
residents that the facility is to convert some of its beds from 16026
providing ICF/MR services to providing home and community-based 16027
services and inform each resident that the resident may do either 16028
of the following: 16029

(a) Continue to receive ICF/MR services from any provider of 16030
ICF/MR services that is willing and able to provide the services 16031
to the resident if the resident continues to qualify for ICF/MR 16032
services; 16033

(b) Begin to receive home and community-based services 16034
instead of ICF/MR services from any provider of home and 16035
community-based services that is willing and able to provide the 16036
services to the resident if the resident is eligible for the 16037
services and a slot for the services is available to the resident. 16038

(5) The person meets the requirements for providing home and 16039
community-based services at a residential facility. 16040

(B) The notice provided to the directors under division 16041
(A)(1) of this section shall specify whether some or all of the 16042
facility's beds are to be converted. If some but not all of the 16043
beds are to be converted, the notice shall specify how many of the 16044
facility's beds are to be converted and how many of the beds are 16045
to continue to provide ICF/MR services. 16046

(C) On receipt of a notice under division (A)(1) of this 16047
section, the director of health shall do the following: 16048

(1) Terminate the certification of the intermediate care 16049
facility for the mentally retarded if the notice specifies that 16050

all of the facility's beds are to be converted; 16051

(2) Reduce the facility's certified capacity by the number of 16052
beds being converted if the notice specifies that some but not all 16053
of the beds are to be converted. 16054

(D) The director of health shall notify the director of job 16055
and family services of the termination or reduction under division 16056
(C) of this section. On receipt of the director of health's 16057
notice, the director of job and family services shall do the 16058
following: 16059

(1) Terminate the person's medicaid provider agreement that 16060
authorizes the person to provide ICF/MR services at the facility 16061
if the facility's certification was terminated; 16062

(2) Amend the person's medicaid provider agreement to reflect 16063
the facility's reduced certified capacity if the facility's 16064
certified capacity is reduced. 16065

The person is not entitled to notice or a hearing under 16066
Chapter 119. of the Revised Code before the director of job and 16067
family services terminates or amends the medicaid provider 16068
agreement. 16069

Sec. 5111.876. Subject to section 5111.877 of the Revised 16070
Code, the director of ~~mental retardation and~~ developmental 16071
disabilities may request that the director of job and family 16072
services seek the approval of the United States secretary of 16073
health and human services to increase the number of slots 16074
available for home and community-based services by a number not 16075
exceeding the number of beds that were part of the licensed 16076
capacity of a residential facility that had its license revoked or 16077
surrendered under section 5123.19 of the Revised Code if the 16078
residential facility was an intermediate care facility for the 16079
mentally retarded at the time of the license revocation or 16080

surrender. The revocation or surrender may have occurred before, 16081
or may occur on or after, ~~the effective date of this section~~ June 16082
24, 2008. The request may include beds the director removed from 16083
such a residential facility's licensed capacity before 16084
transferring ownership or operation of the residential facility 16085
pursuant to a request for proposals. 16086

Sec. 5111.8710. The directors of job and family services and 16087
~~mental retardation and~~ developmental disabilities may adopt rules 16088
in accordance with Chapter 119. of the Revised Code as necessary 16089
to implement sections 5111.874 to 5111.8710 of the Revised Code. 16090

Sec. 5111.915. (A) The department of job and family services 16091
shall enter into an agreement with the department of 16092
administrative services for the department of administrative 16093
services to contract through competitive selection pursuant to 16094
section 125.07 of the Revised Code with a vendor to perform an 16095
assessment of the data collection and data warehouse functions of 16096
the medicaid data warehouse system, including the ability to link 16097
the data sets of all agencies serving medicaid recipients. 16098

The assessment of the data system shall include functions 16099
related to fraud and abuse detection, program management and 16100
budgeting, and performance measurement capabilities of all 16101
agencies serving medicaid recipients, including the departments of 16102
aging, alcohol and drug addiction services, health, job and family 16103
services, mental health, and ~~mental retardation and~~ developmental 16104
disabilities. 16105

The department of administrative services shall enter into 16106
this contract within thirty days after ~~the effective date of this~~ 16107
~~section~~ September 29, 2005. The contract shall require the vendor 16108
to complete the assessment within ninety days after ~~the effective~~ 16109
~~date of this section~~ September 29, 2005. 16110

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 16141
imposed under section 5112.31 of the Revised Code, the department 16142
of ~~mental retardation and~~ developmental disabilities shall: 16143

(A) Not later than August 1, 1993, report to the department 16144
of job and family services the number of beds in each intermediate 16145
care facility for the mentally retarded certified on July 1, 1993, 16146
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 16147
42 U.S.C.A. 301, as amended; 16148

(B) Not later than June 1, 1994, and the first day of each 16149
June thereafter, report to the department of job and family 16150
services the number of beds in each such facility certified on the 16151
preceding first day of May under that title. 16152

Sec. 5112.37. There is hereby created in the state treasury 16153
the home and community-based services for the mentally retarded 16154
and developmentally disabled fund. Ninety-four and twenty-eight 16155
hundredths per cent of all installment payments and penalties paid 16156
by an intermediate care facility for the mentally retarded under 16157
sections 5112.33 and 5112.34 of the Revised Code shall be 16158
deposited into the fund. The department of job and family services 16159
shall distribute the money in the fund in accordance with rules 16160
adopted under section 5112.39 of the Revised Code. The departments 16161
of job and family services and ~~mental retardation and~~ 16162
developmental disabilities shall use the money for the medicaid 16163
program established under Chapter 5111. of the Revised Code and 16164
home and community-based services to mentally retarded and 16165
developmentally disabled persons. 16166

Sec. 5112.371. There is hereby created in the state treasury 16167
the children with intensive behavioral needs programs fund. Five 16168
and seventy-two hundredths per cent of all installment payments 16169
and penalties paid by an intermediate care facility for the 16170

mentally retarded under sections 5112.33 and 5112.34 of the 16171
Revised Code shall be deposited in the fund. The money in the fund 16172
shall be used for the programs the director of ~~mental retardation~~ 16173
~~and~~ developmental disabilities establishes under section 5123.0417 16174
of the Revised Code. 16175

Sec. 5119.16. As used in this section, "free clinic" has the 16176
same meaning as in section 2305.2341 of the Revised Code. 16177

(A) The department of mental health is hereby designated to 16178
provide certain goods and services for the department of mental 16179
health, the department of ~~mental retardation and~~ developmental 16180
disabilities, the department of rehabilitation and correction, the 16181
department of youth services, and other state, county, or 16182
municipal agencies requesting such goods and services when the 16183
department of mental health determines that it is in the public 16184
interest, and considers it advisable, to provide these goods and 16185
services. The department of mental health also may provide goods 16186
and services to agencies operated by the United States government 16187
and to public or private nonprofit agencies, other than free 16188
clinics, that are funded in whole or in part by the state if the 16189
public or private nonprofit agencies are designated for 16190
participation in this program by the director of mental health for 16191
community mental health agencies, the director of ~~mental~~ 16192
~~retardation and~~ developmental disabilities for community mental 16193
retardation and developmental disabilities agencies, the director 16194
of rehabilitation and correction for community rehabilitation and 16195
correction agencies, or the director of youth services for 16196
community youth services agencies. 16197

Designated community agencies shall receive goods and 16198
services through the department of mental health only in those 16199
cases where the designating state agency certifies that providing 16200
such goods and services to the agency will conserve public 16201

resources to the benefit of the public and where the provision of 16202
such goods and services is considered feasible by the department 16203
of mental health. 16204

(B) The department of mental health may permit free clinics 16205
to purchase certain goods and services to the extent the purchases 16206
fall within the exemption to the Robinson-Patman Act, 15 U.S.C. 13 16207
et seq., applicable to ~~non-profit~~ nonprofit institutions, in 15 16208
U.S.C. 13c, as amended. 16209

(C) The goods and services to be provided by the department 16210
of mental health under divisions (A) and (B) of this section may 16211
include: 16212

(1) Procurement, storage, processing, and distribution of 16213
food and professional consultation on food operations; 16214

(2) Procurement, storage, and distribution of medical and 16215
laboratory supplies, dental supplies, medical records, forms, 16216
optical supplies, and sundries, subject to section 5120.135 of the 16217
Revised Code; 16218

(3) Procurement, storage, repackaging, distribution, and 16219
dispensing of drugs, the provision of professional pharmacy 16220
consultation, and drug information services; 16221

(4) Other goods and services as may be agreed to. 16222

(D) The department of mental health shall provide the goods 16223
and services designated in division (C) of this section to its 16224
institutions and to state-operated community-based mental health 16225
services. 16226

(E) After consultation with and advice from the director of 16227
~~mental retardation and~~ developmental disabilities, the director of 16228
rehabilitation and correction, and the director of youth services, 16229
the department of mental health shall provide the goods and 16230
services designated in division (C) of this section to the 16231

department of ~~mental retardation and~~ developmental disabilities, 16232
the department of rehabilitation and correction, and the 16233
department of youth services. 16234

(F) The cost of administration of this section shall be 16235
determined by the department of mental health and paid by the 16236
agencies or free clinics receiving the goods and services to the 16237
department for deposit in the state treasury to the credit of the 16238
mental health fund, which is hereby created. The fund shall be 16239
used to pay the cost of administration of this section to the 16240
department. 16241

(G) If the goods or services designated in division (C) of 16242
this section are not provided in a satisfactory manner by the 16243
department of mental health to the agencies described in division 16244
(A) of this section, the director of ~~mental retardation and~~ 16245
developmental disabilities, the director of rehabilitation and 16246
correction, the director of youth services, or the managing 16247
officer of a department of mental health institution shall attempt 16248
to resolve unsatisfactory service with the director of mental 16249
health. If, after such attempt, the provision of goods or services 16250
continues to be unsatisfactory, the director or officer shall 16251
notify the director of mental health. If within thirty days of 16252
such notice the department of mental health does not provide the 16253
specified goods and services in a satisfactory manner, the 16254
director of ~~mental retardation and~~ developmental disabilities, the 16255
director of rehabilitation and correction, the director of youth 16256
services, or the managing officer of the department of mental 16257
health institution shall notify the director of mental health of 16258
the director's or managing officer's intent to cease purchasing 16259
goods and services from the department. Following a sixty-day 16260
cancellation period from the date of such notice, the department 16261
of ~~mental retardation~~ developmental disabilities, department of 16262
rehabilitation and correction, department of youth services, or 16263

the department of mental health institution may obtain the goods 16264
and services from a source other than the department of mental 16265
health, if the department certifies to the department of 16266
administrative services that the requirements of this division 16267
have been met. 16268

(H) Whenever a state agency fails to make a payment for goods 16269
and services provided under this section within thirty-one days 16270
after the date the payment was due, the office of budget and 16271
management may transfer moneys from the state agency to the 16272
department of mental health. The amount transferred shall not 16273
exceed the amount of overdue payments. Prior to making a transfer 16274
under this division, the office of budget and management shall 16275
apply any credits the state agency has accumulated in payments for 16276
goods and services provided under this section. 16277

(I) Purchases of goods and services under this section are 16278
not subject to section 307.86 of the Revised Code. 16279

Sec. 5119.221. (A) Upon petition by the director of mental 16280
health, the court of common pleas or the probate court may appoint 16281
a receiver to take possession of and operate a residential 16282
facility licensed pursuant to section 5119.22 of the Revised Code, 16283
when conditions existing at the residential facility present a 16284
substantial risk of physical or mental harm to residents and no 16285
other remedies at law are adequate to protect the health, safety, 16286
and welfare of the residents. 16287

Petitions filed pursuant to this section shall include: 16288

(1) A description of the specific conditions existing at the 16289
residential facility which present a substantial risk of physical 16290
or mental harm to residents; 16291

(2) A statement of the absence of other adequate remedies at 16292
law; 16293

(3) The number of individuals residing at the facility; 16294

(4) A statement that the facts have been brought to the 16295
attention of the owner or licensee and that conditions have not 16296
been remedied within a reasonable period of time or that the 16297
conditions, though remedied periodically, habitually exist at the 16298
residential facility as a pattern or practice; and 16299

(5) The name and address of the person holding the license 16300
for the residential facility. 16301

(B) A court in which a petition is filed pursuant to this 16302
section shall notify the person holding the license for the 16303
facility of the filing. The department shall send notice of the 16304
filing to the following, as appropriate: the legal rights service 16305
created pursuant to section 5123.60 of the Revised Code; facility 16306
owner; facility operator; board of alcohol, drug addiction, and 16307
mental health services; board of health; department of ~~mental~~ 16308
~~retardation and~~ developmental disabilities; department of job and 16309
family services; facility residents; and residents' families and 16310
guardians. The court shall provide a hearing on the petition 16311
within five court days of the time it was filed, except that the 16312
court may appoint a receiver prior to that time if it determines 16313
that the circumstances necessitate such action. 16314

Following a hearing on the petition, and upon a determination 16315
that the appointment of a receiver is warranted, the court shall 16316
appoint a receiver and notify the department of mental health and 16317
appropriate persons of this action. 16318

In setting forth the powers of the receiver, the court may 16319
generally authorize the receiver to do all that is prudent and 16320
necessary to safely and efficiently operate the residential 16321
facility within the requirements of state and federal law, but 16322
shall require the receiver to obtain court approval prior to 16323
making any single expenditure of more than five thousand dollars 16324

to correct deficiencies in the structure or furnishings of a 16325
facility. The court shall closely review the conduct of the 16326
receiver and shall require regular and detailed reports. 16327

(C) A receivership established pursuant to this section shall 16328
be terminated, following notification of the appropriate parties 16329
and a hearing, if the court determines either of the following: 16330

(1) The residential facility has been closed and the former 16331
residents have been relocated to an appropriate facility; 16332

(2) Circumstances no longer exist at the residential facility 16333
which present a substantial risk of physical or mental harm to 16334
residents, and there is no deficiency in the residential facility 16335
that is likely to create a future risk of harm. 16336

Notwithstanding division (C)(2) of this section, the court 16337
shall not terminate a receivership for a residential facility that 16338
has previously operated under another receivership unless the 16339
responsibility for the operation of the facility is transferred to 16340
an operator approved by the court and the department of mental 16341
health. 16342

(D) Except for the department of mental health or appropriate 16343
board of alcohol, drug addiction, and mental health services, no 16344
party or person interested in an action shall be appointed a 16345
receiver pursuant to this section. 16346

To assist the court in identifying persons qualified to be 16347
named as receivers, the director of the department of mental 16348
health shall maintain a list of the names of such persons. The 16349
department of mental health, the department of job and family 16350
services, and the department of health shall provide technical 16351
assistance to any receiver appointed pursuant to this section. 16352

Before entering upon the duties of receiver, the receiver 16353
must be sworn to perform the duties faithfully, and, with surety 16354
approved by the court, judge, or clerk, execute a bond to such 16355

person, and in such sum as the court or judge directs, to the 16356
effect that such receiver will faithfully discharge the duties of 16357
receiver in the action, and obey the orders of the court therein. 16358

(1) Under the control of the appointing court, a receiver may 16359
do the following: 16360

(a) Bring and defend actions in the appointee's name as 16361
receiver; 16362

(b) Take and keep possession of property. 16363

(2) The court shall authorize the receiver to do the 16364
following: 16365

(a) Collect payment for all goods and services provided to 16366
the residents or others during the period of the receivership at 16367
the same rate as was charged by the licensee at the time the 16368
petition for receivership was filed, unless a different rate is 16369
set by the court; 16370

(b) Honor all leases, mortgages, and secured transactions 16371
governing all buildings, goods, and fixtures of which the receiver 16372
has taken possession, but, in the case of a rental agreement only 16373
to the extent of payments that are for the use of the property 16374
during the period of the receivership, or, in the case of a 16375
purchase agreement, only to the extent that payments come due 16376
during the period of the receivership; 16377

(c) If transfer of residents is necessary, provide for the 16378
orderly transfer of residents by: 16379

(i) Cooperating with all appropriate state and local agencies 16380
in carrying out the transfer of residents to alternative community 16381
placements; 16382

(ii) Providing for the transportation of residents' 16383
belongings and records; 16384

(iii) Helping to locate alternative placements and develop 16385

plans for transfer; 16386

(iv) Encouraging residents or guardians to participate in 16387
transfer planning except when an emergency exists and immediate 16388
transfer is necessary. 16389

(d) Make periodic reports on the status of the residential 16390
facility to the court; the appropriate state agencies; and the 16391
board of alcohol, drug addiction, and mental health services. Each 16392
report shall be made available to residents, their guardians, and 16393
families. 16394

(e) Compromise demands or claims; and 16395

(f) Generally do such acts respecting the residential 16396
facility as the court authorizes. 16397

Notwithstanding any other provision of law, contracts which 16398
are necessary to carry out the powers and duties of the receiver 16399
need not be competitively bid. 16400

Sec. 5119.51. Pursuant to Article X of the compact set forth 16401
in section 5119.50 of the Revised Code, the director of mental 16402
health and the director of ~~mental retardation and~~ developmental 16403
disabilities each shall designate an officer who shall be the 16404
compact administrator for ~~his~~ the department and who, acting 16405
jointly with like officers of other party states, shall adopt 16406
rules to carry out more effectively the terms of the compact. The 16407
compact administrators of each department shall serve subject to 16408
the pleasure of the governor and shall cooperate with all 16409
departments, agencies, and officers of and in the government of 16410
this state and its subdivisions in facilitating the proper 16411
administration of the compact or of any supplementary agreements 16412
entered into by this state thereunder. 16413

Sec. 5120.07. (A) There is hereby created the ex-offender 16414
reentry coalition consisting of the following seventeen members or 16415

their designees:	16416
(1) The director of rehabilitation and correction;	16417
(2) The director of aging;	16418
(3) The director of alcohol and drug addiction services;	16419
(4) The director of development;	16420
(5) The superintendent of public instruction;	16421
(6) The director of health;	16422
(7) The director of job and family services;	16423
(8) The director of mental health;	16424
(9) The director of mental retardation and developmental disabilities;	16425 16426
(10) The director of public safety;	16427
(11) The director of youth services;	16428
(12) The chancellor of the Ohio board of regents;	16429
(13) The director of the governor's office of external affairs and economic opportunity;	16430 16431
(14) The director of the governor's office of faith-based and community initiatives;	16432 16433
(15) The director of the rehabilitation services commission;	16434
(16) The director of the department of commerce;	16435
(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.	16436 16437 16438
(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.	16439 16440 16441
(C) In consultation with persons interested and involved in	16442

the reentry of ex-offenders into the community, including but not 16443
limited to, service providers, community-based organizations, and 16444
local governments, the coalition shall identify and examine social 16445
service barriers and other obstacles to the reentry of 16446
ex-offenders into the community. Not later than one year after ~~the~~ 16447
~~effective date of this act~~ April 7, 2009, and on or before the 16448
same date of each year thereafter, the coalition shall submit to 16449
the speaker of the house of representatives and the president of 16450
the senate a report, including recommendations for legislative 16451
action, the activities of the coalition, and the barriers 16452
affecting the successful reentry of ex-offenders into the 16453
community. The report shall analyze the effects of those barriers 16454
on ex-offenders and on their children and other family members in 16455
various areas, including but not limited to, the following: 16456

- (1) Admission to public and other housing; 16458
- (2) Child support obligations and procedures; 16459
- (3) Parental incarceration and family reunification; 16460
- (4) Social security benefits, veterans' benefits, food 16461
stamps, and other forms of public assistance; 16462
- (5) Employment; 16463
- (6) Education programs and financial assistance; 16464
- (7) Substance abuse, mental health, and sex offender 16465
treatment programs and financial assistance; 16466
- (8) Civic and political participation; 16467
- (9) Other collateral consequences under the Revised Code or 16468
the Ohio administrative code law that may result from a criminal 16469
conviction. 16470

Sec. 5120.135. (A) As used in this section, "laboratory 16471

services" includes the performance of medical laboratory analysis; 16472
professional laboratory and pathologist consultation; the 16473
procurement, storage, and distribution of laboratory supplies; and 16474
the performance of phlebotomy services. 16475

(B) The department of rehabilitation and correction shall 16476
provide laboratory services to the departments of mental health, 16477
~~mental retardation and~~ developmental disabilities, youth services, 16478
and rehabilitation and correction. The department of 16479
rehabilitation and correction may also provide laboratory services 16480
to other state, county, or municipal agencies and to private 16481
persons that request laboratory services if the department of 16482
rehabilitation and correction determines that the provision of 16483
laboratory services is in the public interest and considers it 16484
advisable to provide such services. The department of 16485
rehabilitation and correction may also provide laboratory services 16486
to agencies operated by the United States government and to public 16487
and private entities funded in whole or in part by the state if 16488
the director of rehabilitation and correction designates them as 16489
eligible to receive such services. 16490

The department of rehabilitation and correction shall provide 16491
laboratory services from a laboratory that complies with the 16492
standards for certification set by the United States department of 16493
health and human services under the "Clinical Laboratory 16494
Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. 16495
In addition, the laboratory shall maintain accreditation or 16496
certification with an appropriate accrediting or certifying 16497
organization as considered necessary by the recipients of its 16498
laboratory services and as authorized by the director of 16499
rehabilitation and correction. 16500

(C) The cost of administering this section shall be 16501
determined by the department of rehabilitation and correction and 16502
shall be paid by entities that receive laboratory services to the 16503

department for deposit in the state treasury to the credit of the 16504
laboratory services fund, which is hereby created. The fund shall 16505
be used to pay the costs the department incurs in administering 16506
this section. 16507

(D) If the department of rehabilitation and correction does 16508
not provide laboratory services under this section in a 16509
satisfactory manner to the department of ~~mental retardation and~~ 16510
developmental disabilities, youth services, or mental health, the 16511
director of ~~mental retardation and~~ developmental disabilities, 16512
youth services, or mental health shall attempt to resolve the 16513
matter of the unsatisfactory provision of services with the 16514
director of rehabilitation and correction. If, after this attempt, 16515
the provision of laboratory services continues to be 16516
unsatisfactory, the director of ~~mental retardation and~~ 16517
developmental disabilities, youth services, or mental health shall 16518
notify the director of rehabilitation and correction regarding the 16519
continued unsatisfactory provision of laboratory services. If, 16520
within thirty days after the director receives this notice, the 16521
department of rehabilitation and correction does not provide the 16522
specified laboratory services in a satisfactory manner, the 16523
director of ~~mental retardation and~~ developmental disabilities, 16524
youth services, or mental health shall notify the director of 16525
rehabilitation and correction of the notifying director's intent 16526
to cease obtaining laboratory services from the department of 16527
rehabilitation and correction. Following the end of a cancellation 16528
period of sixty days that begins on the date of the notice, the 16529
department that sent the notice may obtain laboratory services 16530
from a provider other than the department of rehabilitation and 16531
correction, if the department that sent the notice certifies to 16532
the department of administrative services that the requirements of 16533
this division have been met. 16534

(E) Whenever a state agency fails to make a payment for 16535

laboratory services provided to it by the department of 16536
rehabilitation and correction under this section within thirty-one 16537
days after the date the payment was due, the office of budget and 16538
management may transfer moneys from that state agency to the 16539
department of rehabilitation and correction for deposit to the 16540
credit of the laboratory services fund. The amount transferred 16541
shall not exceed the amount of the overdue payments. Prior to 16542
making a transfer under this division, the office shall apply any 16543
credits the state agency has accumulated in payment for laboratory 16544
services provided under this section. 16545

Sec. 5121.01. As used in sections 5121.01 to 5121.21 of the 16546
Revised Code: 16547

(A) "Resident" means a person admitted to an institution or 16548
other facility pursuant to Chapter 5123. of the Revised Code who 16549
is under observation or receiving habilitation and care. 16550

(B) "Applicable cost" means the rate for support applicable 16551
to a resident as specified in this section. 16552

The cost for support of residents in institutions under the 16553
jurisdiction of the department of ~~mental retardation and~~ 16554
developmental disabilities, and of residents in private facilities 16555
or homes whose care or treatment is being paid for by the 16556
department, shall be based on the average per capita cost of the 16557
care and treatment of the residents. The cost of services for 16558
residents shall be computed using the projected average daily per 16559
capita cost at the institution, or at the discretion of the 16560
department, the subunit thereof in which services are provided. 16561
Such costs shall be computed at least annually for the next 16562
prospective period using generally accepted governmental 16563
accounting principles. The cost of services for residents that are 16564
being cared for and maintained in a private facility or home under 16565
the supervision of the department and for which a purchase of 16566

services contract is being paid to the private facility or home by 16567
the department shall not be more than the per diem cost of the 16568
contract. The cost of services for a resident receiving 16569
pre-admission care, after-care, day-care, or routine consultation 16570
and treatment services in a community service unit under the 16571
jurisdiction of the department shall be computed on the basis of 16572
the average cost of such services at the institution at which they 16573
are provided. 16574

The department shall annually determine the ability to pay of 16575
a resident or the resident's liable relatives and the amount that 16576
such person shall pay in accordance with section 5121.04 of the 16577
Revised Code. 16578

Collections of support payments shall be made by the 16579
department and, subject to meeting prior requirements for payment 16580
and crediting of such collections and other available receipts, in 16581
accordance with the bond proceedings applicable to obligations 16582
issued pursuant to section 154.20 of the Revised Code, such 16583
collections and other available receipts designated by the 16584
director of ~~mental retardation~~ and developmental disabilities for 16585
deposit in the special accounts, together with insurance contract 16586
payments provided for in division (B)(8) of section 5121.04 of the 16587
Revised Code, shall be remitted to the treasurer of state for 16588
deposit in the state treasury to the credit of the ~~mental~~ 16589
~~retardation~~ developmental disabilities operating fund, which is 16590
hereby created, to be used for the general purposes of the 16591
department. The department shall make refunds of overpayment of 16592
support charges from the ~~mental retardation~~ developmental 16593
disabilities operating fund. 16594

Sec. 5121.02. All individuals admitted to a state institution 16595
operated by the department of ~~mental retardation~~ and developmental 16596
disabilities under section 5123.03 of the Revised Code shall be 16597

maintained at the expense of the state. Their traveling and 16598
incidental expenses in conveying them to the state institution 16599
shall be paid by the county of commitment. Upon admission, the 16600
individuals shall be neatly and comfortably clothed. Thereafter, 16601
the expense of necessary clothing shall be borne by the 16602
responsible relatives or guardian if they are financially able. If 16603
not furnished, the state shall bear the expense. Any required 16604
traveling expense after admission to the state institution shall 16605
be borne by the state if the responsible relatives or guardian are 16606
unable to do so. 16607

Sec. 5121.03. When any person is committed to an institution 16608
under the jurisdiction of the department of ~~mental retardation and~~ 16609
developmental disabilities pursuant to judicial proceedings, the 16610
judge ordering such commitment shall: 16611

(A) Make a reliable report on the financial condition of such 16612
person and of each of the relatives of the person who are liable 16613
for the person's support, as provided in section 5121.06 of the 16614
Revised Code and rules and procedures adopted by the director of 16615
~~mental retardation and~~ developmental disabilities; 16616

(B) Certify to the managing officer of such institution, and 16617
the managing officer shall thereupon enter upon the managing 16618
officer's records the name and address of any guardian appointed 16619
and of any relative liable for such person's support under section 16620
5121.06 of the Revised Code. 16621

Sec. 5121.04. (A) The department of ~~mental retardation and~~ 16622
developmental disabilities shall investigate the financial 16623
condition of the residents in institutions, residents whose care 16624
or treatment is being paid for in a private facility or home under 16625
the control of the department, and of the relatives named in 16626
section 5121.06 of the Revised Code as liable for the support of 16627

such residents, in order to determine the ability of any resident 16628
or liable relatives to pay for the support of the resident and to 16629
provide suitable clothing as required by the superintendent of the 16630
institution. 16631

(B) The department shall follow the provisions of this 16632
division in determining the ability to pay of a resident or the 16633
resident's liable relatives and the amount to be charged such 16634
resident or liable relatives. 16635

(1) Subject to divisions (B)(10) and (11) of this section, a 16636
resident without dependents shall be liable for the full 16637
applicable cost. A resident without dependents who has a gross 16638
annual income equal to or exceeding the sum of the full applicable 16639
cost, plus fifty dollars per month, regardless of the source of 16640
such income, shall pay currently the full amount of the applicable 16641
cost; if the resident's gross annual income is less than such sum, 16642
not more than fifty dollars per month shall be kept for personal 16643
use by or on behalf of the resident, except as permitted in the 16644
state plan for providing medical assistance under Title XIX of the 16645
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 16646
amended, and the balance shall be paid currently on the resident's 16647
support. Subject to divisions (B)(10) and (11) of this section, 16648
the estate of a resident without dependents shall pay currently 16649
any remaining difference between the applicable cost and the 16650
amounts prescribed in this section, or shall execute an agreement 16651
with the department for payment to be made at some future date 16652
under terms suitable to the department. However, no security 16653
interest, mortgage, or lien shall be taken, granted, or charged 16654
against any principal residence of a resident without dependents 16655
under an agreement or otherwise to secure support payments, and no 16656
foreclosure actions shall be taken on security interests, 16657
mortgages, or liens taken, granted, or charged against principal 16658
residences of residents prior to October 7, 1977. 16659

(2) The ability to pay of a resident with dependents, or of a liable relative of a resident either with or without dependents, shall be determined in accordance with the resident's or liable relative's income or other assets, the needs of others who are dependent on such income and other assets for support, and, if applicable, divisions (B)(10) and (11) of this section.

For the first thirty days of care and treatment of each admission, but in no event for more than thirty days in any calendar year, the resident with dependents or the liable relative of a resident either with or without dependents shall be charged an amount equal to the percentage of the average applicable cost determined in accordance with the schedule of adjusted gross annual income contained after this paragraph. After such first thirty days of care and treatment, such resident or such liable relative shall be charged an amount equal to the percentage of a base support rate of four dollars per day for residents, as determined in accordance with the schedule of gross annual income contained after this paragraph, or in accordance with division (B)(5) of this section. Beginning January 1, 1978, the department shall increase the base rate when the consumer price index average is more than 4.0 for the preceding calendar year by not more than the average for such calendar year.

Adjusted Gross Annual									16682	
Income of Resident									16683	
or Liable Relative (FN a)		Number of Dependents (FN b)							16684	
								8 or	16685	
		1	2	3	4	5	6	7	more	16686
		Rate of Support (In Percentages)								16687
\$15,000 or less		--	--	--	--	--	--	--	--	16688
15,001 to 17,500		20	--	--	--	--	--	--	--	16689
17,501 to 20,000		25	20	--	--	--	--	--	--	16690
20,001 to 21,000		30	25	20	--	--	--	--	--	16691

21,001 to 22,000	35	30	25	20	--	--	--	--	16692
22,001 to 23,000	40	35	30	25	20	--	--	--	16693
23,001 to 24,000	45	40	35	30	25	20	--	--	16694
24,001 to 25,000	50	45	40	35	30	25	20	--	16695
25,001 to 26,000	55	50	45	40	35	30	25	20	16696
26,001 to 27,000	60	55	50	45	40	35	30	25	16697
27,001 to 28,000	70	60	55	50	45	40	35	30	16698
28,001 to 30,000	80	70	60	55	50	45	40	35	16699
30,001 to 40,000	90	80	70	60	55	50	45	40	16700
40,001 and over	100	90	80	70	60	55	50	45	16701

Footnote a. The resident or relative shall furnish a copy of
the resident's or relative's federal income tax return as evidence
of gross annual income.

Footnote b. The number of dependents includes the liable
relative but excludes a resident in an institution. "Dependent"
includes any person who receives more than half the person's
support from the resident or the resident's liable relative.

(3) A resident or liable relative having medical, funeral, or
related expenses in excess of four per cent of the adjusted gross
annual income, which expenses were not covered by insurance, may
adjust such gross annual income by reducing the adjusted gross
annual income by the full amount of such expenses. Proof of such
expenses satisfactory to the department must be furnished.

(4) Additional dependencies may be claimed if:

(a) The liable relative is blind;

(b) The liable relative is over sixty-five;

(c) A child is a college student with expenses in excess of
fifty dollars per month;

(d) The services of a housekeeper, costing in excess of fifty
dollars per month, are required if the person who normally keeps
house for minor children is the resident.

(5) If with respect to any resident with dependents there is chargeable under division (B)(2) of this section less than fifty per cent of the applicable cost or, if the base support rate was used, less than fifty per cent of the amount determined by use of the base support rate, and if with respect to such resident there is a liable relative who has an estate having a value in excess of fifteen thousand dollars or if such resident has a dependent and an estate having a value in excess of fifteen thousand dollars, there shall be paid with respect to such resident a total of fifty per cent of the applicable cost or the base support rate amount, as the case may be, on a current basis or there shall be executed with respect to such resident an agreement with the department for payment to be made at some future date under terms suitable to the department.

(6) When a person has been a resident for fifteen years and the support charges for which a relative is liable have been paid for the fifteen-year period, the liable relative shall be relieved of any further support charges.

(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 16755
third party payor providing coverage for such care and treatment 16756
shall pay for this support obligation in an amount equal to the 16757
lesser of either the applicable cost or the benefits provided 16758
under the policy or other contract. Whether or not an insured, 16759
owner of, or other person having an interest in such policy or 16760
other contract is liable for support payments under other 16761
provisions of this chapter, the insured, policy owner, or other 16762
person shall assign payment directly to the department of all 16763
assignable benefits under the policy or other contract and shall 16764
pay over to the department, within ten days of receipt, all 16765
insurance or other benefits received as reimbursement or payment 16766
for expenses incurred by the resident or for any other reason. If 16767
the insured, policy owner, or other person refuses to assign such 16768
payment to the department or refuses to pay such received 16769
reimbursements or payments over to the department within ten days 16770
of receipt, the insured's, policy owners', or other person's total 16771
liability for the services equals the applicable statutory 16772
liability for payment for the services as determined under other 16773
provisions of this chapter, plus the amounts payable under the 16774
terms of the policy or other contract. In no event shall this 16775
total liability exceed the full amount of the applicable cost. 16776
Upon its request, the department is entitled to a court order that 16777
compels the insured, owner of, or other person having an interest 16778
in the policy or other contract to comply with the assignment 16779
requirements of this division or that itself serves as a legally 16780
sufficient assignment in compliance with such requirements. 16781
Notwithstanding section 5123.89 of the Revised Code and any other 16782
law relating to confidentiality of records, the managing officer 16783
of the institution or facility where a person is or has been a 16784
resident shall disclose pertinent medical information concerning 16785
the resident to the insurance carrier or other third party payor 16786
in question, in order to effect collection from the carrier or 16787

payor of the state's claim for care and treatment under this 16788
division. For such disclosure, the managing officer is not subject 16789
to any civil or criminal liability. 16790

(9) The rate to be charged for pre-admission care, 16791
after-care, day-care, or routine consultation and treatment 16792
services shall be based upon the ability of the resident or the 16793
resident's liable relatives to pay. When it is determined by the 16794
department that a charge shall be made, such charge shall be 16795
computed as provided in divisions (B)(1) and (2) of this section. 16796

(10) If a resident with or without dependents is the 16797
beneficiary of a trust created pursuant to section 5815.28 of the 16798
Revised Code, then, notwithstanding any contrary provision of this 16799
chapter or of a rule adopted pursuant to this chapter, divisions 16800
(C) and (D) of that section shall apply in determining the assets 16801
or resources of the resident, the resident's estate, the settlor, 16802
or the settlor's estate and to claims arising under this chapter 16803
against the resident, the resident's estate, the settlor, or the 16804
settlor's estate. 16805

(11) If the department waives the liability of an individual 16806
and the individual's liable relatives pursuant to section 5123.194 16807
of the Revised Code, the liability of the individual and relative 16808
ceases in accordance with the waiver's terms. 16809

(C) The department may enter into agreements with a resident 16810
or a liable relative for support payments to be made in the 16811
future. However, no security interest, mortgage, or lien shall be 16812
taken, granted, or charged against any principal family residence 16813
of a resident with dependents or a liable relative under an 16814
agreement or otherwise to secure support payments, and no 16815
foreclosure actions shall be taken on security interests, 16816
mortgages or liens taken, granted, or charged against principal 16817
residences of residents or liable relatives prior to October 7, 16818
1977. 16819

(D) The department shall make all investigations and 16820
determinations required by this section within ninety days after a 16821
resident is admitted to an institution under the department's 16822
control and immediately shall notify by mail the persons liable of 16823
the amount to be charged. 16824

(E) All actions to enforce the collection of payments agreed 16825
upon or charged by the department shall be commenced within six 16826
years after the date of default of an agreement to pay support 16827
charges or the date such payment becomes delinquent. If a payment 16828
is made pursuant to an agreement which is in default, a new 16829
six-year period for actions to enforce the collection of payments 16830
under such agreement shall be computed from the date of such 16831
payment. For purposes of this division an agreement is in default 16832
or a payment is delinquent if a payment is not made within thirty 16833
days after it is incurred or a payment, pursuant to an agreement, 16834
is not made within thirty days after the date specified for such 16835
payment. In all actions to enforce the collection of payment for 16836
the liability for support, every court of record shall receive 16837
into evidence the proof of claim made by the state together with 16838
all debts and credits, and it shall be prima-facie evidence of the 16839
facts contained in it. 16840

Sec. 5121.05. The department of ~~mental retardation and~~ 16841
developmental disabilities may subpoena witnesses, take testimony 16842
under oath, and examine any public records relating to the income 16843
and other assets of a resident or liable relative. All 16844
information, conclusions, and recommendations shall be submitted 16845
to the department by the investigating agent of the department. 16846
The department shall determine the amount of support to be paid, 16847
by whom, and whether clothing shall be furnished by the relatives 16848
or guardian. 16849

Sec. 5121.051. All outstanding liability of relatives for the 16850

support of any patient or resident in a benevolent institution 16851
under the control of the department of mental health or the 16852
department of ~~mental retardation and~~ developmental disabilities 16853
accrued prior to January 1, 1956, including the liability of the 16854
patient ~~himself~~ personally, is hereby ~~cancelled~~ canceled, provided 16855
that this section does not abrogate any written agreements or 16856
security arrangement for the payment of support charges entered 16857
into between the state and any patient or liable relative prior to 16858
such date. 16859

Sec. 5121.06. (A) The following persons other than the 16860
resident or the resident's estate are liable relatives and all the 16861
following persons are jointly and severally liable for the support 16862
of a resident in an institution under the control of the 16863
department of ~~mental retardation and~~ developmental disabilities: 16864

(1) The resident or the resident's estate; 16865

(2) The resident's spouse; 16866

(3) The father or mother, or both, of a minor resident under 16867
the age of eighteen years. 16868

(B) The department shall determine, pursuant to section 16869
5121.04 of the Revised Code, the amount to be charged each 16870
resident and liable relative in the order named in this section, 16871
but shall not collect from any person more than one hundred per 16872
cent of the applicable cost. 16873

(C) An action to collect delinquent payments or to enforce 16874
agreements in default may be brought against any or all persons 16875
named in this section. To the extent parents of adult residents, 16876
pursuant to the language of this section previously in force, 16877
incurred charges for the support of such residents between the 16878
eighteenth birthday of such resident and July 1, 1975, their 16879
liability for such period may be ~~cancelled~~ canceled, compromised, 16880

or settled as provided in section 5121.07 of the Revised Code. 16881

(D) Irrespective of the number of residents whose care might 16882
be chargeable against a liable relative, no individual liable 16883
relative nor group of liable relatives who are members of the same 16884
family unit shall be charged with the support of more than one 16885
resident during the same period of time, and different periods of 16886
time for which such liable relative has paid the charges for such 16887
different residents' care and support shall be added together for 16888
the purpose of completing the maximum fifteen-year period of 16889
liability of such liable relative under division (B)(6) of section 16890
5121.04 of the Revised Code. 16891

Sec. 5121.061. The authority of the department of ~~mental~~ 16892
~~retardation and~~ developmental disabilities to modify support 16893
charges pursuant to section 5121.04 of the Revised Code shall not 16894
be exercised until the resident or liable relative has petitioned 16895
the department for modification as provided in section 5121.07 of 16896
the Revised Code and has offered to the department satisfactory 16897
proof of the resident's or liable relative's earnings and assets. 16898
The department may modify the charges if its investigation 16899
warrants such modification. 16900

Sec. 5121.07. Any person who has been charged with the 16901
payment of the support of a resident or for pre-admission care, 16902
after-care, day-care, or routine consultation and treatment 16903
services in a community service unit under the control of the 16904
department of ~~mental retardation and~~ developmental disabilities 16905
may petition the department for a release from, or modification 16906
of, such charge, and the department, after an investigation, may 16907
cancel or modify such former charge, or may cancel, compromise, or 16908
settle any accrued liability in an amount not exceeding five 16909
thousand dollars. Amounts in excess thereof may be canceled, 16910
compromised, or settled as provided in section 131.02 of the 16911

Revised Code. The department may for due cause increase the amount 16912
previously ordered paid. 16913

Sec. 5121.08. The managing officers of the institutions under 16914
the control of the department of ~~mental retardation and~~ 16915
developmental disabilities and the committing court, if requested, 16916
shall submit to the department such information as they may obtain 16917
concerning the financial condition of any resident or of relatives 16918
liable for the resident's support. 16919

Sec. 5121.09. In case the estate of any resident in an 16920
institution under the jurisdiction of the department of ~~mental~~ 16921
~~retardation and~~ developmental disabilities is sufficient for the 16922
resident's support, without hardship to any others who may be 16923
dependent thereon, and no guardian has been appointed for such 16924
estate, the agent of the department shall petition the probate 16925
court of the proper county to appoint a guardian. 16926

Sec. 5121.10. Upon the death of a resident or former resident 16927
of any institution under the jurisdiction of the department of 16928
~~mental retardation and~~ developmental disabilities, or upon the 16929
death of a person responsible under section 5121.06 of the Revised 16930
Code for the support of a resident, the department may waive the 16931
presentation of any claim for support against the estate of such 16932
decendent, when in its judgment an otherwise dependent person will 16933
be directly benefited by the estate. Claims against an estate for 16934
support of a resident are subject to section 5815.28 and Chapter 16935
2117. of the Revised Code, and shall be treated, and may be 16936
barred, the same as the claims of other creditors of the estate, 16937
pursuant to that section or chapter. 16938

The department may accept from a guardian or trustee of a 16939
resident a contract agreeing to pay to the state from the property 16940
of the guardian's or trustee's ward before or at the death of the 16941

ward a fixed annual amount for the support of the ward while the 16942
ward is a resident, with interest at four per cent per annum. A 16943
copy of the contract shall be filed in the probate court of the 16944
proper county and duly entered as a part of the records concerning 16945
the ward. 16946

Sec. 5121.11. The state shall bear the expense of the burial 16947
or cremation of an indigent resident who dies in a state 16948
institution operated by the department of ~~mental retardation and~~ 16949
developmental disabilities under section 5123.03 of the Revised 16950
Code or in a state correctional institution if the body is not 16951
claimed for interment or cremation at the expense of friends or 16952
relatives or is not delivered for anatomical purposes or for the 16953
study of embalming in accordance with section 1713.34 of the 16954
Revised Code. The managing officer of the institution shall 16955
provide at the grave of the person or, if the person's cremated 16956
remains are buried, at the grave of the person's cremated remains, 16957
a metal, stone, or concrete marker on which shall be inscribed the 16958
name and age of the person and the date of death. 16959

Sec. 5121.12. The support and maintenance of residents 16960
confined in state institutions operated by the department of 16961
~~mental retardation and~~ developmental disabilities under section 16962
5123.03 of the Revised Code, including those transferred to them 16963
from state correctional institutions, and also including persons 16964
under indictment or conviction for crime, shall be collected and 16965
paid in accordance with sections 5121.01 to 5121.21 of the Revised 16966
Code. 16967

Sec. 5123.01. As used in this chapter: 16968

(A) "Chief medical officer" means the licensed physician 16969
appointed by the managing officer of an institution for the 16970
mentally retarded with the approval of the director of ~~mental~~ 16971

~~retardation and~~ developmental disabilities to provide medical 16972
treatment for residents of the institution. 16973

(B) "Chief program director" means a person with special 16974
training and experience in the diagnosis and management of the 16975
mentally retarded, certified according to division (C) of this 16976
section in at least one of the designated fields, and appointed by 16977
the managing officer of an institution for the mentally retarded 16978
with the approval of the director to provide habilitation and care 16979
for residents of the institution. 16980

(C) "Comprehensive evaluation" means a study, including a 16981
sequence of observations and examinations, of a person leading to 16982
conclusions and recommendations formulated jointly, with 16983
dissenting opinions if any, by a group of persons with special 16984
training and experience in the diagnosis and management of persons 16985
with mental retardation or a developmental disability, which group 16986
shall include individuals who are professionally qualified in the 16987
fields of medicine, psychology, and social work, together with 16988
such other specialists as the individual case may require. 16989

(D) "Education" means the process of formal training and 16990
instruction to facilitate the intellectual and emotional 16991
development of residents. 16992

(E) "Habilitation" means the process by which the staff of 16993
the institution assists the resident in acquiring and maintaining 16994
those life skills that enable the resident to cope more 16995
effectively with the demands of the resident's own person and of 16996
the resident's environment and in raising the level of the 16997
resident's physical, mental, social, and vocational efficiency. 16998
Habilitation includes but is not limited to programs of formal, 16999
structured education and training. 17000

(F) "Health officer" means any public health physician, 17001
public health nurse, or other person authorized or designated by a 17002

city or general health district. 17003

(G) "Home and community-based services" means medicaid-funded 17004
home and community-based services specified in division (B)(1) of 17005
section 5111.87 of the Revised Code provided under the medicaid 17006
waiver components the department of ~~mental retardation and~~ 17007
developmental disabilities administers pursuant to section 17008
5111.871 of the Revised Code. 17009

(H) "Indigent person" means a person who is unable, without 17010
substantial financial hardship, to provide for the payment of an 17011
attorney and for other necessary expenses of legal representation, 17012
including expert testimony. 17013

(I) "Institution" means a public or private facility, or a 17014
part of a public or private facility, that is licensed by the 17015
appropriate state department and is equipped to provide 17016
residential habilitation, care, and treatment for the mentally 17017
retarded. 17018

(J) "Licensed physician" means a person who holds a valid 17019
certificate issued under Chapter 4731. of the Revised Code 17020
authorizing the person to practice medicine and surgery or 17021
osteopathic medicine and surgery, or a medical officer of the 17022
government of the United States while in the performance of the 17023
officer's official duties. 17024

(K) "Managing officer" means a person who is appointed by the 17025
director of ~~mental retardation and~~ developmental disabilities to 17026
be in executive control of an institution for the mentally 17027
retarded under the jurisdiction of the department. 17028

(L) "Medicaid" has the same meaning as in section 5111.01 of 17029
the Revised Code. 17030

(M) "Medicaid case management services" means case management 17031
services provided to an individual with mental retardation or 17032
other developmental disability that the state medicaid plan 17033

requires. 17034

(N) "Mentally retarded person" means a person having 17035
significantly subaverage general intellectual functioning existing 17036
concurrently with deficiencies in adaptive behavior, manifested 17037
during the developmental period. 17038

(O) "Mentally retarded person subject to institutionalization 17039
by court order" means a person eighteen years of age or older who 17040
is at least moderately mentally retarded and in relation to whom, 17041
because of the person's retardation, either of the following 17042
conditions exist: 17043

(1) The person represents a very substantial risk of physical 17044
impairment or injury to self as manifested by evidence that the 17045
person is unable to provide for and is not providing for the 17046
person's most basic physical needs and that provision for those 17047
needs is not available in the community; 17048

(2) The person needs and is susceptible to significant 17049
habilitation in an institution. 17050

(P) "A person who is at least moderately mentally retarded" 17051
means a person who is found, following a comprehensive evaluation, 17052
to be impaired in adaptive behavior to a moderate degree and to be 17053
functioning at the moderate level of intellectual functioning in 17054
accordance with standard measurements as recorded in the most 17055
current revision of the manual of terminology and classification 17056
in mental retardation published by the American association on 17057
mental retardation. 17058

(Q) As used in this division, "substantial functional 17059
limitation," "developmental delay," and "established risk" have 17060
the meanings established pursuant to section 5123.011 of the 17061
Revised Code. 17062

"Developmental disability" means a severe, chronic disability 17063
that is characterized by all of the following: 17064

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code. 17065
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(2) It is manifested before age twenty-two. 17069

(3) It is likely to continue indefinitely. 17070

(4) It results in one of the following: 17071

(a) In the case of a person under three years of age, at least one developmental delay or an established risk; 17072
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(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk; 17074
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(c) In the case of a person six years of age 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 sixteen years of age, capacity for economic self-sufficiency. 17077
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(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. 17084
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(R) "Developmentally disabled person" means a person with a developmental disability. 17088
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(S) "State institution" means an institution that is tax-supported and under the jurisdiction of the department. 17090
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(T) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to 17092
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17094

July 17, 1995, under former Chapter 5113. of the Revised Code, 17095
financial assistance under Chapter 5115. of the Revised Code, or 17096
assistance from a private agency that maintains records of 17097
assistance given. A person having a legal settlement in the state 17098
shall be considered as having legal settlement in the assistance 17099
area in which the person resides. No adult person coming into this 17100
state and having a spouse or minor children residing in another 17101
state shall obtain a legal settlement in this state as long as the 17102
spouse or minor children are receiving public assistance, care, or 17103
support at the expense of the other state or its subdivisions. For 17104
the purpose of determining the legal settlement of a person who is 17105
living in a public or private institution or in a home subject to 17106
licensing by the department of job and family services, the 17107
department of mental health, or the department of ~~mental~~ 17108
~~retardation~~ and developmental disabilities, the residence of the 17109
person shall be considered as though the person were residing in 17110
the county in which the person was living prior to the person's 17111
entrance into the institution or home. Settlement once acquired 17112
shall continue until a person has been continuously absent from 17113
Ohio for a period of one year or has acquired a legal residence in 17114
another state. A woman who marries a man with legal settlement in 17115
any county immediately acquires the settlement of her husband. The 17116
legal settlement of a minor is that of the parents, surviving 17117
parent, sole parent, parent who is designated the residential 17118
parent and legal custodian by a court, other adult having 17119
permanent custody awarded by a court, or guardian of the person of 17120
the minor, provided that: 17121

(1) A minor female who marries shall be considered to have 17122
the legal settlement of her husband and, in the case of death of 17123
her husband or divorce, she shall not thereby lose her legal 17124
settlement obtained by the marriage. 17125

(2) A minor male who marries, establishes a home, and who has 17126

resided in this state for one year without receiving general 17127
assistance prior to July 17, 1995, under former Chapter 5113. of 17128
the Revised Code, financial assistance under Chapter 5115. of the 17129
Revised Code, or assistance from a private agency that maintains 17130
records of assistance given shall be considered to have obtained a 17131
legal settlement in this state. 17132

(3) The legal settlement of a child under eighteen years of 17133
age who is in the care or custody of a public or private child 17134
caring agency shall not change if the legal settlement of the 17135
parent changes until after the child has been in the home of the 17136
parent for a period of one year. 17137

No person, adult or minor, may establish a legal settlement 17138
in this state for the purpose of gaining admission to any state 17139
institution. 17140

(U)(1) "Resident" means, subject to division (R)(2) of this 17141
section, a person who is admitted either voluntarily or 17142
involuntarily to an institution or other facility pursuant to 17143
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 17144
Code subsequent to a finding of not guilty by reason of insanity 17145
or incompetence to stand trial or under this chapter who is under 17146
observation or receiving habilitation and care in an institution. 17147

(2) "Resident" does not include a person admitted to an 17148
institution or other facility under section 2945.39, 2945.40, 17149
2945.401, or 2945.402 of the Revised Code to the extent that the 17150
reference in this chapter to resident, or the context in which the 17151
reference occurs, is in conflict with any provision of sections 17152
2945.37 to 2945.402 of the Revised Code. 17153

(V) "Respondent" means the person whose detention, 17154
commitment, or continued commitment is being sought in any 17155
proceeding under this chapter. 17156

(W) "Working day" and "court day" mean Monday, Tuesday, 17157

Wednesday, Thursday, and Friday, except when such day is a legal holiday. 17158
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(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. 17160
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(Y) "Court" means the probate division of the court of common pleas. 17167
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(Z) "Supported living" has the same meaning as in section 5126.01 of the Revised Code. 17169
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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." 17171
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Sec. 5123.012. (A) As used in this section: 17176

(1) "Biological risk" and "environmental risk" have the meanings established pursuant to section 5123.011 of the Revised Code. 17177
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(2) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code. 17180
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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 17182
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Chapter 119. of the Revised Code establishing eligibility for programs and services for either of the following:	17187 17188
(1) Individuals under age six who have a biological risk or environmental risk of a developmental delay;	17189 17190
(2) Any preschool child with a disability eligible for services under section 3323.02 of the Revised Code whose disability is not attributable solely to mental illness as defined in section 5122.01 of the Revised Code.	17191 17192 17193 17194
(C)(1) The department shall make determinations of eligibility for protective services in accordance with sections 5123.55 to 5123.59 of the Revised Code.	17195 17196 17197
(2) Determinations of whether a mentally retarded person is subject to institutionalization by court order shall be made in accordance with sections 5123.71 to 5123.76 of the Revised Code and shall be based on the definition of "mentally retarded person subject to institutionalization by court order" in section 5123.01 of the Revised Code.	17198 17199 17200 17201 17202 17203
(3) All persons who were eligible for services and enrolled in programs offered by the department of mental retardation and developmental disabilities pursuant to this chapter on July 1, 1991, shall continue to be eligible for those services and to be enrolled in those programs as long as they are in need of services.	17204 17205 17206 17207 17208 17209
Sec. 5123.011 <u>5123.013</u>. The provisions of this chapter regarding institutionalization apply to a person who is found incompetent to stand trial or not guilty by reason of insanity and is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the provisions are not in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code. If a provision of this chapter is in conflict	17210 17211 17212 17213 17214 17215 17216

with a provision in sections 2945.37 to 2945.402 of the Revised Code regarding a person who has been so committed, the provision in sections 2945.37 to 2945.402 of the Revised Code shall control regarding that person.

Sec. 5123.014. Whenever the department or director 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 the department or director of developmental disabilities, as the case may be.

Sec. 5123.02. The department of ~~mental retardation and~~ developmental disabilities shall do the following:

(A) Promote comprehensive statewide programs and services for persons with mental retardation or a developmental disability and their families wherever they reside in the state. These programs shall include public education, prevention, diagnosis, treatment, training, and care.

(B) Provide administrative leadership for statewide services which include residential facilities, evaluation centers, and community classes which are wholly or in part financed by the department of ~~mental retardation and~~ developmental disabilities as provided by section 5123.26 of the Revised Code;

(C) Develop and maintain, to the extent feasible, data on all services and programs for persons with mental retardation or a developmental disability, that are provided by governmental and private agencies;

(D) Make periodic determinations of the number of persons with mental retardation or a developmental disability requiring services in the state;

(E) Provide leadership to local authorities in planning and

developing community-wide services for persons with mental 17247
retardation or a developmental disability and their families; 17248

(F) Promote programs of professional training and research in 17249
cooperation with other state departments, agencies, and 17250
institutions of higher learning. 17251

Sec. 5123.021. (A) As used in this section, "mentally 17252
retarded individual" and "specialized services" have the same 17253
meanings as in section 5111.202 of the Revised Code. 17254

(B)(1) Except as provided in division (B)(2) of this section 17255
and rules adopted under division (E)(3) of this section, for 17256
purposes of section 5111.202 of the Revised Code, the department 17257
of ~~mental retardation and~~ developmental disabilities shall 17258
determine in accordance with section 1919(e)(7) of the "Social 17259
Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, 17260
and regulations adopted under section 1919(f)(8)(A) of that act 17261
whether, because of the individual's physical and mental 17262
condition, a mentally retarded individual seeking admission to a 17263
nursing facility requires the level of services provided by a 17264
nursing facility and, if the individual requires that level of 17265
services, whether the individual requires specialized services for 17266
mental retardation. 17267

(2) A determination under this division is not required for 17268
any of the following: 17269

(a) An individual seeking readmission to a nursing facility 17270
after having been transferred from a nursing facility to a 17271
hospital for care; 17272

(b) An individual who meets all of the following conditions: 17273

(i) The individual is admitted to the nursing facility 17274
directly from a hospital after receiving inpatient care at the 17275
hospital; 17276

(ii) The individual requires nursing facility services for 17277
the condition for which the individual received care in the 17278
hospital; 17279

(iii) The individual's attending physician has certified, 17280
before admission to the nursing facility, that the individual is 17281
likely to require less than thirty days of nursing facility 17282
services. 17283

(c) An individual transferred from one nursing facility to 17284
another nursing facility, with or without an intervening hospital 17285
stay. 17286

(C) Except as provided in rules adopted under division (F)(3) 17287
of this section, the department of ~~mental retardation and~~ 17288
developmental disabilities shall review and determine, for each 17289
resident of a nursing facility who is mentally retarded, whether 17290
the resident, because of the resident's physical and mental 17291
condition, requires the level of services provided by a nursing 17292
facility and whether the resident requires specialized services 17293
for mental retardation. The review and determination shall be 17294
conducted in accordance with section 1919(e)(7) of the "Social 17295
Security Act" and the regulations adopted under section 17296
1919(f)(8)(A) of the act. The review and determination shall be 17297
completed promptly after a nursing facility has notified the 17298
department that there has been a significant change in the 17299
resident's mental or physical condition. 17300

(D)(1) In the case of a nursing facility resident who has 17301
continuously resided in a nursing facility for at least thirty 17302
months before the date of a review and determination under 17303
division (C) of this section, if the resident is determined not to 17304
require the level of services provided by a nursing facility, but 17305
is determined to require specialized services for mental 17306
retardation, the department, in consultation with the resident's 17307
family or legal representative and care givers, shall do all of 17308

the following: 17309

(a) Inform the resident of the institutional and 17310
noninstitutional alternatives covered under the state plan for 17311
medical assistance; 17312

(b) Offer the resident the choice of remaining in the nursing 17313
facility or receiving covered services in an alternative 17314
institutional or noninstitutional setting; 17315

(c) Clarify the effect on eligibility for services under the 17316
state plan for medical assistance if the resident chooses to leave 17317
the facility, including its effect on readmission to the facility; 17318

(d) Provide for or arrange for the provision of specialized 17319
services for the resident's mental retardation in the setting 17320
chosen by the resident. 17321

(2) In the case of a nursing facility resident who has 17322
continuously resided in a nursing facility for less than thirty 17323
months before the date of the review and determination under 17324
division (C) of this section, if the resident is determined not to 17325
require the level of services provided by a nursing facility, but 17326
is determined to require specialized services for mental 17327
retardation, or if the resident is determined to require neither 17328
the level of services provided by a nursing facility nor 17329
specialized services for mental retardation, the department shall 17330
act in accordance with its alternative disposition plan approved 17331
by the United States department of health and human services under 17332
section 1919(e)(7)(E) of the "Social Security Act." 17333

(3) In the case of an individual who is determined under 17334
division (B) or (C) of this section to require both the level of 17335
services provided by a nursing facility and specialized services 17336
for mental retardation, the department of ~~mental retardation and~~ 17337
developmental disabilities shall provide or arrange for the 17338
provision of the specialized services needed by the individual or 17339

resident while residing in a nursing facility. 17340

(E) The department of ~~mental retardation and~~ developmental 17341
disabilities shall adopt rules in accordance with Chapter 119. of 17342
the Revised Code that do all of the following: 17343

(1) Establish criteria to be used in making the 17344
determinations required by divisions (B) and (C) of this section. 17345
The criteria shall not exceed the criteria established by 17346
regulations adopted by the United States department of health and 17347
human services under section 1919(f)(8)(A) of the "Social Security 17348
Act." 17349

(2) Specify information to be provided by the individual or 17350
nursing facility resident being assessed; 17351

(3) Specify any circumstances, in addition to circumstances 17352
listed in division (B) of this section, under which determinations 17353
under divisions (B) and (C) of this section are not required to be 17354
made. 17355

Sec. 5123.03. (A) The department of ~~mental retardation and~~ 17356
developmental disabilities shall do all of the following: 17357

(1) Maintain, operate, manage, and govern all state 17358
institutions for the care, treatment, and training of the mentally 17359
retarded; 17360

(2) Designate all such institutions by appropriate names; 17361

(3) Provide and designate facilities for the custody, care, 17362
and special treatment of persons of the following classes: 17363

(a) Dangerous persons in state institutions for the mentally 17364
retarded who represent a serious threat to the safety of the other 17365
patients of the institution; 17366

(b) Persons charged with crimes who are found incompetent to 17367
stand trial or not guilty by reason of insanity and who are also 17368

mentally retarded persons subject to institutionalization by court order. 17369
17370

(4) Have control of all institutions maintained in part by the state for the care, treatment, and training of the mentally retarded; 17371
17372
17373

(5) Administer the laws relative to persons in such institutions in an efficient, economical, and humane manner; 17374
17375

(6) Ascertain by actual examinations and inquiry whether institutionalizations are made according to law. 17376
17377

(B) The department may do any of the following: 17378

(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; 17379
17380
17381
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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; 17383
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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. 17389
17390
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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. 17394
17395
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Sec. 5123.031. The director of ~~mental retardation and~~ 17399
developmental disabilities may require the performance of duties 17400
by the officers of the institutions under the jurisdiction of the 17401
department of ~~mental retardation and~~ developmental disabilities so 17402
as fully to meet the requirements, intents, and purposes of this 17403
chapter. In case of an apparent conflict between the powers 17404
conferred upon any managing officer and those conferred by this 17405
chapter upon the department, the presumption shall be conclusive 17406
in favor of the department. 17407

The director shall adopt rules for the nonpartisan management 17408
of the institutions under the jurisdiction of the department. An 17409
officer or employee of the department or any officer or employee 17410
of any institution under its control who, by solicitation or 17411
otherwise, exerts ~~his~~ the officer's or employee's influence 17412
directly or indirectly to induce any other officer or employee of 17413
the department or any of its institutions to adopt ~~his~~ the 17414
officer's or employee's political views or to favor any particular 17415
person, issue, or candidate for office shall be removed from ~~his~~ 17416
the officer's or employee's office or position, by the department 17417
in case of an officer or employee, and by the governor in case of 17418
the director. 17419

The managing officer of any institution under the 17420
jurisdiction of the department shall submit reports to the 17421
director relating to the admission, examination, comprehensive 17422
evaluation, diagnosis, release, or discharge of any resident. 17423

The director, or a person designated by ~~him~~ the director, 17424
shall visit each institution regularly to review the admission 17425
procedures of all new residents and to investigate complaints made 17426
by any resident or by any person on behalf of a resident. 17427

The director shall prescribe the forms of affidavits, 17428
applications, comprehensive evaluations, orders of 17429

institutionalization and release, and all other forms that are 17430
required in the institutionalization, admission, and release of 17431
all persons with respect to institutions under the jurisdiction of 17432
the department, and of reports and records provided for under this 17433
chapter. 17434

Sec. 5123.032. (A) As used in this section, "developmental 17435
center" means any institution or facility of the department of 17436
~~mental retardation and~~ developmental disabilities that, on or 17437
~~after the effective date of this section~~ January 30, 2004, is 17438
named, designated, or referred to as a developmental center. 17439

(B) Notwithstanding any other provision of law, on and after 17440
~~the effective date of this section~~ January 30, 2004, any closure 17441
of a developmental center shall be subject to, and in accordance 17442
with, this section. Notwithstanding any other provision of law, if 17443
the governor announced on or after January 1, 2003, and prior to 17444
~~the effective date of this section~~ January 30, 2004, the intended 17445
closure of a developmental center and if the closure identified in 17446
the announcement has not occurred prior to ~~the effective date of~~ 17447
~~this section~~ January 30, 2004, the closure identified in the 17448
announcement shall be subject to the criteria set forth in this 17449
section as if the announcement had been made on or after ~~the~~ 17450
~~effective date of this section~~ January 30, 2004, except for the 17451
time at which the notice to the general assembly must be provided 17452
as identified in division (C) of this section. 17453

(C) Notwithstanding any other provision of law, on and after 17454
~~the effective date of this section~~ January 30, 2004, at least ten 17455
days prior to making any official, public announcement that the 17456
governor intends to close one or more developmental centers, the 17457
governor shall notify the general assembly in writing that the 17458
governor intends to close one or more developmental centers. 17459
Notwithstanding any other provision of law, if the governor 17460

announced on or after January 1, 2003, and prior to ~~the effective~~ 17461
~~date of this section~~ January 30, 2004, the intended closure of a 17462
developmental center and if the closure identified in the 17463
announcement has not occurred prior to ~~the effective date of this~~ 17464
~~section~~ January 30, 2004, not later than ten days after ~~the~~ 17465
~~effective date of this section~~ January 30, 2004, the governor 17466
shall notify the general assembly in writing of the prior 17467
announcement and that the governor intends to close the center 17468
identified in the prior announcement, and the notification to the 17469
general assembly shall constitute, for purposes of this section, 17470
the governor's official, public announcement that the governor 17471
intends to close that center. 17472

The notice required by this division shall identify by name 17473
each developmental center that the governor intends to close or, 17474
if the governor has not determined any specific developmental 17475
center to close, shall state the governor's general intent to 17476
close one or more developmental centers. When the governor 17477
notifies the general assembly as required by this division, the 17478
legislative service commission promptly shall conduct an 17479
independent study of the developmental centers of the department 17480
of ~~mental retardation and~~ developmental disabilities and of the 17481
department's operation of the centers, and the study shall address 17482
relevant criteria and factors, including, but not limited to, all 17483
of the following: 17484

(1) The manner in which the closure of developmental centers 17485
in general would affect the safety, health, well-being, and 17486
lifestyle of the centers' residents and their family members and 17487
would affect public safety and, if the governor's notice 17488
identifies by name one or more developmental centers that the 17489
governor intends to close, the manner in which the closure of each 17490
center so identified would affect the safety, health, well-being, 17491
and lifestyle of the center's residents and their family members 17492

and would affect public safety;	17493
(2) The availability of alternate facilities;	17494
(3) The cost effectiveness of the facilities identified for closure;	17495 17496
(4) A comparison of the cost of residing at a facility identified for closure and the cost of new living arrangements;	17497 17498
(5) The geographic factors associated with each facility and its proximity to other similar facilities;	17499 17500
(6) The impact of collective bargaining on facility operations;	17501 17502
(7) The utilization and maximization of resources;	17503
(8) Continuity of the staff and ability to serve the facility population;	17504 17505
(9) Continuing costs following closure of a facility;	17506
(10) The impact of the closure on the local economy;	17507
(11) Alternatives and opportunities for consolidation with other facilities;	17508 17509
(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;	17510 17511 17512
(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.	17513 17514 17515 17516 17517 17518
(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	17519 17520 17521

the governor makes the official, public announcement that the 17522
governor intends to close one or more developmental centers as 17523
described in division (C) of this section. The commission shall 17524
provide a copy of the report to each member of the general 17525
assembly who requests a copy of the report. 17526

Not later than the date on which the legislative service 17527
commission is required to complete the report under this division, 17528
the ~~mental retardation and~~ developmental disabilities 17529
developmental center closure commission is hereby created as 17530
described in division (E) of this section. The officials with the 17531
duties to appoint members of the closure commission, as described 17532
in division (E) of this section, shall appoint the specified 17533
members of the closure commission, and, as soon as possible after 17534
the appointments, the closure commission shall meet for the 17535
purposes described in that division. Upon completion of the report 17536
and the creation of the closure commission under this division, 17537
the legislative service commission promptly shall provide a copy 17538
of the report to the closure commission and shall present the 17539
report as described in division (E) of this section. 17540

(E)(1) A ~~mental retardation and~~ developmental disabilities 17541
developmental center closure commission shall be created at the 17542
time and in the manner specified in division (D) of this section. 17543
The closure commission consists of six members. One member shall 17544
be the director of the ~~department of mental retardation and~~ 17545
developmental disabilities. One member shall be the director of 17546
the ~~department of~~ health. One member shall be a private executive 17547
with expertise in facility utilization, in economics, or in both 17548
facility utilization and economics, jointly appointed by the 17549
speaker of the house of representatives and the president of the 17550
senate. The member appointed for expertise in facility 17551
utilization, economics, or both may not be a member of the general 17552
assembly and may not have a developmental center identified for 17553

closure by the governor in the county in which the member resides. 17554
One member shall be a member of the board of the Ohio civil 17555
service employees' association, jointly appointed by the speaker 17556
of the house of representatives and the president of the senate. 17557
One member shall be either a family member of a resident of a 17558
developmental center or a representative of a mental retardation 17559
and developmental disabilities advocacy group, jointly appointed 17560
by the speaker of the house of representatives and the president 17561
of the senate. The member appointed who is a family member of a 17562
developmental center resident or a representative of an advocacy 17563
group may not be a member of the general assembly. One member 17564
shall be a member of the law enforcement community, appointed by 17565
the governor. The officials with the duties to appoint members of 17566
the closure commission shall make the appointments, and the 17567
closure commission shall meet, within the time periods specified 17568
in division (D) of this section. The members of the closure 17569
commission shall serve without compensation. At the closure 17570
commission's first meeting, the members shall organize and appoint 17571
a chairperson and vice-chairperson. 17572

The closure commission shall meet as often as is necessary 17573
for the purpose of making the recommendations to the governor that 17574
are described in this division. The closure commission's meetings 17575
shall be open to the public, and the closure commission shall 17576
accept public testimony. The legislative service commission shall 17577
appear before the closure commission and present the report the 17578
legislative service commission prepared under division (D) of this 17579
section. The closure commission shall meet for the purpose of 17580
making recommendations to the governor, which recommendations may 17581
include all of the following: 17582

(a) Whether any developmental center should be closed; 17583

(b) If the recommendation described in division (E)(1)(a) of 17584
this section is that one or more developmental centers should be 17585

closed, which center or centers should be closed; 17586

(c) If the governor's notice described in division (C) of 17587
this section identifies by name one or more developmental centers 17588
that the governor intends to close, whether the center or centers 17589
so identified should be closed. 17590

(2) The ~~mental retardation and~~ developmental disabilities 17591
developmental center closure commission, not later than sixty days 17592
after it receives the report of the legislative service commission 17593
under division (D) of this section, shall prepare a report 17594
containing its recommendations to the governor. The closure 17595
commission shall send a copy of the report to the governor and to 17596
each member of the general assembly who requests a copy of the 17597
report. Upon receipt of the closure commission's report, the 17598
governor shall review and consider the commission's 17599
recommendation. The governor shall do one of the following: 17600

(a) Follow the recommendation of the commission; 17601

(b) Close no developmental center; 17602

(c) Take other action that the governor determines is 17603
necessary for the purpose of expenditure reductions or budget cuts 17604
and state the reasons for the action. 17605

The governor's decision is final. Upon the governor's making 17606
of the decision, the closure commission shall cease to exist. 17607
Another closure commission shall be created under this section 17608
each time the governor subsequently makes an official, public 17609
announcement that the governor intends to close one or more 17610
developmental centers. 17611

Sec. 5123.033. The program fee fund is hereby created in the 17612
state treasury. All fees collected pursuant to sections 5123.161, 17613
5123.164, 5123.19, and 5126.25 of the Revised Code shall be 17614
credited to the fund. Money credited to the fund shall be used 17615

solely for the department of ~~mental retardation and~~ developmental 17616
disabilities' duties under sections 5123.16 to 5123.169, 5123.19, 17617
and 5126.25 of the Revised Code and to provide continuing 17618
education and professional training to employees of county boards 17619
of ~~mental retardation and~~ developmental disabilities for the 17620
purpose of section 5126.25 of the Revised Code and other providers 17621
of services to individuals with mental retardation or a 17622
developmental disability. If the money credited to the fund is 17623
inadequate to pay all of the department's costs in performing 17624
those duties and providing the continuing education and 17625
professional training, the department may use other available 17626
funds appropriated to the department to pay the remaining costs of 17627
performing those duties and providing the continuing education and 17628
professional training. 17629

Sec. 5123.04. (A) The director of ~~mental retardation and~~ 17630
developmental disabilities is the executive head of the department 17631
of ~~mental retardation and~~ developmental disabilities. All duties 17632
conferred on the department and its institutions by law or by 17633
order of the director shall be performed under such rules as the 17634
director prescribes, and shall be under the director's control. 17635
The director shall establish bylaws for the government of all 17636
institutions under the jurisdiction of the department. Except as 17637
otherwise is provided as to appointments by chiefs of divisions, 17638
the director shall appoint such employees as are necessary for the 17639
efficient conduct of the department, and shall prescribe their 17640
titles and duties. If the director is not a licensed physician, 17641
decisions relating to medical diagnosis and treatment shall be the 17642
responsibility of a licensed physician appointed by the director. 17643

(B) The director shall adopt rules for the proper execution 17644
of the powers and duties of the department. 17645

(C) The director shall adopt rules establishing standards 17646

that mental retardation programs and facilities shall follow when performing evaluations of the mental condition of defendants ordered by the court under section 2919.271 or 2945.371 of the Revised Code, and for the treatment of defendants who have been found incompetent to stand trial under section 2945.38 of the Revised Code, and certify the compliance of such programs and facilities with the standards.

(D) On behalf of the department, the director has the authority to, and responsibility for, entering into contracts and other agreements.

(E) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Specify the supplemental services that may be provided through a trust authorized by section 5815.28 of the Revised Code;

(2) Establish standards for the maintenance and distribution to a beneficiary of assets of a trust authorized by section 5815.28 of the Revised Code.

(F) The director shall provide monitoring of county boards of ~~mental retardation and~~ developmental disabilities.

Sec. 5123.042. (A) The director of ~~mental retardation and~~ developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the following:

(1) Uniform standards under which:

(a) A person or agency shall submit plans to the county board of ~~mental retardation and~~ developmental disabilities for the development of residential services for individuals with mental retardation or a developmental disability within the county;

(b) The county board must review the plans and recommend providers for the services.

(2) The eligibility criteria for selecting persons and agencies to provide residential services, which shall take into consideration the recommendations of the county board.

(B) The county board, in accordance with its comprehensive service plan, shall review all proposals for the development of residential services that are submitted to it and shall, if the proposals are acceptable to the county board, recommend providers for the development of residential services within the county. The department shall approve proposals for the development of residential services within counties based upon the availability of funds and in accordance with rules adopted under division (A)(2) of this section.

No county board shall recommend providers for the development of residential services if the county board is an applicant to provide services. In cases of possible conflict of interest, the director shall appoint a committee that shall, in accordance with the approved county comprehensive service plan, review and recommend to the director providers for the services.

If a county board fails to establish an approved comprehensive service plan, the director may establish residential services development goals for the county board based on documented need as determined by the department. If a county board fails to develop or implement such a plan in accordance with the rules adopted under this section, the department may, without the involvement of the county board, review and select providers for the development of residential services in the county.

Sec. 5123.043. (A) The director of ~~mental retardation and~~ developmental disabilities shall adopt rules establishing procedures for administrative resolution of complaints filed under division (B) of this section and section 5126.06 of the Revised Code. The rules shall be adopted in accordance with Chapter 119.

of the Revised Code. 17707

(B) Except as provided in division (C) of this section, any 17708
person or county board of ~~mental retardation and~~ developmental 17709
disabilities that has a complaint involving any of the programs, 17710
services, policies, or administrative practices of the department 17711
of ~~mental retardation and~~ developmental disabilities or any of the 17712
entities under contract with the department, may file a complaint 17713
with the department. Prior to commencing a civil action regarding 17714
the complaint, a person or county board shall attempt to have the 17715
complaint resolved through the administrative resolution process 17716
established in the rules adopted under this section. After 17717
exhausting the administrative resolution process, the person or 17718
county board may commence a civil action if the complaint is not 17719
settled to the person's or county board's satisfaction. 17720

(C) An employee of the department may not file under this 17721
section a complaint related to the terms and conditions of 17722
employment for the employee. 17723

Sec. 5123.044. The department of ~~mental retardation and~~ 17724
developmental disabilities shall determine whether county boards 17725
of ~~mental retardation and~~ developmental disabilities are in 17726
compliance with section 5126.046 of the Revised Code. The 17727
department shall provide assistance to an individual with mental 17728
retardation or other developmental disability who requests 17729
assistance with the individual's right under section 5126.046 of 17730
the Revised Code to choose a provider of habilitation, vocational, 17731
community employment, residential, or supported living services if 17732
the department is notified of a county board's alleged violation 17733
of the individual's right to choose such a provider. 17734

Sec. 5123.046. The department of ~~mental retardation and~~ 17735
developmental disabilities shall review each component of the 17736

three-calendar-year plan it receives from a county board of ~~mental~~ 17737
~~retardation and~~ developmental disabilities under section 5126.054 17738
of the Revised Code and, in consultation with the department of 17739
job and family services and office of budget and management, 17740
approve each component that includes all the information and 17741
conditions specified in that section. The third component of the 17742
plan shall be approved or disapproved not later than forty-five 17743
days after the third component is submitted to the department. If 17744
the department approves all three components of the plan, the plan 17745
is approved. Otherwise, the plan is disapproved. If the plan is 17746
disapproved, the department shall take action against the county 17747
board under division (B) of section 5126.056 of the Revised Code. 17748
17749

In approving plans under this section, the department shall 17750
ensure that the aggregate of all plans provide for the increased 17751
enrollment into home and community-based services during each 17752
state fiscal year of at least five hundred individuals who did not 17753
receive residential services, supported living, or home and 17754
community-based services the prior state fiscal year if the 17755
department has enough additional enrollment available for this 17756
purpose. 17757

The department shall establish protocols that the department 17758
shall use to determine whether a county board is complying with 17759
the programmatic and financial accountability mechanisms and 17760
achieving outcomes specified in its approved plan. If the 17761
department determines that a county board is not in compliance 17762
with the mechanisms or achieving the outcomes specified in its 17763
approved plan, the department may take action under division (F) 17764
of section 5126.055 of the Revised Code. 17765

Sec. 5123.047. The department of ~~mental retardation and~~ 17766
developmental disabilities shall pay the nonfederal share of 17767

medicaid expenditures for medicaid case management services and 17768
home and community-based services for which no county board of 17769
~~mental retardation and~~ developmental disabilities is required by 17770
section 5126.059 or 5126.0510 of the Revised Code to pay. 17771

Sec. 5123.048. The director of ~~mental retardation and~~ 17772
developmental disabilities may enter into an agreement with a 17773
county board of ~~mental retardation and~~ developmental disabilities 17774
under which the department of ~~mental retardation and~~ developmental 17775
disabilities is to pay the nonfederal share of medicaid 17776
expenditures for one or more of the home and community-based 17777
services that the county board would, if not for the agreement, be 17778
required by section 5126.0510 of the Revised Code to pay. The 17779
agreement shall specify which home and community-based services 17780
the agreement covers. The department shall pay the nonfederal 17781
share of medicaid expenditures for the home and community-based 17782
services that the agreement covers as long as the agreement is in 17783
effect. 17784

Sec. 5123.049. The director of ~~mental retardation and~~ 17785
developmental disabilities shall adopt rules in accordance with 17786
Chapter 119. of the Revised Code governing the authorization and 17787
payment of home and community-based services and medicaid case 17788
management services. The rules shall provide for private providers 17789
of the services to receive one hundred per cent of the medicaid 17790
allowable payment amount and for government providers of the 17791
services to receive the federal share of the medicaid allowable 17792
payment, less the amount withheld as a fee under section 5123.0412 17793
of the Revised Code and any amount that may be required by rules 17794
adopted under section 5123.0413 of the Revised Code to be 17795
deposited into the state ~~MR/DD~~ developmental disabilities risk 17796
fund. The rules shall establish the process by which county boards 17797
of ~~mental retardation and~~ developmental disabilities shall certify 17798

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 17831
individual moves to by the same amount. The department shall make 17832
the reduction and increase effective the day the department 17833
determines the individual has residence in the new county. The 17834
department shall determine the amount that is to be reduced and 17835
increased in accordance with the department's rules for 17836
authorizing payments for home and community-based services 17837
established adopted under section 5123.049 of the Revised Code. 17838
The department shall annualize the reduction and increase for the 17839
subsequent state fiscal year as necessary. 17840

Sec. 5123.0411. The department of ~~mental retardation and~~ 17841
developmental disabilities may bring a mandamus action against a 17842
county board of ~~mental retardation and~~ developmental disabilities 17843
that fails to pay the nonfederal share of medicaid expenditures 17844
that the county board is required by sections 5126.059 and 17845
5126.0510 of the Revised Code to pay. The department may bring the 17846
mandamus action in the court of common pleas of the county served 17847
by the county board or in the Franklin county court of common 17848
pleas. 17849

Sec. 5123.0412. (A) The department of ~~mental retardation and~~ 17850
developmental disabilities shall charge each county board of 17851
~~mental retardation and~~ developmental disabilities an annual fee 17852
equal to one and one-half per cent of the total value of all 17853
medicaid paid claims for home and community-based services 17854
provided during the year to an individual eligible for services 17855
from the county board. No county board shall pass the cost of a 17856
fee charged to the county board under this section on to another 17857
provider of these services. 17858

(B) The fees collected under this section shall be deposited 17859
into the ~~ODMR/DD~~ ODDD administration and oversight fund and the 17860
ODJFS administration and oversight fund, both of which are hereby 17861

created in the state treasury. The portion of the fees to be 17862
deposited into the ~~ODMR/DD~~ ODDD administration and oversight fund 17863
and the portion of the fees to be deposited into the ODJFS 17864
administration and oversight fund shall be the portion specified 17865
in an interagency agreement entered into under division (C) of 17866
this section. The department of ~~mental retardation and~~ 17867
developmental disabilities shall use the money in the ~~ODMR/DD~~ ODDD 17868
administration and oversight fund and the department of job and 17869
family services shall use the money in the ODJFS administration 17870
and oversight fund for both of the following purposes: 17871

(1) The administrative and oversight costs of medicaid case 17872
management services and home and community-based services. The 17873
administrative and oversight costs shall include costs for staff, 17874
systems, and other resources the departments need and dedicate 17875
solely to the following duties associated with the services: 17876

- (a) Eligibility determinations; 17877
- (b) Training; 17878
- (c) Fiscal management; 17879
- (d) Claims processing; 17880
- (e) Quality assurance oversight; 17881
- (f) Other duties the departments identify. 17882

(2) Providing technical support to county boards' local 17883
administrative authority under section 5126.055 of the Revised 17884
Code for the services. 17885

(C) The departments of ~~mental retardation and~~ developmental 17886
disabilities and job and family services shall enter into an 17887
interagency agreement to do both of the following: 17888

(1) Specify which portion of the fees collected under this 17889
section is to be deposited into the ~~ODMR/DD~~ ODDD administration 17890
and oversight fund and which portion is to be deposited into the 17891

ODJFS administration and oversight fund; 17892

(2) Provide for the departments to coordinate the staff whose 17893
costs are paid for with money in the ~~ODMR/DD~~ ODDD administration 17894
and oversight fund and the ODJFS administration and oversight 17895
fund. 17896

(D) The departments shall submit an annual report to the 17897
director of budget and management certifying how the departments 17898
spent the money in the ~~ODMR/DD~~ ODDD administration and oversight 17899
fund and the ODJFS administration and oversight fund for the 17900
purposes specified in division (B) of this section. 17901

Sec. 5123.0413. (A) The department of ~~mental retardation and~~ 17902
developmental disabilities, in consultation with the department of 17903
job and family services, office of budget and management, and 17904
county boards of ~~mental retardation and~~ developmental 17905
disabilities, shall adopt rules in accordance with Chapter 119. of 17906
the Revised Code no later than January 1, 2002, establishing a 17907
method of paying for extraordinary costs, including extraordinary 17908
costs for services to individuals with mental retardation or other 17909
developmental disability, and ensure the availability of adequate 17910
funds in the event a county property tax levy for services for 17911
individuals with mental retardation or other developmental 17912
disability fails. The rules may provide for using and managing 17913
either or both of the following: 17914

(1) A state ~~MR/DD~~ developmental disabilities risk fund, which 17915
is hereby created in the state treasury; 17916

(2) A state insurance against ~~MR/DD~~ developmental 17917
disabilities risk fund, which is hereby created in the state 17918
treasury. 17919

(B) Beginning January 1, 2002, the department of job and 17920
family services may not request approval from the United States 17921

secretary of health and human services to increase the number of 17922
slots for home and community-based services until the rules 17923
required by division (A) of this section are in effect. 17924

Sec. 5123.0414. (A) When the director of ~~mental retardation~~ 17925
~~and~~ developmental disabilities, under section 119.07 of the 17926
Revised Code, sends a party a notice by registered mail, return 17927
receipt requested, that the director intends to take action 17928
against the party authorized by section 5123.082, 5123.166, 17929
5123.168, 5123.19, 5123.45, 5123.51, or 5126.25 of the Revised 17930
Code and the notice is returned to the director with an 17931
endorsement indicating that the notice was refused or unclaimed, 17932
the director shall resend the notice by ordinary mail to the 17933
party. 17934

(B) If the original notice was refused, the notice shall be 17935
deemed received as of the date the director resends the notice. 17936

(C) If the original notice was unclaimed, the notice shall be 17937
deemed received as of the date the director resends the notice 17938
unless, not later than thirty days after the date the director 17939
sent the original notice, the resent notice is returned to the 17940
director for failure of delivery. 17941

If the notice concerns taking action under section 5123.51 of 17942
the Revised Code and the resent notice is returned to the director 17943
for failure of delivery not later than thirty days after the date 17944
the director sent the original notice, the director shall cause 17945
the notice to be published in a newspaper of general circulation 17946
in the county of the party's last known residence or business and 17947
shall mail a dated copy of the published notice to the party at 17948
the last known address. The notice shall be deemed received as of 17949
the date of the publication. 17950

If the notice concerns taking action under section 5123.082, 17951
5123.166, 5123.168, 5123.19, 5123.45, or 5126.25 of the Revised 17952

Code and the resent notice is returned to the director for failure 17953
of delivery not later than thirty days after the date the director 17954
sent the original notice, the director shall resend the notice to 17955
the party a second time. The notice shall be deemed received as of 17956
the date the director resends the notice the second time. 17957

Sec. 5123.0415. As used in this section, "license" means a 17958
license, certificate, or evidence of registration. 17959

Each person and government entity that applies for or holds a 17960
valid license issued under section 5123.082, 5123.161, 5123.19, 17961
5123.45, 5126.25, or 5126.252 of the Revised Code shall notify the 17962
director of ~~mental retardation and~~ developmental disabilities of 17963
any change in the person or government entity's address. 17964

Sec. 5123.0416. (A) Subject to the availability of funds 17965
appropriated to the department of ~~mental retardation and~~ 17966
developmental disabilities for medicaid waiver state match, the 17967
department shall expend, in fiscal year 2009 and each fiscal year 17968
thereafter, not less than the amount appropriated in appropriation 17969
item 322-416, medicaid waiver - state match, in fiscal year 2008 17970
to do both of the following: 17971

(1) Pay the nonfederal share of medicaid expenditures for 17972
home and community-based services that section 5123.047 of the 17973
Revised Code requires the department to pay; 17974

(2) Assist county boards of ~~mental retardation and~~ 17975
developmental disabilities in paying the nonfederal share of 17976
medicaid expenditures for home and community-based services that 17977
section 5126.0510 of the Revised Code requires county boards to 17978
pay. 17979

(B) The department shall make the expenditures required by 17980
division (A)(2) of this section in the form of allocations to 17981
county boards or by other means. If the department makes the 17982

expenditures in the form of allocations, the process for making 17983
the allocations shall conform to a process the department shall 17984
establish after consulting with representatives of county boards. 17985

Sec. 5123.0417. (A) Using funds available under section 17986
5112.371 of the Revised Code, the director of ~~mental retardation~~ 17987
~~and~~ developmental disabilities shall establish one or more 17988
programs for individuals under twenty-one years of age who have 17989
intensive behavioral needs, including such individuals with a 17990
primary diagnosis of autism spectrum disorder. The programs may 17991
include one or more medicaid waiver components that the director 17992
administers pursuant to section 5111.871 of the Revised Code. The 17993
programs may do one or more of the following: 17994

(1) Establish models that incorporate elements common to 17995
effective intervention programs and evidence-based practices in 17996
services for children with intensive behavioral needs; 17997

(2) Design a template for individualized education plans and 17998
individual service plans that provide consistent intervention 17999
programs and evidence-based practices for the care and treatment 18000
of children with intensive behavioral needs; 18001

(3) Disseminate best practice guidelines for use by families 18002
of children with intensive behavioral needs and professionals 18003
working with such families; 18004

(4) Develop a transition planning model for effectively 18005
mainstreaming school-age children with intensive behavioral needs 18006
to their public school district; 18007

(5) Contribute to the field of early and effective 18008
identification and intervention programs for children with 18009
intensive behavioral needs by providing financial support for 18010
scholarly research and publication of clinical findings. 18011

(B) The director of ~~mental retardation and~~ developmental 18012

disabilities shall collaborate with the director of job and family 18013
services and consult with the executive director of the Ohio 18014
center for autism and low incidence and university-based programs 18015
that specialize in services for individuals with developmental 18016
disabilities when establishing programs under this section. 18017

Sec. 5123.05. The department of ~~mental retardation and~~ 18018
developmental disabilities may conduct audits of the services and 18019
programs that either receive funds through the department or are 18020
subject to regulation by the department. Audits shall be conducted 18021
in accordance with procedures prescribed by the department. 18022
Records created or received by the department in connection with 18023
an audit are not public records under section 149.43 of the 18024
Revised Code until a report of the audit is released by the 18025
department. 18026

Sec. 5123.051. (A) If the department of ~~mental retardation~~ 18027
~~and~~ developmental disabilities determines pursuant to an audit 18028
conducted under section 5123.05 of the Revised Code or a 18029
reconciliation conducted under section 5123.18 of the Revised Code 18030
that money is owed the state by a provider of a service or 18031
program, the department may enter into a payment agreement with 18032
the provider. The agreement shall include the following: 18033

(1) A schedule of installment payments whereby the money owed 18034
the state is to be paid in full within a period not to exceed one 18035
year; 18036

(2) A provision that the provider may pay the entire balance 18037
owed at any time during the term of the agreement; 18038

(3) A provision that if any installment is not paid in full 18039
within forty-five days after it is due, the entire balance owed is 18040
immediately due and payable; 18041

(4) Any other terms and conditions that are agreed to by the 18042

department and the provider. 18043

(B) The department may include a provision in a payment 18044
agreement that requires the provider to pay interest on the money 18045
owed the state. The department, in its discretion, shall determine 18046
whether to require the payment of interest and, if it so requires, 18047
the rate of interest. Neither the obligation to pay interest nor 18048
the rate of interest is subject to negotiation between the 18049
department and the provider. 18050

(C) If the provider fails to pay any installment in full 18051
within forty-five days after its due date, the department shall 18052
certify the entire balance owed to the attorney general for 18053
collection under section 131.02 of the Revised Code. The 18054
department may withhold funds from payments made to a provider 18055
under section 5123.18 of the Revised Code to satisfy a judgment 18056
secured by the attorney general. 18057

(D) The purchase of service fund is hereby created. Money 18058
credited to the fund shall be used solely for purposes of section 18059
5123.05 of the Revised Code. 18060

Sec. 5123.06. The director of ~~mental retardation and~~ 18061
developmental disabilities may establish divisions in the 18062
department of ~~mental retardation and~~ developmental disabilities 18063
and prescribe their powers and duties. 18064

Each division shall consist of a deputy director and the 18065
officers and employees, including those in institutions, necessary 18066
for the performance of the functions assigned to it. The director 18067
shall supervise the work of each division and be responsible for 18068
the determination of general policies in the exercise of powers 18069
vested in the department and powers assigned to each division. The 18070
deputy director of each division shall be responsible to the 18071
director for the organization, direction, and supervision of the 18072
work of the division and the exercise of the powers and the 18073

performance of the duties of the department assigned to the 18074
division, and, with the approval of the director, may establish 18075
bureaus or other administrative units in the division. 18076

Appointment to the position of deputy director of a division 18077
may be made from persons holding positions in the classified 18078
service in the department. 18079

The deputy director of each division shall be a person who 18080
has had special training and experience in the type of work with 18081
the performance of which the division is charged. 18082

Each deputy director of a division, under the director, shall 18083
have entire executive charge of the division to which the deputy 18084
director is appointed. Subject to sections 124.01 to 124.64 of the 18085
Revised Code, and civil service rules, the deputy director of a 18086
division shall, with the approval of the director, select and 18087
appoint the necessary employees in the deputy director's division 18088
and may remove those employees for cause. 18089

Sec. 5123.07. There may be created in the department of 18090
~~mental retardation and~~ developmental disabilities a bureau of 18091
research. The bureau shall: 18092

(A) Plan, direct, and coordinate all research programs 18093
conducted by the department; 18094

(B) Provide continuing evaluation of research programs; 18095

(C) Direct and coordinate scientific investigations and 18096
studies as undertaken under this section. 18097

The department shall institute and encourage scientific 18098
investigation by the staffs of the various institutions under its 18099
control and supervision, and publish bulletins and reports of the 18100
scientific and clinical work done in such institutions. Scientific 18101
investigation in the department shall be undertaken and continued 18102
only with the approval of the director of ~~mental retardation and~~ 18103

developmental disabilities. 18104

Sec. 5123.08. An appointing officer may appoint a person who 18105
holds a certified position in the classified service within the 18106
department of ~~mental retardation and~~ developmental disabilities to 18107
a position in the unclassified service within the department. A 18108
person appointed pursuant to this section to a position in the 18109
unclassified service shall retain the right to resume the position 18110
and status held by the person in the classified service 18111
immediately prior to the person's appointment to the position in 18112
the unclassified service, regardless of the number of positions 18113
the person held in the unclassified service. An employee's right 18114
to resume a position in the classified service may only be 18115
exercised when an appointing authority demotes the employee to a 18116
pay range lower than the employee's current pay range or revokes 18117
the employee's appointment to the unclassified service. An 18118
employee forfeits the right to resume a position in the classified 18119
service when the employee is removed from the position in the 18120
unclassified service due to incompetence, inefficiency, 18121
dishonesty, drunkenness, immoral conduct, insubordination, 18122
discourteous treatment of the public, neglect of duty, violation 18123
of this chapter or Chapter 124. of the Revised Code, the rules of 18124
the director of ~~mental retardation and~~ developmental disabilities 18125
or the director of administrative services, any other failure of 18126
good behavior, any other acts of misfeasance, malfeasance, or 18127
nonfeasance in office, or conviction of a felony. An employee also 18128
forfeits the right to resume a position in the classified service 18129
upon transfer to a different agency. 18130

Reinstatement to a position in the classified service shall 18131
be to a position substantially equal to that position in the 18132
classified service held previously, as certified by the director 18133
of administrative services. If the position the person previously 18134
held in the classified service has been placed in the unclassified 18135

service or is otherwise unavailable, the person shall be appointed 18136
to a position in the classified service within the department that 18137
the director of administrative services certifies is comparable in 18138
compensation to the position the person previously held in the 18139
classified service. Service in the position in the unclassified 18140
service shall be counted as service in the position in the 18141
classified service held by the person immediately prior to the 18142
person's appointment to the position in the unclassified service. 18143
When a person is reinstated to a position in the classified 18144
service as provided in this section, the person is entitled to all 18145
rights, status, and benefits accruing to the position in the 18146
classified service during the time of the person's service in the 18147
position in the unclassified service. 18148

Sec. 5123.081. (A) As used in this section: 18149

(1) "Applicant" means a person who is under final 18150
consideration for appointment to or employment with the department 18151
of ~~mental retardation and~~ developmental disabilities, including, 18152
but not limited to, a person who is being transferred to the 18153
department and an employee who is being recalled or reemployed 18154
after a layoff. 18155

(2) "Criminal records check" has the same meaning as in 18156
section 109.572 of the Revised Code. 18157

(3) "Minor drug possession offense" has the same meaning as 18158
in section 2925.01 of the Revised Code. 18159

(B) The director of ~~mental retardation and~~ developmental 18160
disabilities shall request the superintendent of the bureau of 18161
criminal identification and investigation to conduct a criminal 18162
records check with respect to each applicant, except that the 18163
director is not required to request a criminal records check for 18164
an employee of the department who is being considered for a 18165
different position or is returning after a leave of absence or 18166

seasonal break in employment, as long as the director has no 18167
reason to believe that the employee has committed any of the 18168
offenses listed or described in division (E) of this section. 18169

If the applicant does not present proof that the applicant 18170
has been a resident of this state for the five-year period 18171
immediately prior to the date upon which the criminal records 18172
check is requested, the director shall request that the 18173
superintendent of the bureau obtain information from the federal 18174
bureau of investigation as a part of the criminal records check 18175
for the applicant. If the applicant presents proof that the 18176
applicant has been a resident of this state for that five-year 18177
period, the director may request that the superintendent of the 18178
bureau include information from the federal bureau of 18179
investigation in the criminal records check. For purposes of this 18180
division, an applicant may provide proof of residency in this 18181
state by presenting, with a notarized statement asserting that the 18182
applicant has been a resident of this state for that five-year 18183
period, a valid driver's license, notification of registration as 18184
an elector, a copy of an officially filed federal or state tax 18185
form identifying the applicant's permanent residence, or any other 18186
document the director considers acceptable. 18187

(C) The director shall provide to each applicant a copy of 18188
the form prescribed pursuant to division (C)(1) of section 109.572 18189
of the Revised Code, provide to each applicant a standard 18190
impression sheet to obtain fingerprint impressions prescribed 18191
pursuant to division (C)(2) of section 109.572 of the Revised 18192
Code, obtain the completed form and impression sheet from each 18193
applicant, and forward the completed form and impression sheet to 18194
the superintendent of the bureau of criminal identification and 18195
investigation at the time the criminal records check is requested. 18196

Any applicant who receives pursuant to this division a copy 18197
of the form prescribed pursuant to division (C)(1) of section 18198

109.572 of the Revised Code and a copy of an impression sheet 18199
prescribed pursuant to division (C)(2) of that section and who is 18200
requested to complete the form and provide a set of fingerprint 18201
impressions shall complete the form or provide all the information 18202
necessary to complete the form and shall provide the material with 18203
the impressions of the applicant's fingerprints. If an applicant, 18204
upon request, fails to provide the information necessary to 18205
complete the form or fails to provide impressions of the 18206
applicant's fingerprints, the director shall not employ the 18207
applicant. 18208

(D) The director may request any other state or federal 18209
agency to supply the director with a written report regarding the 18210
criminal record of each applicant. With regard to an applicant who 18211
becomes a department employee, if the employee holds an 18212
occupational or professional license or other credentials, the 18213
director may request that the state or federal agency that 18214
regulates the employee's occupation or profession supply the 18215
director with a written report of any information pertaining to 18216
the employee's criminal record that the agency obtains in the 18217
course of conducting an investigation or in the process of 18218
renewing the employee's license or other credentials. 18219

(E) Except as provided in division (K)(2) of this section and 18220
in rules adopted by the director in accordance with division (M) 18221
of this section, the director shall not employ a person to fill a 18222
position with the department who has been convicted of or pleaded 18223
guilty to any of the following: 18224

(1) A violation of section 2903.01, 2903.02, 2903.03, 18225
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 18226
2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 18227
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 18228
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 18229
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 18230

2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 18231
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of 18232
section 2905.04 of the Revised Code as it existed prior to July 1, 18233
1996, a violation of section 2919.23 of the Revised Code that 18234
would have been a violation of section 2905.04 of the Revised Code 18235
as it existed prior to July 1, 1996, had the violation occurred 18236
prior to that date, a violation of section 2925.11 of the Revised 18237
Code that is not a minor drug possession offense, or felonious 18238
sexual penetration in violation of former section 2907.12 of the 18239
Revised Code; 18240

(2) A felony contained in the Revised Code that is not listed 18241
in this division, if the felony bears a direct and substantial 18242
relationship to the duties and responsibilities of the position 18243
being filled; 18244

(3) Any offense contained in the Revised Code constituting a 18245
misdemeanor of the first degree on the first offense and a felony 18246
on a subsequent offense, if the offense bears a direct and 18247
substantial relationship to the position being filled and the 18248
nature of the services being provided by the department; 18249

(4) A violation of an existing or former municipal ordinance 18250
or law of this state, any other state, or the United States, if 18251
the offense is substantially equivalent to any of the offenses 18252
listed or described in division (E)(1), (2), or (3) of this 18253
section. 18254

(F) Prior to employing an applicant, the director shall 18255
require the applicant to submit a statement with the applicant's 18256
signature attesting that the applicant has not been convicted of 18257
or pleaded guilty to any of the offenses listed or described in 18258
division (E) of this section. The director also shall require the 18259
applicant to sign an agreement under which the applicant agrees to 18260
notify the director within fourteen calendar days if, while 18261
employed with the department, the applicant is ever formally 18262

charged with, convicted of, or pleads guilty to any of the 18263
offenses listed or described in division (E) of this section. The 18264
agreement shall inform the applicant that failure to report formal 18265
charges, a conviction, or a guilty plea may result in being 18266
dismissed from employment. 18267

(G) The director shall pay to the bureau of criminal 18268
identification and investigation the fee prescribed pursuant to 18269
division (C)(3) of section 109.572 of the Revised Code for each 18270
criminal records check requested and conducted pursuant to this 18271
section. 18272

(H)(1) Any report obtained pursuant to this section is not a 18273
public record for purposes of section 149.43 of the Revised Code 18274
and shall not be made available to any person, other than the 18275
applicant who is the subject of the records check or criminal 18276
records check or the applicant's representative, the department or 18277
its representative, a county board of ~~mental retardation and~~ 18278
developmental disabilities, and any court, hearing officer, or 18279
other necessary individual involved in a case dealing with the 18280
denial of employment to the applicant or the denial, suspension, 18281
or revocation of a certificate or evidence of registration under 18282
section 5123.082 of the Revised Code. 18283

(2) An individual for whom the director has obtained reports 18284
under this section may submit a written request to the director to 18285
have copies of the reports sent to any state agency, entity of 18286
local government, or private entity. The individual shall specify 18287
in the request the agencies or entities to which the copies are to 18288
be sent. On receiving the request, the director shall send copies 18289
of the reports to the agencies or entities specified. 18290

The director may request that a state agency, entity of local 18291
government, or private entity send copies to the director of any 18292
report regarding a records check or criminal records check that 18293
the agency or entity possesses, if the director obtains the 18294

written consent of the individual who is the subject of the report. 18295
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(I) The director shall request the registrar of motor vehicles to supply the director 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 a developmental disability or to operate the department's vehicles for any other purpose. For each abstract provided under this section, the director shall pay the amount specified in section 4509.05 of the Revised Code. 18297
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(J) The director shall provide each applicant with a copy of any report or abstract obtained about the applicant under this section. 18306
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(K)(1) The director 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 employment as a precondition to employment in a position. 18309
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(2) The director may employ an applicant pending receipt of reports requested under this section. The director shall terminate employment of any such applicant if it is determined from the reports that the applicant failed to inform the director that the applicant had been convicted of or pleaded guilty to any of the offenses listed or described in division (E) of this section. 18317
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(L) The director may charge an applicant a fee for costs the director incurs in obtaining reports, abstracts, or fingerprint impressions under this section. A fee charged under this division 18323
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shall not exceed the amount of the fees the director pays under 18326
divisions (G) and (I) of this section. If a fee is charged under 18327
this division, the director shall notify the applicant of the 18328
amount of the fee at the time of the applicant's initial 18329
application for employment and that, unless the fee is paid, the 18330
director will not consider the applicant for employment. 18331

(M) The director shall adopt rules in accordance with Chapter 18332
119. of the Revised Code to implement this section, including 18333
rules specifying circumstances under which the director may employ 18334
a person who has been convicted of or pleaded guilty to an offense 18335
listed or described in division (E) of this section but who meets 18336
standards in regard to rehabilitation set by the director. 18337

Sec. 5123.082. (A) The director of ~~mental retardation and~~ 18338
developmental disabilities shall adopt rules in accordance with 18339
Chapter 119. of the Revised Code: 18340

(1) Designating positions of employment for which the 18341
director determines that certification or evidence of registration 18342
is required as a condition of employment in the department of 18343
~~mental retardation and~~ developmental disabilities, entities that 18344
contract with the department or county boards of ~~mental~~ 18345
~~retardation and~~ developmental disabilities to operate programs or 18346
provide services to persons with mental retardation and 18347
developmental disabilities, or other positions of employment in 18348
programs that serve those persons. The rules shall designate the 18349
position of investigative agent, as defined in section 5126.20 of 18350
the Revised Code, as a position for which certification is 18351
required. 18352

(2) Establishing levels of certification or registration for 18353
each position for which certification or registration is required; 18354

(3) Establishing for each level of each position the 18355
requirements that must be met to obtain certification or 18356

registration, including standards regarding education, specialized 18357
training, and experience. The standards shall take into account 18358
the nature and needs of persons with mental retardation or a 18359
developmental disability and the specialized techniques needed to 18360
serve them. The requirements for an investigative agent shall be 18361
the same as the certification requirements for an investigative 18362
agent under section 5126.25 of the Revised Code. 18363

(4) Establishing renewal schedules and renewal requirements 18364
for certification and registration, including standards regarding 18365
education, specialized training, and experience. The renewal 18366
requirements for an investigative agent shall be the same as the 18367
renewal requirements for an investigative agent under section 18368
5126.25 of the Revised Code. 18369

(5) Establishing procedures for denial, suspension, and 18370
revocation of a certificate or evidence of registration, including 18371
appeal procedures; 18372

(6) Establishing other requirements needed to carry out this 18373
section. 18374

(B) The director shall issue, renew, deny, suspend, or revoke 18375
a certificate or evidence of registration in accordance with rules 18376
adopted under this section. The director shall deny, suspend, or 18377
revoke a certificate or evidence of registration if the director 18378
finds, pursuant to an adjudication conducted in accordance with 18379
Chapter 119. of the Revised Code, that an applicant for or holder 18380
of a certificate or evidence of registration is guilty of 18381
intemperate, immoral, or other conduct unbecoming to the 18382
applicant's or holder's position, or is guilty of incompetence or 18383
negligence within the scope of the applicant's or holder's duties. 18384
The director shall deny or revoke a certificate or evidence of 18385
registration after the director finds, pursuant to an adjudication 18386
conducted in accordance with Chapter 119. of the Revised Code, 18387
that the applicant for or holder of the certificate or evidence of 18388

registration has been convicted of or pleaded guilty to any of the 18389
offenses listed or described in division (E) of section 5126.28 of 18390
the Revised Code, unless the individual meets standards for 18391
rehabilitation that the director establishes in the rules adopted 18392
under that section. Evidence supporting such allegations must be 18393
presented to the director in writing, and the director shall 18394
provide prompt notice of the allegations to the person who is the 18395
subject of the allegations. A denial, suspension, or revocation 18396
may be appealed in accordance with the procedures established in 18397
rules adopted under this section. 18398

(C) A person holding a valid certificate or evidence of 18399
registration under this section on the effective date of any rules 18400
adopted under this section that increase the certification or 18401
registration standards shall have the period that the rules 18402
prescribe, but not less than one year after the effective date of 18403
the rules, to meet the new standards. 18404

(D) No person shall be employed in a position for which 18405
certification or registration is required under rules adopted 18406
under this section, unless the person holds a valid certificate or 18407
evidence of registration for the position. 18408

Sec. 5123.083. On receipt of a notice pursuant to section 18409
3123.43 of the Revised Code, the director of ~~mental retardation~~ 18410
~~and~~ developmental disabilities shall comply with sections 3123.41 18411
to 3123.50 of the Revised Code and any applicable rules adopted 18412
under section 3123.63 of the Revised Code with respect to a 18413
certificate or evidence of registration issued pursuant to this 18414
chapter. 18415

Sec. 5123.09. Subject to the rules of the department of 18416
~~mental retardation and~~ developmental disabilities, each 18417
institution under the jurisdiction of the department shall be 18418

under the control of a managing officer to be known as a 18419
superintendent or by other appropriate title. The managing officer 18420
shall be appointed by the director of ~~mental retardation and~~ 18421
developmental disabilities and shall be in the unclassified 18422
service and serve at the pleasure of the director. Each managing 18423
officer shall be of good moral character and have skill, ability, 18424
and experience in the managing officer's profession. Appointment 18425
to the position of managing officer of an institution may be made 18426
from persons holding positions in the classified service in the 18427
department. 18428

The managing officer, under the director, shall have entire 18429
executive charge of the institution for which the managing officer 18430
is appointed, except as provided in section 5119.16 of the Revised 18431
Code. Subject to civil service rules and rules adopted by the 18432
department, the managing officer shall appoint the necessary 18433
employees, and the managing officer or the director may remove 18434
those employees for cause. A report of all appointments, 18435
resignations, and discharges shall be filed with the appropriate 18436
division at the close of each month. 18437

After conference with the managing officer of each 18438
institution, the director shall determine the number of employees 18439
to be appointed to the various institutions and clinics. 18440

Sec. 5123.091. The director of ~~mental retardation and~~ 18441
developmental disabilities may, by rule and with the approval of 18442
the governor, change the purpose for which any institution under 18443
the control of the department is being used. The director may 18444
designate a new or another use for the institution, provided the 18445
change of use and new designation has for its objective 18446
improvement in the classification, segregation, care, education, 18447
cure, or rehabilitation of the persons admitted. 18448

Sec. 5123.092. (A) There is hereby established at each 18449
institution and branch institution under the control of the 18450
department of ~~mental retardation and~~ developmental disabilities a 18451
citizen's advisory council consisting of thirteen members. At 18452
least seven of the members shall be persons who are not providers 18453
of mental retardation services. Each council shall include parents 18454
or other relatives of residents of institutions under the control 18455
of the department, community leaders, professional persons in 18456
relevant fields, and persons who have an interest in or knowledge 18457
of mental retardation. The managing officer of the institution 18458
shall be a nonvoting member of the council. 18459

(B) The director of ~~mental retardation and~~ developmental 18460
disabilities shall be the appointing authority for the voting 18461
members of each citizen's advisory council. Each time the term of 18462
a voting member expires, the remaining members of the council 18463
shall recommend to the director one or more persons to serve on 18464
the council. The director may accept a nominee of the council or 18465
reject the nominee or nominees. If the director rejects the 18466
nominee or nominees, the remaining members of the advisory council 18467
shall further recommend to the director one or more other persons 18468
to serve on the advisory council. This procedure shall continue 18469
until a member is appointed to the advisory council. 18470

Each advisory council shall elect from its appointed members 18471
a chairperson, vice-chairperson, and a secretary to serve for 18472
terms of one year. Advisory council officers shall not serve for 18473
more than two consecutive terms in the same office. A majority of 18474
the advisory council members constitutes a quorum. 18475

(C) Terms of office shall be for three years, each term 18476
ending on the same day of the same month of the year as did the 18477
term which it succeeds. No member shall serve more than two 18478
consecutive terms, except that any former member may be appointed 18479

if one year or longer has elapsed since the member served two 18480
consecutive terms. Each member shall hold office from the date of 18481
appointment until the end of the term for which the member was 18482
appointed. Any vacancy shall be filled in the same manner in which 18483
the original appointment was made, and the appointee to a vacancy 18484
in an unexpired term shall serve the balance of the term of the 18485
original appointee. Any member shall continue in office subsequent 18486
to the expiration date of the member's term until the member's 18487
successor takes office, or until a period of sixty days has 18488
elapsed, whichever occurs first. 18489

(D) Members shall be expected to attend all meetings of the 18490
advisory council. Unexcused absence from two successive regularly 18491
scheduled meetings shall be considered prima-facie evidence of 18492
intent not to continue as a member. The chairperson of the board 18493
shall, after a member has been absent for two successive regularly 18494
scheduled meetings, direct a letter to the member asking if the 18495
member wishes to remain in membership. If an affirmative reply is 18496
received, the member shall be retained as a member except that, 18497
if, after having expressed a desire to remain a member, the member 18498
then misses a third successive regularly scheduled meeting without 18499
being excused, the chairperson shall terminate the member's 18500
membership. 18501

(E) A citizen's advisory council shall meet six times 18502
annually, or more frequently if three council members request the 18503
chairperson to call a meeting. The council shall keep minutes of 18504
each meeting and shall submit them to the managing officer of the 18505
institution with which the council is associated, the department 18506
of ~~mental retardation and~~ developmental disabilities, and the 18507
legal rights service. 18508

(F) Members of citizen's advisory councils shall receive no 18509
compensation for their services, except that they shall be 18510
reimbursed for their actual and necessary expenses incurred in the 18511

performance of their official duties by the institution with which 18512
they are associated from funds allocated to it, provided that 18513
reimbursement for those expenses shall not exceed limits imposed 18514
upon the department of ~~mental retardation and~~ developmental 18515
disabilities by administrative rules regulating travel within this 18516
state. 18517

(G) The councils shall have reasonable access to all patient 18518
treatment and living areas and records of the institution, except 18519
those records of a strictly personal or confidential nature. The 18520
councils shall have access to a patient's personal records with 18521
the consent of the patient or the patient's legal guardian or, if 18522
the patient is a minor, with the consent of the parent or legal 18523
guardian of the patient. 18524

(H) As used in this section, "branch institution" means a 18525
facility that is located apart from an institution and is under 18526
the control of the managing officer of the institution. 18527

Sec. 5123.093. The citizen's advisory councils established 18528
under section 5123.092 of the Revised Code shall: 18529

(A) Transmit verbal or written information from any person or 18530
organization associated with the institution or within the 18531
community, that an advisory council considers important, to the 18532
joint council on ~~mental retardation and~~ developmental disabilities 18533
created by section 101.37 of the Revised Code and the director of 18534
~~mental retardation and~~ developmental disabilities; 18535

(B) Review the records of all applicants to any unclassified 18536
position at the institution, except for resident physician 18537
positions filled under section 5123.11 of the Revised Code; 18538

(C) Review and evaluate institutional employee training and 18539
continuing education programs; 18540

(D) On or before the thirty-first day of January of each 18541

year, submit a written report to the joint council on ~~mental~~ 18542
~~retardation and~~ developmental disabilities and the director of 18543
~~mental retardation and~~ developmental disabilities regarding 18544
matters affecting the institution including, but not limited to, 18545
allegations of dehumanizing practices and violations of individual 18546
or legal rights; 18547

(E) Review institutional budgets, programs, services, and 18548
planning; 18549

(F) Develop and maintain relationships within the community 18550
with community mental retardation and developmental disabilities 18551
organizations; 18552

(G) Participate in the formulation of the institution's 18553
objectives, administrative procedures, program philosophy, and 18554
long range goals; 18555

(H) Bring any matter that an advisory council considers 18556
important to the attention of the joint council on ~~mental~~ 18557
~~retardation and~~ developmental disabilities and the director of 18558
~~mental retardation and~~ developmental disabilities; 18559

(I) Recommend to the director of ~~mental retardation and~~ 18560
developmental disabilities persons for appointment to citizen's 18561
advisory councils; 18562

(J) Adopt any rules or procedures necessary to carry out this 18563
section. 18564

The chairperson of the advisory council or the chairperson's 18565
designee shall be notified within twenty-four hours of any alleged 18566
incident of abuse to a resident or staff member by anyone. 18567
Incidents of resident or staff abuse shall include, but not be 18568
limited to, sudden deaths, accidents, suicides, attempted 18569
suicides, injury caused by other persons, alleged criminal acts, 18570
errors in prescribing or administering medication, theft from 18571
clients, fires, epidemic disease, administering unprescribed 18572

drugs, unauthorized use of restraint, withholding of information 18573
concerning alleged abuse, neglect, or any deprivation of rights as 18574
defined in Chapter 5122. or 5123. of the Revised Code. 18575

Sec. 5123.10. The department of ~~mental retardation and~~ 18576
developmental disabilities shall require any of its employees and 18577
each officer and employee of every institution under its control 18578
who may be charged with custody or control of any money or 18579
property belonging to the state or who is required to give bond to 18580
give a surety company bond, properly conditioned, in a sum to be 18581
fixed by the department which, when approved by the department, 18582
shall be filed in the office of the secretary of state. The cost 18583
of such bonds, when approved by the department, shall be paid from 18584
funds available for the department. The bonds required or 18585
authorized by this section may, in the discretion of the director 18586
of ~~mental retardation and~~ developmental disabilities, be 18587
individual, schedule, or blanket bonds. 18588

Sec. 5123.11. (A) The director of ~~mental retardation and~~ 18589
developmental disabilities may enter into an agreement with the 18590
boards of trustees or boards of directors of two or more 18591
universities in which there is a college of medicine or college of 18592
osteopathic medicine, or of two or more colleges of medicine or 18593
colleges of osteopathic medicine, or any combination of those 18594
universities and colleges, to establish, manage, and conduct 18595
residency medical training programs. The agreement may also 18596
provide for clinical clerkships for medical students. The director 18597
shall also enter into an agreement with the boards of trustees or 18598
boards of directors of one or more universities in which there is 18599
a school of professional psychology to establish, manage, and 18600
conduct residency psychological training programs. 18601

(B) The department shall pay all costs incurred by a 18602
university or college that relate directly to the training of 18603

resident physicians or psychologists in programs developed under 18604
this section. The director of ~~mental retardation and~~ developmental 18605
disabilities shall ensure that any procedures and limitations 18606
imposed for the purpose of reimbursing universities or colleges, 18607
or for direct payment of residents' salaries, are incorporated 18608
into agreements between the department and the universities or 18609
colleges. Any agreement shall provide that residency training for 18610
a physician shall not exceed four calendar years. 18611

Sec. 5123.12. The director of ~~mental retardation and~~ 18612
developmental disabilities may enter into an agreement with boards 18613
of trustees or boards of directors of one or more universities, 18614
colleges, or schools to establish, manage, and conduct residency 18615
training programs for students enrolled in courses of studies for 18616
occupations or professions which may be determined by the director 18617
to be needed by the department to provide adequate care and 18618
treatment for the residents of any institution administered by the 18619
director. 18620

Sec. 5123.122. Notwithstanding section 5121.04 of the Revised 18621
Code and except as provided in section 5123.194 of the Revised 18622
Code, the liable relative of a mentally retarded or 18623
developmentally disabled person who is a minor receiving 18624
residential services pursuant to a contract entered into with the 18625
department of ~~mental retardation and~~ developmental disabilities 18626
under section 5123.18 of the Revised Code shall be charged for the 18627
minor's support the percentage of a base support rate determined 18628
in accordance with division (B)(2) of section 5121.04 of the 18629
Revised Code. 18630

Sec. 5123.13. (A) As used in this section, "felony" has the 18631
same meaning as in section 109.511 of the Revised Code. 18632

(B)(1) Subject to division (C) of this section, upon the 18633

recommendation of the director of ~~mental retardation and~~ 18634
developmental disabilities, the managing officer of an institution 18635
under the jurisdiction of the department of ~~mental retardation and~~ 18636
developmental disabilities may designate one or more employees to 18637
be special police officers of the department. The special police 18638
officers shall take an oath of office, wear the badge of office, 18639
and give bond for the proper and faithful discharge of their 18640
duties in an amount that the director requires. 18641

(2) In accordance with section 109.77 of the Revised Code, 18642
the special police officers shall be required to complete 18643
successfully a peace officer basic training program approved by 18644
the Ohio peace officer training commission and to be certified by 18645
the commission. The cost of the training shall be paid by the 18646
department of ~~mental retardation and~~ developmental disabilities. 18647

(3) Special police officers, on the premises of institutions 18648
under the jurisdiction of the department of ~~mental retardation and~~ 18649
developmental disabilities and subject to the rules of the 18650
department, shall protect the property of the institutions and the 18651
persons and property of patients in the institutions, suppress 18652
riots, disturbances, and breaches of the peace, and enforce the 18653
laws of the state and the rules of the department for the 18654
preservation of good order. They may arrest any person without a 18655
warrant and detain the person until a warrant can be obtained 18656
under the circumstances described in division (F) of section 18657
2935.03 of the Revised Code. 18658

(C)(1) The managing officer of an institution under the 18659
jurisdiction of the department of ~~mental retardation and~~ 18660
developmental disabilities shall not designate an employee as a 18661
special police officer of the department pursuant to division 18662
(B)(1) of this section on a permanent basis, on a temporary basis, 18663
for a probationary term, or on other than a permanent basis if the 18664
employee previously has been convicted of or has pleaded guilty to 18665

a felony. 18666

(2)(a) The managing officer of an institution under the 18667
jurisdiction of the department of ~~mental retardation and~~ 18668
developmental disabilities shall terminate the employment as a 18669
special police officer of the department of an employee designated 18670
as a special police officer under division (B)(1) of this section 18671
if that employee does either of the following: 18672

(i) Pleads guilty to a felony; 18673

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 18674
plea agreement as provided in division (D) of section 2929.43 of 18675
the Revised Code in which the employee agrees to surrender the 18676
certificate awarded to that employee under section 109.77 of the 18677
Revised Code. 18678

(b) The managing officer shall suspend from employment as a 18679
special police officer of the department an employee designated as 18680
a special police officer under division (B)(1) of this section if 18681
that employee is convicted, after trial, of a felony. If the 18682
special police officer files an appeal from that conviction and 18683
the conviction is upheld by the highest court to which the appeal 18684
is taken or if the special police officer does not file a timely 18685
appeal, the managing officer shall terminate the employment of 18686
that special police officer. If the special police officer files 18687
an appeal that results in that special police officer's acquittal 18688
of the felony or conviction of a misdemeanor, or in the dismissal 18689
of the felony charge against that special police officer, the 18690
managing officer shall reinstate that special police officer. A 18691
special police officer of the department who is reinstated under 18692
division (C)(2)(b) of this section shall not receive any back pay 18693
unless that special police officer's conviction of the felony was 18694
reversed on appeal, or the felony charge was dismissed, because 18695
the court found insufficient evidence to convict the special 18696
police officer of the felony. 18697

(3) Division (C) of this section does not apply regarding an 18698
offense that was committed prior to January 1, 1997. 18699

(4) The suspension from employment, or the termination of the 18700
employment, of a special police officer under division (C)(2) of 18701
this section shall be in accordance with Chapter 119. of the 18702
Revised Code. 18703

Sec. 5123.14. The department of ~~mental retardation and~~ 18704
developmental disabilities may make such investigations as are 18705
necessary in the performance of its duties and to that end the 18706
director of ~~mental retardation and~~ developmental disabilities 18707
shall have the same power as a judge of a county court to 18708
administer oaths and to enforce the attendance and testimony of 18709
witnesses and the production of books or papers. 18710

The department shall keep a record of such investigations 18711
stating the time, place, charges or subject, witnesses summoned 18712
and examined, and its conclusions. 18713

In matters involving the conduct of an officer, a 18714
stenographic report of the evidence shall be taken and a copy of 18715
such report, with all documents introduced, kept on file at the 18716
office of the department. 18717

Witnesses shall be paid the fees and mileage provided for 18718
under section 119.094 of the Revised Code, but no officer or 18719
employee of the institution under investigation is entitled to 18720
such fees. 18721

Any judge of the probate court or of the court of common 18722
pleas, upon application of the department, may compel the 18723
attendance of witnesses, the production of books or papers, and 18724
the giving of testimony before the department, by a judgment for 18725
contempt or otherwise, in the same manner as in cases before said 18726
courts. 18727

Sec. 5123.15. The department of ~~mental retardation and~~ 18728
developmental disabilities may appoint and commission any 18729
competent agency or person, to serve without compensation, as a 18730
special agent, investigator, or representative to perform a 18731
designated duty for and in behalf of the department. Specific 18732
credentials shall be given by the department to each person so 18733
designated, and each credential shall state the: 18734

(A) Name; 18735

(B) Agency with which such person is connected; 18736

(C) Purpose of appointment; 18737

(D) Date of expiration of appointment; 18738

(E) Such information as the department considers proper. 18739

Sec. 5123.16. (A) As used in sections 5123.16 to 5123.169 of 18740
the Revised Code: 18741

(1) "Provider" means a person or government entity certified 18742
by the director of ~~mental retardation and~~ developmental 18743
disabilities to provide supported living. 18744

(2) "Related party" means any of the following: 18745

(a) In the case of a provider who is an individual, any of 18746
the following: 18747

(i) The spouse of the provider; 18748

(ii) A parent or stepparent of the provider or provider's 18749
spouse; 18750

(iii) A child of the provider or provider's spouse; 18751

(iv) A sibling, half sibling, or stepsibling of the provider 18752
or provider's spouse; 18753

(v) A grandparent of the provider or provider's spouse; 18754

(vi) A grandchild of the provider or provider's spouse;	18755
(vii) An employee or employer of the provider or provider's spouse.	18756 18757
(b) In the case of a provider that is a person other than an individual, any of the following:	18758 18759
(i) An employee of the person;	18760
(ii) An officer of the provider, including the chief executive officer, president, vice-president, secretary, and treasurer;	18761 18762 18763
(iii) A member of the provider's board of directors or trustees;	18764 18765
(iv) A person owning a financial interest of five per cent or more in the provider;	18766 18767
(v) A corporation that has a subsidiary relationship with the provider;	18768 18769
(vi) A person or government entity that has control over the provider's day-to-day operation;	18770 18771
(vii) A person over which the provider has control of the day-to-day operation.	18772 18773
(c) In the case of a provider that is a government entity, any of the following:	18774 18775
(i) An employee of the provider;	18776
(ii) An officer of the provider;	18777
(iii) A member of the provider's governing board;	18778
(iv) A government entity that has control over the provider's day-to-day operation;	18779 18780
(v) A person or government entity over which the provider has control of the day-to-day operation.	18781 18782

(B) No person or government entity may provide supported living without a valid supported living certificate issued by the director of ~~mental retardation and~~ developmental disabilities.

(C) A county board of ~~mental retardation and~~ developmental disabilities may provide supported living only to the extent permitted by rules adopted under section 5123.169 of the Revised Code.

Sec. 5123.161. A person or government entity that seeks to provide supported living shall apply to the director of ~~mental retardation and~~ developmental disabilities for a supported living certificate.

Except as provided in section 5123.166 of the Revised Code, the director shall issue the applicant a supported living certificate if the applicant follows the application process established in rules adopted under section 5123.169 of the Revised Code, meets the applicable certification standards established in those rules, and pays the certification fee established in those rules.

Sec. 5123.162. The director of ~~mental retardation and~~ developmental disabilities may conduct surveys of persons and government entities that seek a supported living certificate to determine whether the persons and government entities meet the certification standards. The director may also conduct surveys of providers to determine whether the providers continue to meet the certification standards. The director shall conduct the surveys in accordance with rules adopted under section 5123.169 of the Revised Code.

The records of surveys conducted under this section are public records for the purpose of section 149.43 of the Revised Code and shall be made available on the request of any person or

government entity. 18813

Sec. 5123.163. A supported living certificate is valid for a 18814
period of time established in rules adopted under section 5123.169 18815
of the Revised Code, unless any of the following occur before the 18816
end of that period of time: 18817

(A) The director of ~~mental retardation and~~ developmental 18818
disabilities issues an order requiring that action be taken 18819
against the certificate holder under section 5123.166 of the 18820
Revised Code. 18821

(B) The director issues an order terminating the certificate 18822
under section 5123.168 of the Revised Code. 18823

(C) The certificate holder voluntarily surrenders the 18824
certificate to the director. 18825

Sec. 5123.164. Except as provided in section 5123.166 of the 18826
Revised Code, the director of ~~mental retardation and~~ developmental 18827
disabilities shall renew a supported living certificate if the 18828
certificate holder follows the renewal process established in 18829
rules adopted under section 5123.169 of the Revised Code, 18830
continues to meet the applicable certification standards 18831
established in those rules, and pays the renewal fee established 18832
in those rules. 18833

Sec. 5123.166. (A) If good cause exists as specified in 18834
division (B) of this section and determined in accordance with 18835
procedures established in rules adopted under section 5123.169 of 18836
the Revised Code, the director of ~~mental retardation and~~ 18837
developmental disabilities may issue an adjudication order 18838
requiring that one of the following actions be taken against a 18839
person or government entity seeking or holding a supported living 18840
certificate: 18841

(1) Refusal to issue or renew a supported living certificate;	18842
(2) Revocation of a supported living certificate;	18843
(3) Suspension of a supported living certificate holder's authority to do either or both of the following:	18844 18845
(a) Continue to provide supported living to one or more individuals from one or more counties who receive supported living from the certificate holder at the time the director takes the action;	18846 18847 18848 18849
(b) Begin to provide supported living to one or more individuals from one or more counties who do not receive supported living from the certificate holder at the time the director takes the action.	18850 18851 18852 18853
(B) The following constitute good cause for taking action under division (A) of this section against a person or government entity seeking or holding a supported living certificate:	18854 18855 18856
(1) The person or government entity's failure to meet or continue to meet the applicable certification standards established in rules adopted under section 5123.169 of the Revised Code;	18857 18858 18859 18860
(2) The person or government entity violates section 5123.165 of the Revised Code;	18861 18862
(3) The person or government entity's failure to satisfy the requirements of section 5123.52, 5126.28, or 5126.281 of the Revised Code;	18863 18864 18865
(4) Misfeasance;	18866
(5) Malfeasance;	18867
(6) Nonfeasance;	18868
(7) Confirmed abuse or neglect;	18869
(8) Financial irresponsibility;	18870

(9) Other conduct the director determines is or would be injurious to individuals who receive or would receive supported living from the person or government entity. 18871
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(C) Except as provided in division (D) of this section, the director shall issue an adjudication order under division (A) of this section in accordance with Chapter 119. of the Revised Code. 18874
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(D)(1) The director may issue an order requiring that action specified in division (A)(3) of this section be taken before a provider is provided notice and an opportunity for a hearing if all of the following are the case: 18877
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(a) The director determines such action is warranted by the provider's failure to continue to meet the applicable certification standards; 18881
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(b) The director determines that the failure either represents a pattern of serious noncompliance or creates a substantial risk to the health or safety of an individual who receives or would receive supported living from the provider; 18884
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(c) If the order will suspend the provider's authority to continue to provide supported living to an individual who receives supported living from the provider at the time the director issues the order, both of the following are the case: 18888
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18891

(i) The director makes the individual, or the individual's guardian, aware of the director's determination under division (D)(1)(b) of this section and the individual or guardian does not select another provider. 18892
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(ii) A county board of ~~mental retardation and~~ developmental disabilities has filed a complaint with a probate court under section 5123.33 of the Revised Code that includes facts describing the nature of abuse or neglect that the individual has suffered due to the provider's actions that are the basis for the director making the determination under division (D)(1)(b) of this section 18896
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and the probate court does not issue an order authorizing the 18902
county board to arrange services for the individual pursuant to an 18903
individualized service plan developed for the individual under 18904
section 5123.31 of the Revised Code. 18905

(2) If the director issues an order under division (D)(1) of 18906
this section, sections 119.091 to 119.13 of the Revised Code and 18907
all of the following apply: 18908

(a) The director shall send the provider notice of the order 18909
by registered mail, return receipt requested, not later than 18910
twenty-four hours after issuing the order and shall include in the 18911
notice the reasons for the order, the citation to the law or rule 18912
directly involved, and a statement that the provider will be 18913
afforded a hearing if the provider requests it within ten days of 18914
the time of receiving the notice. 18915

(b) If the provider requests a hearing within the required 18916
time and the provider has provided the director the provider's 18917
current address, the director shall immediately set, and notify 18918
the provider of, the date, time, and place for the hearing. 18919

(c) The date of the hearing shall be not later than thirty 18920
days after the director receives the provider's timely request for 18921
the hearing. 18922

(d) The hearing shall be conducted in accordance with section 18923
119.09 of the Revised Code, except for all of the following: 18924

(i) The hearing shall continue uninterrupted until its close, 18925
except for weekends, legal holidays, and other interruptions the 18926
provider and director agree to. 18927

(ii) If the director appoints a referee or examiner to 18928
conduct the hearing, the referee or examiner, not later than ten 18929
days after the date the referee or examiner receives a transcript 18930
of the testimony and evidence presented at the hearing or, if the 18931
referee or examiner does not receive the transcript or no such 18932

transcript is made, the date that the referee or examiner closes the record of the hearing, shall submit to the director a written report setting forth the referee or examiner's findings of fact and conclusions of law and a recommendation of the action the director should take.

(iii) The provider may, not later than five days after the date the director, in accordance with section 119.09 of the Revised Code, sends the provider or the provider's attorney or other representative of record a copy of the referee or examiner's report and recommendation, file with the director written objections to the report and recommendation.

(iv) The director shall approve, modify, or disapprove the referee or examiner's report and recommendation not earlier than six days, and not later than fifteen days, after the date the director, in accordance with section 119.09 of the Revised Code, sends a copy of the report and recommendation to the provider or the provider's attorney or other representative of record.

(3) The director may lift an order issued under division (D)(1) of this section even though a hearing regarding the order is occurring or pending if the director determines that the provider has taken action eliminating the good cause for issuing the order. The hearing shall proceed unless the provider withdraws the request for the hearing in a written letter to the director.

(4) The director shall lift an order issued under division (D)(1) of this section if both of the following are the case:

(a) The provider provides the director a plan of compliance the director determines is acceptable.

(b) The director determines that the provider has implemented the plan of compliance correctly.

Sec. 5123.167. If the director of ~~mental retardation and~~

developmental disabilities issues an adjudication order under 18963
section 5123.166 of the Revised Code refusing to issue a supported 18964
living certificate to a person or government entity or to renew a 18965
person or government entity's supported living certificate, 18966
neither the person or government entity nor a related party of the 18967
person or government entity may apply for another supported living 18968
certificate earlier than the date that is one year after the date 18969
the order is issued. If the director issues an adjudication order 18970
under that section revoking a person or government entity's 18971
supported living certificate, neither the person or government 18972
entity nor a related party of the person or government entity may 18973
apply for another supported living certificate earlier than the 18974
date that is five years after the date the order is issued. 18975

Sec. 5123.168. The director of ~~mental retardation and~~ 18976
developmental disabilities may issue an adjudication order in 18977
accordance with Chapter 119. of the Revised Code to terminate a 18978
supported living certificate if the certificate holder has not 18979
billed for supported living for twelve consecutive months. 18980

Sec. 5123.169. The director of ~~mental retardation and~~ 18981
developmental disabilities shall adopt rules under Chapter 119. of 18982
the Revised Code establishing all of the following: 18983

(A) The extent to which a county board of ~~mental retardation~~ 18984
~~and~~ developmental disabilities may provide supported living; 18985

(B) The application process for obtaining a supported living 18986
certificate under section 5123.161 of the Revised Code; 18987

(C) The certification standards a person or government entity 18988
must meet to obtain a supported living certificate to provide 18989
supported living; 18990

(D) The certification fee for a supported living certificate, 18991
which shall be deposited into the program fee fund created under 18992

section 5123.033 of the Revised Code;	18993
(E) The period of time a supported living certificate is valid;	18994 18995
(F) The process for renewing a supported living certificate under section 5123.164 of the Revised Code;	18996 18997
(G) The renewal fee for a supported living certificate, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;	18998 18999 19000
(H) Procedures for conducting surveys under section 5123.162 of the Revised Code;	19001 19002
(I) Procedures for determining whether there is good cause to take action under section 5123.166 of the Revised Code against a person or government entity seeking or holding a supported living certificate.	19003 19004 19005 19006
Sec. 5123.17. The department of mental retardation and developmental disabilities may provide for the custody, supervision, control, treatment, and training of persons with mental retardation or a developmental disability elsewhere than within the enclosure of an institution under its jurisdiction, if the department so determines with respect to any individual or group of individuals. In all such cases, the department shall ensure adequate and proper supervision for the protection of those persons and of the public.	19007 19008 19009 19010 19011 19012 19013 19014 19015
Sec. 5123.171. As used in this section, "respite care" means appropriate, short-term, temporary care provided to a mentally retarded or developmentally disabled person to sustain the family structure or to meet planned or emergency needs of the family.	19016 19017 19018 19019
The department of mental retardation and developmental disabilities shall provide respite care services to persons with	19020 19021

mental retardation or a developmental disability for the purpose 19022
of promoting self-sufficiency and normalization, preventing or 19023
reducing inappropriate institutional care, and furthering the 19024
unity of the family by enabling the family to meet the special 19025
needs of a mentally retarded or developmentally disabled person. 19026

In order to be eligible for respite care services under this 19027
section, the mentally retarded or developmentally disabled person 19028
must be in need of habilitation services as defined in section 19029
5126.01 of the Revised Code. 19030

Respite care may be provided in a facility licensed under 19031
section 5123.19 of the Revised Code or certified as an 19032
intermediate care facility for the mentally retarded under Title 19033
XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 19034
301, as amended, or certified as a respite care home under section 19035
5126.05 of the Revised Code. 19036

The department shall develop a system for locating vacant 19037
beds that are available for respite care and for making 19038
information on vacant beds available to users of respite care 19039
services. Facilities certified as intermediate care facilities for 19040
the mentally retarded and facilities holding contracts with the 19041
department for the provision of residential services under section 19042
5123.18 of the Revised Code shall report vacant beds to the 19043
department but shall not be required to accept respite care 19044
clients. 19045

The director of ~~mental retardation and~~ developmental 19046
disabilities shall adopt, and may amend or rescind, rules in 19047
accordance with Chapter 119. of the Revised Code for both of the 19048
following: 19049

(A) Certification by county boards of ~~mental retardation and~~ 19050
developmental disabilities of respite care homes; 19051

(B) Provision of respite care services authorized by this 19052

section. Rules adopted under this division shall establish all of 19053
the following: 19054

(1) A formula for distributing funds appropriated for respite 19055
care services; 19056

(2) Standards for supervision, training and quality control 19057
in the provision of respite care services; 19058

(3) Eligibility criteria for emergency respite care services. 19059

Sec. 5123.172. (A) As used in this section: 19060

(1) "Provider" means any person or government agency that 19061
owns, operates, manages, or is employed or under contract to 19062
operate a residential facility licensed under section 5123.19 of 19063
the Revised Code. 19064

(2) "Related to a provider" means that a person or government 19065
agency is affiliated with a provider, has control over the 19066
provider or is controlled by the provider, or is a member of the 19067
provider's family. 19068

(3) "Member of the provider's family" means the provider's 19069
spouse, natural or adoptive parent, stepparent, natural or 19070
adoptive child, stepchild, sibling, stepsister, stepbrother, 19071
half-brother, half-sister, daughter-in-law, son-in-law, 19072
brother-in-law, sister-in-law, grandparent, or grandchild. 19073

(B) Prior to entering into a contract with the department of 19074
~~mental retardation and~~ developmental disabilities under section 19075
5123.18 of the Revised Code and as required thereafter, every 19076
provider holding or negotiating a contract with the department 19077
shall report upon the request of the department, in the form and 19078
on the schedule established in rules adopted by the department in 19079
accordance with Chapter 119. of the Revised Code, the following 19080
information: 19081

(1) The name and address of every person holding a financial 19082

interest of five per cent or more in the management or operation 19083
of the residential facility; 19084

(2) The names and addresses of members of the board of 19085
trustees or directors of the residential facility or of the 19086
management contractor; 19087

(3) Every contract or business transaction between the 19088
provider and any person or government agency related to the 19089
provider if such contract or transaction would affect rates of 19090
payment under section 5123.18 of the Revised Code. 19091

(C) The department shall make reports filed under division 19092
(B) of this section available to the appropriate county board of 19093
~~mental retardation and~~ developmental disabilities and any other 19094
appropriate public agencies. 19095

(D) Any provider who fails to comply with reporting 19096
requirements of this section shall be subject to a civil penalty 19097
not to exceed one thousand dollars for each violation and to 19098
possible license revocation. 19099

Sec. 5123.18. (A) As used in this section: 19100

(1) "Contractor" means a person or government agency that 19101
enters into a contract with the department of ~~mental retardation~~ 19102
~~and~~ developmental disabilities under this section. 19103

(2) "Government agency" means a state agency as defined in 19104
section 117.01 of the Revised Code or a similar agency of a 19105
political subdivision of the state. 19106

(3) "Residential services" means the services necessary for 19107
an individual with mental retardation or a developmental 19108
disability to live in the community, including room and board, 19109
clothing, transportation, personal care, habilitation, 19110
supervision, and any other services the department considers 19111
necessary for the individual to live in the community. 19112

(B)(1) The department of ~~mental retardation and~~ developmental 19113
disabilities may enter into a contract with a person or government 19114
agency to provide residential services to individuals with mental 19115
retardation or developmental disabilities in need of residential 19116
services. Contracts for residential services shall be of the 19117
following types: 19118

(a) Companion home contracts - contracts under which the 19119
contractor is an individual, the individual is the primary 19120
caregiver, and the individual owns or leases and resides in the 19121
home in which the services are provided. 19122

(b) Agency-operated companion home contracts - contracts 19123
under which the contractor subcontracts, for purposes of 19124
coordinating the provision of residential services, with one or 19125
more individuals who are primary caregivers and own or lease and 19126
reside in the homes in which the services are provided. 19127

(c) Community home contracts - contracts for residential 19128
services under which the contractor owns or operates a home that 19129
is used solely to provide residential services. 19130

(d) Combined agency-operated companion home and community 19131
home contracts. 19132

(2) A companion home contract shall cover not more than one 19133
home. An agency-operated companion home contract or a community 19134
home contract may cover more than one home. 19135

(C) Contracts shall be in writing and shall provide for 19136
payment to be made to the contractor at the times agreed to by the 19137
department and the contractor. Each contract shall specify the 19138
period during which it is valid, the amount to be paid for 19139
residential services, and the number of individuals for whom 19140
payment will be made. Contracts may be renewed. 19141

(D) To be eligible to enter into a contract with the 19142
department under this section, the person or government agency and 19143

the home in which the residential services are provided must meet 19144
all applicable standards for licensing or certification by the 19145
appropriate government agency. In addition, if the residential 19146
facility is operated as a nonprofit entity, the members of the 19147
board of trustees or board of directors of the facility must not 19148
have a financial interest in or receive financial benefit from the 19149
facility, other than reimbursement for actual expenses incurred in 19150
attending board meetings. 19151

(E)(1) The department shall determine the payment amount 19152
assigned to an initial contract. To the extent that the department 19153
determines sufficient funds are available, the payment amount 19154
assigned to an initial contract shall be equal to the average 19155
amount assigned to contracts for other homes that are of the same 19156
type and size and serve individuals with similar needs, except 19157
that if an initial contract is the result of a change of 19158
contractor or ownership, the payment amount assigned to the 19159
contract shall be the lesser of the amount assigned to the 19160
previous contract or the contract's total adjusted predicted 19161
funding need calculated under division (I) of this section. 19162

(2) A renewed contract shall be assigned a payment amount in 19163
accordance with division (K) of this section. 19164

(3) When a contractor relocates a home to another site at 19165
which residential services are provided to the same individuals, 19166
the payment amount assigned to the contract for the new home shall 19167
be the payment amount assigned to the contract at the previous 19168
location. 19169

(F)(1) Annually, a contractor shall complete an assessment of 19170
each individual to whom the contractor provides residential 19171
services to predict the individual's need for routine direct 19172
services staff. The department shall establish by rule adopted in 19173
accordance with Chapter 119. of the Revised Code the assessment 19174
instrument to be used by contractors to make assessments. 19175

Assessments shall be submitted to the department not later than 19176
the thirty-first day of January of each year. 19177

A contractor shall submit a revised assessment for an 19178
individual if there is a substantial, long-term change in the 19179
nature of the individual's needs. A contractor shall submit 19180
revised assessments for all individuals receiving residential 19181
services if there is a change in the composition of the home's 19182
residents. 19183

(2) Annually, a contractor shall submit a cost report to the 19184
department specifying the costs incurred in providing residential 19185
services during the immediately preceding calendar year. Only 19186
costs actually incurred by a contractor shall be reported on a 19187
cost report. Cost reports shall be prepared according to a uniform 19188
chart of accounts approved by the department and shall be 19189
submitted on forms prescribed by the department. 19190

(3) The department shall not renew the contract held by a 19191
contractor who fails to submit the assessments or cost reports 19192
required under this division. 19193

(4) The department shall adopt rules as necessary regarding 19194
the submission of assessments and cost reports under this 19195
division. The rules shall be adopted in accordance with Chapter 19196
119. of the Revised Code. 19197

(G) Prior to renewing a contract entered into under this 19198
section, the department shall compute the contract's total 19199
predicted funding need and total adjusted predicted funding need. 19200
The department shall also compute the contract's unmet funding 19201
need if the payment amount assigned to the contract is less than 19202
the total adjusted predicted funding need. The results of these 19203
calculations shall be used to determine the payment amount 19204
assigned to the renewed contract. 19205

(H)(1) A contract's total predicted funding need is an amount 19206

equal to the sum of the predicted funding needs for the following 19207
cost categories: 19208

(a) Routine direct services staff; 19209

(b) Dietary, program supplies, and specialized staff; 19210

(c) Facility and general services; 19211

(d) Administration. 19212

(2) Based on the assessments submitted by the contractor, the 19213
department shall compute the contract's predicted funding need for 19214
the routine direct services staff cost category by multiplying the 19215
number of direct services staff predicted to be necessary for the 19216
home by the sum of the following: 19217

(a) Entry level wages paid during the immediately preceding 19218
cost reporting period to comparable staff employed by the county 19219
board of ~~mental retardation and~~ developmental disabilities of the 19220
county in which the home is located; 19221

(b) Fringe benefits and payroll taxes as determined by the 19222
department using state civil service statistics from the same 19223
period as the cost reporting period. 19224

(3) The department shall establish by rule adopted in 19225
accordance with Chapter 119. of the Revised Code the method to be 19226
used to compute the predicted funding need for the dietary, 19227
program supplies, and specialized staff cost category; the 19228
facility and general services cost category; and the 19229
administration cost category. The rules shall not establish a 19230
maximum amount that may be attributed to the dietary, program 19231
supplies, and specialized staff cost category. The rules shall 19232
establish a process for determining the combined maximum amount 19233
that may be attributed to the facility and general services cost 19234
category and the administration cost category. 19235

(I)(1) A contract's total adjusted predicted funding need is 19236

the contract's total predicted funding need with adjustments made 19237
for the following: 19238

(a) Inflation, as provided under division (I)(2) of this 19239
section; 19240

(b) The predicted cost of complying with new requirements 19241
established under federal or state law that were not taken into 19242
consideration when the total predicted funding need was computed; 19243

(c) Changes in needs based on revised assessments submitted 19244
by the contractor. 19245

(2) In adjusting the total predicted funding need for 19246
inflation, the department shall use either the consumer price 19247
index compound annual inflation rate calculated by the United 19248
States department of labor for all items or another index or 19249
measurement of inflation designated in rules that the department 19250
shall adopt in accordance with Chapter 119. of the Revised Code. 19251

When a contract is being renewed for the first time, and the 19252
contract is to begin on the first day of July, the inflation 19253
adjustment applied to the contract's total predicted funding need 19254
shall be the estimated rate of inflation for the calendar year in 19255
which the contract is renewed. If the consumer price index is 19256
being used, the department shall base its estimate on the rate of 19257
inflation calculated for the three-month period ending the 19258
thirty-first day of March of that calendar year. If another index 19259
or measurement is being used, the department shall base its 19260
estimate on the most recent calculations of the rate of inflation 19261
available under the index or measurement. Each year thereafter, 19262
the inflation adjustment shall be estimated in the same manner, 19263
except that if the estimated rate of inflation for a year is 19264
different from the actual rate of inflation for that year, the 19265
difference shall be added to or subtracted from the rate of 19266
inflation estimated for the next succeeding year. 19267

If a contract begins at any time other than July first, the inflation adjustment applied to the contract's total predicted funding need shall be determined by a method comparable to that used for contracts beginning July first. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the method to be used.

(J) A contract's unmet funding need is the difference between the payment amount assigned to the contract and the total adjusted predicted funding need, if the payment amount assigned is less than the total adjusted predicted funding need.

(K) The payment amount to be assigned to a contract being renewed shall be determined by comparing the total adjusted predicted funding need with the payment amount assigned to the current contract.

(1) If the payment amount assigned to the current contract equals or exceeds the total adjusted predicted funding need, the payment amount assigned to the renewed contract shall be the same as that assigned to the current contract, unless a reduction is made pursuant to division (L) of this section.

(2) If the payment amount assigned to the current contract is less than the total adjusted predicted funding need, the payment amount assigned to the renewed contract shall be increased if the department determines that funds are available for such increases. The amount of a contract's increase shall be the same percentage of the available funds that the contract's unmet funding need is of the total of the unmet funding need for all contracts.

(L) When renewing a contract provided for in division (B) of this section other than a companion home contract, the department may reduce the payment amount assigned to a renewed contract if the sum of the contractor's allowable reported costs and the maximum efficiency incentive is less than ninety-one and one-half

per cent of the amount received pursuant to this section during 19299
the immediately preceding contract year. 19300

The department shall adopt rules in accordance with Chapter 19301
119. of the Revised Code establishing a formula to be used in 19302
computing the maximum efficiency incentive, which shall be at 19303
least four per cent of the weighted average payment amount to be 19304
made to all contractors during the contract year. The maximum 19305
efficiency incentive shall be computed annually. 19306

(M) The department may increase the payment amount assigned 19307
to a contract based on the contract's unmet funding need at times 19308
other than when the contract is renewed. The department may 19309
develop policies for determining priorities in making such 19310
increases. 19311

(N)(1) In addition to the contracts provided for in division 19312
(B) of this section, the department may enter into the following 19313
contracts: 19314

(a) A contract to pay the cost of beginning operation of a 19315
new home that is to be funded under a companion home contract, 19316
agency-operated companion home contract, community home contract, 19317
or combined agency-operated companion home and community home 19318
contract. 19319

(b) A contract to pay the cost associated with increasing the 19320
number of individuals served by a home funded under a companion 19321
home contract, agency-operated companion home contract, community 19322
home contract, or combined agency-operated companion home and 19323
community home contract. 19324

(2) The department shall adopt rules as necessary regarding 19325
contracts entered into under this division. The rules shall be 19326
adopted in accordance with Chapter 119. of the Revised Code. 19327

(O) Except for companion home contracts, the department shall 19328
conduct a reconciliation of the amount earned under a contract and 19329

the actual costs incurred by the contractor. An amount is 19330
considered to have been earned for delivering a service at the 19331
time the service is delivered. The department shall adopt rules in 19332
accordance with Chapter 119. of the Revised Code establishing 19333
procedures for conducting reconciliations. 19334

A reconciliation shall be based on the annual cost report 19335
submitted by the contractor. If a reconciliation reveals that a 19336
contractor owes money to the state, the amount owed shall be 19337
collected in accordance with section 5123.051 of the Revised Code. 19338

When conducting reconciliations, the department shall review 19339
all reported costs that may be affected by transactions required 19340
to be reported under division (B)(3) of section 5123.172 of the 19341
Revised Code. If the department determines that such transactions 19342
have increased the cost reported by a contractor, the department 19343
may disallow or adjust the cost allowable for payment. The 19344
department shall adopt rules in accordance with Chapter 119. of 19345
the Revised Code establishing standards for disallowances or 19346
adjustments. 19347

(P) The department may audit the contracts it enters into 19348
under this section. Audits may be conducted by the department or 19349
an entity with which the department contracts to perform the 19350
audits. The department shall adopt rules in accordance with 19351
Chapter 119. of the Revised Code establishing procedures for 19352
conducting audits. 19353

An audit may include the examination of a contractor's 19354
financial books and records, the costs incurred by a contractor in 19355
providing residential services, and any other relevant information 19356
specified by the department. An audit shall not be commenced more 19357
than four years after the expiration of the contract to be 19358
audited, except in cases where the department has reasonable cause 19359
to believe that a contractor has committed fraud. 19360

If an audit reveals that a contractor owes money to the state, the amount owed, subject to an adjudication hearing under this division, shall be collected in accordance with section 5123.051 of the Revised Code. If an audit reveals that a reconciliation conducted under this section resulted in the contractor erroneously paying money to the state, the department shall refund the money to the contractor, or, in lieu of making a refund, the department may offset the erroneous payment against any money determined as a result of the audit to be owed by the contractor to the state. The department is not required to pay interest on any money refunded under this division.

In conducting audits or making determinations of amounts owed by a contractor and amounts to be refunded or offset, the department shall not be bound by the results of reconciliations conducted under this section, except with regard to cases involving claims that have been certified pursuant to section 5123.051 of the Revised Code to the attorney general for collection for which a full and final settlement has been reached or a final judgment has been made from which all rights of appeal have expired or been exhausted.

Not later than ninety days after an audit's completion, the department shall provide the contractor a copy of a report of the audit. The report shall state the findings of the audit, including the amount of any money the contractor is determined to owe the state.

(Q) The department shall adopt rules specifying the amount that will be allowed under a reconciliation or audit for the cost incurred by a contractor for compensation of owners, administrators, and other personnel. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(R) Each contractor shall, for at least seven years, maintain fiscal records related to payments received pursuant to this

section. 19393

(S) The department may enter into shared funding agreements 19394
with other government agencies to fund contracts entered into 19395
under this section. The amount of each agency's share of the cost 19396
shall be determined through negotiations with the department. The 19397
department's share shall not exceed the amount it would have paid 19398
without entering into the shared funding agreement, nor shall it 19399
be reduced by any amounts contributed by the other parties to the 19400
agreement. 19401

(T) Except as provided in section 5123.194 of the Revised 19402
Code, an individual who receives residential services pursuant to 19403
divisions (A) through (U) of this section and the individual's 19404
liable relatives or guardians shall pay support charges in 19405
accordance with Chapter 5121. of the Revised Code. 19406

(U) The department may make reimbursements or payments for 19407
any of the following pursuant to rules adopted under this 19408
division: 19409

(1) Unanticipated, nonrecurring costs associated with the 19410
health or habilitation of a person who resides in a home funded 19411
under a contract provided for in division (B) of this section; 19412

(2) The cost of staff development training for contractors if 19413
the director of ~~mental retardation and~~ developmental disabilities 19414
has given prior approval for the training; 19415

(3) Fixed costs that the department, pursuant to the rules, 19416
determines relate to the continued operation of a home funded 19417
under a contract provided for in division (B) of this section when 19418
a short term vacancy occurs and the contractor has diligently 19419
attempted to fill the vacancy. 19420

The department shall adopt rules in accordance with Chapter 19421
119. of the Revised Code establishing standards for use in 19422
determining which costs it may make payment or reimbursements for 19423

under this division. 19424

(V) In addition to the rules required or authorized to be 19425
adopted under this section, the department may adopt any other 19426
rules necessary to implement divisions (A) through (U) of this 19427
section. The rules shall be adopted in accordance with Chapter 19428
119. of the Revised Code. 19429

(W) The department may delegate to county boards of ~~mental~~ 19430
~~retardation and~~ developmental disabilities its authority under 19431
this section to negotiate and enter into contracts or subcontracts 19432
for residential services. In the event that it elects to delegate 19433
its authority, the department shall adopt rules in accordance with 19434
Chapter 119. of the Revised Code for the boards' administration of 19435
the contracts or subcontracts. In administering the contracts or 19436
subcontracts, the boards shall be subject to all applicable 19437
provisions of Chapter 5126. of the Revised Code and shall not be 19438
subject to the provisions of divisions (A) to (V) of this section. 19439

Subject to the department's rules, a board may require the 19440
following to contribute to the cost of the residential services an 19441
individual receives pursuant to this division: the individual or 19442
the individual's estate, the individual's spouse, the individual's 19443
guardian, and, if the individual is under age eighteen, either or 19444
both of the individual's parents. Chapter 5121. of the Revised 19445
Code shall not apply to individuals or entities that are subject 19446
to making contributions under this division. In calculating 19447
contributions to be made under this division, a board, subject to 19448
the department's rules, may allow an amount to be kept for meeting 19449
the personal needs of the individual who receives residential 19450
services. 19451

Sec. 5123.181. The director of ~~mental retardation and~~ 19452
developmental disabilities and the director of job and family 19453
services shall, in concert with each other, eliminate all double 19454

billings and double payments for services on behalf of persons 19455
with mental retardation or another developmental disability in 19456
intermediate care facilities. The department of ~~mental retardation~~ 19457
~~and~~ developmental disabilities may enter into contracts with 19458
providers of services for the purpose of making payments to the 19459
providers for services rendered to eligible clients who are 19460
persons with mental retardation or a developmental disability over 19461
and above the services authorized and paid under Chapter 5111. of 19462
the Revised Code. Payments authorized under this section and 19463
section 5123.18 of the Revised Code shall not be subject to audit 19464
findings pursuant to Chapter 5111. of the Revised Code, unless an 19465
audit determines that payment was made to the provider for 19466
services that were not rendered in accordance with the provisions 19467
of the provider agreement entered into with the department of job 19468
and family services or the department of ~~mental retardation and~~ 19469
developmental disabilities pursuant to this section. 19470

Sec. 5123.19. (A) As used in this section and in sections 19471
5123.191, 5123.194, 5123.196, 5123.198, and 5123.20 of the Revised 19472
Code: 19473

(1)(a) "Residential facility" means a home or facility in 19474
which a mentally retarded or developmentally disabled person 19475
resides, except the home of a relative or legal guardian in which 19476
a mentally retarded or developmentally disabled person resides, a 19477
respite care home certified under section 5126.05 of the Revised 19478
Code, a county home or district home operated pursuant to Chapter 19479
5155. of the Revised Code, or a dwelling in which the only 19480
mentally retarded or developmentally disabled residents are in an 19481
independent living arrangement or are being provided supported 19482
living. 19483

(b) "Intermediate care facility for the mentally retarded" 19484
means a residential facility that is considered an intermediate 19485

care facility for the mentally retarded for the purposes of 19486
Chapter 5111. of the Revised Code. 19487

(2) "Political subdivision" means a municipal corporation, 19488
county, or township. 19489

(3) "Independent living arrangement" means an arrangement in 19490
which a mentally retarded or developmentally disabled person 19491
resides in an individualized setting chosen by the person or the 19492
person's guardian, which is not dedicated principally to the 19493
provision of residential services for mentally retarded or 19494
developmentally disabled persons, and for which no financial 19495
support is received for rendering such service from any 19496
governmental agency by a provider of residential services. 19497

(4) "Licensee" means the person or government agency that has 19498
applied for a license to operate a residential facility and to 19499
which the license was issued under this section. 19500

(5) "Related party" has the same meaning as in section 19501
5123.16 of the Revised Code except that "provider" as used in the 19502
definition of "related party" means a person or government entity 19503
that held or applied for a license to operate a residential 19504
facility, rather than a person or government entity certified to 19505
provide supported living. 19506

(B) Every person or government agency desiring to operate a 19507
residential facility shall apply for licensure of the facility to 19508
the director of ~~mental retardation and~~ developmental disabilities 19509
unless the residential facility is subject to section 3721.02, 19510
3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding 19511
Chapter 3721. of the Revised Code, a nursing home that is 19512
certified as an intermediate care facility for the mentally 19513
retarded under Title XIX of the "Social Security Act," 79 Stat. 19514
286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 19515
licensure of the portion of the home that is certified as an 19516

intermediate care facility for the mentally retarded. 19517

(C) Subject to section 5123.196 of the Revised Code, the 19518
director of ~~mental retardation and~~ developmental disabilities 19519
shall license the operation of residential facilities. An initial 19520
license shall be issued for a period that does not exceed one 19521
year, unless the director denies the license under division (D) of 19522
this section. A license shall be renewed for a period that does 19523
not exceed three years, unless the director refuses to renew the 19524
license under division (D) of this section. The director, when 19525
issuing or renewing a license, shall specify the period for which 19526
the license is being issued or renewed. A license remains valid 19527
for the length of the licensing period specified by the director, 19528
unless the license is terminated, revoked, or voluntarily 19529
surrendered. 19530

(D) If it is determined that an applicant or licensee is not 19531
in compliance with a provision of this chapter that applies to 19532
residential facilities or the rules adopted under such a 19533
provision, the director may deny issuance of a license, refuse to 19534
renew a license, terminate a license, revoke a license, issue an 19535
order for the suspension of admissions to a facility, issue an 19536
order for the placement of a monitor at a facility, issue an order 19537
for the immediate removal of residents, or take any other action 19538
the director considers necessary consistent with the director's 19539
authority under this chapter regarding residential facilities. In 19540
the director's selection and administration of the sanction to be 19541
imposed, all of the following apply: 19542

(1) The director may deny, refuse to renew, or revoke a 19543
license, if the director determines that the applicant or licensee 19544
has demonstrated a pattern of serious noncompliance or that a 19545
violation creates a substantial risk to the health and safety of 19546
residents of a residential facility. 19547

(2) The director may terminate a license if more than twelve 19548

consecutive months have elapsed since the residential facility was 19549
last occupied by a resident or a notice required by division (K) 19550
of this section is not given. 19551

(3) The director may issue an order for the suspension of 19552
admissions to a facility for any violation that may result in 19553
sanctions under division (D)(1) of this section and for any other 19554
violation specified in rules adopted under division (H)(2) of this 19555
section. If the suspension of admissions is imposed for a 19556
violation that may result in sanctions under division (D)(1) of 19557
this section, the director may impose the suspension before 19558
providing an opportunity for an adjudication under Chapter 119. of 19559
the Revised Code. The director shall lift an order for the 19560
suspension of admissions when the director determines that the 19561
violation that formed the basis for the order has been corrected. 19562

(4) The director may order the placement of a monitor at a 19563
residential facility for any violation specified in rules adopted 19564
under division (H)(2) of this section. The director shall lift the 19565
order when the director determines that the violation that formed 19566
the basis for the order has been corrected. 19567

(5) If the director determines that two or more residential 19568
facilities owned or operated by the same person or government 19569
entity are not being operated in compliance with a provision of 19570
this chapter that applies to residential facilities or the rules 19571
adopted under such a provision, and the director's findings are 19572
based on the same or a substantially similar action, practice, 19573
circumstance, or incident that creates a substantial risk to the 19574
health and safety of the residents, the director shall conduct a 19575
survey as soon as practicable at each residential facility owned 19576
or operated by that person or government entity. The director may 19577
take any action authorized by this section with respect to any 19578
facility found to be operating in violation of a provision of this 19579
chapter that applies to residential facilities or the rules 19580

adopted under such a provision. 19581

(6) When the director initiates license revocation 19582
proceedings, no opportunity for submitting a plan of correction 19583
shall be given. The director shall notify the licensee by letter 19584
of the initiation of the proceedings. The letter shall list the 19585
deficiencies of the residential facility and inform the licensee 19586
that no plan of correction will be accepted. The director shall 19587
also send a copy of the letter to the county board of ~~mental~~ 19588
~~retardation and~~ developmental disabilities. The county board shall 19589
send a copy of the letter to each of the following: 19590

(a) Each resident who receives services from the licensee; 19591

(b) The guardian of each resident who receives services from 19592
the licensee if the resident has a guardian; 19593

(c) The parent or guardian of each resident who receives 19594
services from the licensee if the resident is a minor. 19595

(7) Pursuant to rules which shall be adopted in accordance 19596
with Chapter 119. of the Revised Code, the director may order the 19597
immediate removal of residents from a residential facility 19598
whenever conditions at the facility present an immediate danger of 19599
physical or psychological harm to the residents. 19600

(8) In determining whether a residential facility is being 19601
operated in compliance with a provision of this chapter that 19602
applies to residential facilities or the rules adopted under such 19603
a provision, or whether conditions at a residential facility 19604
present an immediate danger of physical or psychological harm to 19605
the residents, the director may rely on information obtained by a 19606
county board of ~~mental retardation and~~ developmental disabilities 19607
or other governmental agencies. 19608

(9) In proceedings initiated to deny, refuse to renew, or 19609
revoke licenses, the director may deny, refuse to renew, or revoke 19610
a license regardless of whether some or all of the deficiencies 19611

that prompted the proceedings have been corrected at the time of 19612
the hearing. 19613

(E) The director shall establish a program under which public 19614
notification may be made when the director has initiated license 19615
revocation proceedings or has issued an order for the suspension 19616
of admissions, placement of a monitor, or removal of residents. 19617
The director shall adopt rules in accordance with Chapter 119. of 19618
the Revised Code to implement this division. The rules shall 19619
establish the procedures by which the public notification will be 19620
made and specify the circumstances for which the notification must 19621
be made. The rules shall require that public notification be made 19622
if the director has taken action against the facility in the 19623
eighteen-month period immediately preceding the director's latest 19624
action against the facility and the latest action is being taken 19625
for the same or a substantially similar violation of a provision 19626
of this chapter that applies to residential facilities or the 19627
rules adopted under such a provision. The rules shall specify a 19628
method for removing or amending the public notification if the 19629
director's action is found to have been unjustified or the 19630
violation at the residential facility has been corrected. 19631

(F)(1) Except as provided in division (F)(2) of this section, 19632
appeals from proceedings initiated to impose a sanction under 19633
division (D) of this section shall be conducted in accordance with 19634
Chapter 119. of the Revised Code. 19635

(2) Appeals from proceedings initiated to order the 19636
suspension of admissions to a facility shall be conducted in 19637
accordance with Chapter 119. of the Revised Code, unless the order 19638
was issued before providing an opportunity for an adjudication, in 19639
which case all of the following apply: 19640

(a) The licensee may request a hearing not later than ten 19641
days after receiving the notice specified in section 119.07 of the 19642
Revised Code. 19643

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

- (i) The close of the hearing;
- (ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;
- (iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application 19674
for a license to operate a residential facility is denied nor a 19675
related party of the person or government agency may apply for a 19676
license to operate a residential facility before the date that is 19677
one year after the date of the denial. Neither a licensee whose 19678
residential facility license is revoked nor a related party of the 19679
licensee may apply for a residential facility license before the 19680
date that is five years after the date of the revocation. 19681

(H) In accordance with Chapter 119. of the Revised Code, the 19682
director shall adopt and may amend and rescind rules for licensing 19683
and regulating the operation of residential facilities, including 19684
intermediate care facilities for the mentally retarded. The rules 19685
for intermediate care facilities for the mentally retarded may 19686
differ from those for other residential facilities. The rules 19687
shall establish and specify the following: 19688

(1) Procedures and criteria for issuing and renewing 19689
licenses, including procedures and criteria for determining the 19690
length of the licensing period that the director must specify for 19691
each license when it is issued or renewed; 19692

(2) Procedures and criteria for denying, refusing to renew, 19693
terminating, and revoking licenses and for ordering the suspension 19694
of admissions to a facility, placement of a monitor at a facility, 19695
and the immediate removal of residents from a facility; 19696

(3) Fees for issuing and renewing licenses, which shall be 19697
deposited into the program fee fund created under section 5123.033 19698
of the Revised Code; 19699

(4) Procedures for surveying residential facilities; 19700

(5) Requirements for the training of residential facility 19701
personnel; 19702

(6) Classifications for the various types of residential 19703
facilities; 19704

(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;	19705 19706 19707 19708
(8) The maximum number of persons who may be served in a particular type of residential facility;	19709 19710
(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;	19711 19712
(10) Other standards for the operation of residential facilities and the services provided at residential facilities;	19713 19714
(11) Procedures for waiving any provision of any rule adopted under this section.	19715 19716
(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.	19717 19718 19719 19720 19721 19722 19723 19724 19725
In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.	19726 19727 19728 19729 19730 19731 19732 19733 19734
Following each survey, unless the director initiates a	19735

license revocation proceeding, the director or the director's 19736
designee shall provide the licensee with a report listing any 19737
deficiencies, specifying a timetable within which the licensee 19738
shall submit a plan of correction describing how the deficiencies 19739
will be corrected, and, when appropriate, specifying a timetable 19740
within which the licensee must correct the deficiencies. After a 19741
plan of correction is submitted, the director or the director's 19742
designee shall approve or disapprove the plan. A copy of the 19743
report and any approved plan of correction shall be provided to 19744
any person who requests it. 19745

The director shall initiate disciplinary action against any 19746
department employee who notifies or causes the notification to any 19747
unauthorized person of an unannounced survey of a residential 19748
facility by an authorized representative of the department. 19749

(J) In addition to any other information which may be 19750
required of applicants for a license pursuant to this section, the 19751
director shall require each applicant to provide a copy of an 19752
approved plan for a proposed residential facility pursuant to 19753
section 5123.042 of the Revised Code. This division does not apply 19754
to renewal of a license. 19755

(K) A licensee shall notify the owner of the building in 19756
which the licensee's residential facility is located of any 19757
significant change in the identity of the licensee or management 19758
contractor before the effective date of the change if the licensee 19759
is not the owner of the building. 19760

Pursuant to rules which shall be adopted in accordance with 19761
Chapter 119. of the Revised Code, the director may require 19762
notification to the department of any significant change in the 19763
ownership of a residential facility or in the identity of the 19764
licensee or management contractor. If the director determines that 19765
a significant change of ownership is proposed, the director shall 19766
consider the proposed change to be an application for development 19767

by a new operator pursuant to section 5123.042 of the Revised Code 19768
and shall advise the applicant within sixty days of the 19769
notification that the current license shall continue in effect or 19770
a new license will be required pursuant to this section. If the 19771
director requires a new license, the director shall permit the 19772
facility to continue to operate under the current license until 19773
the new license is issued, unless the current license is revoked, 19774
refused to be renewed, or terminated in accordance with Chapter 19775
119. of the Revised Code. 19776

(L) A county board of ~~mental retardation and~~ developmental 19777
disabilities, the legal rights service, and any interested person 19778
may file complaints alleging violations of statute or department 19779
rule relating to residential facilities with the department. All 19780
complaints shall be in writing and shall state the facts 19781
constituting the basis of the allegation. The department shall not 19782
reveal the source of any complaint unless the complainant agrees 19783
in writing to waive the right to confidentiality or until so 19784
ordered by a court of competent jurisdiction. 19785

The department shall adopt rules in accordance with Chapter 19786
119. of the Revised Code establishing procedures for the receipt, 19787
referral, investigation, and disposition of complaints filed with 19788
the department under this division. 19789

(M) The department shall establish procedures for the 19790
notification of interested parties of the transfer or interim care 19791
of residents from residential facilities that are closing or are 19792
losing their license. 19793

(N) Before issuing a license under this section to a 19794
residential facility that will accommodate at any time more than 19795
one mentally retarded or developmentally disabled individual, the 19796
director shall, by first class mail, notify the following: 19797

(1) If the facility will be located in a municipal 19798

corporation, the clerk of the legislative authority of the 19799
municipal corporation; 19800

(2) If the facility will be located in unincorporated 19801
territory, the clerk of the appropriate board of county 19802
commissioners and the fiscal officer of the appropriate board of 19803
township trustees. 19804

The director shall not issue the license for ten days after 19805
mailing the notice, excluding Saturdays, Sundays, and legal 19806
holidays, in order to give the notified local officials time in 19807
which to comment on the proposed issuance. 19808

Any legislative authority of a municipal corporation, board 19809
of county commissioners, or board of township trustees that 19810
receives notice under this division of the proposed issuance of a 19811
license for a residential facility may comment on it in writing to 19812
the director within ten days after the director mailed the notice, 19813
excluding Saturdays, Sundays, and legal holidays. If the director 19814
receives written comments from any notified officials within the 19815
specified time, the director shall make written findings 19816
concerning the comments and the director's decision on the 19817
issuance of the license. If the director does not receive written 19818
comments from any notified local officials within the specified 19819
time, the director shall continue the process for issuance of the 19820
license. 19821

(O) Any person may operate a licensed residential facility 19822
that provides room and board, personal care, habilitation 19823
services, and supervision in a family setting for at least six but 19824
not more than eight persons with mental retardation or a 19825
developmental disability as a permitted use in any residential 19826
district or zone, including any single-family residential district 19827
or zone, of any political subdivision. These residential 19828
facilities may be required to comply with area, height, yard, and 19829
architectural compatibility requirements that are uniformly 19830

imposed upon all single-family residences within the district or zone. 19831
19832

(P) Any person may operate a licensed residential facility 19833
that provides room and board, personal care, habilitation 19834
services, and supervision in a family setting for at least nine 19835
but not more than sixteen persons with mental retardation or a 19836
developmental disability as a permitted use in any multiple-family 19837
residential district or zone of any political subdivision, except 19838
that a political subdivision that has enacted a zoning ordinance 19839
or resolution establishing planned unit development districts may 19840
exclude these residential facilities from those districts, and a 19841
political subdivision that has enacted a zoning ordinance or 19842
resolution may regulate these residential facilities in 19843
multiple-family residential districts or zones as a conditionally 19844
permitted use or special exception, in either case, under 19845
reasonable and specific standards and conditions set out in the 19846
zoning ordinance or resolution to: 19847

(1) Require the architectural design and site layout of the 19848
residential facility and the location, nature, and height of any 19849
walls, screens, and fences to be compatible with adjoining land 19850
uses and the residential character of the neighborhood; 19851

(2) Require compliance with yard, parking, and sign 19852
regulation; 19853

(3) Limit excessive concentration of these residential 19854
facilities. 19855

(Q) This section does not prohibit a political subdivision 19856
from applying to residential facilities nondiscriminatory 19857
regulations requiring compliance with health, fire, and safety 19858
regulations and building standards and regulations. 19859

(R) Divisions (O) and (P) of this section are not applicable 19860
to municipal corporations that had in effect on June 15, 1977, an 19861

ordinance specifically permitting in residential zones licensed 19862
residential facilities by means of permitted uses, conditional 19863
uses, or special exception, so long as such ordinance remains in 19864
effect without any substantive modification. 19865

(S)(1) The director may issue an interim license to operate a 19866
residential facility to an applicant for a license under this 19867
section if either of the following is the case: 19868

(a) The director determines that an emergency exists 19869
requiring immediate placement of persons in a residential 19870
facility, that insufficient licensed beds are available, and that 19871
the residential facility is likely to receive a permanent license 19872
under this section within thirty days after issuance of the 19873
interim license. 19874

(b) The director determines that the issuance of an interim 19875
license is necessary to meet a temporary need for a residential 19876
facility. 19877

(2) To be eligible to receive an interim license, an 19878
applicant must meet the same criteria that must be met to receive 19879
a permanent license under this section, except for any differing 19880
procedures and time frames that may apply to issuance of a 19881
permanent license. 19882

(3) An interim license shall be valid for thirty days and may 19883
be renewed by the director for a period not to exceed one hundred 19884
fifty days. 19885

(4) The director shall adopt rules in accordance with Chapter 19886
119. of the Revised Code as the director considers necessary to 19887
administer the issuance of interim licenses. 19888

(T) Notwithstanding rules adopted pursuant to this section 19889
establishing the maximum number of persons who may be served in a 19890
particular type of residential facility, a residential facility 19891
shall be permitted to serve the same number of persons being 19892

served by the facility on the effective date of the rules or the 19893
number of persons for which the facility is authorized pursuant to 19894
a current application for a certificate of need with a letter of 19895
support from the department of ~~mental retardation and~~ 19896
developmental disabilities and which is in the review process 19897
prior to April 4, 1986. 19898

(U) The director or the director's designee may enter at any 19899
time, for purposes of investigation, any home, facility, or other 19900
structure that has been reported to the director or that the 19901
director has reasonable cause to believe is being operated as a 19902
residential facility without a license issued under this section. 19903

The director may petition the court of common pleas of the 19904
county in which an unlicensed residential facility is located for 19905
an order enjoining the person or governmental agency operating the 19906
facility from continuing to operate without a license. The court 19907
may grant the injunction on a showing that the person or 19908
governmental agency named in the petition is operating a 19909
residential facility without a license. The court may grant the 19910
injunction, regardless of whether the residential facility meets 19911
the requirements for receiving a license under this section. 19912

Sec. 5123.191. (A) The court of common pleas or a judge 19913
thereof in the judge's county, or the probate court, may appoint a 19914
receiver to take possession of and operate a residential facility 19915
licensed by the department of ~~mental retardation and~~ developmental 19916
disabilities, in causes pending in such courts respectively, when 19917
conditions existing at the facility present a substantial risk of 19918
physical or mental harm to residents and no other remedies at law 19919
are adequate to protect the health, safety, and welfare of the 19920
residents. Conditions at the facility that may present such risk 19921
of harm include, but are not limited to, instances when any of the 19922
following occur: 19923

(1) The residential facility is in violation of state or federal law or regulations.	19924 19925
(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.	19926 19927 19928
(3) Arrangements for relocating residents need to be made.	19929
(4) Insolvency of the operator, licensee, or landowner threatens the operation of the facility.	19930 19931
(5) The facility or operator has demonstrated a pattern and practice of repeated violations of state or federal laws or regulations.	19932 19933 19934
(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.	19935 19936 19937 19938 19939 19940 19941 19942
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.	19943 19944 19945 19946 19947 19948 19949 19950
(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.	19951 19952 19953 19954

(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 20018
facility as a pattern or practice; 20019

(5) The name and address of the person holding the license 20020
for the facility and the address of the department of ~~mental~~ 20021
~~retardation and~~ developmental disabilities. 20022

The court may award to an operator appropriate costs and 20023
expenses, including reasonable attorney's fees, if it determines 20024
that a petitioner has initiated a proceeding in bad faith or 20025
merely for the purpose of harassing or embarrassing the operator. 20026

(H) Except for the department of ~~mental retardation and~~ 20027
developmental disabilities or a county board of ~~mental retardation~~ 20028
~~and~~ developmental disabilities, no party or person interested in 20029
an action shall be appointed a receiver pursuant to this section. 20030

To assist the court in identifying persons qualified to be 20031
named as receivers, the director of ~~mental retardation and~~ 20032
developmental disabilities or the director's designee shall 20033
maintain a list of the names of such persons. The director shall, 20034
in accordance with Chapter 119. of the Revised Code, establish 20035
standards for evaluating persons desiring to be included on such a 20036
list. 20037

(I) Before a receiver enters upon the duties of that person, 20038
the receiver must be sworn to perform the duties of receiver 20039
faithfully, and, with surety approved by the court, judge, or 20040
clerk, execute a bond to such person, and in such sum as the court 20041
or judge directs, to the effect that such receiver will faithfully 20042
discharge the duties of receiver in the action, and obey the 20043
orders of the court therein. 20044

(J) Under the control of the appointing court, a receiver may 20045
bring and defend actions in the receiver's own name as receiver 20046
and take and keep possession of property. 20047

The court shall authorize the receiver to do the following: 20048

- (1) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court; 20049
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- (2) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession and continues to use, subject to the following conditions: 20054
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- (a) In the case of a rental agreement, only to the extent of payments that are for the use of the property during the period of the receivership; 20058
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- (b) In the case of a purchase agreement only to the extent of payments that come due during the period of the receivership; 20061
20062
- (c) If the court determines that the cost of the lease, mortgage, or secured transaction was increased by a transaction required to be reported under division (B)(3) of section 5123.172 of the Revised Code, only to the extent determined by the court to be the fair market value for use of the property during the period of the receivership. 20063
20064
20065
20066
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20068
- (3) If transfer of residents is necessary, provide for the orderly transfer of residents by doing the following: 20069
20070
- (a) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements; 20071
20072
20073
- (b) Providing for the transportation of residents' belongings and records; 20074
20075
- (c) Helping to locate alternative placements and develop discharge plans; 20076
20077
- (d) Preparing residents for the trauma of discharge; 20078

(e) Permitting residents or guardians to participate in transfer or discharge planning except when an emergency exists and immediate transfer is necessary.	20079 20080 20081
(4) Make periodic reports on the status of the residential program to the appropriate state agency, county board of mental retardation and developmental disabilities, parents, guardians, and residents;	20082 20083 20084 20085
(5) Compromise demands or claims;	20086
(6) Generally do such acts respecting the residential facility as the court authorizes.	20087 20088
(K) Neither the receiver nor the department of mental retardation and developmental disabilities is liable for debts incurred by the owner or operator of a residential facility for which a receiver has been appointed.	20089 20090 20091 20092
(L) The department of mental retardation and developmental disabilities may contract for the operation of a residential facility in receivership. The department shall establish the conditions of a contract. A condition may be the same as, similar to, or different from a condition established by section 5123.18 of the Revised Code and the rules adopted under that section for a contract entered into under that section. Notwithstanding any other provision of law, contracts that are necessary to carry out the powers and duties of the receiver need not be competitively bid.	20093 20094 20095 20096 20097 20098 20099 20100 20101 20102
(M) The department of mental retardation and developmental disabilities, the department of job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.	20103 20104 20105 20106
Sec. 5123.194. In the case of an individual who resides in a residential facility and is preparing to move into an independent	20107 20108

living arrangement and the individual's liable relative, the 20109
department of ~~mental retardation and~~ developmental disabilities 20110
may waive the support collection requirements of sections 5121.04, 20111
5123.122, and 5123.18 of the Revised Code for the purpose of 20112
allowing income or resources to be used to acquire items necessary 20113
for independent living. The department shall adopt rules in 20114
accordance with section 111.15 of the Revised Code to implement 20115
this section, including rules that establish the method the 20116
department shall use to determine when an individual is preparing 20117
to move into an independent living arrangement. 20118

Sec. 5123.195. (A) Not later than sixty days after the end of 20119
calendar years 2003, 2004, and 2005, the director of ~~mental~~ 20120
~~retardation and~~ developmental disabilities shall submit a report 20121
to the president and minority leader of the senate and speaker and 20122
minority leader of the house of representatives regarding the 20123
implementation of section 5123.19 of the Revised Code since ~~the~~ 20124
~~effective date of this section~~ March 31, 2003. The director shall 20125
include in the report all of the following information: 20126

(1) A summary of any rules adopted under that section to 20127
implement the amendments to that section that go into effect on 20128
~~the effective date of this section~~ March 31, 2003; 20129

(2) The number of residential facility licenses issued, 20130
renewed, and denied under that section since the effective date of 20131
the amendments to section 5123.19 of the Revised Code that go into 20132
effect on ~~the effective date of this section~~ March 31, 2003 or, in 20133
the case of the reports due in 2005 and 2006, since the previous 20134
report was submitted; 20135

(3) The length of time for which residential facility 20136
licenses are issued and renewed under that section; 20137

(4) The sanctions imposed pursuant to division (D) of section 20138
5123.19 of the Revised Code and the kinds of violations that cause 20139

the sanctions; 20140

(5) Any other information the director determines is 20141
important to the implementation of the amendments to section 20142
5123.19 of the Revised Code that go into effect on ~~the effective~~ 20143
~~date of this section~~ March 31, 2003. 20144

(B) On submission of the report under division (A) of this 20145
section, the director shall inform each member of the general 20146
assembly that the report is available. 20147

Sec. 5123.196. (A) Except as provided in division (E) of this 20148
section, the director of ~~mental retardation and~~ developmental 20149
disabilities shall not issue a license under section 5123.19 of 20150
the Revised Code on or after July 1, 2003, if issuance will result 20151
in there being more beds in all residential facilities licensed 20152
under that section than is permitted under division (B) of this 20153
section. 20154

(B) The maximum number of beds for the purpose of division 20155
(A) of this section shall not exceed ten thousand eight hundred 20156
thirty-eight minus, except as provided in division (C) of this 20157
section, both of the following: 20158

(1) The number of such beds that cease to be residential 20159
facility beds on or after July 1, 2003, because a residential 20160
facility license is revoked, terminated, or not renewed for any 20161
reason or is surrendered in accordance with section 5123.19 of the 20162
Revised Code; 20163

(2) The number of such beds for which a licensee voluntarily 20164
converts to use for supported living on or after July 1, 2003. 20165

(C) The director is not required to reduce the maximum number 20166
of beds pursuant to division (B) of this section by a bed that 20167
ceases to be a residential facility bed if the director determines 20168
that the bed is needed to provide services to an individual with 20169

mental retardation or a developmental disability who resided in 20170
the residential facility in which the bed was located. 20171

(D) The director shall maintain an up-to-date written record 20172
of the maximum number of residential facility beds provided for by 20173
division (B) of this section. 20174

(E) The director may issue an interim license under division 20175
(S) of section 5123.19 of the Revised Code and issue, pursuant to 20176
rules adopted under division (H)(11) of that section, a waiver 20177
allowing a residential facility to admit more residents than the 20178
facility is licensed to admit regardless of whether the interim 20179
license or waiver will result in there being more beds in all 20180
residential facilities licensed under that section than is 20181
permitted under division (B) of this section. 20182

Sec. 5123.198. (A) As used in this section, "date of the 20183
commitment" means the date that an individual specified in 20184
division (B) of this section begins to reside in a state-operated 20185
intermediate care facility for the mentally retarded after being 20186
committed to the facility pursuant to sections 5123.71 to 5123.76 20187
of the Revised Code. 20188

(B) Except as provided in division (C) of this section, 20189
whenever a resident of a residential facility is committed to a 20190
state-operated intermediate care facility for the mentally 20191
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 20192
Code, the department of ~~mental retardation and~~ developmental 20193
disabilities, pursuant to an adjudication order issued in 20194
accordance with Chapter 119. of the Revised Code, shall reduce by 20195
one the number of residents for which the facility in which the 20196
resident resided is licensed. 20197

(C) The department shall not reduce under division (B) of 20198
this section the number of residents for which a residential 20199
facility is licensed if any of the following are the case: 20200

(1) The resident of the residential facility who is committed to a state-operated intermediate care facility for the mentally retarded resided in the residential facility because of the closure, on or after June 26, 2003, of another state-operated intermediate care facility for the mentally retarded;

(2) The residential facility admits within ninety days of the date of the commitment an individual who resides on the date of the commitment in a state-operated intermediate care facility for the mentally retarded or another residential facility;

(3) The department fails to do either of the following within ninety days of the date of the commitment:

(a) Identify an individual to whom all of the following applies:

(i) Resides on the date of the commitment in a state-operated intermediate care facility for the mentally retarded or another residential facility;

(ii) Has indicated to the department an interest in relocating to the residential facility or has a parent or guardian who has indicated to the department an interest for the individual to relocate to the residential facility;

(iii) The department determines the individual has needs that the residential facility can meet.

(b) Provide the residential facility with information about the individual identified under division (C)(2)(a) of this section that the residential facility needs in order to determine whether the facility can meet the individual's needs.

(4) If the department completes the actions specified in divisions (C)(3)(a) and (b) of this section not later than ninety days after the date of the commitment and except as provided in division (D) of this section, the residential facility does all of

the following not later than ninety days after the date of the	20231
commitment:	20232
(a) Evaluates the information provided by the department;	20233
(b) Assesses the identified individual's needs;	20234
(c) Determines that the residential facility cannot meet the	20235
identified individual's needs.	20236
(5) If the department completes the actions specified in	20237
divisions (C)(3)(a) and (b) of this section not later than ninety	20238
days after the date of the commitment and the residential facility	20239
determines that the residential facility can meet the identified	20240
individual's needs, the individual, or a parent or guardian of the	20241
individual, refuses placement in the residential facility.	20242
(D) The department may reduce under division (B) of this	20243
section the number of residents for which a residential facility	20244
is licensed even though the residential facility completes the	20245
actions specified in division (C)(4) of this section not later	20246
than ninety days after the date of the commitment if all of the	20247
following are the case:	20248
(1) The department disagrees with the residential facility's	20249
determination that the residential facility cannot meet the	20250
identified individual's needs.	20251
(2) The department issues a written decision pursuant to the	20252
uniform procedures for admissions, transfers, and discharges	20253
established by rules adopted under division (H)(9) of section	20254
5123.19 of the Revised Code that the residential facility should	20255
admit the identified individual.	20256
(3) After the department issues the written decision	20257
specified in division (D)(2) of this section, the residential	20258
facility refuses to admit the identified individual.	20259
(E) A residential facility that admits, refuses to admit,	20260

transfers, or discharges a resident under this section shall 20261
comply with the uniform procedures for admissions, transfers, and 20262
discharges established by rules adopted under division (H)(9) of 20263
section 5123.19 of the Revised Code. 20264

(F) The department of ~~mental retardation and~~ developmental 20265
disabilities may notify the department of job and family services 20266
of any reduction under this section in the number of residents for 20267
which a residential facility that is an intermediate care facility 20268
for the mentally retarded is licensed. On receiving the notice, 20269
the department of job and family services may transfer to the 20270
department of ~~mental retardation and~~ developmental disabilities 20271
the savings in the nonfederal share of medicaid expenditures for 20272
each fiscal year after the year of the commitment to be used for 20273
costs of the resident's care in the state-operated intermediate 20274
care facility for the mentally retarded. In determining the amount 20275
saved, the department of job and family services shall consider 20276
medicaid payments for the remaining residents of the facility in 20277
which the resident resided. 20278

Sec. 5123.21. The director of ~~mental retardation and~~ 20279
developmental disabilities or the director's designee may transfer 20280
or authorize the transfer of an involuntary resident or a 20281
consenting voluntary resident from one public institution to 20282
another or to an institution other than a public institution or 20283
other facility, if the director determines that it would be 20284
consistent with the habilitation needs of the resident to do so. 20285

Before an involuntary resident may be transferred to a more 20286
restrictive setting, the managing officer of the institution shall 20287
file a motion with the court requesting the court to amend its 20288
order of placement issued under section 5123.76 of the Revised 20289
Code. At the resident's request, the court shall hold a hearing on 20290
the motion at which the resident has the same rights as at a full 20291

hearing under section 5123.76 of the Revised Code. 20292

Whenever a resident is transferred, the director shall give 20293
written notice of the transfer to the resident's legal guardian, 20294
parents, spouse, and counsel, or, if none is known, to the 20295
resident's nearest known relative or friend. If the resident is a 20296
minor, the department before making such a transfer shall make a 20297
minute of the order for the transfer and the reason for it upon 20298
its record and shall send a certified copy at least seven days 20299
prior to the transfer to the person shown by its record to have 20300
had the care or custody of the minor immediately prior to the 20301
minor's commitment. Whenever a consenting voluntary resident is 20302
transferred, the notification shall be given only at the 20303
resident's request. The managing officer shall advise a voluntary 20304
resident who is being transferred that the patient may decide if 20305
such a notification shall be given. In all such transfers, due 20306
consideration shall be given to the relationship of the resident 20307
to the resident's family, legal guardian, or friends, so as to 20308
maintain relationships and encourage visits beneficial to the 20309
resident. 20310

Sec. 5123.211. (A) As used in this section, "residential 20311
services" has the same meaning as in section 5126.01 of the 20312
Revised Code. 20313

(B) The department of ~~mental retardation and~~ developmental 20314
disabilities shall provide or arrange provision of residential 20315
services for each person who, on or after July 1, 1989, ceases to 20316
be a resident of a state institution because of closure of the 20317
institution or a reduction in the institution's population by 20318
forty per cent or more within a period of one year. The services 20319
shall be provided in the county in which the person chooses to 20320
reside and shall consist of one of the following as determined 20321
appropriate by the department in consultation with the county 20322

board of ~~mental retardation and~~ developmental disabilities of the 20323
county in which the services are to be provided: 20324

(1) Residential services provided pursuant to section 5123.18 20325
of the Revised Code; 20326

(2) Residential services for which reimbursement is made 20327
under the medical assistance program established under section 20328
5111.01 of the Revised Code; 20329

(3) Residential services provided in a manner or setting 20330
approved by the director of ~~mental retardation and~~ developmental 20331
disabilities. 20332

(C) Not less than six months prior to closing a state 20333
institution or reducing a state institution's population by forty 20334
per cent or more within a period of one year, the department shall 20335
identify those counties in which individuals leaving the 20336
institution have chosen to reside and notify the county boards of 20337
~~mental retardation and~~ developmental disabilities in those 20338
counties of the need to develop the services specified in division 20339
(B) of this section. The notice shall specify the number of 20340
individuals requiring services who plan to reside in the county 20341
and indicate the amount of funds the department will use to 20342
provide or arrange services for those individuals. 20343

(D) In each county in which one or more persons receive 20344
residential services pursuant to division (B) of this section, the 20345
department shall provide or arrange provision of residential 20346
services, or shall distribute moneys to the county board of ~~mental~~ 20347
~~retardation and~~ developmental disabilities to provide or arrange 20348
provision of residential services, for an equal number of persons 20349
with mental retardation or developmental disabilities in that 20350
county who the county board has determined need residential 20351
services but are not receiving them. 20352

Sec. 5123.22. When it is necessary for an institution under 20353
the jurisdiction of the department of ~~mental retardation and~~ 20354
developmental disabilities to acquire any real estate, 20355
right-of-way, or easement in real estate in order to accomplish 20356
the purposes for which it was organized or is being conducted, and 20357
the department is unable to agree with the owner of such property 20358
upon the price to be paid therefor, such property may be 20359
appropriated in the manner provided for the appropriation of 20360
property for other state purposes. 20361

Any instrument by which real property is acquired pursuant to 20362
this section shall identify the agency of the state that has the 20363
use and benefit of the real property as specified in section 20364
5301.012 of the Revised Code. 20365

Sec. 5123.221. The department of ~~mental retardation and~~ 20366
developmental disabilities shall determine and direct what lands 20367
belonging to institutions under its control shall be cultivated. 20368

The department of agriculture, the department of health, and 20369
the Ohio state university shall cooperate with the department of 20370
~~mental retardation and~~ developmental disabilities, and the 20371
managing officer of each institution mentioned in section 5123.03 20372
of the Revised Code, in making such cooperative tests as are 20373
necessary to determine the quality, strength, and purity of 20374
supplies, the value and use of farm lands, or the conditions and 20375
needs of mechanical equipment. 20376

The department may direct the purchase of any materials, 20377
supplies, or other articles for any institution subject to its 20378
jurisdiction from any other such institution at the reasonable 20379
market value, such value to be fixed by the department, and 20380
payments therefor shall be made as between institutions in the 20381
manner provided for payment for supplies. 20382

Sec. 5123.23. The director of ~~mental retardation and~~ 20383
developmental disabilities may lease, for oil and gas, any real 20384
estate owned by the state and placed under the supervision of the 20385
department of ~~mental retardation and~~ developmental disabilities, 20386
to any person, upon such terms and for such number of years, not 20387
more than forty, as will be for the best interest of the state. No 20388
such lease shall be agreed upon or entered into before the 20389
proposal to lease the property has been advertised once each week 20390
for four weeks in a newspaper of general circulation in the county 20391
in which the property is located. The lease shall be made with the 20392
person offering the best terms to the state. 20393

The director, in such lease, may grant to the lessee the 20394
right to use so much of the surface of the land as may be 20395
reasonably necessary to carry on the work of prospecting for, 20396
extracting, piping, storing, and removing all oil or gas, and for 20397
depositing waste material and maintaining such buildings and 20398
constructions as are reasonably necessary for exploring or 20399
prospecting for such oil and gas. 20400

All leases made under this section shall be prepared by the 20401
attorney general and approved by the governor. All money received 20402
from any such leases shall be paid into the state treasury to the 20403
credit of the general revenue fund. 20404

Sec. 5123.24. A person, firm, or corporation may file a 20405
petition in the court of common pleas of the county in which an 20406
institution under the jurisdiction of the department of ~~mental~~ 20407
~~retardation and~~ developmental disabilities is located, in which 20408
petition the desire to erect or carry on at a less distance than 20409
that prescribed in section 3767.19 of the Revised Code shall be 20410
set forth, the business prohibited, the precise point of its 20411
establishment, and the reasons and circumstances, in its opinion, 20412
why the erection or carrying on thereof would not annoy or 20413

endanger the health, convenience, or recovery of the residents of 20414
such institution. The petitioner shall give notice in a newspaper 20415
of general circulation in the county of the pendency and prayer of 20416
the petition for at least six consecutive weeks before the day set 20417
for hearing the petition and serve a written notice upon the 20418
superintendent of the institution at least thirty days before the 20419
day set for hearing the petition. 20420

If, upon the hearing of the petition, it appears that the 20421
notice has been given as required and the court is of the opinion 20422
that no good reason exists why such establishment may not be 20423
erected or such business carried on and that by the erection or 20424
carrying on thereof at the point named, the institution will 20425
sustain no detriment, the court may issue an order granting the 20426
prayer of the petitioner. Thereafter the petitioner may locate 20427
such establishment or carry on such business at the point named in 20428
the petition. 20429

Sec. 5123.25. The department of administrative services shall 20430
purchase all supplies needed for the proper support and 20431
maintenance of the institutions under the control of the 20432
department of ~~mental retardation and~~ developmental disabilities in 20433
accordance with the competitive selection procedures of Chapter 20434
125. of the Revised Code and such rules as the department of 20435
administrative services adopts. All bids shall be publicly opened 20436
on the day and hour and at the place specified in the 20437
advertisement. 20438

Preference shall be given to bidders in localities wherein 20439
the institution is located, if the price is fair and reasonable 20440
and not greater than the usual price. 20441

The department of administrative services may require such 20442
security as it considers proper to accompany the bids and shall 20443
fix the security to be given by the contractor. 20444

The department of administrative services may reject any or 20445
all bids and secure new bids, if for any reason it is considered 20446
for the best interest of the state to do so, and it may authorize 20447
the managing officer of any institution to purchase perishable 20448
goods and supplies for use in cases of emergency, in which cases 20449
the managing officer shall certify such fact in writing and the 20450
department of administrative services shall record the reasons for 20451
the purchases. 20452

Sec. 5123.26. The treasurer of state shall have charge of all 20453
funds under the jurisdiction of the department of ~~mental~~ 20454
~~retardation and~~ developmental disabilities and shall pay out the 20455
same only in accordance with Chapter 5123. of the Revised Code. 20456

The department shall cause to be furnished a contract of 20457
indemnity to cover all moneys and funds received by it or by its 20458
managing officers, employees, or agents while such moneys or funds 20459
are in the possession of such managing officers, employees, or 20460
agents. Such funds are designated as follows: 20461

(A) Funds which are due and payable to the treasurer of state 20462
as provided by Chapter 131. of the Revised Code; 20463

(B) Those funds which are held in trust by the managing 20464
officers, employees, or agents of the institution as local funds 20465
or accounts under the jurisdiction of the department. 20466

Such contract of indemnity shall be made payable to the state 20467
and the premium for such contract of indemnity may be paid from 20468
any of the funds received for the use of the department under this 20469
chapter or Chapter 5121. of the Revised Code. 20470

Funds collected from various sources, such as the sale of 20471
goods, farm products, and all miscellaneous articles, shall be 20472
transmitted on or before Monday of each week to the treasurer of 20473
state and a detailed statement of such collections shall be made 20474

to the division of business administration by each managing officer. 20475
20476

Sec. 5123.27. The director of ~~mental retardation and~~ 20477
developmental disabilities may accept, hold, and administer in 20478
trust on behalf of the state, if it is for the public interest, 20479
any grant, devise, gift, or bequest of money or property made to 20480
the state for the use or benefit of any institution under the 20481
jurisdiction of the department of ~~mental retardation and~~ 20482
developmental disabilities or for the use and benefit of persons 20483
with mental retardation or a developmental disability under the 20484
control of the department. If the trust so provides, the money or 20485
property may be used for any work which the department is 20486
authorized to undertake. 20487

The department shall keep such gift, grant, devise, or 20488
bequest as a distinct property or fund and, if it is in money, 20489
shall invest it in the manner provided by law. The department may 20490
deposit in a proper trust company or savings bank any money left 20491
in trust during a specified life or lives and shall adopt rules 20492
governing the deposit, transfer, withdrawal, or investment of the 20493
money and the income from it. 20494

The department shall, in the manner prescribed by the 20495
director of budget and management pursuant to section 126.21 of 20496
the Revised Code, account for all money or property received or 20497
expended under this section. The records, together with a 20498
statement certified by the depository showing the money deposited 20499
there to the credit of the trust, shall be open to public 20500
inspection. The director of budget and management may require the 20501
department to file a report with the director on any particular 20502
portion, or the whole, of any trust property received or expended 20503
by it. 20504

The department shall, upon the expiration of any trust 20505

according to its terms, dispose of the money or property held 20506
under the trust in the manner provided in the instrument creating 20507
the trust. If the instrument creating the trust failed to make any 20508
terms of disposition, or if no trust was in evidence, the decedent 20509
resident's money, saving or commercial deposits, dividends or 20510
distributions, bonds, or any other interest-bearing debt 20511
certificate or stamp issued by the United States government shall 20512
escheat to the state. All such unclaimed intangible personal 20513
property of a former resident shall be retained by the managing 20514
officer in such institution for the period of one year, during 20515
which time every possible effort shall be made to find the former 20516
resident or the former resident's legal representative. 20517

If after a period of one year from the time the resident has 20518
left the institution or has died, the managing officer has been 20519
unable to locate the person or the person's legal representative, 20520
then, upon proper notice of that fact, the director shall at that 20521
time formulate in writing a method of disposition on the minutes 20522
of the department authorizing the managing officer to convert such 20523
intangible personal property to cash to be paid into the state 20524
treasury to the credit of the general revenue fund. 20525

The department shall include in its annual report a statement 20526
of all such money and property and the terms and conditions 20527
relating to them. 20528

Sec. 5123.28. (A) Except as otherwise provided in this 20529
division, money or property deposited with managing officers of 20530
institutions under the jurisdiction of the department of ~~mental~~ 20531
~~retardation~~ and developmental disabilities by any resident under 20532
the department's control or by relatives, guardians, conservators, 20533
and others for the special benefit of such resident, as well as 20534
all other funds and all other income paid to the resident, to the 20535
resident's estate, or on the resident's behalf, or paid to the 20536

managing officer or to the institution as representative payee or 20537
otherwise paid on the resident's behalf, shall remain in the hands 20538
of such managing officers in appropriate accounts for use 20539
accordingly. Each such managing officer shall keep itemized book 20540
accounts of the receipt and disposition of such money and 20541
property, which book shall be open at all times to the inspection 20542
of the department. The director of ~~mental retardation and~~ 20543
developmental disabilities shall adopt rules governing the 20544
deposit, transfer, withdrawal, or investment of such funds and the 20545
income of the funds, as well as rules under which such funds and 20546
income shall be paid by managing officers, institutions, or 20547
district managers for the support of such residents pursuant to 20548
Chapter 5121. of the Revised Code, or for their other needs. 20549

This division does not require, and shall not be construed as 20550
requiring, the deposit of the principal or income of a trust 20551
created pursuant to section 5815.28 of the Revised Code with 20552
managing officers of institutions under the jurisdiction of the 20553
department. 20554

(B) Whenever any resident confined in a state institution 20555
under the jurisdiction of the department dies, escapes, or is 20556
discharged from the institution, any personal funds of the 20557
resident remain in the hands of the managing officer of the 20558
institution, and no demand is made upon the managing officer by 20559
the owner of the funds or the owner's legally appointed 20560
representative, the managing officer shall hold the funds in the 20561
personal deposit fund for a period of at least one year during 20562
which time the managing officer shall make every effort possible 20563
to locate the owner or the owner's legally appointed 20564
representative. If, at the end of this period, no demand has been 20565
made for the funds, the managing officer shall dispose of the 20566
funds as follows: 20567

(1) All money in a personal deposit fund in excess of ten 20568

dollars due for the support of a resident, shall be paid in 20569
accordance with Chapter 5121. of the Revised Code. 20570

(2) All money in a personal deposit fund in excess of ten 20571
dollars not due for the support of a resident, shall be placed to 20572
the credit of the institution's local account designated as the 20573
"industrial and entertainment" fund. 20574

(3) The first ten dollars to the credit of a resident shall 20575
be placed to the credit of the institution's local account 20576
designated as the "industrial and entertainment" fund. 20577

(C) Whenever any resident in any state institution subject to 20578
the jurisdiction of the department dies, escapes, or is discharged 20579
from the institution, any personal effects of the resident remain 20580
in the hands of the managing officer of the institution, and no 20581
demand is made upon the managing officer by the owner of the 20582
personal effects or the owner's legally appointed representative, 20583
the managing officer shall hold and dispose of the personal 20584
effects in the following manner. All the miscellaneous personal 20585
effects shall be held 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 legal representative. If, at 20588
the end of this period, no demand has been made by the owner of 20589
the property or the owner's legal representative, the managing 20590
officer shall file with the county recorder of the county of 20591
commitment of such owner, all deeds, wills, contract mortgages, or 20592
assignments. The balance of the personal effects shall be sold at 20593
public auction after being duly advertised, and the funds turned 20594
over to the treasurer of state for credit to the general revenue 20595
fund. If any of the property is not of a type to be filed with the 20596
county recorder and is not salable at public auction, the managing 20597
officer of the institution shall destroy that property. 20598

Sec. 5123.29. Each managing officer of an institution under 20599

the jurisdiction of the department of ~~mental retardation and~~ 20600
developmental disabilities, with the approval of the director of 20601
~~mental retardation and~~ developmental disabilities, may establish 20602
funds in the institutions under the jurisdiction of the 20603
department, designated as follows: 20604

(A) Industrial and entertainment fund for the entertainment 20605
and welfare of the residents of the institution. 20606

(B) Commissary fund for the benefit of residents of the 20607
institution. Commissary revenue in excess of operating costs and 20608
reserve shall be considered profits. All profits from the 20609
commissary fund operations shall be paid into the industrial and 20610
entertainment fund, and used only for the entertainment and 20611
welfare of residents. 20612

The director shall establish rules for the operation of the 20613
industrial and entertainment and commissary funds. 20614

Sec. 5123.30. The department of ~~mental retardation and~~ 20615
developmental disabilities shall keep in its office a proper and 20616
complete set of books and accounts with each institution, which 20617
shall clearly show the nature and amount of every expenditure 20618
authorized and made at such institution, and which shall contain 20619
an account of all appropriations made by the general assembly and 20620
of all other funds, together with the disposition of such funds. 20621

The department shall prescribe the form of vouchers, records, 20622
and methods of keeping accounts at each of the institutions, which 20623
shall be as nearly uniform as possible. The department may examine 20624
the records of any institution at any time. 20625

The department may authorize any of its bookkeepers, 20626
accountants, or employees to examine the records, accounts, and 20627
vouchers or take an inventory of the property of any institution, 20628
or do whatever is necessary, and pay the actual and reasonable 20629

expenses incurred in such service when an itemized account is 20630
filed and approved. 20631

Sec. 5123.31. The department of ~~mental retardation and~~ 20632
developmental disabilities shall keep in its office, accessible 20633
only to its employees, except by the consent of the department or 20634
the order of the judge of a court of record, a record showing the 20635
name, residence, sex, age, nativity, occupation, condition, and 20636
date of entrance or commitment of every resident in the 20637
institutions governed by it, the date, cause, and terms of 20638
discharge and the condition of such person at the time of leaving, 20639
and also a record of all transfers from one institution to 20640
another, and, if such person dies while in the care or custody of 20641
the department, the date and cause of death. These and such other 20642
facts as the department requires shall be furnished by the 20643
managing officer of each institution within ten days after the 20644
commitment, entrance, death, or discharge of a resident. 20645

In case of an accident or injury or peculiar death of a 20646
resident the managing officer shall make a special report to the 20647
department within twenty-four hours thereafter, giving the 20648
circumstances as fully as possible. 20649

Sec. 5123.33. In its annual report, the department of ~~mental~~ 20650
~~retardation and~~ developmental disabilities shall include a list of 20651
the officers and agents employed, and complete financial statement 20652
of the various institutions under its control. The report shall 20653
describe the condition of each institution, and shall state, as to 20654
each institution, whether: 20655

(A) The moneys appropriated have been economically and 20656
judiciously expended; 20657

(B) The objects of the institutions have been accomplished; 20658

(C) The laws in relation to such institutions have been fully 20659

complied with; 20660

(D) All parts of the state are equally benefited by the 20661
institutions. 20662

Such annual report shall be accompanied by the reports of the 20663
managing officers, such other information as the department 20664
considers proper, and the department's recommendations for the 20665
more effective accomplishment of the general purpose of this 20666
chapter. 20667

Sec. 5123.34. This chapter attempts to do all of the 20668
following: 20669

(A) Provide humane and scientific treatment and care and the 20670
highest attainable degree of individual development for persons 20671
with mental retardation or a developmental disability; 20672

(B) Promote the study of the causes of mental retardation and 20673
developmental disabilities, with a view to ultimate prevention; 20674

(C) Secure by uniform and systematic management the highest 20675
attainable degree of economy in the administration of the 20676
institutions under the control of the department of ~~mental~~ 20677
~~retardation and~~ developmental disabilities. 20678

Sections 5123.02 to 5123.04, 5123.042, 5123.043, 5123.10, 20679
5123.21, 5123.221, 5123.25, and 5123.31 of the Revised Code shall 20680
be liberally construed to attain these purposes. 20681

Sec. 5123.35. (A) There is hereby created the Ohio 20682
developmental disabilities council, which shall serve as an 20683
advocate for all persons with developmental disabilities. The 20684
council shall act in accordance with the "Developmental 20685
Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 20686
(1984), 42 U.S.C. 6001, as amended. The governor shall appoint the 20687
members of the council in accordance with 42 U.S.C. 6024. 20688

(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 20720
entering into contracts. 20721

(E) A member of the Ohio developmental disabilities council 20722
is not in violation of Chapter 102. or section 2921.42 of the 20723
Revised Code with regard to receiving a grant or entering into a 20724
contract under this section if the requirements of division (D) of 20725
this section have been met. 20726

Sec. 5123.351. The director of ~~mental retardation and~~ 20727
developmental disabilities, with respect to the eligibility for 20728
state reimbursement of expenses incurred by facilities and 20729
programs established and operated under Chapter 5126. of the 20730
Revised Code for persons with mental retardation or a 20731
developmental disability, shall do all of the following: 20732

(A) Make rules that may be necessary to carry out the 20733
purposes of Chapter 5126. and sections 5123.35, 5123.351, and 20734
5123.36 of the Revised Code; 20735

(B) Define minimum standards for qualifications of personnel, 20736
professional services, and in-service training and educational 20737
leave programs; 20738

(C) Review and evaluate community programs and make 20739
recommendations for needed improvements to county boards of ~~mental~~ 20740
~~retardation and~~ developmental disabilities and to program 20741
directors; 20742

(D) Withhold state reimbursement, in whole or in part, from 20743
any county or combination of counties for failure to comply with 20744
Chapter 5126. or section 5123.35 or 5123.351 of the Revised Code 20745
or rules of the department of ~~mental retardation and~~ developmental 20746
disabilities; 20747

(E) Withhold state funds from an agency, corporation, or 20748
association denying or rendering service on the basis of race, 20749

color, sex, religion, ancestry, national origin, disability as 20750
defined in section 4112.01 of the Revised Code, or inability to 20751
pay; 20752

(F) Provide consultative staff service to communities to 20753
assist in ascertaining needs and in planning and establishing 20754
programs. 20755

Sec. 5123.352. There is hereby created in the state treasury 20756
the community ~~mental retardation and~~ developmental disabilities 20757
trust fund. The director of ~~mental retardation and~~ developmental 20758
disabilities, not later than sixty days after the end of each 20759
fiscal year, shall certify to the director of budget and 20760
management the amount of all the unexpended, unencumbered balances 20761
of general revenue fund appropriations made to the department of 20762
~~mental retardation and~~ developmental disabilities for the fiscal 20763
year, excluding appropriations for rental payments to the Ohio 20764
public facilities commission, and the amount of any other funds 20765
held by the department in excess of amounts necessary to meet the 20766
department's operating costs and obligations pursuant to this 20767
chapter and Chapter 5126. of the Revised Code. On receipt of the 20768
certification, the director of budget and management shall 20769
transfer cash to the trust fund in an amount up to, but not 20770
exceeding, the total of the amounts certified by the director of 20771
~~mental retardation and~~ developmental disabilities, except in cases 20772
in which the transfer will involve more than twenty million 20773
dollars. In such cases, the director of budget and management 20774
shall notify the controlling board and must receive the board's 20775
approval of the transfer prior to making the transfer. 20776

All moneys in the trust fund shall be distributed in 20777
accordance with section 5126.19 of the Revised Code. 20778

Sec. 5123.36. (A) To the extent funds are available and on 20779

application by a county board of ~~mental retardation and~~ 20780
developmental disabilities or private nonprofit agency 20781
incorporated to provide mental retardation or developmental 20782
disability services, the director of ~~mental retardation and~~ 20783
developmental disabilities may enter into an agreement with the 20784
county board or agency to assist the county board or agency with a 20785
mental retardation or developmental disability construction 20786
project. Except as provided by division (B) of this section, the 20787
director may provide up to ninety per cent of the total project 20788
cost where circumstances warrant. The director may, where 20789
circumstances warrant, use existing facilities or other in-kind 20790
match for the local share of the communities' share of the cost. 20791

(B) Upon the recommendation of the director, for projects of 20792
the highest priority of the department of ~~mental retardation and~~ 20793
developmental disabilities, the controlling board may authorize 20794
the director to provide more than ninety per cent of the total 20795
cost of a project under this section. 20796

(C) A county board is eligible for funds under this section 20797
for a project bid on or after January 1, 1992, under either 20798
section 153.07 or 307.86 of the Revised Code, as long as all other 20799
applicable requirements were followed. 20800

(D) A private nonprofit agency that receives funds pursuant 20801
to this section for the construction of a single-family home, 20802
including, where appropriate, the acquisition and installation of 20803
a single-family home fabricated in an off-site facility, is not 20804
subject to the requirements of Chapter 153. of the Revised Code 20805
with respect to the construction project, notwithstanding any 20806
provision of that chapter to the contrary. 20807

(E) The director may not assist a project under this section 20808
unless the controlling board or director of budget and management 20809
also approves the project pursuant to section 126.14 of the 20810
Revised Code. 20811

Sec. 5123.37. A county board of ~~mental retardation and~~ 20812
developmental disabilities or private, nonprofit agency that 20813
receives state funds pursuant to an agreement with the director of 20814
~~mental retardation and~~ developmental disabilities under section 20815
5123.36 of the Revised Code to acquire a facility may apply to the 20816
director for approval to sell the facility before the terms of the 20817
agreement expire for the purpose of acquiring a replacement 20818
facility to be used to provide mental retardation or developmental 20819
disability services to individuals the county board or agency 20820
serves. The application shall be made on a form the director shall 20821
prescribe. The county board or agency shall include in the 20822
application the specific purpose for which the replacement 20823
facility is to be used. The director may refuse to approve the 20824
application if the director determines that any of the following 20825
apply: 20826

(A) The application is incomplete or indicates that the 20827
county board or agency is unable to purchase a replacement 20828
facility. 20829

(B) The replacement facility would not be used to continue to 20830
provide mental retardation or developmental disability services 20831
that the director determines are appropriate for the individuals 20832
the county board or agency serves. 20833

(C) The county board or agency has failed to comply with a 20834
provision of Chapter 5123. or 5126. of the Revised Code or a rule 20835
adopted by the director. 20836

(D) Approving the application would be inconsistent with the 20837
plans and priorities of the department of ~~mental retardation and~~ 20838
developmental disabilities. 20839

Sec. 5123.371. If the director of ~~mental retardation and~~ 20840
developmental disabilities approves an application submitted under 20841

section 5123.37 of the Revised Code, the county board of ~~mental~~ 20842
~~retardation and~~ developmental disabilities or private, nonprofit 20843
agency that submitted the application shall, after selling the 20844
facility for which the county board or agency received approval to 20845
sell, pay to the director the portion of the proceeds that equals 20846
the amount that the director determines the county board or agency 20847
owes the department of ~~mental retardation and~~ developmental 20848
disabilities, including the department's security interest in the 20849
facility, for the state funds used to acquire the facility. 20850

Sec. 5123.372. If the director of ~~mental retardation and~~ 20851
developmental disabilities approves an application submitted under 20852
section 5123.37 of the Revised Code, the director shall establish 20853
a deadline by which the county board of ~~mental retardation and~~ 20854
developmental disabilities or private, nonprofit agency that 20855
submitted the application must notify the director that the county 20856
board or agency is ready to acquire a replacement facility to be 20857
used for the purpose stated in the application. The director may 20858
extend the deadline as many times as the director determines 20859
necessary. 20860

Sec. 5123.373. If, on or before the deadline or, if any, the 20861
last extended deadline established under section 5123.372 of the 20862
Revised Code for a county board of ~~mental retardation and~~ 20863
developmental disabilities or private, nonprofit agency, the 20864
county board or agency notifies the director of ~~mental retardation~~ 20865
~~and~~ developmental disabilities that the county board or agency is 20866
ready to acquire the replacement facility, the director shall 20867
enter into an agreement with the county board or agency that 20868
provides for the director to pay to the county board or agency a 20869
percentage of the cost of acquiring the replacement facility. The 20870
agreement shall specify the amount that the director shall pay. 20871

The amount may be the amount of the security interest that the 20872
department of ~~mental retardation and~~ developmental disabilities 20873
had in the previous facility or a different amount. The agreement 20874
may provide for the department to hold a security interest in the 20875
replacement facility. 20876

Sec. 5123.374. (A) The director of ~~mental retardation and~~ 20877
developmental disabilities may rescind approval of an application 20878
submitted under section 5123.37 of the Revised Code if either of 20879
the following occurs: 20880

(1) The county board of ~~mental retardation and~~ developmental 20881
disabilities or private, nonprofit agency that submitted the 20882
application fails, on or before the deadline or, if any, the last 20883
extended deadline established under section 5123.372 of the 20884
Revised Code for the county board or agency, to notify the 20885
director that the county board or agency is ready to acquire the 20886
replacement facility. 20887

(2) The county board or agency at any time notifies the 20888
director that the county board or agency no longer intends to 20889
acquire a replacement facility. 20890

(B) If the director rescinds approval of an application, the 20891
director shall use any funds the county board or agency paid to 20892
the director under section 5123.371 of the Revised Code to assist 20893
mental retardation or developmental disabilities construction 20894
projects under section 5123.36 of the Revised Code. 20895

Sec. 5123.375. The ~~MR/DD~~ developmental disabilities community 20896
capital replacement facilities fund is hereby created in the state 20897
treasury. The director of ~~mental retardation and~~ developmental 20898
disabilities shall credit all amounts paid to the director under 20899
section 5123.371 of the Revised Code to the fund. The director 20900
shall use the money in the fund as follows: 20901

(A) To make payments to county boards of ~~mental retardation~~ 20902
~~and~~ developmental disabilities and private, nonprofit agencies 20903
pursuant to agreements entered into under section 5123.373 of the 20904
Revised Code; 20905

(B) To provide, pursuant to section 5123.374 of the Revised 20906
Code, assistance for mental retardation or developmental 20907
disabilities construction projects under section 5123.36 of the 20908
Revised Code. 20909

Sec. 5123.38. (A) Except as provided in division (B) and (C) 20910
of this section, if an individual receiving supported living or 20911
home and community-based services funded by a county board of 20912
~~mental retardation and~~ developmental disabilities is committed to 20913
a state-operated intermediate care facility for the mentally 20914
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 20915
Code, the department of ~~mental retardation and~~ developmental 20916
disabilities shall use the funds otherwise allocated to the county 20917
board as the nonfederal share of medicaid expenditures for the 20918
individual's care in the state-operated facility. 20919

(B) Division (A) of this section does not apply if the county 20920
board, not later than ninety days after the date of the commitment 20921
of a person receiving supported services, commences funding of 20922
supported living for an individual who resides in a state-operated 20923
intermediate care facility for the mentally retarded on the date 20924
of the commitment or another eligible individual designated by the 20925
department. 20926

(C) Division (A) of this section does not apply if the county 20927
board, not later than ninety days after the date of the commitment 20928
of a person receiving home and community-based services, commences 20929
funding of home and community-based services for an individual who 20930
resides in a state-operated intermediate care facility for the 20931
mentally retarded on the date of the commitment or another 20932

eligible individual designated by the department. 20933

Sec. 5123.40. There is hereby created in the state treasury 20934
the services fund for individuals with mental retardation and 20935
developmental disabilities. On the death of the beneficiary of a 20936
trust created pursuant to section 5815.28 of the Revised Code, the 20937
portion of the remaining assets of the trust specified in the 20938
trust instrument shall be deposited to the credit of the fund. 20939

Money credited to the fund shall be used for individuals with 20940
mental retardation and developmental disabilities. In accordance 20941
with Chapter 119. of the Revised Code, the department of ~~mental~~ 20942
~~retardation and~~ developmental disabilities may adopt any rules 20943
necessary to implement this section. 20944

Sec. 5123.41. As used in this section and sections 5123.42 to 20945
5123.47 of the Revised Code: 20946

(A) "Adult services" has the same meaning as in section 20947
5126.01 of the Revised Code. 20948

(B) "Certified supported living provider" means a person or 20949
government entity certified under section 5123.161 of the Revised 20950
Code. 20951

(C) "Drug" has the same meaning as in section 4729.01 of the 20952
Revised Code. 20953

(D) "Family support services" has the same meaning as in 20954
section 5126.01 of the Revised Code. 20955

(E) "Health-related activities" means the following: 20956

(1) Taking vital signs; 20957

(2) Application of clean dressings that do not require health 20958
assessment; 20959

(3) Basic measurement of bodily intake and output; 20960

(4) Oral suctioning;	20961
(5) Use of glucometers;	20962
(6) External urinary catheter care;	20963
(7) Emptying and replacing colostomy bags;	20964
(8) Collection of specimens by noninvasive means.	20965
(F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.	20966 20967 20968
(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:	20969 20970 20971 20972
(1) Through direct employment with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities;	20973 20974 20975
(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;	20976 20977 20978
(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities.	20979 20980 20981
(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.	20982 20983 20984 20985 20986 20987 20988
(I) "Prescribed medication" means a drug that is to be administered according to the instructions of a licensed health	20989 20990

professional authorized to prescribe drugs. 20991

(J) "Residential facility" means a facility licensed under 20992
section 5123.19 of the Revised Code or subject to section 5123.192 20993
of the Revised Code. 20994

(K) "Specialized services" has the same meaning as in section 20995
5123.50 of the Revised Code. 20996

(L) "Tube feeding" means the provision of nutrition to an 20997
individual through a gastrostomy tube or a jejunostomy tube. 20998

Sec. 5123.42. (A) Beginning nine months after ~~the effective~~ 20999
~~date of this section~~ March 31, 2003, MR/DD personnel who are not 21000
specifically authorized by other provisions of the Revised Code to 21001
administer prescribed medications, perform health-related 21002
activities, or perform tube feedings may do so pursuant to this 21003
section as part of the specialized services the MR/DD personnel 21004
provide to individuals with mental retardation and developmental 21005
disabilities in the following categories: 21006

(1) Recipients of early intervention, preschool, and 21007
school-age services offered or provided pursuant to this chapter 21008
or Chapter 5126. of the Revised Code; 21009

(2) Recipients of adult services offered or provided pursuant 21010
to this chapter or Chapter 5126. of the Revised Code; 21011

(3) Recipients of family support services offered or provided 21012
pursuant to this chapter or Chapter 5126. of the Revised Code; 21013
21014

(4) Recipients of services from certified supported living 21015
providers, if the services are offered or provided pursuant to 21016
this chapter or Chapter 5126. of the Revised Code; 21017

(5) Recipients of residential support services from certified 21018
home and community-based services providers, if the services are 21019
received in a community living arrangement that includes not more 21020

than four individuals with mental retardation and developmental 21021
disabilities and the services are offered or provided pursuant to 21022
this chapter or Chapter 5126. of the Revised Code; 21023

(6) Recipients of services not included in divisions (A)(1) 21024
to (5) of this section that are offered or provided pursuant to 21025
this chapter or Chapter 5126. of the Revised Code; 21026

(7) Residents of a residential facility with five or fewer 21027
resident beds; 21028

(8) Residents of a residential facility with at least six but 21029
not more than sixteen resident beds; 21030

(9) Residents of a residential facility with seventeen or 21031
more resident beds who are on a field trip from the facility, if 21032
all of the following are the case: 21033

(a) The field trip is sponsored by the facility for purposes 21034
of complying with federal medicaid statutes and regulations, state 21035
medicaid statutes and rules, or other federal or state statutes, 21036
regulations, or rules that require the facility to provide 21037
habilitation, community integration, or normalization services to 21038
its residents. 21039

(b) Not more than five field trip participants are residents 21040
who have health needs requiring the administration of prescribed 21041
medications, excluding participants who self-administer prescribed 21042
medications or receive assistance with self-administration of 21043
prescribed medications. 21044

(c) The facility staffs the field trip with MR/DD personnel 21045
in such a manner that one person will administer prescribed 21046
medications, perform health-related activities, or perform tube 21047
feedings for not more than two participants if one or both of 21048
those participants have health needs requiring the person to 21049
administer prescribed medications through a gastrostomy or 21050
jejunostomy tube. 21051

(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.	21082
(3) In the case of recipients of family support services, as specified in division (A)(3) of this section, all of the following apply:	21083 21084 21085
(a) Without nursing delegation, MR/DD personnel may perform health-related activities.	21086 21087
(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.	21088 21089
(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.	21090 21091 21092
(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.	21093 21094 21095
(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.	21096 21097 21098
(4) In the case of recipients of services from certified supported living providers, as specified in division (A)(4) of this section, all of the following apply:	21099 21100 21101
(a) Without nursing delegation, MR/DD personnel may perform health-related activities.	21102 21103
(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.	21104 21105
(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.	21106 21107 21108
(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.	21109 21110 21111

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.	21112 21113 21114
(5) In the case of recipients of residential support services from certified home and community-based services providers, as specified in division (A)(5) of this section, all of the following apply:	21115 21116 21117 21118
(a) Without nursing delegation, MR/DD personnel may perform health-related activities.	21119 21120
(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.	21121 21122
(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.	21123 21124 21125
(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.	21126 21127 21128
(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.	21129 21130 21131
(6) In the case of recipients of services not included in divisions (A)(1) to (5) of this section, as specified in division (A)(6) of this section, all of the following apply:	21132 21133 21134
(a) With nursing delegation, MR/DD personnel may perform health-related activities.	21135 21136
(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.	21137 21138
(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.	21139 21140 21141

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.	21142 21143 21144
(7) In the case of residents of a residential facility with five or fewer beds, as specified in division (A)(7) of this section, all of the following apply:	21145 21146 21147
(a) Without nursing delegation, MR/DD personnel may perform health-related activities.	21148 21149
(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.	21150 21151
(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.	21152 21153 21154
(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.	21155 21156 21157
(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.	21158 21159 21160
(8) In the case of residents of a residential facility with at least six but not more than sixteen resident beds, as specified in division (A)(8) of this section, all of the following apply:	21161 21162 21163
(a) With nursing delegation, MR/DD personnel may perform health-related activities.	21164 21165
(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.	21166 21167
(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.	21168 21169 21170
(d) With nursing delegation, MR/DD personnel may perform	21171

routine tube feedings, if the gastrostomy and jejunostomy tubes 21172
being used are stable and labeled. 21173

(9) In the case of residents of a residential facility with 21174
seventeen or more resident beds who are on a field trip from the 21175
facility, all of the following apply during the field trip, 21176
subject to the limitations specified in division (A)(9) of this 21177
section: 21178

(a) With nursing delegation, MR/DD personnel may perform 21179
health-related activities. 21180

(b) With nursing delegation, MR/DD personnel may administer 21181
oral and topical prescribed medications. 21182

(c) With nursing delegation, MR/DD personnel may administer 21183
prescribed medications through gastrostomy and jejunostomy tubes, 21184
if the tubes being used are stable and labeled. 21185

(d) With nursing delegation, MR/DD personnel may perform 21186
routine tube feedings, if the gastrostomy and jejunostomy tubes 21187
being used are stable and labeled. 21188

(C) The authority of MR/DD personnel to administer prescribed 21189
medications, perform health-related activities, and perform tube 21190
feedings pursuant to this section is subject to all of the 21191
following: 21192

(1) To administer prescribed medications, perform 21193
health-related activities, or perform tube feedings for 21194
individuals in the categories specified under divisions (A)(1) to 21195
(8) of this section, MR/DD personnel shall obtain the certificate 21196
or certificates required by the department of ~~mental retardation~~ 21197
~~and~~ developmental disabilities and issued under section 5123.45 of 21198
the Revised Code. MR/DD personnel shall administer prescribed 21199
medication, perform health-related activities, and perform tube 21200
feedings only as authorized by the certificate or certificates 21201
held. 21202

(2) To administer prescribed medications, perform 21203
health-related activities, or perform tube feedings for 21204
individuals in the category specified under division (A)(9) of 21205
this section, MR/DD personnel shall successfully complete the 21206
training course or courses developed under section 5123.43 of the 21207
Revised Code for the MR/DD personnel. MR/DD personnel shall 21208
administer prescribed medication, perform health-related 21209
activities, and perform tube feedings only as authorized by the 21210
training completed. 21211

(3) If nursing delegation is required under division (B) of 21212
this section, MR/DD personnel shall not act without nursing 21213
delegation or in a manner that is inconsistent with the 21214
delegation. 21215

(4) The employer of MR/DD personnel shall ensure that MR/DD 21216
personnel have been trained specifically with respect to each 21217
individual for whom they administer prescribed medications, 21218
perform health-related activities, or perform tube feedings. MR/DD 21219
personnel shall not administer prescribed medications, perform 21220
health-related activities, or perform tube feedings for any 21221
individual for whom they have not been specifically trained. 21222

(5) If the employer of MR/DD personnel believes that MR/DD 21223
personnel have not or will not safely administer prescribed 21224
medications, perform health-related activities, or perform tube 21225
feedings, the employer shall prohibit the action from continuing 21226
or commencing. MR/DD personnel shall not engage in the action or 21227
actions subject to an employer's prohibition. 21228

(D) In accordance with section 5123.46 of the Revised Code, 21229
the department of ~~mental retardation and~~ developmental 21230
disabilities shall adopt rules governing its implementation of 21231
this section. The rules shall include the following: 21232

(1) Requirements for documentation of the administration of 21233

prescribed medications, performance of health-related activities, 21234
and performance of tube feedings by MR/DD personnel pursuant to 21235
the authority granted under this section; 21236

(2) Procedures for reporting errors that occur in the 21237
administration of prescribed medications, performance of 21238
health-related activities, and performance of tube feedings by 21239
MR/DD personnel pursuant to the authority granted under this 21240
section; 21241

(3) Other standards and procedures the department considers 21242
necessary for implementation of this section. 21243

Sec. 5123.421. The department of ~~mental retardation and~~ 21244
developmental disabilities shall accept complaints from any person 21245
or government entity regarding the administration of prescribed 21246
medications, performance of health-related activities, and 21247
performance of tube feedings by MR/DD personnel pursuant to the 21248
authority granted under section 5123.42 of the Revised Code. The 21249
department shall conduct investigations of complaints as it 21250
considers appropriate. The department shall adopt rules in 21251
accordance with section 5123.46 of the Revised Code establishing 21252
procedures for accepting complaints and conducting investigations 21253
under this section. 21254

Sec. 5123.43. (A) The department of ~~mental retardation and~~ 21255
developmental disabilities shall develop courses for the training 21256
of MR/DD personnel in the administration of prescribed 21257
medications, performance of health-related activities, and 21258
performance of tube feedings pursuant to the authority granted 21259
under section 5123.42 of the Revised Code. The department may 21260
develop separate or combined training courses for the 21261
administration of prescribed medications, performance of 21262
health-related activities, and performance of tube feedings. 21263

Training in the administration of prescribed medications through 21264
gastrostomy and jejunostomy tubes may be included in a course 21265
providing training in tube feedings. Training in the 21266
administration of insulin may be developed as a separate course or 21267
included in a course providing training in the administration of 21268
other prescribed medications. 21269

(B)(1) The department shall adopt rules in accordance with 21270
section 5123.46 of the Revised Code that specify the content and 21271
length of the training courses developed under this section. The 21272
rules may include any other standards the department considers 21273
necessary for the training courses. 21274

(2) In adopting rules that specify the content of a training 21275
course or part of a training course that trains MR/DD personnel in 21276
the administration of prescribed medications, the department shall 21277
ensure that the content includes all of the following: 21278

(a) Infection control and universal precautions; 21279

(b) Correct and safe practices, procedures, and techniques 21280
for administering prescribed medication; 21281

(c) Assessment of drug reaction, including known side 21282
effects, interactions, and the proper course of action if a side 21283
effect occurs; 21284

(d) The requirements for documentation of medications 21285
administered to each individual; 21286

(e) The requirements for documentation and notification of 21287
medication errors; 21288

(f) Information regarding the proper storage and care of 21289
medications; 21290

(g) Information about proper receipt of prescriptions and 21291
transcription of prescriptions into an individual's medication 21292
administration record, except when the MR/DD personnel being 21293

trained will administer prescribed medications only to residents 21294
of a residential facility with seventeen or more resident beds who 21295
are participating in a field trip, as specified in division (A)(9) 21296
of section 5123.42 of the Revised Code; 21297

(h) Course completion standards that require successful 21298
demonstration of proficiency in administering prescribed 21299
medications; 21300

(i) Any other material or course completion standards that 21301
the department considers relevant to the administration of 21302
prescribed medications by MR/DD personnel. 21303

Sec. 5123.44. The department of ~~mental retardation and~~ 21304
developmental disabilities shall develop courses that train 21305
registered nurses to provide the MR/DD personnel training courses 21306
developed under section 5123.43 of the Revised Code. The 21307
department may develop courses that train registered nurses to 21308
provide all of the courses developed under section 5123.43 of the 21309
Revised Code or any one or more of the courses developed under 21310
that section. 21311

The department shall adopt rules in accordance with section 21312
5123.46 of the Revised Code that specify the content and length of 21313
the training courses. The rules may include any other standards 21314
the department considers necessary for the training courses. 21315

Sec. 5123.45. (A) The department of ~~mental retardation and~~ 21316
developmental disabilities shall establish a program under which 21317
the department issues certificates to the following: 21318

(1) MR/DD personnel, for purposes of meeting the requirement 21319
of division (C)(1) of section 5123.42 of the Revised Code to 21320
obtain a certificate or certificates to administer prescribed 21321
medications, perform health-related activities, and perform tube 21322
feedings; 21323

(2) Registered nurses, for purposes of meeting the 21324
requirement of division (B)(1) of section 5123.441 of the Revised 21325
Code to obtain a certificate or certificates to provide the MR/DD 21326
personnel training courses developed under section 5123.43 of the 21327
Revised Code. 21328

(B)(1) Except as provided in division (B)(2) of this section, 21329
to receive a certificate issued under this section, MR/DD 21330
personnel and registered nurses shall successfully complete the 21331
applicable training course or courses and meet all other 21332
applicable requirements established in rules adopted pursuant to 21333
this section. The department shall issue the appropriate 21334
certificate or certificates to MR/DD personnel and registered 21335
nurses who meet the requirements for the certificate or 21336
certificates. 21337

(2) The department shall include provisions in the program 21338
for issuing certificates to the following: 21339

(a) MR/DD personnel who, on ~~the effective date of this~~ 21340
~~section~~ March 31, 2003, are authorized to provide care to 21341
individuals with mental retardation and developmental disabilities 21342
pursuant to section 5123.193 or sections 5126.351 to 5126.354 of 21343
the Revised Code. A person who receives a certificate under 21344
division (B)(2)(a) of this section shall not administer insulin 21345
until the person has been trained by a registered nurse who has 21346
received a certificate under this section that allows the 21347
registered nurse to provide training courses to MR/DD personnel in 21348
the administration of insulin. 21349

(b) Registered nurses who, on ~~the effective date of this~~ 21350
~~section~~ March 31, 2003, are authorized to train MR/DD personnel to 21351
provide care to individuals with mental retardation and 21352
developmental disabilities pursuant to section 5123.193 or 21353
sections 5126.351 to 5126.354 of the Revised Code. A registered 21354
nurse who receives a certificate under division (B)(2)(b) of this 21355

section shall not provide training courses to MR/DD personnel in 21356
the administration of insulin unless the registered nurse 21357
completes a course developed under section 5123.44 of the Revised 21358
Code that enables the registered nurse to receive a certificate to 21359
provide training courses to MR/DD personnel in the administration 21360
of insulin. 21361

(C) Certificates issued to MR/DD personnel are valid for one 21362
year and may be renewed. Certificates issued to registered nurses 21363
are valid for two years and may be renewed. 21364

To be eligible for renewal, MR/DD personnel and registered 21365
nurses shall meet the applicable continued competency requirements 21366
and continuing education requirements specified in rules adopted 21367
under division (D) of this section. In the case of registered 21368
nurses, continuing nursing education completed in compliance with 21369
the license renewal requirements established under Chapter 4723. 21370
of the Revised Code may be counted toward meeting the continuing 21371
education requirements established in the rules adopted under 21372
division (D) of this section. 21373

(D) In accordance with section 5123.46 of the Revised Code, 21374
the department shall adopt rules that establish all of the 21375
following: 21376

(1) Requirements that MR/DD personnel and registered nurses 21377
must meet to be eligible to take a training course; 21378

(2) Standards that must be met to receive a certificate, 21379
including requirements pertaining to an applicant's criminal 21380
background; 21381

(3) Procedures to be followed in applying for a certificate 21382
and issuing a certificate; 21383

(4) Standards and procedures for renewing a certificate, 21384
including requirements for continuing education and, in the case 21385
of MR/DD personnel who administer prescribed medications, 21386

standards that require successful demonstration of proficiency in administering prescribed medications; 21387
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(5) Standards and procedures for suspending or revoking a certificate; 21389
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(6) Standards and procedures for suspending a certificate without a hearing pending the outcome of an investigation; 21391
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(7) Any other standards or procedures the department considers necessary to administer the certification program. 21393
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Sec. 5123.451. The department of ~~mental retardation and~~ developmental disabilities shall establish and maintain a registry that lists all MR/DD personnel and registered nurses holding valid certificates issued under section 5123.45 of the Revised Code. The registry shall specify the type of certificate held and any limitations that apply to a certificate holder. The department shall make the information in the registry available to the public in computerized form or any other manner that provides continuous access to the information in the registry. 21395
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Sec. 5123.47. (A) As used in this section: 21404

(1) "In-home care" means the supportive services provided within the home of an individual with mental retardation or a developmental disability who receives funding for the services through a county board of ~~mental retardation and~~ developmental disabilities, including any recipient of residential services funded as home and community-based services, family support services provided under section 5126.11 of the Revised Code, or supported living provided in accordance with sections 5126.41 to 5126.47 of the Revised Code. "In-home care" includes care that is provided outside an individual's home in places incidental to the home, and while traveling to places incidental to the home, except that "in-home care" does not include care provided in the 21405
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facilities of a county board of mental retardation and	21417
developmental disabilities or care provided in schools.	21418
(2) "Parent" means either parent of a child, including an	21419
adoptive parent but not a foster parent.	21420
(3) "Unlicensed in-home care worker" means an individual who	21421
provides in-home care but is not a health care professional.	21422
(4) "Family member" means a parent, sibling, spouse, son,	21423
daughter, grandparent, aunt, uncle, cousin, or guardian of the	21424
individual with mental retardation or a developmental disability	21425
if the individual with mental retardation or developmental	21426
disabilities lives with the person and is dependent on the person	21427
to the extent that, if the supports were withdrawn, another living	21428
arrangement would have to be found.	21429
(5) "Health care professional" means any of the following:	21430
(a) A dentist who holds a valid license issued under Chapter	21431
4715. of the Revised Code;	21432
(b) A registered or licensed practical nurse who holds a	21433
valid license issued under Chapter 4723. of the Revised Code;	21434
(c) An optometrist who holds a valid license issued under	21435
Chapter 4725. of the Revised Code;	21436
(d) A pharmacist who holds a valid license issued under	21437
Chapter 4729. of the Revised Code;	21438
(e) A person who holds a valid certificate issued under	21439
Chapter 4731. of the Revised Code to practice medicine and	21440
surgery, osteopathic medicine and surgery, podiatric medicine and	21441
surgery, or a limited brand of medicine;	21442
(f) A physician assistant who holds a valid certificate	21443
issued under Chapter 4730. of the Revised Code;	21444
(g) An occupational therapist or occupational therapy	21445
assistant or a physical therapist or physical therapist assistant	21446

who holds a valid license issued under Chapter 4755. of the Revised Code;

(h) A respiratory care professional who holds a valid license issued under Chapter 4761. of the Revised Code.

(6) "Health care task" means a task that is prescribed, ordered, delegated, or otherwise directed by a health care professional acting within the scope of the professional's practice.

(B) Except as provided in division (E) of this section, a family member of an individual with mental retardation or a developmental disability may authorize an unlicensed in-home care worker to administer oral and topical prescribed medications or perform other health care tasks as part of the in-home care the worker provides to the individual, if all of the following apply:

(1) The family member is the primary supervisor of the care.

(2) The unlicensed in-home care worker has been selected by the family member or the individual receiving care and is under the direct supervision of the family member.

(3) The unlicensed in-home care worker is providing the care through an employment or other arrangement entered into directly with the family member and is not otherwise employed by or under contract with a person or government entity to provide services to individuals with mental retardation and developmental disabilities.

(C) A family member shall obtain a prescription, if applicable, and written instructions from a health care professional for the care to be provided to the individual. The family member shall authorize the unlicensed in-home care worker to provide the care by preparing a written document granting the authority. The family member shall provide the unlicensed in-home care worker with appropriate training and written instructions in

accordance with the instructions obtained from the health care professional. 21478
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(D) A family member who authorizes an unlicensed in-home care worker to administer oral and topical prescribed medications or perform other health care tasks retains full responsibility for the health and safety of the individual receiving the care and for ensuring that the worker provides the care appropriately and safely. No entity that funds or monitors the provision of in-home care may be held liable for the results of the care provided under this section by an unlicensed in-home care worker, including such entities as the county board of ~~mental retardation and~~ developmental disabilities and the department of ~~mental retardation and~~ developmental disabilities. 21480
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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. 21491
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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 21498
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opportunity to file a complaint under section 5126.06 of the Revised Code. 21510
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Sec. 5123.50. As used in this section and sections 5123.51, 5123.52, and 5123.541 of the Revised Code: 21512
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(A) "Abuse" means all of the following: 21514

(1) The use of physical force that can reasonably be expected to result in physical harm or serious physical harm; 21515
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(2) Sexual abuse; 21517

(3) Verbal abuse. 21518

(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. 21519
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(C) "MR/DD employee" means all of the following: 21523

(1) An employee of the department of ~~mental retardation and~~ developmental disabilities; 21524
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(2) An employee of a county board of ~~mental retardation and~~ developmental disabilities; 21526
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(3) An employee in a position that includes providing specialized services to an individual with mental retardation or another developmental disability. 21528
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(D) "Neglect" means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods, or services that are necessary to maintain the health and safety of the individual. 21531
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(E) "Physical harm" and "serious physical harm" have the same meanings as in section 2901.01 of the Revised Code. 21535
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(F) "Sexual abuse" means unlawful sexual conduct or sexual 21537

contact. 21538

(G) "Specialized services" means any program or service 21539
designed and operated to serve primarily individuals with mental 21540
retardation or a developmental disability, including a program or 21541
service provided by an entity licensed or certified by the 21542
department of ~~mental retardation and~~ developmental disabilities. A 21543
program or service available to the general public is not a 21544
specialized service. 21545

(H) "Verbal abuse" means purposely using words to threaten, 21546
coerce, intimidate, harass, or humiliate an individual. 21547

(I) "Sexual conduct," "sexual contact," and "spouse" have the 21548
same meanings as in section 2907.01 of the Revised Code. 21549

Sec. 5123.51. (A) In addition to any other action required by 21550
sections 5123.61 and 5126.31 of the Revised Code, the department 21551
of ~~mental retardation and~~ developmental disabilities shall review 21552
each report the department receives of abuse or neglect of an 21553
individual with mental retardation or a developmental disability 21554
or misappropriation of an individual's property that includes an 21555
allegation that an MR/DD employee committed or was responsible for 21556
the abuse, neglect, or misappropriation. The department shall 21557
review a report it receives from a public children services agency 21558
only after the agency completes its investigation pursuant to 21559
section 2151.421 of the Revised Code. On receipt of a notice under 21560
section 2930.061 or 5123.541 of the Revised Code, the department 21561
shall review the notice. 21562

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(B) The department shall do both of the following: 21564

(1) Investigate the allegation or adopt the findings of an 21565
investigation or review of the allegation conducted by another 21566
person or government entity and determine whether there is a 21567

reasonable basis for the allegation; 21568

(2) If the department determines that there is a reasonable 21569
basis for the allegation, conduct an adjudication pursuant to 21570
Chapter 119. of the Revised Code. 21571

(C)(1) The department shall appoint an independent hearing 21572
officer to conduct any hearing conducted pursuant to division 21573
(B)(2) of this section, except that, if the hearing is regarding 21574
an employee of the department who is represented by a union, the 21575
department and a representative of the union shall jointly select 21576
the hearing officer. 21577

(2)(a) Except as provided in division (C)(2)(b) of this 21578
section, no hearing shall be conducted under division (B)(2) of 21579
this section until any criminal proceeding or collective 21580
bargaining arbitration concerning the same allegation has 21581
concluded. 21582

(b) The department may conduct a hearing pursuant to division 21583
(B)(2) of this section before a criminal proceeding concerning the 21584
same allegation is concluded if both of the following are the 21585
case: 21586

(i) The department notifies the prosecutor responsible for 21587
the criminal proceeding that the department proposes to conduct a 21588
hearing. 21589

(ii) The prosecutor consents to the hearing. 21590

(3) In conducting a hearing pursuant to division (B)(2) of 21591
this section, the hearing officer shall do all of the following: 21592

(a) Determine whether there is clear and convincing evidence 21593
that the MR/DD employee has done any of the following: 21594

(i) Misappropriated property of one or more individuals with 21595
mental retardation or a developmental disability that has a value, 21596
either separately or taken together, of one hundred dollars or 21597

more;	21598
(ii) Misappropriated property of an individual with mental retardation or a developmental disability that is designed to be used as a check, draft, negotiable instrument, credit card, charge card, or device for initiating an electronic fund transfer at a point of sale terminal, automated teller machine, or cash dispensing machine;	21599 21600 21601 21602 21603 21604
(iii) Knowingly abused such an individual;	21605
(iv) Recklessly abused or neglected such an individual, with resulting physical harm;	21606 21607
(v) Negligently abused or neglected such an individual, with resulting serious physical harm;	21608 21609
(vi) Recklessly neglected such an individual, creating a substantial risk of serious physical harm;	21610 21611
(vii) Engaged in sexual conduct or had sexual contact with an individual with mental retardation or another developmental disability who was not the MR/DD employee's spouse and for whom the MR/DD employee was employed or under a contract to provide care;	21612 21613 21614 21615 21616
(viii) Unreasonably failed to make a report pursuant to division (C) of section 5123.61 of the Revised Code when the employee knew or should have known that the failure would result in a substantial risk of harm to an individual with mental retardation or a developmental disability.	21617 21618 21619 21620 21621
(b) Give weight to the decision in any collective bargaining arbitration regarding the same allegation;	21622 21623
(c) Give weight to any relevant facts presented at the hearing.	21624 21625
(D)(1) Unless the director of mental retardation and developmental disabilities determines that there are extenuating	21626 21627

circumstances and except as provided in division (E) of this 21628
section, if the director, after considering all of the factors 21629
listed in division (C)(3) of this section, finds that there is 21630
clear and convincing evidence that an MR/DD employee has done one 21631
or more of the things described in division (C)(3)(a) of this 21632
section the director shall include the name of the employee in the 21633
registry established under section 5123.52 of the Revised Code. 21634

(2) Extenuating circumstances the director must consider 21635
include the use of physical force by an MR/DD employee that was 21636
necessary as self-defense. 21637

(3) If the director includes an MR/DD employee in the 21638
registry established under section 5123.52 of the Revised Code, 21639
the director shall notify the employee, the person or government 21640
entity that employs or contracts with the employee, the individual 21641
with mental retardation or a developmental disability who was the 21642
subject of the report and that individual's legal guardian, if 21643
any, the attorney general, and the prosecuting attorney or other 21644
law enforcement agency. If the MR/DD employee holds a license, 21645
certificate, registration, or other authorization to engage in a 21646
profession issued pursuant to Title XLVII of the Revised Code, the 21647
director shall notify the appropriate agency, board, department, 21648
or other entity responsible for regulating the employee's 21649
professional practice. 21650

(4) If an individual whose name appears on the registry is 21651
involved in a court proceeding or arbitration arising from the 21652
same facts as the allegation resulting in the individual's 21653
placement on the registry, the disposition of the proceeding or 21654
arbitration shall be noted in the registry next to the 21655
individual's name. 21656

(E) In the case of an allegation concerning an employee of 21657
the department, after the hearing conducted pursuant to division 21658
(B)(2) of this section, the director of health or that director's 21659

designee shall review the decision of the hearing officer to 21660
determine whether the standard described in division (C)(3) of 21661
this section has been met. If the director or designee determines 21662
that the standard has been met and that no extenuating 21663
circumstances exist, the director or designee shall notify the 21664
director of ~~mental retardation and~~ developmental disabilities that 21665
the MR/DD employee is to be included in the registry established 21666
under section 5123.52 of the Revised Code. If the director of 21667
~~mental retardation and~~ developmental disabilities receives such 21668
notification, the director shall include the MR/DD employee in the 21669
registry and shall provide the notification described in division 21670
(D)(3) of this section. 21671

(F) If the department is required by Chapter 119. of the 21672
Revised Code to give notice of an opportunity for a hearing and 21673
the MR/DD employee subject to the notice does not timely request a 21674
hearing in accordance with section 119.07 or 5123.0414 of the 21675
Revised Code, the department is not required to hold a hearing. 21676

(G) Files and records of investigations conducted pursuant to 21677
this section are not public records as defined in section 149.43 21678
of the Revised Code, but, on request, the department shall provide 21679
copies of those files and records to the attorney general, a 21680
prosecuting attorney, or a law enforcement agency. 21681

Sec. 5123.52. (A) The department of ~~mental retardation and~~ 21682
developmental disabilities shall establish a registry of MR/DD 21683
employees consisting of the names of MR/DD employees included in 21684
the registry pursuant to section 5123.51 of the Revised Code. 21685

(B) Before a person or government entity hires, contracts 21686
with, or employs an individual as an MR/DD employee, the person or 21687
government entity shall inquire whether the individual is included 21688
in the registry. 21689

(C) When it receives an inquiry regarding whether an 21690

individual is included in the registry, the department shall 21691
inform the person making the inquiry whether the individual is 21692
included in the registry. 21693

(D)(1) Except as otherwise provided in a collective 21694
bargaining agreement entered into under Chapter 4117. of the 21695
Revised Code that is in effect on ~~the effective date of this~~ 21696
~~section~~ November 22, 2000, no person or government entity shall 21697
hire, contract with, or employ as an MR/DD employee an individual 21698
who is included in the registry. Notwithstanding sections 4117.08 21699
and 4117.10 of the Revised Code, no agreement entered into under 21700
Chapter 4117. of the Revised Code after ~~the effective date of this~~ 21701
~~section~~ November 22, 2000, may contain any provision that in any 21702
way limits the effect or operation of this section. 21703

(2) Neither the department nor any county board of ~~mental~~ 21704
~~retardation and~~ developmental disabilities may enter into a new 21705
contract or renew a contract with a person or government entity 21706
that fails to comply with division (D)(1) of this section until 21707
the department or board is satisfied that the person or government 21708
entity will comply. 21709

(3) A person or government entity that fails to hire or 21710
retain as an MR/DD employee a person because the person is 21711
included in the registry shall not be liable in damages in a civil 21712
action brought by the employee or applicant for employment. 21713
Termination of employment pursuant to division (D)(1) of this 21714
section constitutes a discharge for just cause for the purposes of 21715
section 4141.29 of the Revised Code. 21716

(E) Information contained in the registry is a public record 21717
for the purposes of section 149.43 of the Revised Code and is 21718
subject to inspection and copying under section 1347.08 of the 21719
Revised Code. 21720

Sec. 5123.53. An individual who is included in the registry 21721

may petition the director of ~~mental retardation~~ and developmental 21722
disabilities for removal from the registry. If the director 21723
determines that good cause exists, the director shall remove the 21724
individual from the registry and may properly reply to an inquiry 21725
that the individual is not included in the registry. Good cause 21726
includes meeting rehabilitation standards established in rules 21727
adopted under section 5123.54 of the Revised Code. 21728

Sec. 5123.54. The director of ~~mental retardation~~ and 21729
developmental disabilities shall adopt rules under Chapter 119. of 21730
the Revised Code to implement sections 5123.51, 5123.52, and 21731
5123.53 of the Revised Code. The rules shall establish 21732
rehabilitation standards for the purposes of section 5123.53 of 21733
the Revised Code and specify circumstances, other than meeting the 21734
standards, that constitute good cause for the purposes of that 21735
section. 21736

Sec. 5123.541. (A) No MR/DD employee shall engage in any 21737
sexual conduct or have any sexual contact with an individual with 21738
mental retardation or another developmental disability for whom 21739
the MR/DD employee is employed or under a contract to provide care 21740
unless the individual is the MR/DD employee's spouse. 21741

(B) Any MR/DD employee who violates division (A) of this 21742
section shall be eligible to be included in the registry regarding 21743
misappropriation, abuse, neglect, or other specified misconduct by 21744
MR/DD employees established under section 5123.52 of the Revised 21745
Code, in addition to any other sanction or penalty authorized or 21746
required by law. 21747

(C)(1) Any person listed in division (C)(2) of section 21748
5123.61 of the Revised Code who has reason to believe that an 21749
MR/DD employee has violated division (A) of this section shall 21750
immediately report that belief to the department of ~~mental~~ 21751

~~retardation and~~ developmental disabilities. 21752

(2) Any person who has reason to believe that an MR/DD 21753
employee has violated division (A) of this section may report that 21754
belief to the department of ~~mental retardation and~~ developmental 21755
disabilities. 21756

Sec. 5123.542. (A) Each of the following shall annually 21757
provide a written notice to each of its MR/DD employees explaining 21758
the conduct for which an MR/DD employee may be included in the 21759
registry established under section 5123.52 of the Revised Code: 21760

(1) The department of ~~mental retardation and~~ developmental 21761
disabilities; 21762

(2) Each county board of ~~mental retardation and~~ developmental 21763
disabilities; 21764

(3) Each contracting entity, as defined in section 5126.281 21765
of the Revised Code; 21766

(4) Each owner, operator, or administrator of a residential 21767
facility, as defined in section 5123.19 of the Revised Code; 21768

(5) Each owner, operator, or administrator of a program 21769
certified by the department to provide supported living. 21770

(B) The notice described in division (A) of this section 21771
shall be in a form and provided in a manner prescribed by the 21772
department of ~~mental retardation and~~ developmental disabilities. 21773
The form shall be the same for all persons and entities required 21774
to provide notice under division (A) of this section. 21775

(C) The fact that an MR/DD employee does not receive the 21776
notice required by this section does not exempt the employee from 21777
inclusion in the registry established under section 5123.52 of the 21778
Revised Code. 21779

Sec. 5123.55. As used in sections 5123.55 to 5123.59 of the 21780

Revised Code: 21781

(A) "Guardian" means a guardian of the person, limited guardian, interim guardian, or emergency guardian pursuant to appointment by the probate court under Chapter 2111. of the Revised Code. 21782
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(B) "Trustee" means a trustee appointed by and accountable to the probate court, in lieu of a guardian and without a judicial determination of incompetency, with respect to an estate of ten thousand dollars or less. 21786
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(C) "Protector" means an agency under contract with the department of ~~mental retardation and~~ developmental disabilities acting with or without court appointment to provide guidance, service, and encouragement in the development of maximum self-reliance to a person with mental retardation or a developmental disability, independent of any determination of incompetency. 21790
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(D) "Protective service" means performance of the duties of a guardian, trustee, or conservator, or acting as a protector, with respect to a person with mental retardation or a developmental disability. 21797
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(E) "Conservator" means a conservator of the person pursuant to an appointment by a probate court under Chapter 2111. of the Revised Code. 21801
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Sec. 5123.56. The department of ~~mental retardation and~~ developmental disabilities shall develop a statewide system of protective service in accordance with rules and standards established by the department. With respect to this program, the department may enter into a contract with any responsible public or private agency for provision of protective service by the agency, and the contract may permit the agency to charge the 21804
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person receiving services fees for services provided. 21811

No costs or fees shall be charged by a probate court for the 21812
filing of a petition for guardianship, trusteeship, protectorship, 21813
or conservatorship under sections 5123.55 to 5123.59 of the 21814
Revised Code, or for any service performed by a probate court, or 21815
by any state agency in the course of petitioning for protective 21816
services, or for any protective services provided under those 21817
sections. 21818

An agency that provides protective services pursuant to a 21819
contract with another agency or a court may charge the agency or 21820
court fees for the services provided. 21821

Sec. 5123.57. No guardianship or trusteeship appointment 21822
shall be made under sections 5123.55 to 5123.59 of the Revised 21823
Code and no person shall be accepted for service by a protector 21824
under those sections unless a comprehensive evaluation has been 21825
made in a clinic or other facility approved by the department of 21826
~~mental retardation and~~ developmental disabilities. The evaluation 21827
shall include a medical, psychological, social, and educational 21828
evaluation, and a copy of the evaluation shall be filed with the 21829
department. 21830

Any agency that is appointed as a guardian, trustee, or 21831
conservator under sections 5123.55 to 5123.59 of the Revised Code 21832
or accepted as a protector under those sections shall provide for 21833
a review at least once each year in writing of the physical, 21834
mental, and social condition of each mentally retarded or 21835
developmentally disabled person for whom it is acting as guardian, 21836
trustee, or protector. An agency providing protective services 21837
under contract with the department shall file these reports with 21838
the department of ~~mental retardation and~~ developmental 21839
disabilities. Any record of the department or agency pertaining to 21840
a mentally retarded or developmentally disabled person shall not 21841

be a public record under section 149.43 of the Revised Code. 21842
Information contained in those records shall not be disclosed 21843
publicly in such a manner as to identify individuals, but may be 21844
made available to persons approved by the director of ~~mental~~ 21845
~~retardation and~~ developmental disabilities or the court. 21846

Sec. 5123.58. An agency providing protective services under 21847
contract with the department of ~~mental retardation and~~ 21848
developmental disabilities may be nominated under any of the 21849
following conditions as guardian, trustee, protector, conservator, 21850
or as trustee and protector of a mentally retarded or 21851
developmentally disabled person: 21852

(A) The person who needs or believes ~~he~~ the person needs 21853
protective service may make application in writing. 21854

(B) Any interested person may make application in writing on 21855
behalf of a mentally retarded or developmentally disabled person. 21856

(C) A parent may name the department or agency as guardian or 21857
successor guardian in a will. 21858

(D) A parent may name the department or agency as guardian, 21859
trustee, or protector, to assume such duties during the parent's 21860
lifetime. 21861

If the results of the comprehensive evaluation required under 21862
section 5123.57 of the Revised Code indicate that the person named 21863
in the nomination is in need of protective services, the agency or 21864
service either shall reject or accept the nomination as guardian, 21865
trustee, or conservator, subject to appointment by the probate 21866
court, or reject or accept the nomination as protector, or trustee 21867
and protector. 21868

At the time the nomination is accepted or when an appointment 21869
is made by the court, the mentally retarded or developmentally 21870
disabled person and any person who made application for service on 21871

~~his~~ the mentally retarded or developmentally disabled person's 21872
behalf under this section shall be informed by the agency, 21873
service, or court of the procedure for terminating the appointment 21874
or service. The agency or service shall cease to provide 21875
protective service as a protector pursuant to nomination under 21876
division (A), (B), or (D) of this section when a written request 21877
for termination is received by the agency from or on behalf of the 21878
mentally retarded or developmentally disabled person. If the 21879
agency or service believes the person to be in need of protective 21880
service, the agency or service may file an application for 21881
guardianship, trusteeship, or protectorship with the probate 21882
court. Termination of any court appointment as guardian, trustee, 21883
or protector shall be by order of the probate court. 21884

Sec. 5123.59. Before entering upon the duties of trustee, an 21885
agency under contract with the department of ~~mental retardation~~ 21886
~~and~~ developmental disabilities may require any of its employees 21887
having custody or control of funds or property to give bond to the 21888
probate court with sufficient surety, conditioned upon the full 21889
and faithful accounting of all trust funds which ~~he~~ the employee 21890
holds. The amount of the bond shall be determined by the court and 21891
may be modified by the court. 21892

Sec. 5123.60. (A) A legal rights service is hereby created 21893
and established to protect and advocate the rights of mentally ill 21894
persons, mentally retarded persons, developmentally disabled 21895
persons, and other disabled persons who may be represented by the 21896
service pursuant to division (L) of this section; to receive and 21897
act upon complaints concerning institutional and hospital 21898
practices and conditions of institutions for mentally retarded or 21899
developmentally disabled persons and hospitals for the mentally 21900
ill; and to assure that all persons detained, hospitalized, 21901
discharged, or institutionalized, and all persons whose detention, 21902

hospitalization, discharge, or institutionalization is sought or 21903
has been sought under this chapter or Chapter 5122. of the Revised 21904
Code are fully informed of their rights and adequately represented 21905
by counsel in proceedings under this chapter or Chapter 5122. of 21906
the Revised Code and in any proceedings to secure the rights of 21907
those persons. Notwithstanding the definitions of "mentally 21908
retarded person" and "developmentally disabled person" in section 21909
5123.01 of the Revised Code, the legal rights service shall 21910
determine who is a mentally retarded or developmentally disabled 21911
person for purposes of this section and sections 5123.601 to 21912
5123.604 of the Revised Code. 21913

(B)(1) In regard to those persons detained, hospitalized, or 21914
institutionalized under Chapter 5122. of the Revised Code, the 21915
legal rights service shall undertake formal representation only of 21916
those persons who are involuntarily detained, hospitalized, or 21917
institutionalized pursuant to sections 5122.10 to 5122.15 of the 21918
Revised Code, and those voluntarily detained, hospitalized, or 21919
institutionalized who are minors, who have been adjudicated 21920
incompetent, who have been detained, hospitalized, or 21921
institutionalized in a public hospital, or who have requested 21922
representation by the legal rights service. 21923

(2) If a person referred to in division (A) of this section 21924
voluntarily requests in writing that the legal rights service 21925
terminate participation in the person's case, such involvement 21926
shall cease. 21927

(3) Persons described in divisions (A) and (B)(1) of this 21928
section who are represented by the legal rights service are 21929
clients of the legal rights service. 21930

(C) Any person voluntarily hospitalized or institutionalized 21931
in a public hospital under division (A) of section 5122.02 of the 21932
Revised Code, after being fully informed of the person's rights 21933
under division (A) of this section, may, by written request, waive 21934

assistance by the legal rights service if the waiver is knowingly 21935
and intelligently made, without duress or coercion. 21936

The waiver may be rescinded at any time by the voluntary 21937
patient or resident, or by the voluntary patient's or resident's 21938
legal guardian. 21939

(D)(1) The legal rights service commission is hereby created 21940
for the purposes of appointing an administrator of the legal 21941
rights service, advising the administrator, assisting the 21942
administrator in developing a budget, advising the administrator 21943
in establishing and annually reviewing a strategic plan, creating 21944
a procedure for filing and determination of grievances against the 21945
legal rights service, and establishing general policy guidelines, 21946
including guidelines for the commencement of litigation, for the 21947
legal rights service. The commission may adopt rules to carry 21948
these purposes into effect and may receive and act upon appeals of 21949
personnel decisions by the administrator. 21950

(2) The commission shall consist of seven members. One 21951
member, who shall serve as chairperson, shall be appointed by the 21952
chief justice of the supreme court, three members shall be 21953
appointed by the speaker of the house of representatives, and 21954
three members shall be appointed by the president of the senate. 21955
At least two members shall have experience in the field of 21956
developmental disabilities, and at least two members shall have 21957
experience in the field of mental health. No member shall be a 21958
provider or related to a provider of services to mentally 21959
retarded, developmentally disabled, or mentally ill persons. 21960

(3) Terms of office of the members of the commission shall be 21961
for three years, each term ending on the same day of the month of 21962
the year as did the term which it succeeds. Each member shall 21963
serve subsequent to the expiration of the member's term until a 21964
successor is appointed and qualifies, or until sixty days has 21965
elapsed, whichever occurs first. No member shall serve more than 21966

two consecutive terms. 21967

All vacancies in the membership of the commission shall be 21968
filled in the manner prescribed for regular appointments to the 21969
commission and shall be limited to the unexpired terms. 21970

(4) The commission shall meet at least four times each year. 21971
Members shall be reimbursed for their necessary and actual 21972
expenses incurred in the performance of their official duties. 21973

(5) The administrator of the legal rights service shall serve 21974
at the pleasure of the commission. 21975

The administrator shall be an attorney admitted to practice 21976
law in this state. The salary of the administrator shall be 21977
established in accordance with section 124.14 of the Revised Code. 21978

(E) The legal rights service shall be completely independent 21979
of the department of mental health and the department of ~~mental~~ 21980
~~retardation and~~ developmental disabilities and, notwithstanding 21981
section 109.02 of the Revised Code, shall also be independent of 21982
the office of the attorney general. The administrator of the legal 21983
rights service, staff, and attorneys designated by the 21984
administrator to represent persons detained, hospitalized, or 21985
institutionalized under this chapter or Chapter 5122. of the 21986
Revised Code shall have ready access to the following: 21987

(1) During normal business hours and at other reasonable 21988
times, all records, except records of community residential 21989
facilities and records of contract agencies of county boards of 21990
~~mental retardation and~~ developmental disabilities and boards of 21991
alcohol, drug addiction and mental health services, relating to 21992
expenditures of state and federal funds or to the commitment, 21993
care, treatment, and habilitation of all persons represented by 21994
the legal rights service, including those who may be represented 21995
pursuant to division (L) of this section, or persons detained, 21996
hospitalized, institutionalized, or receiving services under this 21997

chapter or Chapter 340., 5119., 5122., or 5126. of the Revised 21998
Code that are records maintained by the following entities 21999
providing services for those persons: departments; institutions; 22000
hospitals; boards of alcohol, drug addiction, and mental health 22001
services; county boards of ~~mental retardation and~~ developmental 22002
disabilities; and any other entity providing services to persons 22003
who may be represented by the service pursuant to division (L) of 22004
this section; 22005

(2) Any records maintained in computerized data banks of the 22006
departments or boards or, in the case of persons who may be 22007
represented by the service pursuant to division (L) of this 22008
section, any other entity that provides services to those persons; 22009

(3) During their normal working hours, personnel of the 22010
departments, facilities, boards, agencies, institutions, 22011
hospitals, and other service-providing entities; 22012

(4) At any time, all persons detained, hospitalized, or 22013
institutionalized; persons receiving services under this chapter 22014
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 22015
persons who may be represented by the service pursuant to division 22016
(L) of this section. 22017

(5) Records of a community residential facility, a contract 22018
agency of a board of alcohol, drug addiction, and mental health 22019
services, or a contract agency of a county board of ~~mental~~ 22020
~~retardation and~~ developmental disabilities with one of the 22021
following consents: 22022

(a) The consent of the person, including when the person is a 22023
minor or has been adjudicated incompetent; 22024

(b) The consent of the person's guardian of the person, if 22025
any, or the parent if the person is a minor; 22026

(c) No consent, if the person is unable to consent for any 22027
reason, and the guardian of the person, if any, or the parent of 22028

the minor, has refused to consent or has not responded to a 22029
request for consent and either of the following has occurred: 22030

(i) A complaint regarding the person has been received by the 22031
legal rights service; 22032

(ii) The legal rights service has determined that there is 22033
probable cause to believe that such person has been subjected to 22034
abuse or neglect. 22035

(F) The administrator of the legal rights service shall do 22036
the following: 22037

(1) Administer and organize the work of the legal rights 22038
service and establish administrative or geographic divisions as 22039
the administrator considers necessary, proper, and expedient; 22040

(2) Adopt and promulgate rules that are not in conflict with 22041
rules adopted by the commission and prescribe duties for the 22042
efficient conduct of the business and general administration of 22043
the legal rights service; 22044

(3) Appoint and discharge employees, and hire experts, 22045
consultants, advisors, or other professionally qualified persons 22046
as the administrator considers necessary to carry out the duties 22047
of the legal rights service; 22048

(4) Apply for and accept grants of funds, and accept 22049
charitable gifts and bequests; 22050

(5) Prepare and submit a budget to the general assembly for 22051
the operation of the legal rights service. At least thirty days 22052
prior to submitting the budget to the general assembly, the 22053
administrator shall provide a copy of the budget to the commission 22054
for review and comment. When submitting the budget to the general 22055
assembly, the administrator shall include a copy of any written 22056
comments returned by the commission to the administrator. 22057

(6) Enter into contracts and make expenditures necessary for 22058

the efficient operation of the legal rights service; 22059

(7) Annually prepare a report of activities and submit copies 22060
of the report to the governor, the chief justice of the supreme 22061
court, the president of the senate, the speaker of the house of 22062
representatives, the director of mental health, and the director 22063
of ~~mental retardation and~~ developmental disabilities, and make the 22064
report available to the public; 22065

(8) Upon request of the commission or of the chairperson of 22066
the commission, report to the commission on specific litigation 22067
issues or activities. 22068

(G)(1) The legal rights service may act directly or contract 22069
with other organizations or individuals for the provision of the 22070
services envisioned under this section. 22071

(2) Whenever possible, the administrator shall attempt to 22072
facilitate the resolution of complaints through administrative 22073
channels. Subject to division (G)(3) of this section, if attempts 22074
at administrative resolution prove unsatisfactory, the 22075
administrator may pursue any legal, administrative, and other 22076
appropriate remedies or approaches that may be necessary to 22077
accomplish the purposes of this section. 22078

(3) The administrator may not pursue a class action lawsuit 22079
under division (G)(2) of this section when attempts at 22080
administrative resolution of a complaint prove unsatisfactory 22081
under that division unless both of the following have first 22082
occurred: 22083

(a) At least four members of the commission, by their 22084
affirmative vote, have consented to the pursuit of the class 22085
action lawsuit; 22086

(b) At least five members of the commission are present at 22087
the meeting of the commission at which that consent is obtained. 22088

(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
testify in the court. 22121
22122

(I) The legal rights service may conduct public hearings. 22123

(J) The legal rights service may request from any 22124
governmental agency any cooperation, assistance, services, or data 22125
that will enable it to perform its duties. 22126

(K) In any malpractice action filed against the administrator 22127
of the legal rights service, a member of the staff of the legal 22128
rights service, or an attorney designated by the administrator to 22129
perform legal services under division (E) of this section, the 22130
state shall, when the administrator, member, or attorney has acted 22131
in good faith and in the scope of employment, indemnify the 22132
administrator, member, or attorney for any judgment awarded or 22133
amount negotiated in settlement, and for any court costs or legal 22134
fees incurred in defense of the claim. 22135

This division does not limit or waive, and shall not be 22136
construed to limit or waive, any defense that is available to the 22137
legal rights service, its administrator or employees, persons 22138
under a personal services contract with it, or persons designated 22139
under division (E) of this section, including, but not limited to, 22140
any defense available under section 9.86 of the Revised Code. 22141

(L) In addition to providing services to mentally ill, 22142
mentally retarded, or developmentally disabled persons, when a 22143
grant authorizing the provision of services to other individuals 22144
is accepted pursuant to division (F)(4) of this section, the legal 22145
rights service and its ombudsperson section may provide advocacy 22146
or ombudsperson services to those other individuals and exercise 22147
any other authority granted by this section or sections 5123.601 22148
to 5123.604 of the Revised Code on behalf of those individuals. 22149
Determinations of whether an individual is eligible for services 22150
under this division shall be made by the legal rights service. 22151

Sec. 5123.601. (A) As used in sections 5123.601 to 5123.604 22152
of the Revised Code, "provider" means any person or governmental 22153
agency that furnishes one or more services to one or more mentally 22154
retarded, developmentally disabled, or mentally ill persons. 22155

(B) There is hereby created within the legal rights service 22156
the ~~ombudsman~~ ombudsperson section. The administrator of the legal 22157
rights service shall adopt rules in accordance with Chapter 119. 22158
of the Revised Code establishing procedures for receiving 22159
complaints and conducting investigations for the purposes of 22160
resolving and mediating complaints from mentally retarded, 22161
developmentally disabled, or mentally ill persons, their 22162
relatives, their guardians, and interested citizens, public 22163
officials, and governmental agencies or any deficiencies which 22164
come to its attention concerning any activity, practice, policy, 22165
or procedure it determines is adversely affecting or may adversely 22166
affect the health, safety, welfare, and civil or human rights of 22167
any mentally retarded, developmentally disabled, or mentally ill 22168
persons. After initial investigation, the section may decline to 22169
accept any complaint it determines is frivolous, vexatious, or not 22170
made in good faith. The section shall attempt to resolve the 22171
complaint at the lowest appropriate administrative level, unless 22172
otherwise provided by law. The procedures shall require the 22173
section to: 22174

(1) Acknowledge the receipt of a complaint by sending written 22175
notice to the complainant no more than seven days after it 22176
receives the complaint; 22177

(2) When appropriate, provide written notice to the 22178
department of ~~mental retardation and~~ developmental disabilities or 22179
the department of mental health and any other appropriate agency 22180
within seven days after receiving the complaint; 22181

(3) Immediately refer a complaint made under this section to 22182

the department of ~~mental retardation and~~ developmental 22183
disabilities and to any other appropriate governmental agency, 22184
whenever the complaint involves an immediate and substantial 22185
threat to the health or safety of a mentally retarded or 22186
developmentally disabled person, or to the department of mental 22187
health and to any other appropriate governmental agency, whenever 22188
the complaint involves an immediate and substantial threat to the 22189
health or safety of a mentally ill person. The department or an 22190
agency designated by the department shall report its findings and 22191
actions no later than forty-eight hours following its receipt of 22192
the complaint. 22193

(4) Within seven days after identifying a deficiency in the 22194
treatment of a mentally retarded, developmentally disabled, or 22195
mentally ill person that pertains to misconduct, breach of duty, 22196
or noncompliance with state or federal laws, local ordinances, or 22197
rules or regulations adopted under those laws or ordinances that 22198
are administered by a governmental agency, refer the matter in 22199
writing to the appropriate state agency. The state agency shall 22200
report on its actions and findings within seven days of receiving 22201
the matter. 22202

(5) Advise the complainant and any mentally retarded, 22203
developmentally disabled, or mentally ill person mentioned in the 22204
complaint, no more than thirty days after it receives the 22205
complaint, of any action it has taken and of any opinions and 22206
recommendations it has with respect to the complaint. 22207

(6) Attempt to resolve the complaint by using informal 22208
techniques of mediation, conciliation, and persuasion. If the 22209
complaint cannot be resolved by the use of these informal 22210
techniques or if the act, practice, policy, or procedure that is 22211
the subject of the complaint adversely affects the health, safety, 22212
welfare, or civil or human rights of a mentally retarded, 22213
developmentally disabled, or mentally ill person, the section may 22214

recommend to the appropriate authorities or the administrator of 22215
the legal rights service that appropriate actions be taken. 22216

(7) Report its opinions or recommendations to the parties 22217
involved after attempting to resolve a complaint through informal 22218
techniques of mediation, conciliation, or persuasion. The section 22219
may request any party affected by the opinions or recommendations 22220
to notify the section, within a time period specified by the 22221
section, of any action the party has taken on the section's 22222
recommendations. 22223

(C) The section may make public any of its opinions or 22224
recommendations concerning a complaint, the responses of persons 22225
and governmental agencies to its opinions or recommendations, and 22226
any act, practice, policy, or procedure that adversely affects or 22227
may adversely affect the health, safety, welfare, or civil or 22228
human rights of a mentally retarded, developmentally disabled, or 22229
mentally ill person. 22230

(D) The section shall at all times maintain confidentiality 22231
under sections 5123.601 to 5123.604 of the Revised Code concerning 22232
the identities of mentally retarded, developmentally disabled, or 22233
mentally ill persons, complainants, witnesses, and other involved 22234
parties who provide it with information unless the person, in 22235
writing, authorizes the release of the information. 22236

Nothing in this section shall prohibit the legal rights 22237
service from taking appropriate action when the administrator 22238
determines it is necessary. 22239

(E) Whenever information is disclosed indicating the 22240
commission of a crime or a violation of standards of professional 22241
conduct, the legal rights service shall, within seven days of 22242
receiving the complaint or identifying the information during its 22243
investigation, refer the matter to the attorney general, county 22244
prosecutor, other law enforcement official, or regulatory board, 22245

as appropriate, to investigate the crime or violation. The section 22246
may disclose any information permitted by law that is necessary to 22247
resolve the matter referred. The section shall monitor and 22248
maintain records on every matter it refers under this division. 22249

Sec. 5123.602. (A) Except as provided in division (B) of this 22250
section, the ombudsperson section of the legal rights service may, 22251
in order to carry out its duties under this chapter, make 22252
necessary inquiries and obtain information it considers necessary. 22253
Upon receiving a complaint and in the course of conducting an 22254
investigation in accordance with division (B) of section 5123.601 22255
of the Revised Code, the section shall have ready access to the 22256
premises and records of all providers of services to mentally 22257
retarded, developmentally disabled, or mentally ill persons and 22258
shall have the right to communicate in a private and confidential 22259
setting with any mentally retarded, developmentally disabled, or 22260
mentally ill persons, with their parents, guardians, or advocates, 22261
and with employees of any provider. 22262

(B) Records held by community residential facilities, 22263
contract agencies of boards of alcohol, drug addiction, and mental 22264
health services, and contract agencies of county boards of ~~mental~~ 22265
~~retardation~~ and developmental disabilities shall only be 22266
accessible by the ombudsperson section of the legal rights service 22267
in a situation as described in division (E)(5) of section 5123.60 22268
of the Revised Code. 22269
22270

Sec. 5123.604. (A) No one shall take a discriminatory, 22271
disciplinary, or retaliatory action against any officer or 22272
employee of a provider, any mentally retarded, developmentally 22273
disabled, or mentally ill person, the parents or guardian of a 22274
mentally retarded, developmentally disabled, or mentally ill 22275
person, or any volunteer or advocate for a mentally retarded, 22276

developmentally disabled, or mentally ill person, for any 22277
communication these persons make or information they disclose in 22278
good faith to the ombudsperson section of the legal rights 22279
service. 22280

(B) No person shall knowingly interfere with lawful actions 22281
of the ombudsperson section, refuse entry to its representatives, 22282
fail to comply with its lawful demands, or offer any compensation, 22283
gratuity, or promise thereof in an effort to influence the outcome 22284
of any matter being considered by the section. 22285

(C) The department of ~~mental retardation and~~ developmental 22286
disabilities shall immediately notify the ombudsperson section of 22287
all investigations of major unusual incidents or life-threatening 22288
situations, as defined in rules adopted by the department, 22289
involving mentally retarded and developmentally disabled persons, 22290
and shall furnish copies of all relevant reports within 22291
forty-eight hours after receipt. The department of mental health 22292
shall notify the ombudsperson section of all major unusual 22293
incidents or life-threatening situations, as defined in rules 22294
adopted by the department, involving mentally ill persons within 22295
forty-eight hours after receipt of the report of the incident or 22296
situation. The departments of health and job and family services 22297
shall notify the department of ~~mental retardation and~~ 22298
developmental disabilities of all allegations and investigations 22299
of abuse, neglect, or life-threatening situations involving 22300
mentally retarded or developmentally disabled persons. Any other 22301
state agency with information concerning abuse, neglect, or 22302
life-threatening situations involving mentally retarded or 22303
developmentally disabled persons shall report that information 22304
immediately to the department of ~~mental retardation and~~ 22305
developmental disabilities. 22306

Nothing in this section or section 5123.60, 5123.601, or 22307
5123.602 of the Revised Code shall preclude any department or 22308

board, its contract agencies, a community residential facility, or 22309
other governmental entity from carrying out its responsibility as 22310
prescribed by law. 22311

Sec. 5123.61. (A) As used in this section: 22312

(1) "Law enforcement agency" means the state highway patrol, 22313
the police department of a municipal corporation, or a county 22314
sheriff. 22315

(2) "Abuse" has the same meaning as in section 5123.50 of the 22316
Revised Code, except that it includes a misappropriation, as 22317
defined in that section. 22318

(3) "Neglect" has the same meaning as in section 5123.50 of 22319
the Revised Code. 22320

(B) The department of ~~mental retardation and~~ developmental 22321
disabilities shall establish a registry office for the purpose of 22322
maintaining reports of abuse, neglect, and other major unusual 22323
incidents made to the department under this section and reports 22324
received from county boards of ~~mental retardation and~~ 22325
developmental disabilities under section 5126.31 of the Revised 22326
Code. The department shall establish committees to review reports 22327
of abuse, neglect, and other major unusual incidents. 22328

(C)(1) Any person listed in division (C)(2) of this section, 22329
having reason to believe that a person with mental retardation or 22330
a developmental disability has suffered or faces a substantial 22331
risk of suffering any wound, injury, disability, or condition of 22332
such a nature as to reasonably indicate abuse or neglect of that 22333
person, shall immediately report or cause reports to be made of 22334
such information to the entity specified in this division. Except 22335
as provided in section 5120.173 of the Revised Code or as 22336
otherwise provided in this division, the person making the report 22337
shall make it to a law enforcement agency or to the county board 22338

of ~~mental retardation and~~ developmental disabilities. If the 22339
report concerns a resident of a facility operated by the 22340
department of ~~mental retardation and~~ developmental disabilities 22341
the report shall be made either to a law enforcement agency or to 22342
the department. If the report concerns any act or omission of an 22343
employee of a county board of ~~mental retardation and~~ developmental 22344
disabilities, the report immediately shall be made to the 22345
department and to the county board. 22346

(2) All of the following persons are required to make a 22347
report under division (C)(1) of this section: 22348

(a) Any physician, including a hospital intern or resident, 22349
any dentist, podiatrist, chiropractor, practitioner of a limited 22350
branch of medicine as specified in section 4731.15 of the Revised 22351
Code, hospital administrator or employee of a hospital, nurse 22352
licensed under Chapter 4723. of the Revised Code, employee of an 22353
ambulatory health facility as defined in section 5101.61 of the 22354
Revised Code, employee of a home health agency, employee of an 22355
adult care facility licensed under Chapter 3722. of the Revised 22356
Code, or employee of a community mental health facility; 22357

(b) Any school teacher or school authority, social worker, 22358
psychologist, attorney, peace officer, coroner, or residents' 22359
rights advocate as defined in section 3721.10 of the Revised Code; 22360

(c) A superintendent, board member, or employee of a county 22361
board of ~~mental retardation and~~ developmental disabilities; an 22362
administrator, board member, or employee of a residential facility 22363
licensed under section 5123.19 of the Revised Code; an 22364
administrator, board member, or employee of any other public or 22365
private provider of services to a person with mental retardation 22366
or a developmental disability, or any MR/DD employee, as defined 22367
in section 5123.50 of the Revised Code; 22368

(d) A member of a citizen's advisory council established at 22369

an institution or branch institution of the department of ~~mental~~ 22370
~~retardation and~~ developmental disabilities under section 5123.092 22371
of the Revised Code; 22372

(e) A clergyman who is employed in a position that includes 22373
providing specialized services to an individual with mental 22374
retardation or another developmental disability, while acting in 22375
an official or professional capacity in that position, or a person 22376
who is employed in a position that includes providing specialized 22377
services to an individual with mental retardation or another 22378
developmental disability and who, while acting in an official or 22379
professional capacity, renders spiritual treatment through prayer 22380
in accordance with the tenets of an organized religion. 22381

(3)(a) The reporting requirements of this division do not 22382
apply to members of the legal rights service commission or to 22383
employees of the legal rights service. 22384

(b) An attorney or physician is not required to make a report 22385
pursuant to division (C)(1) of this section concerning any 22386
communication the attorney or physician receives from a client or 22387
patient in an attorney-client or physician-patient relationship, 22388
if, in accordance with division (A) or (B) of section 2317.02 of 22389
the Revised Code, the attorney or physician could not testify with 22390
respect to that communication in a civil or criminal proceeding, 22391
except that the client or patient is deemed to have waived any 22392
testimonial privilege under division (A) or (B) of section 2317.02 22393
of the Revised Code with respect to that communication and the 22394
attorney or physician shall make a report pursuant to division 22395
(C)(1) of this section, if both of the following apply: 22396

(i) The client or patient, at the time of the communication, 22397
is a person with mental retardation or a developmental disability. 22398

(ii) The attorney or physician knows or suspects, as a result 22399
of the communication or any observations made during that 22400

communication, that the client or patient has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(4) Any person who fails to make a report required under division (C) of this section and who is an MR/DD employee, as defined in section 5123.50 of the Revised Code, shall be eligible to be included in the registry regarding misappropriation, abuse, neglect, or other specified misconduct by MR/DD employees established under section 5123.52 of the Revised Code.

(D) The reports required under division (C) of this section shall be made forthwith by telephone or in person and shall be followed by a written report. The reports shall contain the following:

(1) The names and addresses of the person with mental retardation or a developmental disability and the person's custodian, if known;

(2) The age of the person with mental retardation or a developmental disability;

(3) Any other information that would assist in the investigation of the report.

(E) When a physician performing services as a member of the staff of a hospital or similar institution has reason to believe that a person with mental retardation or a developmental disability has suffered injury, abuse, or physical neglect, the physician shall notify the person in charge of the institution or that person's designated delegate, who shall make the necessary reports.

(F) Any person having reasonable cause to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering abuse or neglect

may report or cause a report to be made of that belief to the 22432
entity specified in this division. Except as provided in section 22433
5120.173 of the Revised Code or as otherwise provided in this 22434
division, the person making the report shall make it to a law 22435
enforcement agency or the county board of ~~mental retardation and~~ 22436
developmental disabilities. If the person is a resident of a 22437
facility operated by the department of ~~mental retardation and~~ 22438
developmental disabilities, the report shall be made to a law 22439
enforcement agency or to the department. If the report concerns 22440
any act or omission of an employee of a county board of ~~mental~~ 22441
~~retardation and~~ developmental disabilities, the report immediately 22442
shall be made to the department and to the county board. 22443

(G)(1) Upon the receipt of a report concerning the possible 22444
abuse or neglect of a person with mental retardation or a 22445
developmental disability, the law enforcement agency shall inform 22446
the county board of ~~mental retardation and~~ developmental 22447
disabilities or, if the person is a resident of a facility 22448
operated by the department of ~~mental retardation and~~ developmental 22449
disabilities, the director of the department or the director's 22450
designee. 22451

(2) On receipt of a report under this section that includes 22452
an allegation of action or inaction that may constitute a crime 22453
under federal law or the law of this state, the department of 22454
~~mental retardation and~~ developmental disabilities shall notify the 22455
law enforcement agency. 22456

(3) When a county board of ~~mental retardation and~~ 22457
developmental disabilities receives a report under this section 22458
that includes an allegation of action or inaction that may 22459
constitute a crime under federal law or the law of this state, the 22460
superintendent of the board or an individual the superintendent 22461
designates under division (H) of this section shall notify the law 22462
enforcement agency. The superintendent or individual shall notify 22463

the department of ~~mental retardation and~~ developmental 22464
disabilities when it receives any report under this section. 22465

(4) When a county board of ~~mental retardation and~~ 22466
developmental disabilities receives a report under this section 22467
and believes that the degree of risk to the person is such that 22468
the report is an emergency, the superintendent of the board or an 22469
employee of the board the superintendent designates shall attempt 22470
a face-to-face contact with the person with mental retardation or 22471
a developmental disability who allegedly is the victim within one 22472
hour of the board's receipt of the report. 22473

(H) The superintendent of the board may designate an 22474
individual to be responsible for notifying the law enforcement 22475
agency and the department when the county board receives a report 22476
under this section. 22477

(I) An adult with mental retardation or a developmental 22478
disability about whom a report is made may be removed from the 22479
adult's place of residence only by law enforcement officers who 22480
consider that the adult's immediate removal is essential to 22481
protect the adult from further injury or abuse or in accordance 22482
with the order of a court made pursuant to section 5126.33 of the 22483
Revised Code. 22484

(J) A law enforcement agency shall investigate each report of 22485
abuse or neglect it receives under this section. In addition, the 22486
department, in cooperation with law enforcement officials, shall 22487
investigate each report regarding a resident of a facility 22488
operated by the department to determine the circumstances 22489
surrounding the injury, the cause of the injury, and the person 22490
responsible. The investigation shall be in accordance with the 22491
memorandum of understanding prepared under section 5126.058 of the 22492
Revised Code. The department shall determine, with the registry 22493
office which shall be maintained by the department, whether prior 22494
reports have been made concerning an adult with mental retardation 22495

or a developmental disability or other principals in the case. If 22496
the department finds that the report involves action or inaction 22497
that may constitute a crime under federal law or the law of this 22498
state, it shall submit a report of its investigation, in writing, 22499
to the law enforcement agency. If the person with mental 22500
retardation or a developmental disability is an adult, with the 22501
consent of the adult, the department shall provide such protective 22502
services as are necessary to protect the adult. The law 22503
enforcement agency shall make a written report of its findings to 22504
the department. 22505

If the person is an adult and is not a resident of a facility 22506
operated by the department, the county board of ~~mental retardation~~ 22507
~~and~~ developmental disabilities shall review the report of abuse or 22508
neglect in accordance with sections 5126.30 to 5126.33 of the 22509
Revised Code and the law enforcement agency shall make the written 22510
report of its findings to the county board. 22511

(K) Any person or any hospital, institution, school, health 22512
department, or agency participating in the making of reports 22513
pursuant to this section, any person participating as a witness in 22514
an administrative or judicial proceeding resulting from the 22515
reports, or any person or governmental entity that discharges 22516
responsibilities under sections 5126.31 to 5126.33 of the Revised 22517
Code shall be immune from any civil or criminal liability that 22518
might otherwise be incurred or imposed as a result of such actions 22519
except liability for perjury, unless the person or governmental 22520
entity has acted in bad faith or with malicious purpose. 22521

(L) No employer or any person with the authority to do so 22522
shall discharge, demote, transfer, prepare a negative work 22523
performance evaluation, reduce pay or benefits, terminate work 22524
privileges, or take any other action detrimental to an employee or 22525
retaliate against an employee as a result of the employee's having 22526
made a report under this section. This division does not preclude 22527

an employer or person with authority from taking action with 22528
regard to an employee who has made a report under this section if 22529
there is another reasonable basis for the action. 22530

(M) Reports made under this section are not public records as 22531
defined in section 149.43 of the Revised Code. Information 22532
contained in the reports on request shall be made available to the 22533
person who is the subject of the report, to the person's legal 22534
counsel, and to agencies authorized to receive information in the 22535
report by the department or by a county board of ~~mental~~ 22536
~~retardation and~~ developmental disabilities. 22537

(N) Notwithstanding section 4731.22 of the Revised Code, the 22538
physician-patient privilege shall not be a ground for excluding 22539
evidence regarding the injuries or physical neglect of a person 22540
with mental retardation or a developmental disability or the cause 22541
thereof in any judicial proceeding resulting from a report 22542
submitted pursuant to this section. 22543

Sec. 5123.611. (A) As used in this section, "MR/DD employee" 22544
means all of the following: 22545

(1) An employee of the department of ~~mental retardation and~~ 22546
developmental disabilities; 22547

(2) An employee of a county board of ~~mental retardation and~~ 22548
developmental disabilities; 22549

(3) An employee in a position that includes providing 22550
specialized services, as defined in section 5123.50 of the Revised 22551
Code, to an individual with mental retardation or a developmental 22552
disability. 22553

(B) At the conclusion of a review of a report of abuse, 22554
neglect, or a major unusual incident that is conducted by a review 22555
committee established pursuant to section 5123.61 of the Revised 22556
Code, the committee shall issue recommendations to the department. 22557

The department shall review the committee's recommendations and 22558
issue a report of its findings. The department shall make the 22559
report available to all of the following: 22560

(1) The individual with mental retardation or a developmental 22561
disability who is the subject of the report; 22562

(2) That individual's guardian or legal counsel; 22563

(3) The licensee, as defined in section 5123.19 of the 22564
Revised Code, of a residential facility in which the individual 22565
resides; 22566

(4) The employer of any MR/DD employee who allegedly 22567
committed or was responsible for the abuse, neglect, or major 22568
unusual incident. 22569

(C) Except as provided in this section, the department shall 22570
not disclose its report to any person or government entity that is 22571
not authorized to investigate reports of abuse, neglect, or other 22572
major unusual incidents, unless the individual with mental 22573
retardation or a developmental disability who is the subject of 22574
the report or the individual's guardian gives the department 22575
written consent. 22576

Sec. 5123.612. The director of ~~mental retardation and~~ 22577
developmental disabilities shall adopt rules in accordance with 22578
Chapter 119. of the Revised Code regarding the reporting of major 22579
unusual incidents and unusual incidents concerning persons with 22580
mental retardation or a developmental disability. The rules shall 22581
specify what constitutes a major unusual incident or an unusual 22582
incident. 22583

Sec. 5123.613. (A) When a person who is the subject of a 22584
report under section 5123.61 of the Revised Code dies, the 22585
department of ~~mental retardation and~~ developmental disabilities or 22586
the county board of ~~mental retardation and~~ developmental 22587

disabilities, whichever is applicable, shall, on written request, 22588
provide to both of the following persons the report and any 22589
records relating to the report: 22590

(1) If the report or records are necessary to administer the 22591
estate of the person who is the subject of the report, to the 22592
executor or administrator of the person's estate; 22593

(2) To the guardian of the person who is the subject of the 22594
report or, if the individual had no guardian at the time of death, 22595
to a person in the first applicable of the following categories: 22596

(a) The person's spouse; 22597

(b) The person's children; 22598

(c) The person's parents; 22599

(d) The person's brothers or sisters; 22600

(e) The person's uncles or aunts; 22601

(f) The person's closest relative by blood or adoption; 22602

(g) The person's closest relative by marriage. 22603

(B) The department or county board shall provide the report 22604
and related records as required by this section not later than 22605
thirty days after receipt of the request. 22606

Sec. 5123.614. (A) Subject to division (B) of this section, 22607
on receipt of a report of a major unusual incident made pursuant 22608
to section 5123.61 or 5126.31 of the Revised Code or rules adopted 22609
under section 5123.612 of the Revised Code, the department of 22610
~~mental retardation and~~ developmental disabilities may do either of 22611
the following: 22612

(1) Conduct an independent review or investigation of the 22613
incident; 22614

(2) Request that an independent review or investigation of 22615

the incident be conducted by a county board of ~~mental retardation~~ 22616
~~and~~ developmental disabilities that is not implicated in the 22617
report, a regional council of government, or any other entity 22618
authorized to conduct such investigations. 22619

(B) If a report described in division (A) of this section 22620
concerning the health or safety of a person with mental 22621
retardation or a developmental disability involves an allegation 22622
that an employee of a county board of ~~mental retardation and~~ 22623
developmental disabilities has created a substantial risk of 22624
serious physical harm to a person with mental retardation or a 22625
developmental disability, the department shall do one of the 22626
following: 22627

(1) Conduct an independent investigation regarding the 22628
incident; 22629

(2) Request that an independent review or investigation of 22630
the incident be conducted by a county board of ~~mental retardation~~ 22631
~~and~~ developmental disabilities that is not implicated in the 22632
report, a regional council of government, or any other entity 22633
authorized to conduct such investigations. 22634

Sec. 5123.63. Every state agency, county board of ~~mental~~ 22635
~~retardation and~~ developmental disabilities, or political 22636
subdivision that provides services, either directly or through a 22637
contract, to persons with mental retardation or a developmental 22638
disability shall give each provider a copy of the list of rights 22639
contained in section 5123.62 of the Revised Code. Each public and 22640
private provider of services shall carry out the requirements of 22641
this section in addition to any other posting or notification 22642
requirements imposed by local, state, or federal law or rules. 22643

The provider shall make copies of the list of rights and 22644
shall be responsible for an initial distribution of the list to 22645
each individual receiving services from the provider. If the 22646

individual is unable to read the list, the provider shall 22647
communicate the contents of the list to the individual to the 22648
extent practicable in a manner that the individual understands. 22649
The individual receiving services or the parent, guardian, or 22650
advocate of the individual shall sign an acknowledgement of 22651
receipt of a copy of the list of rights, and a copy of the signed 22652
acknowledgement shall be placed in the individual's file. The 22653
provider shall also be responsible for answering any questions and 22654
giving any explanations necessary to assist the individual to 22655
understand the rights enumerated. Instruction in these rights 22656
shall be documented. 22657

Each provider shall make available to all persons receiving 22658
services and all employees and visitors a copy of the list of 22659
rights and the addresses and telephone numbers of the legal rights 22660
service, the department of ~~mental retardation and~~ developmental 22661
disabilities, and the county board of ~~mental retardation and~~ 22662
developmental disabilities of the county in which the provider 22663
provides services. 22664

Sec. 5123.64. (A) Every provider of services to persons with 22665
mental retardation or a developmental disability shall establish 22666
policies and programs to ensure that all staff members are 22667
familiar with the rights enumerated in section 5123.62 of the 22668
Revised Code and observe those rights in their contacts with 22669
persons receiving services. Any policy, procedure, or rule of the 22670
provider that conflicts with any of the rights enumerated shall be 22671
null and void. Every provider shall establish written procedures 22672
for resolving complaints of violations of those rights. A copy of 22673
the procedures shall be provided to any person receiving services 22674
or to any parent, guardian, or advocate of a person receiving 22675
services. 22676

(B) Any person with mental retardation or a developmental 22677

disability who believes that the person's rights as enumerated in 22678
section 5123.62 of the Revised Code have been violated may: 22679

(1) Bring the violation to the attention of the provider for 22680
resolution; 22681

(2) Report the violation to the department of ~~mental~~ 22682
~~retardation and~~ developmental disabilities, the ombudsperson 22683
section of the legal rights service, or the appropriate county 22684
board of ~~mental retardation and~~ developmental disabilities; 22685

(3) Take any other appropriate action to ensure compliance 22686
with sections 5123.60 to 5123.64 of the Revised Code, including 22687
the filing of a legal action to enforce rights or to recover 22688
damages for violation of rights. 22689

Sec. 5123.65. In addition to the rights specified in section 22690
5123.62 of the Revised Code, individuals with mental retardation 22691
and developmental disabilities who can safely self-administer 22692
medication or receive assistance with self-administration of 22693
medication have the right to self-administer medication or receive 22694
assistance with the self-administration of medication. The 22695
department of ~~mental retardation and~~ developmental disabilities 22696
shall adopt rules as it considers necessary to implement and 22697
enforce this section. The rules shall be adopted in accordance 22698
with Chapter 119. of the Revised Code. 22699

Sec. 5123.71. (A)(1) Proceedings for the involuntary 22700
institutionalization of a person pursuant to sections 5123.71 to 22701
5123.76 of the Revised Code shall be commenced by the filing of an 22702
affidavit with the probate division of the court of common pleas 22703
of the county where the person resides or where the person is 22704
institutionalized, in the manner and form prescribed by the 22705
department of ~~mental retardation and~~ developmental disabilities 22706
either on information or actual knowledge, whichever is determined 22707

to be proper by the court. The affidavit may be filed only by a 22708
person who has custody of the individual as a parent, guardian, or 22709
service provider or by a person acting on behalf of the department 22710
or a county board of ~~mental retardation and~~ developmental 22711
disabilities. This section does not apply regarding the 22712
institutionalization of a person pursuant to section 2945.39, 22713
2945.40, 2945.401, or 2945.402 of the Revised Code. 22714

The affidavit shall contain an allegation setting forth the 22715
specific category or categories under division (O) of section 22716
5123.01 of the Revised Code upon which the commencement of 22717
proceedings is based and a statement of the factual ground for the 22718
belief that the person is a mentally retarded person subject to 22719
institutionalization by court order. Except as provided in 22720
division (A)(2) of this section, the affidavit shall be 22721
accompanied by both of the following: 22722

(a) A comprehensive evaluation report prepared by the 22723
person's evaluation team that includes a statement by the members 22724
of the team certifying that they have performed a comprehensive 22725
evaluation of the person and that they are of the opinion that the 22726
person is a mentally retarded person subject to 22727
institutionalization by court order; 22728

(b) An assessment report prepared by the county board of 22729
~~mental retardation and~~ developmental disabilities under section 22730
5123.711 of the Revised Code specifying that the individual is in 22731
need of services on an emergency or priority basis. 22732

(2) In lieu of the comprehensive evaluation report, the 22733
affidavit may be accompanied by a written and sworn statement that 22734
the person or the guardian of a person adjudicated incompetent has 22735
refused to allow a comprehensive evaluation and county board 22736
assessment and assessment reports. Immediately after accepting an 22737
affidavit that is not accompanied by the reports of a 22738
comprehensive evaluation and county board assessment, the court 22739

shall cause a comprehensive evaluation and county board assessment 22740
of the person named in the affidavit to be performed. The 22741
evaluation shall be conducted in the least restrictive environment 22742
possible and the assessment shall be conducted in the same manner 22743
as assessments conducted under section 5123.711 of the Revised 22744
Code. The evaluation and assessment must be completed before a 22745
probable cause hearing or full hearing may be held under section 22746
5123.75 or 5123.76 of the Revised Code. 22747

A written report of the evaluation team's findings and the 22748
county board's assessment shall be filed with the court. The 22749
reports shall, consistent with the rules of evidence, be accepted 22750
as probative evidence in any proceeding under section 5123.75 or 22751
5123.76 of the Revised Code. If the counsel for the person who is 22752
evaluated or assessed is known, the court shall send to the 22753
counsel a copy of the reports as soon as possible after they are 22754
filed and prior to any proceedings under section 5123.75 or 22755
5123.76 of the Revised Code. 22756

(B) Any person who is involuntarily detained in an 22757
institution or otherwise is in custody under this chapter shall be 22758
informed of the right to do the following: 22759

(1) Immediately make a reasonable number of telephone calls 22760
or use other reasonable means to contact an attorney, a physician, 22761
or both, to contact any other person or persons to secure 22762
representation by counsel, or to obtain medical assistance, and be 22763
provided assistance in making calls if the assistance is needed 22764
and requested; 22765

(2) Retain counsel and have independent expert evaluation 22766
and, if the person is an indigent person, be represented by 22767
court-appointed counsel and have independent expert evaluation at 22768
court expense; 22769

(3) Upon request, have a hearing to determine whether there 22770

is probable cause to believe that the person is a mentally 22771
retarded person subject to institutionalization by court order. 22772

(C) No person who is being treated by spiritual means through 22773
prayer alone in accordance with a recognized religious method of 22774
healing may be ordered detained or involuntarily committed unless 22775
the court has determined that the person represents a very 22776
substantial risk of self-impairment, self-injury, or impairment or 22777
injury to others. 22778

Sec. 5123.711. (A) As used in this section: 22779

(1) "Emergency" means either of the following that creates a 22780
risk of substantial harm to an individual or others if action is 22781
not taken within thirty days: 22782

(a) Health and safety conditions that pose a serious risk of 22783
immediate harm or death to the individual or others; 22784

(b) Changes in the emotional or physical condition of an 22785
individual that necessitates substantial accommodation that cannot 22786
reasonably be provided by the individual's existing caretaker. 22787

(2) "Priority" means a situation creating a risk of 22788
substantial harm to an individual or others, but for which action 22789
within thirty days is not necessary. 22790

(3) "Resources" has the same meaning as in section 5126.01 of 22791
the Revised Code. 22792

(B) Prior to filing an affidavit under section 5123.71 of the 22793
Revised Code for the involuntary institutionalization of an 22794
individual, a person who is eligible to file under that section 22795
and intends to do so shall request that the county board of ~~mental~~ 22796
~~retardation and~~ developmental disabilities conduct an assessment 22797
of the individual's needs. Not later than thirty days after the 22798
date a request is received, the board shall complete the 22799
assessment and provide to the person a report of its findings and 22800

recommendations. The report shall be delivered by certified mail. 22801

Within three working days after receiving a request for an 22802
assessment, the board shall notify the department of ~~mental~~ 22803
~~retardation and~~ developmental disabilities that the request has 22804
been made and that there is the potential for court-ordered 22805
institutionalization of an individual. The department may provide 22806
assistance to the board in the performance of the assessment. 22807

(C) The board's assessment of an individual's needs shall 22808
include the following: 22809

(1) A determination of the current needs of the individual, 22810
including an appropriate plan for services; 22811

(2) A determination of whether the community is the least 22812
restrictive environment in which the individual may be 22813
appropriately served; 22814

(3) A determination of whether the individual meets the 22815
conditions for assistance on an emergency or priority basis; 22816

(4) Identification of available resources to meet the 22817
individual's needs, including service providers with the 22818
capability of appropriately meeting those needs, special ancillary 22819
services, and moneys to pay for the services necessary to meet the 22820
individual's needs within the community rather than in a state 22821
institution. 22822

(D) If the board's assessment of an individual identifies 22823
that county resources are available to meet the individual's needs 22824
in the community, the board shall provide services to the 22825
individual or arrange for the provision of services. If county 22826
resources are not available, the board shall petition the 22827
department of ~~mental retardation and~~ developmental disabilities 22828
for necessary resources that may be available from the department. 22829

Sec. 5123.72. ~~Except as provided in division (B) of this~~ 22830

~~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 22859
person named in the affidavit is a mentally retarded person 22860
subject to institutionalization by court order and that emergency 22861
institutionalization is required, do any of the following: 22862

(1) Issue a temporary order of detention ordering any health 22863
or police officer or sheriff to take into custody and transport 22864
such person to an institution or other place as designated in 22865
section 5123.77 of the Revised Code; 22866

(2) Order the county board of ~~mental retardation and~~ 22867
developmental disabilities to provide services to the individual 22868
in the community if the board's assessment of the individual 22869
conducted under section 5123.711 of the Revised Code identifies 22870
that resources are available to meet the individual's needs in an 22871
appropriate manner within the community as an alternative to 22872
institutionalization; 22873

(3) Set the matter for further hearing. 22874

(B) A managing officer of a nonpublic institution may, and 22875
the managing officer of a public institution shall, receive for 22876
observation, diagnosis, habilitation, and care any person whose 22877
admission is ordered pursuant to division (A)(1) of this section. 22878

The alternatives to institutionalization that may be ordered 22879
under division (A)(2) of this section are limited to those that 22880
are necessary to remediate the emergency condition; necessary for 22881
the person's health, safety or welfare; and necessary for the 22882
protection of society, if applicable. 22883

(C) A person detained under this section may be observed and 22884
habilitated until the probable cause hearing provided for in 22885
section 5123.75 of the Revised Code. If no probable cause hearing 22886
is requested or held, the person may be evaluated and shall be 22887
provided with habilitative services until the full hearing is held 22888
pursuant to section 5123.76 of the Revised Code. 22889

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 reinstated 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 22921
counsel and for good cause shown, the court may order a 22922
continuance of the hearing. 22923

(F) If the court finds probable cause to believe that the 22924
respondent is a mentally retarded person subject to 22925
institutionalization by court order, the court may issue an 22926
interim order of placement and, where proceedings under section 22927
5123.71 of the Revised Code have been instituted, shall order a 22928
full hearing as provided in section 5123.76 of the Revised Code to 22929
be held on the question of whether the respondent is a mentally 22930
retarded person subject to institutionalization by court order. 22931
Unless specifically waived by the respondent or the respondent's 22932
counsel, the court shall schedule said hearing to be held as soon 22933
as possible within ten days from the probable cause hearing. A 22934
waiver of such full hearing at this point shall not preclude the 22935
respondent from asserting the respondent's right to such hearing 22936
under section 5123.76 of the Revised Code at any time prior to the 22937
mandatory hearing provided in division (H) of section 5123.76 of 22938
the Revised Code. In any case, if the respondent has waived ~~his~~ 22939
the right to the full hearing, a mandatory hearing shall be held 22940
under division (H) of section 5123.76 of the Revised Code between 22941
the ninetieth and the one hundredth day after the original 22942
involuntary detention of the person unless the respondent has been 22943
discharged. 22944

(G) Whenever possible, the probable cause hearing shall be 22945
held before the respondent is taken into custody. 22946

Sec. 5123.76. (A) The full hearing shall be conducted in a 22947
manner consistent with the procedures outlined in this chapter and 22948
with due process of law. The hearing shall be held by a judge of 22949
the probate division or, upon transfer by the judge of the probate 22950
division, by another judge of the court of common pleas, or a 22951

referee designated by the judge of the probate division. Any 22952
referee designated by the judge of the probate division must be an 22953
attorney. 22954

(1) The following shall be made available to counsel for the 22955
respondent: 22956

(a) All relevant documents, information, and evidence in the 22957
custody or control of the state or prosecutor; 22958

(b) All relevant documents, information, and evidence in the 22959
custody or control of the institution, facility, or program in 22960
which the respondent currently is held or in which the respondent 22961
has been held pursuant to these proceedings; 22962

(c) With the consent of the respondent, all relevant 22963
documents, information, and evidence in the custody or control of 22964
any institution or person other than the state. 22965

(2) The respondent has the right to be represented by counsel 22966
of the respondent's choice and has the right to attend the hearing 22967
except if unusual circumstances of compelling medical necessity 22968
exist that render the respondent unable to attend and the 22969
respondent has not expressed a desire to attend. 22970

(3) If the respondent is not represented by counsel and the 22971
court determines that the conditions specified in division (A)(2) 22972
of this section justify the respondent's absence and the right to 22973
counsel has not been validly waived, the court shall appoint 22974
counsel forthwith to represent the respondent at the hearing, 22975
reserving the right to tax costs of appointed counsel to the 22976
respondent unless it is shown that the respondent is indigent. If 22977
the court appoints counsel, or if the court determines that the 22978
evidence relevant to the respondent's absence does not justify the 22979
absence, the court shall continue the case. 22980

(4) The respondent shall be informed of the right to retain 22981
counsel, to have independent expert evaluation, and, if an 22982

indigent person, to be represented by court appointed counsel and 22983
have expert independent evaluation at court expense. 22984

(5) The hearing may be closed to the public unless counsel 22985
for the respondent requests that the hearing be open to the 22986
public. 22987

(6) Unless objected to by the respondent, the respondent's 22988
counsel, or the designee of the director of ~~mental retardation and~~ 22989
developmental disabilities, the court, for good cause shown, may 22990
admit persons having a legitimate interest in the proceedings. 22991

(7) The affiant under section 5123.71 of the Revised Code 22992
shall be subject to subpoena by either party. 22993

(8) The court shall examine the sufficiency of all documents 22994
filed and shall inform the respondent, if present, and the 22995
respondent's counsel of the nature of the content of the documents 22996
and the reason for which the respondent is being held or for which 22997
the respondent's placement is being sought. 22998

(9) The court shall receive only relevant, competent, and 22999
material evidence. 23000

(10) The designee of the director shall present the evidence 23001
for the state. In proceedings under this chapter, the attorney 23002
general shall present the comprehensive evaluation, assessment, 23003
diagnosis, prognosis, record of habilitation and care, if any, and 23004
less restrictive habilitation plans, if any. The attorney general 23005
does not have a similar presentation responsibility in connection 23006
with a person who has been found not guilty by reason of insanity 23007
and who is the subject of a hearing under section 2945.40 of the 23008
Revised Code to determine whether the person is a mentally 23009
retarded person subject to institutionalization by court order. 23010

(11) The respondent has the right to testify and the 23011
respondent or the respondent's counsel has the right to subpoena 23012
witnesses and documents and to present and cross-examine 23013

witnesses. 23014

(12) The respondent shall not be compelled to testify and shall be so advised by the court. 23015
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(13) On motion of the respondent or the respondent's counsel for good cause shown, or upon the court's own motion, the court may order a continuance of the hearing. 23017
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(14) To an extent not inconsistent with this chapter, the Rules of Civil Procedure shall be applicable. 23020
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(B) Unless, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent named in the affidavit is a mentally retarded person subject to institutionalization by court order, it shall order the respondent's discharge forthwith. 23022
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(C) If, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent is a mentally retarded person subject to institutionalization by court order, the court may order the respondent's discharge or order the respondent, for a period not to exceed ninety days, to any of the following: 23027
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(1) A public institution, provided that commitment of the respondent to the institution will not cause the institution to exceed its licensed capacity determined in accordance with section 5123.19 of the Revised Code and provided that such a placement is indicated by the comprehensive evaluation report filed pursuant to section 5123.71 of the Revised Code; 23033
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(2) A private institution; 23039

(3) A county mental retardation program; 23040

(4) Receive private habilitation and care; 23041

(5) Any other suitable facility, program, or the care of any person consistent with the comprehensive evaluation, assessment, 23042
23043

diagnosis, prognosis, and habilitation needs of the respondent. 23044

(D) Any order made pursuant to division (C)(2), (4), or (5) 23045
of this section shall be conditional upon the receipt by the court 23046
of consent by the facility, program, or person to accept the 23047
respondent. 23048

(E) In determining the place to which, or the person with 23049
whom, the respondent is to be committed, the court shall consider 23050
the comprehensive evaluation, assessment, diagnosis, and projected 23051
habilitation plan for the respondent, and shall order the 23052
implementation of the least restrictive alternative available and 23053
consistent with habilitation goals. 23054

(F) If, at any time it is determined by the director of the 23055
facility or program to which, or the person to whom, the 23056
respondent is committed that the respondent could be equally well 23057
habilitated in a less restrictive environment that is available, 23058
the following shall occur: 23059

(1) The respondent shall be released by the director of the 23060
facility or program or by the person forthwith and referred to the 23061
court together with a report of the findings and recommendations 23062
of the facility, program, or person. 23063

(2) The director of the facility or program or the person 23064
shall notify the respondent's counsel and the designee of the 23065
director of ~~mental retardation and~~ developmental disabilities. 23066

(3) The court shall dismiss the case or order placement in 23067
the less restrictive environment. 23068

(G)(1) Except as provided in divisions (G)(2) and (3) of this 23069
section, any person who has been committed under this section may 23070
apply at any time during the ninety-day period for voluntary 23071
admission to an institution under section 5123.69 of the Revised 23072
Code. Upon admission of a voluntary resident, the managing officer 23073
immediately shall notify the court, the respondent's counsel, and 23074

the designee of the director in writing of that fact by mail or 23075
otherwise, and, upon receipt of the notice, the court shall 23076
dismiss the case. 23077

(2) A person who is found incompetent to stand trial or not 23078
guilty by reason of insanity and who is committed pursuant to 23079
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 23080
Code shall not be voluntarily admitted to an institution pursuant 23081
to division (G)(1) of this section until after the termination of 23082
the commitment, as described in division (J) of section 2945.401 23083
of the Revised Code. 23084

(H) If, at the end of any commitment period, the respondent 23085
has not already been discharged or has not requested voluntary 23086
admission status, the director of the facility or program, or the 23087
person to whose care the respondent has been committed, shall 23088
discharge the respondent forthwith, unless at least ten days 23089
before the expiration of that period the designee of the director 23090
of ~~mental retardation and~~ developmental disabilities or the 23091
prosecutor files an application with the court requesting 23092
continued commitment. 23093

(1) An application for continued commitment shall include a 23094
written report containing a current comprehensive evaluation and 23095
assessment, a diagnosis, a prognosis, an account of progress and 23096
past habilitation, and a description of alternative habilitation 23097
settings and plans, including a habilitation setting that is the 23098
least restrictive setting consistent with the need for 23099
habilitation. A copy of the application shall be provided to 23100
respondent's counsel. The requirements for notice under section 23101
5123.73 of the Revised Code and the provisions of divisions (A) to 23102
(E) of this section apply to all hearings on such applications. 23103

(2) A hearing on the first application for continued 23104
commitment shall be held at the expiration of the first ninety-day 23105
period. The hearing shall be mandatory and may not be waived. 23106

(3) Subsequent periods of commitment not to exceed one hundred eighty days each may be ordered by the court if the designee of the director of ~~mental retardation and~~ developmental disabilities files an application for continued commitment, after a hearing is held on the application or without a hearing if no hearing is requested and no hearing required under division (H)(4) of this section is waived. Upon the application of a person involuntarily committed under this section, supported by an affidavit of a licensed physician alleging that the person is no longer a mentally retarded person subject to institutionalization by court order, the court for good cause shown may hold a full hearing on the person's continued commitment prior to the expiration of any subsequent period of commitment set by the court.

(4) A mandatory hearing shall be held at least every two years after the initial commitment.

(5) If the court, after a hearing upon a request to continue commitment, finds that the respondent is a mentally retarded person subject to institutionalization by court order, the court may make an order pursuant to divisions (C), (D), and (E) of this section.

(I) Notwithstanding the provisions of division (H) of this section, no person who is found to be a mentally retarded person subject to institutionalization by court order pursuant to division (O)(2) of section 5123.01 of the Revised Code shall be held under involuntary commitment for more than five years.

(J) The managing officer admitting a person pursuant to a judicial proceeding, within ten working days of the admission, shall make a report of the admission to the department.

Sec. 5123.801. If neither a discharged resident, nor a resident granted trial visit, nor the persons requesting the

resident's trial visit or discharge are financially able to bear 23138
the expense of the resident's trial visit or discharge, the 23139
managing officer of an institution under the control of the 23140
department of ~~mental retardation and~~ developmental disabilities 23141
may then provide actual traveling and escort expenses to the 23142
township of which the resident resided at the time of 23143
institutionalization. The amount payable shall be charged to the 23144
current expense fund of the institution. 23145

The expense of the return of a resident on trial visit from 23146
an institution, if it cannot be paid by the responsible relatives, 23147
shall be borne by the county of institutionalization. 23148

The managing officer of the institution shall provide 23149
sufficient and proper clothing for traveling if neither the 23150
resident nor the persons requesting the resident's trial visit or 23151
discharge are financially able to provide that clothing. 23152

Sec. 5123.81. When an involuntarily committed resident of an 23153
institution for the mentally retarded is absent without leave, an 23154
order shall be issued within five days after ~~his~~ the resident's 23155
absence requiring the resident to be taken into custody by any 23156
health or police officer, or sheriff and transported to the 23157
institution from which the resident is absent. The order may be 23158
issued by the director of ~~mental retardation and~~ developmental 23159
disabilities, the managing officer of the institution from which 23160
the resident is absent, or the probate judge of the county from 23161
which the resident was ordered institutionalized or in which he is 23162
found. The officer who takes the resident into custody shall 23163
immediately notify the issuer of the order. 23164

Sec. 5123.811. The managing officer of an institution under 23165
the control of the department of ~~mental retardation and~~ 23166
developmental disabilities shall immediately report the removal, 23167

death, absence without leave, discharge, or trial visit of any 23168
resident, or return of an absent without leave or visiting 23169
resident to the department, the probate judge of the county from 23170
which such resident was institutionalized, and the probate judge 23171
of the county of the residence of such resident. In case of death, 23172
the managing officer shall also notify one or more of the nearest 23173
relatives of the deceased resident, if known to ~~him~~ the managing 23174
officer, by letter, telegram, or telephone. If the place of 23175
residence of such relative is unknown to the managing officer, 23176
immediately upon receiving notification, the probate judge shall 23177
in the speediest manner possible notify such relatives, if known 23178
to ~~him~~ the probate judge. 23179

The managing officer of the institution shall, upon the 23180
request of the probate judge of the county from which such 23181
resident was institutionalized or the probate judge of the county 23182
of the residence of such resident, make a report to such judge of 23183
the condition of any resident under the care, treatment, custody, 23184
or control of such managing officer. 23185

Sec. 5123.82. (A) Any person who has been institutionalized 23186
under this chapter may, at any time after discharge from such 23187
institution, make application to the managing officer of any 23188
public institution for habilitation and care if such person feels 23189
~~he~~ the person is in need of such services. If the chief program 23190
director determines the applicant to be in need of such services, 23191
the managing officer may provide such services as are required by 23192
the applicant. 23193

(B) Any person may apply to the managing officer of any 23194
public institution for habilitation and care if such person feels 23195
~~he~~ the person is in need of such services. If ~~his~~ the person's 23196
condition warrants, ~~he~~ the person's may be enrolled as an 23197
outpatient and, during such enrollment, ~~he~~ the person may receive 23198

services subject to Chapter 5121. of the Revised Code. 23199

(C) The application prescribed in division (A) or (B) of this 23200
section may also be made on behalf of a minor by a parent, 23201
guardian, or custodian of a minor, and on behalf of an adult 23202
adjudicated incompetent by the guardian or custodian of the adult. 23203

(D) The managing officer of the public institution may refer 23204
any discharged resident who makes an application under this 23205
section to the director of any community mental retardation 23206
program serving the county in which such resident resides, or to 23207
such other facility as the director of ~~mental retardation and~~ 23208
developmental disabilities may designate. Upon notice of such 23209
referral, the director of such program may provide the services 23210
required by the applicant. 23211

Sec. 5123.85. (A) All residents institutionalized pursuant to 23212
this chapter shall receive, within thirty days of their admission, 23213
a comprehensive evaluation, a diagnosis, a prognosis, and a 23214
description of habilitation goals consistent therewith. 23215

(B) All such residents shall have a written habilitation plan 23216
consistent with the comprehensive evaluation, diagnosis, 23217
prognosis, and goals which shall be provided, upon request of 23218
resident or resident's counsel, to resident's counsel and to any 23219
private physician designated by the resident or the resident's 23220
counsel. 23221

(C) All such residents shall receive habilitation and care 23222
consistent with the habilitation plan. The department of ~~mental~~ 23223
~~retardation and~~ developmental disabilities shall set standards for 23224
habilitation and care provided to such residents, consistent 23225
wherever possible with standards set by the joint commission on 23226
accreditation of facilities for the mentally retarded. 23227

(D) All such residents shall receive periodic comprehensive 23228

re-evaluations of the habilitation plan by the professional staff 23229
of the institution at intervals not to exceed ninety days. 23230

(E) All such residents shall be provided with prompt and 23231
adequate medical treatment for any physical or mental disease or 23232
injury. 23233

Sec. 5123.86. (A) Except as provided in divisions (C), (D), 23234
(E), and (F) of this section, the chief medical officer shall 23235
provide all information, including expected physical and medical 23236
consequences, necessary to enable any resident of an institution 23237
for the mentally retarded to give a fully informed, intelligent, 23238
and knowing consent if any of the following procedures are 23239
proposed: 23240

(1) Surgery; 23241

(2) Convulsive therapy; 23242

(3) Major aversive interventions; 23243

(4) Sterilization; 23244

(5) Experimental procedures; 23245

(6) Any unusual or hazardous treatment procedures. 23246

(B) No resident shall be subjected to any of the procedures 23247
listed in division (A)(4), (5), or (6) of this section without the 23248
resident's informed consent. 23249

(C) If a resident is physically or mentally unable to receive 23250
the information required for surgery under division (A)(1) of this 23251
section, or has been adjudicated incompetent, the information may 23252
be provided to the resident's natural or court-appointed guardian, 23253
including an agency providing guardianship services under contract 23254
with the department of ~~mental retardation and~~ developmental 23255
disabilities under sections 5123.55 to 5123.59 of the Revised 23256
Code, who may give the informed, intelligent, and knowing written 23257

consent for surgery. Consent for surgery shall not be provided by 23258
a guardian who is an officer or employee of the department of 23259
mental health or the department of ~~mental retardation and~~ 23260
developmental disabilities. 23261

If a resident is physically or mentally unable to receive the 23262
information required for surgery under division (A)(1) of this 23263
section and has no guardian, then the information, the 23264
recommendation of the chief medical officer, and the concurring 23265
judgment of a licensed physician who is not a full-time employee 23266
of the state may be provided to the court in the county in which 23267
the institution is located, which may approve the surgery. Before 23268
approving the surgery, the court shall notify the legal rights 23269
service created by section 5123.60 of the Revised Code, and shall 23270
notify the resident of the resident's rights to consult with 23271
counsel, to have counsel appointed by the court if the resident is 23272
indigent, and to contest the recommendation of the chief medical 23273
officer. 23274

(D) If, in the judgment of two licensed physicians, delay in 23275
obtaining consent for surgery would create a grave danger to the 23276
health of a resident, emergency surgery may be performed without 23277
the consent of the resident if the necessary information is 23278
provided to the resident's guardian, including an agency providing 23279
guardianship services under contract with the department of ~~mental~~ 23280
~~retardation and~~ developmental disabilities under sections 5123.55 23281
to 5123.59 of the Revised Code, or to the resident's spouse or 23282
next of kin to enable that person or agency to give an informed, 23283
intelligent, and knowing written consent. 23284

If the guardian, spouse, or next of kin cannot be contacted 23285
through exercise of reasonable diligence, or if the guardian, 23286
spouse, or next of kin is contacted, but refuses to consent, then 23287
the emergency surgery may be performed upon the written 23288
authorization of the chief medical officer and after court 23289

approval has been obtained. However, if delay in obtaining court 23290
approval would create a grave danger to the life of the resident, 23291
the chief medical officer may authorize surgery, in writing, 23292
without court approval. If the surgery is authorized without court 23293
approval, the chief medical officer who made the authorization and 23294
the physician who performed the surgery shall each execute an 23295
affidavit describing the circumstances constituting the emergency 23296
and warranting the surgery and the circumstances warranting their 23297
not obtaining prior court approval. The affidavit shall be filed 23298
with the court with which the request for prior approval would 23299
have been filed within five court days after the surgery, and a 23300
copy of the affidavit shall be placed in the resident's file and 23301
shall be given to the guardian, spouse, or next of kin of the 23302
resident, to the hospital at which the surgery was performed, and 23303
to the legal rights service created by section 5123.60 of the 23304
Revised Code. 23305

(E)(1) If it is the judgment of two licensed physicians, as 23306
described in division (E)(2) of this section, that a medical 23307
emergency exists and delay in obtaining convulsive therapy creates 23308
a grave danger to the life of a resident who is both mentally 23309
retarded and mentally ill, convulsive therapy may be administered 23310
without the consent of the resident if the resident is physically 23311
or mentally unable to receive the information required for 23312
convulsive therapy and if the necessary information is provided to 23313
the resident's natural or court-appointed guardian, including an 23314
agency providing guardianship services under contract with the 23315
department of ~~mental retardation and~~ developmental disabilities 23316
under sections 5123.55 to 5123.59 of the Revised Code, or to the 23317
resident's spouse or next of kin to enable that person or agency 23318
to give an informed, intelligent, and knowing written consent. If 23319
neither the resident's guardian, spouse, nor next of kin can be 23320
contacted through exercise of reasonable diligence, or if the 23321
guardian, spouse, or next of kin is contacted, but refuses to 23322

consent, then convulsive therapy may be performed upon the written
authorization of the chief medical officer and after court
approval has been obtained.

(2) The two licensed physicians referred to in division
(E)(1) of this section shall not be associated with each other in
the practice of medicine or surgery by means of a partnership or
corporate arrangement, other business arrangement, or employment.
At least one of the physicians shall be a psychiatrist as defined
in division (E) of section 5122.01 of the Revised Code.

(F) Major aversive interventions shall not be used unless a
resident continues to engage in behavior destructive to self or
others after other forms of therapy have been attempted. The
director of the legal rights service created by section 5123.60 of
the Revised Code shall be notified of any proposed major aversive
intervention. Major aversive interventions shall not be applied to
a voluntary resident without the informed, intelligent, and
knowing written consent of the resident or the resident's
guardian, including an agency providing guardianship services
under contract with the department of ~~mental retardation and~~
developmental disabilities under sections 5123.55 to 5123.59 of
the Revised Code.

(G)(1) This chapter does not authorize any form of compulsory
medical or psychiatric treatment of any resident who is being
treated by spiritual means through prayer alone in accordance with
a recognized religious method of healing.

(2) For purposes of this section, "convulsive therapy" does
not include defibrillation.

Sec. 5123.89. (A) All certificates, applications, records,
and reports made for the purpose of this chapter, other than court
journal entries or court docket entries, which directly or
indirectly identify a resident or former resident of an

institution for the mentally retarded or person whose 23354
institutionalization has been sought under this chapter shall be 23355
kept confidential and shall not be disclosed by any person except 23356
in the following situations: 23357

(1) It is the judgment of the court for judicial records, and 23358
the managing officer for institution records, that disclosure is 23359
in the best interest of the person identified, and that person or 23360
that person's guardian or, if that person is a minor, that 23361
person's parent or guardian consents. 23362

(2) Disclosure is provided for in other sections of this 23363
chapter. 23364

(3) It is the judgment of the managing officer for 23365
institution records that disclosure to a mental health facility is 23366
in the best interest of the person identified. 23367

(B) The department of ~~mental retardation and~~ developmental 23368
disabilities shall adopt rules with respect to the systematic and 23369
periodic destruction of residents' records. 23370

(C)(1) As used in this division, "family" means a parent, 23371
brother, sister, spouse, son, daughter, grandparent, aunt, uncle, 23372
or cousin. 23373

(2) Upon the death of a resident or former resident of an 23374
institution for the mentally retarded or a person whose 23375
institutionalization was sought under this chapter, the managing 23376
officer of an institution shall provide access to the 23377
certificates, applications, records, and reports made for the 23378
purposes of this chapter to the resident's, former resident's, or 23379
person's guardian if the guardian makes a written request. If a 23380
deceased resident, former resident, or person whose 23381
institutionalization was sought under this chapter did not have a 23382
guardian at the time of death, the managing officer shall provide 23383
access to the certificates, applications, records, and reports 23384

made for purposes of this chapter to a member of the person's 23385
family, upon that family member's written request. 23386

(D) No person shall reveal the contents of a record of a 23387
resident except as authorized by this chapter. 23388

Sec. 5123.90. The attorney general shall attend to all suits 23389
instituted on behalf of or against any public institution under 23390
the jurisdiction of the department of ~~mental retardation and~~ 23391
developmental disabilities and the managing officer thereof. 23392

If a writ of habeas corpus is applied for, the clerk of the 23393
court shall give notice of the time and place of hearing to the 23394
attorney general. 23395

Sec. 5123.96. Costs, fees, and expenses of all proceedings 23396
held under this chapter shall be paid as follows: 23397

(A) To police and health officers, other than sheriffs or 23398
their deputies, the same fees allowed to constables, to be paid 23399
upon the approval of the probate judge; 23400

(B) To sheriffs or their deputies, the same fees allowed for 23401
similar services in the court of common pleas; 23402

(C) To physicians or licensed clinical psychologists acting 23403
as expert witnesses and to other expert witnesses designated by 23404
the court, an amount determined by the court; 23405

(D) To witnesses in an administrative proceeding, the same 23406
fees and mileage as are provided to witnesses by section 119.094 23407
of the Revised Code, and to witnesses in a judicial proceeding, 23408
the same fees and mileage as are provided to witnesses by section 23409
2335.06 of the Revised Code, to be paid upon the approval of the 23410
probate judge; 23411

(E) To a person, other than the sheriff or the sheriff's 23412
deputies, for taking a mentally retarded person to an institution 23413

or removing a mentally retarded person from an institution, the 23414
actual necessary expenses incurred, specifically itemized, and 23415
approved by the probate judge; 23416

(F) To assistants who convey mentally retarded persons to 23417
institutions when authorized by the probate judge, a fee set by 23418
the probate court, provided the assistants are not drawing a 23419
salary from the state or any political subdivision of the state, 23420
and their actual necessary expenses incurred, provided that the 23421
expenses are specifically itemized and approved by the probate 23422
judge; 23423

(G) To an attorney appointed by the probate division for an 23424
indigent who allegedly is a mentally retarded person pursuant to 23425
any section of this chapter, the fees that are determined by the 23426
probate division. When those indigent persons are before the 23427
court, all filing and recording fees shall be waived. 23428

(H) To a referee who is appointed to conduct proceedings 23429
under this chapter that involve a respondent whose domicile is or, 23430
before the respondent's institutionalization, was not the county 23431
in which the proceedings are held, compensation as fixed by the 23432
probate division, but not more than the compensation paid for 23433
similar proceedings for respondents whose domicile is in the 23434
county in which the proceedings are held; 23435

(I) To a court reporter appointed to make a transcript of 23436
proceedings under this chapter, the compensation and fees allowed 23437
in other cases under section 2101.08 of the Revised Code. 23438

All costs, fees, and expenses described in this section, 23439
after payment by the county from appropriations pursuant to 23440
section 2101.11 of the Revised Code, shall be certified by the 23441
county auditor to the department of ~~mental retardation and~~ 23442
developmental disabilities within two months of the date the 23443
costs, fees, and expenses are incurred by the county. Payment 23444

shall be provided for by the director of budget and management 23445
upon presentation of properly verified vouchers. The director of 23446
~~mental retardation and~~ developmental disabilities may adopt rules 23447
in accordance with Chapter 119. of the Revised Code to implement 23448
the payment of costs, fees, and expenses under this section. 23449

Sec. 5126.01. As used in this chapter: 23450

(A) As used in this division, "adult" means an individual who 23451
is eighteen years of age or over and not enrolled in a program or 23452
service under Chapter 3323. of the Revised Code and an individual 23453
sixteen or seventeen years of age who is eligible for adult 23454
services under rules adopted by the director of ~~mental retardation~~ 23455
~~and~~ developmental disabilities pursuant to Chapter 119. of the 23456
Revised Code. 23457

(1) "Adult services" means services provided to an adult 23458
outside the home, except when they are provided within the home 23459
according to an individual's assessed needs and identified in an 23460
individual service plan, that support learning and assistance in 23461
the area of self-care, sensory and motor development, 23462
socialization, daily living skills, communication, community 23463
living, social skills, or vocational skills. 23464

(2) "Adult services" includes all of the following: 23465

(a) Adult day habilitation services; 23466

(b) Adult day care; 23467

(c) Prevocational services; 23468

(d) Sheltered employment; 23469

(e) Educational experiences and training obtained through 23470
entities and activities that are not expressly intended for 23471
individuals with mental retardation and developmental 23472
disabilities, including trade schools, vocational or technical 23473
schools, adult education, job exploration and sampling, unpaid 23474

work experience in the community, volunteer activities, and	23475
spectator sports;	23476
(f) Community employment services and supported employment	23477
services.	23478
(B)(1) "Adult day habilitation services" means adult services	23479
that do the following:	23480
(a) Provide access to and participation in typical activities	23481
and functions of community life that are desired and chosen by the	23482
general population, including such activities and functions as	23483
opportunities to experience and participate in community	23484
exploration, companionship with friends and peers, leisure	23485
activities, hobbies, maintaining family contacts, community	23486
events, and activities where individuals without disabilities are	23487
involved;	23488
(b) Provide supports or a combination of training and	23489
supports that afford an individual a wide variety of opportunities	23490
to facilitate and build relationships and social supports in the	23491
community.	23492
(2) "Adult day habilitation services" includes all of the	23493
following:	23494
(a) Personal care services needed to ensure an individual's	23495
ability to experience and participate in vocational services,	23496
educational services, community activities, and any other adult	23497
day habilitation services;	23498
(b) Skilled services provided while receiving adult day	23499
habilitation services, including such skilled services as behavior	23500
management intervention, occupational therapy, speech and language	23501
therapy, physical therapy, and nursing services;	23502
(c) Training and education in self-determination designed to	23503
help the individual do one or more of the following: develop	23504

self-advocacy skills, exercise the individual's civil rights, 23505
acquire skills that enable the individual to exercise control and 23506
responsibility over the services received, and acquire skills that 23507
enable the individual to become more independent, integrated, or 23508
productive in the community; 23509

(d) Recreational and leisure activities identified in the 23510
individual's service plan as therapeutic in nature or assistive in 23511
developing or maintaining social supports; 23512

(e) Counseling and assistance provided to obtain housing, 23513
including such counseling as identifying options for either rental 23514
or purchase, identifying financial resources, assessing needs for 23515
environmental modifications, locating housing, and planning for 23516
ongoing management and maintenance of the housing selected; 23517

(f) Transportation necessary to access adult day habilitation 23518
services; 23519

(g) Habilitation management, as described in section 5126.14 23520
of the Revised Code. 23521

(3) "Adult day habilitation services" does not include 23522
activities that are components of the provision of residential 23523
services, family support services, or supported living services. 23524

(C) "Appointing authority" means the following: 23525

(1) In the case of a member of a county board of ~~mental~~ 23526
~~retardation and~~ developmental disabilities appointed by, or to be 23527
appointed by, a board of county commissioners, the board of county 23528
commissioners; 23529

(2) In the case of a member of a county board appointed by, 23530
or to be appointed by, a senior probate judge, the senior probate 23531
judge. 23532

(D) "Community employment services" or "supported employment 23533
services" means job training and other services related to 23534

employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following:

(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment;

(2) Supervised work experience through an employer paid to provide the supervised work experience;

(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;

(4) Ongoing supervision by an employer paid to provide the supervision.

(E) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code;

(2) It is manifested before age twenty-two;

(3) It is likely to continue indefinitely;

(4) It results in one of the following:

(a) In the case of a person under age three, at least one developmental delay or an established risk;

(b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk;

(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(F) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental retardation or other developmental disabilities who have not 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 23595
under a family support services program operated under section 23596
5126.11 of the Revised Code. 23597

(I) "Habilitation" means the process by which the staff of 23598
the facility or agency assists an individual with mental 23599
retardation or other developmental disability in acquiring and 23600
maintaining those life skills that enable the individual to cope 23601
more effectively with the demands of the individual's own person 23602
and environment, and in raising the level of the individual's 23603
personal, physical, mental, social, and vocational efficiency. 23604
Habilitation includes, but is not limited to, programs of formal, 23605
structured education and training. 23606

(J) "Home and community-based services" means medicaid-funded 23607
home and community-based services specified in division (B)(1) of 23608
section 5111.87 of the Revised Code and provided under the 23609
medicaid waiver components the department of ~~mental retardation~~ 23610
~~and~~ developmental disabilities administers pursuant to section 23611
5111.871 of the Revised Code. 23612

(K) "Immediate family" means parents, grandparents, brothers, 23613
sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, 23614
fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and 23615
daughters-in-law. 23616

(L) "Medicaid" has the same meaning as in section 5111.01 of 23617
the Revised Code. 23618

(M) "Medicaid case management services" means case management 23619
services provided to an individual with mental retardation or 23620
other developmental disability that the state medicaid plan 23621
requires. 23622

(N) "Mental retardation" means a mental impairment manifested 23623
during the developmental period characterized by significantly 23624
subaverage general intellectual functioning existing concurrently 23625

with deficiencies in the effectiveness or degree with which an 23626
individual meets the standards of personal independence and social 23627
responsibility expected of the individual's age and cultural 23628
group. 23629

(O) "Residential services" means services to individuals with 23630
mental retardation or other developmental disabilities to provide 23631
housing, food, clothing, habilitation, staff support, and related 23632
support services necessary for the health, safety, and welfare of 23633
the individuals and the advancement of their quality of life. 23634
"Residential services" includes program management, as described 23635
in section 5126.14 of the Revised Code. 23636

(P) "Resources" means available capital and other assets, 23637
including moneys received from the federal, state, and local 23638
governments, private grants, and donations; appropriately 23639
qualified personnel; and appropriate capital facilities and 23640
equipment. 23641

(Q) "Senior probate judge" means the current probate judge of 23642
a county who has served as probate judge of that county longer 23643
than any of the other current probate judges of that county. If a 23644
county has only one probate judge, "senior probate judge" means 23645
that probate judge. 23646

(R) "Service and support administration" means the duties 23647
performed by a service and support administrator pursuant to 23648
section 5126.15 of the Revised Code. 23649

(S)(1) "Specialized medical, adaptive, and assistive 23650
equipment, supplies, and supports" means equipment, supplies, and 23651
supports that enable an individual to increase the ability to 23652
perform activities of daily living or to perceive, control, or 23653
communicate within the environment. 23654

(2) "Specialized medical, adaptive, and assistive equipment, 23655
supplies, and supports" includes the following: 23656

(a) Eating utensils, adaptive feeding dishes, plate guards, 23657
mylatex straps, hand splints, reaches, feeder seats, adjustable 23658
pointer sticks, interpreter services, telecommunication devices 23659
for the deaf, computerized communications boards, other 23660
communication devices, support animals, veterinary care for 23661
support animals, adaptive beds, supine boards, prone boards, 23662
wedges, sand bags, sidelayers, bolsters, adaptive electrical 23663
switches, hand-held shower heads, air conditioners, humidifiers, 23664
emergency response systems, folding shopping carts, vehicle lifts, 23665
vehicle hand controls, other adaptations of vehicles for 23666
accessibility, and repair of the equipment received. 23667

(b) Nondisposable items not covered by medicaid that are 23668
intended to assist an individual in activities of daily living or 23669
instrumental activities of daily living. 23670

(T) "Supportive home services" means a range of services to 23671
families of individuals with mental retardation or other 23672
developmental disabilities to develop and maintain increased 23673
acceptance and understanding of such persons, increased ability of 23674
family members to teach the person, better coordination between 23675
school and home, skills in performing specific therapeutic and 23676
management techniques, and ability to cope with specific 23677
situations. 23678

(U)(1) "Supported living" means services provided for as long 23679
as twenty-four hours a day to an individual with mental 23680
retardation or other developmental disability through any public 23681
or private resources, including moneys from the individual, that 23682
enhance the individual's reputation in community life and advance 23683
the individual's quality of life by doing the following: 23684

(a) Providing the support necessary to enable an individual 23685
to live in a residence of the individual's choice, with any number 23686
of individuals who are not disabled, or with not more than three 23687
individuals with mental retardation and developmental disabilities 23688

unless the individuals are related by blood or marriage;	23689
(b) Encouraging the individual's participation in the community;	23690 23691
(c) Promoting the individual's rights and autonomy;	23692
(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.	23693 23694 23695
(2) "Supported living" includes the provision of all of the following:	23696 23697
(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;	23698 23699 23700 23701
(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;	23702 23703 23704 23705 23706
(c) Personal care services and homemaker services;	23707
(d) Household maintenance that does not include modifications to the physical structure of the residence;	23708 23709
(e) Respite care services;	23710
(f) Program management, as described in section 5126.14 of the Revised Code.	23711 23712
<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>	23713 23714 23715 23716 23717

Sec. 5126.02. (A) Each county shall either have its own 23718
county board of ~~mental retardation and~~ developmental disabilities 23719
or, pursuant to section 5126.021 or 5126.022 of the Revised Code, 23720
be a member of a multicounty board of ~~mental retardation and~~ 23721
developmental disabilities. Subject to division (B) of this 23722
section: 23723

(1) A county board shall be operated as a separate 23724
administrative and service entity. 23725

(2) The functions of a county board shall not be combined 23726
with the functions of any other entity of county government. 23727

(B) Division (A) of this section does not prohibit or 23728
restrict any county board from sharing administrative functions or 23729
personnel with one or more other county boards, including entering 23730
into an arrangement authorized by division (B) of section 23731
5126.0226 of the Revised Code. 23732

Sec. 5126.021. Subject to sections 5126.024 and 5126.025 of 23733
the Revised Code, a multicounty board of ~~mental retardation and~~ 23734
developmental disabilities may be created if each of the 23735
following, before January 1, 2007, and within a 23736
one-hundred-eighty-day period, adopt an identical resolution or 23737
issue an identical order providing for the creation of the 23738
multicounty board: 23739

(A) A majority of the members of each of the boards of county 23740
commissioners seeking to create the multicounty board; 23741

(B) The senior probate judge of each county served by those 23742
boards of county commissioners. 23743

Sec. 5126.022. Subject to sections 5126.024 and 5126.025 of 23744
the Revised Code, a county that is not part of the creation of a 23745
multicounty board of ~~mental retardation and~~ developmental 23746

disabilities under section 5126.021 of the Revised Code may join 23747
the multicounty board if each of the following, within a sixty-day 23748
period, adopt an identical resolution or issue an identical order 23749
providing for the county to join the multicounty board: 23750

(A) A majority of the members of the board of county 23751
commissioners of the county seeking to join the multicounty board; 23752

(B) A majority of the members of each of the boards of county 23753
commissioners that are members of the multicounty board; 23754

(C) The senior probate judge of the county seeking to join 23755
the multicounty board; 23756

(D) The senior probate judge of each of the counties that are 23757
members of the multicounty board. 23758

Sec. 5126.023. (A) Subject to section 5126.024 of the Revised 23759
Code, the board of county commissioners of a county that is a 23760
member of a multicounty board of ~~mental retardation and~~ 23761
developmental disabilities and the senior probate judge of that 23762
county may terminate the county's membership in the multicounty 23763
board in the manner provided in this section. To terminate the 23764
county's membership in the multicounty board, the board of county 23765
commissioners shall adopt a resolution, and the senior probate 23766
judge shall issue an order, providing for the termination. 23767

(B) A resolution and order of termination adopted or issued 23768
under this section shall specify the last day that the county will 23769
be a member of the multicounty board. The resolution and order 23770
also shall provide for the county to do one of the following on 23771
the day immediately following the last day that the county will be 23772
a member of the multicounty board: 23773

(1) Create a single county board of ~~mental retardation and~~ 23774
developmental disabilities; 23775

(2) If the day immediately following the last day that the county will be a member of the current multicounty board is before January 1, 2007, co-create a new multicounty board pursuant to section 5126.021 of the Revised Code;

(3) Join a different multicounty board pursuant to section 5126.022 of the Revised Code.

(C) A resolution and an order of termination adopted or issued under this section shall include a plan for the equitable adjustment and division of all services, assets, property, debts, and obligations, if any, of the multicounty board that the county will cease to be a member of.

(D) Any county terminating its membership in a multicounty board shall continue to have levied against its tax list and duplicate any tax levied by the board of county commissioners for mental retardation and developmental disability services during the period in which the county was a member of the multicounty board until the levy expires or is renewed or replaced.

Sec. 5126.024. (A) If a board of county commissioners and senior probate judge propose to join in the creation of, join, or terminate the county's membership in a multicounty board of ~~mental retardation and~~ developmental disabilities as provided in section 5126.021, 5126.022, or 5126.023 of the Revised Code, the board of county commissioners and judge shall do both of the following:

(1) Notify the county board of ~~mental retardation and~~ developmental disabilities in writing of their intent to join in the creation of, join, or terminate the county's membership in a multicounty board, including a written explanation of the administrative, fiscal, and performance considerations underlying the proposed action;

(2) Provide the county board an opportunity to comment on the

proposed action. 23806

(B) If the county board, not more than sixty days after 23807
receiving the notice under division (A) of this section, votes to 23808
oppose the proposed action and notifies the board of county 23809
commissioners and judge of the vote, the county may join in 23810
creation of a multicounty board, join a multicounty board, or 23811
terminate the county's membership in a multicounty board only on 23812
the unanimous vote of the board of county commissioners and the 23813
order of that judge to proceed with the creation of, joining, or 23814
termination of the county's membership in a multicounty board. 23815

Sec. 5126.025. Not more than five counties may be members of 23816
the same multicounty board of ~~mental retardation and~~ developmental 23817
disabilities. Only contiguous counties may be members of the same 23818
multicounty board. 23819

Sec. 5126.026. A board of county commissioners shall provide 23820
the director of ~~mental retardation and~~ developmental disabilities 23821
with a copy of each resolution the board adopts under section 23822
5126.021, 5126.022, or 5126.023 of the Revised Code. A senior 23823
probate judge shall provide the director with a copy of each order 23824
the judge issues under those sections. 23825

Sec. 5126.027. (A) A reference to a county board of ~~mental~~ 23826
~~retardation and~~ developmental disabilities in a law enacted by the 23827
general assembly shall mean the following: 23828

(1) In the case of a county with its own county board, a 23829
single county board; 23830

(2) In the case of a county that is a member of a multicounty 23831
board, a multicounty board. 23832

(B) Unless the context provides otherwise, a law enacted by 23833
the general assembly that refers to a county, or an entity or 23834

official of a county, that a county board of ~~mental retardation~~ 23835
~~and~~ developmental disabilities serves shall be deemed to refer to 23836
the following: 23837

(1) In the case of a county with a single county board, that 23838
county or the county entity or official specified in the law; 23839

(2) In the case of a county that is a member of a multicounty 23840
board, each of the counties that are members of the multicounty 23841
board or the specified entity or official of each of those 23842
counties. 23843

Sec. 5126.028. Each county board of ~~mental retardation and~~ 23844
developmental disabilities shall consist of seven members. In the 23845
case of a single county board, the board of county commissioners 23846
of the county shall appoint five members and the senior probate 23847
judge of the county shall appoint two members. In the case of a 23848
multicounty board, the membership shall be appointed as follows: 23849

(A) If there are five member counties, the board of county 23850
commissioners of each of the member counties shall each appoint 23851
one member and the senior probate judges of the member counties 23852
with the largest and second largest population shall each appoint 23853
one member. 23854

(B) If there are four member counties, the board of county 23855
commissioners of the member county with the largest population 23856
shall appoint two members, the other three boards of county 23857
commissioners shall each appoint one member, and the senior 23858
probate judges of the member counties with the largest and second 23859
largest population shall each appoint one member. 23860

(C) If there are three member counties, the boards of county 23861
commissioners of the member counties with the largest and second 23862
largest populations shall each appoint two members, the other 23863
board of county commissioners shall appoint one member, and the 23864

senior probate judges of the member counties with the largest and 23865
second largest population shall each appoint one member. 23866

(D) If there are two member counties, the board of county 23867
commissioners of the member county with the largest population 23868
shall appoint three members, the board of county commissioners of 23869
the other county shall appoint two members, and the senior probate 23870
judge of each county shall each appoint one member. 23871

Sec. 5126.029. (A) When making appointments to a county board 23872
of ~~mental retardation and~~ developmental disabilities, an 23873
appointing authority shall do all of the following: 23874

(1) Appoint only individuals who are residents of the county 23875
the appointing authority serves, citizens of the United States, 23876
and interested and knowledgeable in the field of mental 23877
retardation and other allied fields; 23878

(2) If the appointing authority is a board of county 23879
commissioners, appoint, subject to division (B) of this section, 23880
at least two individuals who are immediate family members of 23881
individuals eligible for services provided by the county board 23882
and, whenever possible, ensure that one of those two members is an 23883
immediate family member of an individual eligible for adult 23884
services and the other is an immediate family member of an 23885
individual eligible for early intervention services or services 23886
for preschool or school-age children; 23887

(3) If the appointing authority is a senior probate judge, 23888
appoint, subject to division (B) of this section, at least one 23889
individual who is an immediate family member of an individual 23890
eligible for residential services or supported living; 23891

(4) Appoint, to the maximum extent possible, individuals who 23892
have professional training and experience in business management, 23893
finance, law, health care practice, personnel administration, or 23894

government service; 23895

(5) Provide for the county board's membership to reflect, as 23896
nearly as possible, the composition of the county or counties that 23897
the county board serves. 23898

(B) The appointing authorities of a multicounty board shall 23899
coordinate their appointments to the extent necessary to satisfy 23900
the requirements of this section. The coordination may provide for 23901
one of the boards of county commissioners making one of the two 23902
appointments required by division (A)(2) of this section and 23903
another board of county commissioners making the other appointment 23904
required by that division. The coordination shall ensure that at 23905
least one of the senior probate judges satisfies the requirement 23906
of division (A)(3) of this section. 23907

Sec. 5126.0210. (A) None of the following individuals may 23908
serve as a member of a county board of ~~mental retardation and~~ 23909
developmental disabilities: 23910

(1) An elected public official, except for a township 23911
trustee, township fiscal officer, or individual excluded from the 23912
definition of public official or employee in division (B) of 23913
section 102.01 of the Revised Code; 23914

(2) An immediate family member of another county board 23915
member; 23916

(3) A county board employee or immediate family member of a 23917
county board employee; 23918

(4) A former employee of the county board whose employment 23919
with the county board ceased less than one calendar year before 23920
the former employee would begin to serve as a member of the county 23921
board; 23922

(5) An individual who or whose immediate family member is a 23923
board member or an employee of an agency licensed or certified by 23924

the department of ~~mental retardation and~~ developmental 23925
disabilities to provide services to individuals with mental 23926
retardation or developmental disabilities; 23927

(6) An individual who or whose immediate family member is a 23928
board member or employee of an agency contracting with the county 23929
board that is not licensed or certified by the department of 23930
~~mental retardation and~~ developmental disabilities to provide 23931
services to individuals with mental retardation or developmental 23932
disabilities unless there is no conflict of interest; 23933

(7) An individual with an immediate family member who serves 23934
as a county commissioner of a county served by the county board 23935
unless the individual was a member of the county board before 23936
October 31, 1980. 23937

(B) All questions relating to the existence of a conflict of 23938
interest for the purpose of division (A)(6) of this section shall 23939
be submitted to the local prosecuting attorney for resolution. The 23940
Ohio ethics commission may examine any issues arising under 23941
Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the 23942
Revised Code. 23943

Sec. 5126.0211. (A) No individual may be appointed or 23944
reappointed to a county board of ~~mental retardation and~~ 23945
developmental disabilities unless the individual, before the 23946
appointment or reappointment, provides to the appointing authority 23947
a written declaration specifying both of the following: 23948

(1) That no circumstance described in section 5126.0210 of 23949
the Revised Code exists that bars the individual from serving on 23950
the county board; 23951

(2) Whether the individual or an immediate family member of 23952
the individual has an ownership interest in or is under contract 23953
with an agency contracting with the county board, and, if such an 23954

ownership interest or contract exists, the identity of the agency 23955
and the nature of the relationship to that agency. 23956

(B) On appointment or reappointment of an individual to the 23957
county board, the appointing authority shall provide a copy of the 23958
individual's declaration to the superintendent of the county 23959
board. The declaration is a public record for the purpose of 23960
section 149.43 of the Revised Code. 23961

Sec. 5126.0212. Except for members appointed under section 23962
5126.0214 of the Revised Code to fill a vacancy, members of a 23963
county board of ~~mental retardation and~~ developmental disabilities 23964
shall be appointed or reappointed not later than the last day of 23965
November, commence their terms on the date of the stated annual 23966
organizational meeting in the following January as provided under 23967
section 5126.0216 of the Revised Code, and serve terms of four 23968
years. The membership of an individual appointed as an immediate 23969
family member of a recipient of services shall not be terminated 23970
because the services are no longer received. 23971

Sec. 5126.0213. Except as otherwise provided in this section 23972
and section 5126.0225 of the Revised Code, a member of a county 23973
board of ~~mental retardation and~~ developmental disabilities may be 23974
reappointed to the county board. Prior to making a reappointment, 23975
the appointing authority shall ascertain, through written 23976
communication with the board, that the member being considered for 23977
reappointment meets the requirements of sections 5126.029 and 23978
5126.0225 of the Revised Code. 23979

A member who has served during each of three consecutive 23980
terms shall not be reappointed for a subsequent term until two 23981
years after ceasing to be a member of the county board, except 23982
that a member who has served for ten years or less within three 23983
consecutive terms may be reappointed for a subsequent term before 23984

becoming ineligible for reappointment for two years. 23985

Sec. 5126.0214. Within sixty days after a vacancy on a county 23986
board of ~~mental retardation and~~ developmental disabilities occurs, 23987
including a vacancy created under section 5126.0220 of the Revised 23988
Code, the appointing authority shall fill the vacancy for the 23989
unexpired term. Before filling a vacancy, the appointing authority 23990
shall cause a notice of the vacancy to be published on at least 23991
two separate dates in one or more newspapers serving the county or 23992
counties the county board serves. 23993

A member appointed to fill a vacancy occurring before the 23994
expiration of the term for which the member's predecessor was 23995
appointed shall hold office for the remainder of that term. 23996

Sec. 5126.0215. Members of a county board of ~~mental~~ 23997
~~retardation and~~ developmental disabilities shall serve without 23998
compensation, but shall be reimbursed for necessary expenses 23999
incurred in the conduct of county board business, including 24000
expenses that are incurred in the member's county of residence in 24001
accordance with an established policy of the county board. 24002

Sec. 5126.0216. Each county board of ~~mental retardation and~~ 24003
developmental disabilities shall hold an organizational meeting no 24004
later than the thirty-first day of January of each year and shall 24005
elect its officers, which shall include a president, 24006
vice-president, and recording secretary. After its annual 24007
organizational meeting, the board shall meet in such manner and at 24008
such times as prescribed by rules adopted by the board, but the 24009
board shall meet at least ten times annually in regularly 24010
scheduled sessions in accordance with section 121.22 of the 24011
Revised Code, not including in-service training sessions. A 24012
majority of the board constitutes a quorum. The board shall adopt 24013
rules for the conduct of its business and a record shall be kept 24014

of board proceedings, which shall be open for public inspection. 24015

Sec. 5126.0217. Each year, each member of a county board of 24016
~~mental retardation and~~ developmental disabilities shall attend at 24017
least four hours of in-service training provided or approved by 24018
the department of ~~mental retardation and~~ developmental 24019
disabilities. This training shall not be considered regularly 24020
scheduled meetings of the county board. 24021

Sec. 5126.0218. A member of a county board of ~~mental~~ 24022
~~retardation and~~ developmental disabilities shall be considered 24023
present at an in-service training session even though the member 24024
is not physically present in the room in which the session is held 24025
if the member is connected to the session through a system that 24026
enables the member to communicate with the individuals 24027
participating in the session and such individuals to communicate 24028
with the member. 24029

Sec. 5126.0219. In no circumstance shall a member of a county 24030
board of ~~mental retardation and~~ developmental disabilities 24031
participate in or vote on any matter before the county board 24032
concerning a contract agency of which the member or an immediate 24033
family member of the member is also a board member or an employee. 24034

Sec. 5126.0220. (A) Subject to sections 5126.0221 and 24035
5126.0223 of the Revised Code, an appointing authority shall 24036
remove a member of a county board of ~~mental retardation and~~ 24037
developmental disabilities for any of the following reasons: 24038

- (1) Neglect of duty; 24039
- (2) Misconduct; 24040
- (3) Malfeasance; 24041
- (4) Ineligibility to serve on the county board pursuant to 24042

section 5126.0210 of the Revised Code;	24043
(5) Failure to attend at least four hours of in-service training session each year;	24044 24045
(6) Failure to attend within one year four regularly scheduled board meetings;	24046 24047
(7) Failure to attend within one year two regularly scheduled board meetings if the member gave no prior notice of the member's absence;	24048 24049 24050
(8) Consistently poor performance on the county board, as demonstrated by documentation that the president of the county board provides to the appointing authority and the appointing authority determines is convincing evidence.	24051 24052 24053 24054
(B) The removal provisions of divisions (A)(6) and (7) of this section do not apply to absences from special meetings or work sessions.	24055 24056 24057
Sec. 5126.0221. An appointing authority shall not remove a member of a county board of mental retardation and developmental disabilities from the county board by reason of division (A)(5), (6), or (7) of section 5126.0220 of the Revised Code if the director of mental retardation and developmental disabilities waives the requirement that the member be removed. The director may issue the waiver only if the appointing authority requests that the director issue the waiver and provides the director evidence that is satisfactory to the director that the member's absences from the in-service training sessions or regularly scheduled board meetings are due to a serious health problem of the member or a member of the member's immediate family. The director's decision on whether to issue the waiver is final and not subject to appeal.	24058 24059 24060 24061 24062 24063 24064 24065 24066 24067 24068 24069 24070 24071
The county board on which the member serves may pass a	24072

resolution urging the appointing authority to request that the 24073
director issue the waiver. The member whose absences from the 24074
sessions or meetings are at issue may not vote on the resolution. 24075
The appointing authority may request the waiver regardless of 24076
whether the county board adopts the resolution. 24077

Sec. 5126.0222. If there are grounds for the mandatory 24078
removal of a member of a county board of ~~mental retardation and~~ 24079
developmental disabilities under section 5126.0220 of the Revised 24080
Code, the county board shall supply the board member and the 24081
member's appointing authority with written notice of the grounds. 24082

Sec. 5126.0223. An appointing authority shall afford a member 24083
of a county board of ~~mental retardation and~~ developmental 24084
disabilities an opportunity for a hearing on the member's proposed 24085
removal in accordance with procedures the appointing authority 24086
shall establish, unless the appointing authority requested that 24087
the director of ~~mental retardation and~~ developmental disabilities 24088
waive the mandatory removal under section 5126.0221 of the Revised 24089
Code and the director refused to issue the waiver. The appointing 24090
authority shall hold the hearing if the member requests the 24091
hearing not later than thirty days after the date that the county 24092
board sends the member the notice required by section 5126.0222 of 24093
the Revised Code. 24094

Sec. 5126.0224. If a member of a county board of ~~mental~~ 24095
~~retardation and~~ developmental disabilities requests a hearing 24096
within the time required by section 5126.0223 of the Revised Code, 24097
the appointing authority may not remove the member from the board 24098
before the conclusion of the hearing. 24099

Sec. 5126.0225. A member of a county board of ~~mental~~ 24100
~~retardation and~~ developmental disabilities who is removed from the 24101

county board is ineligible for reappointment to the board for not 24102
less than one year. The appointing authority shall specify the 24103
time during which the member is ineligible for reappointment. If 24104
the member is removed under division (A)(5) of section 5126.0220 24105
of the Revised Code, the county board shall specify the training 24106
the member must complete before being eligible for reappointment. 24107

Sec. 5126.0226. (A) Each county board of ~~mental retardation~~ 24108
~~and~~ developmental disabilities shall either employ a 24109
superintendent or obtain the services of the superintendent of 24110
another county board of ~~mental retardation and~~ developmental 24111
disabilities. The board shall provide for a superintendent who is 24112
qualified, as specified in rules adopted by the department of 24113
~~mental retardation and~~ developmental disabilities in accordance 24114
with Chapter 119. of the Revised Code. The superintendent shall 24115
have no voting privileges on the board. 24116

The board shall prescribe the duties of its superintendent 24117
and review the superintendent's performance. The superintendent 24118
may be removed, suspended, or demoted for cause pursuant to 24119
section 5126.23 of the Revised Code. The board shall fix the 24120
superintendent's compensation and reimburse the superintendent for 24121
actual and necessary expenses. 24122

Each county board that employs its own superintendent shall 24123
employ the superintendent under a contract. To enter into a 24124
contract, the board shall adopt a resolution agreeing to the 24125
contract. Each contract for employment or re-employment of a 24126
superintendent shall be for a term of not less than one and not 24127
more than five years. At the expiration of a superintendent's 24128
current term of employment, the superintendent may be re-employed. 24129
If the board intends not to re-employ the superintendent, the 24130
board shall give the superintendent written notification of its 24131
intention. The notice shall be given not less than ninety days 24132

prior to the expiration of the superintendent's contract. 24133

(B) Two or more county boards may enter into an arrangement 24134
under which the superintendent of one county board acts as the 24135
superintendent of another county board. To enter into such an 24136
arrangement, each board shall adopt a resolution agreeing to the 24137
arrangement. The resolutions shall specify the duration of the 24138
arrangement and the contribution each board is to make to the 24139
superintendent's compensation and reimbursement for expenses. 24140

(C) If a vacancy occurs in the position of superintendent, a 24141
county board may appoint a person who holds a valid 24142
superintendent's certificate issued under the rules of the 24143
department to work under a contract for an interim period not to 24144
exceed one hundred eighty days until a permanent superintendent 24145
can be employed or arranged for under division (A) or (B) of this 24146
section. The director of the department may approve additional 24147
periods of time for these types of interim appointments when so 24148
requested by a resolution adopted by a county board, if the 24149
director determines that the additional periods are warranted and 24150
the services of a permanent superintendent are not available. 24151

Sec. 5126.0227. The superintendent of the county board of 24152
~~mental retardation and~~ developmental disabilities shall: 24153

(A) Administer the work of the board, subject to the board's 24154
rules; 24155

(B) Recommend to the board the changes necessary to increase 24156
the effectiveness of the programs and services offered pursuant to 24157
Chapters 3323. and 5126. of the Revised Code; 24158

(C) Employ persons for all positions authorized by the board, 24159
approve contracts of employment for management employees that are 24160
for a term of one year or less, and approve personnel actions that 24161
involve employees in the classified civil service as may be 24162

necessary for the work of the board; 24163

(D) Approve compensation for employees within the limits set 24164
by the salary schedule and budget set by the board and in 24165
accordance with section 5126.26 of the Revised Code, and ensure 24166
that all employees and consultants are properly reimbursed for 24167
actual and necessary expenses incurred in the performance of 24168
official duties; 24169

(E) Provide consultation to public agencies as defined in 24170
division (C) of section 102.01 of the Revised Code, including 24171
other county boards of ~~mental retardation and~~ developmental 24172
disabilities, and to individuals, agencies, or organizations 24173
providing services supported by the board. 24174

The superintendent may authorize the payment of board 24175
obligations by the county auditor. 24176

Sec. 5126.0228. (A) As used in this section, "specialized 24177
services" has the same meaning as in section 5126.281 of the 24178
Revised Code. 24179

(B) Except as provided in division (C) of section 5126.033 of 24180
the Revised Code, none of the following individuals may be 24181
employed by a county board of ~~mental retardation and~~ developmental 24182
disabilities: 24183

(1) An employee of an agency contracting with the county 24184
board; 24185

(2) An immediate family member of an employee of an agency 24186
contracting with the county board unless the county board adopts a 24187
resolution authorizing the immediate family member's employment 24188
with the county board or the employment is consistent with a 24189
policy adopted by the board establishing parameters for such 24190
employment and the policy is consistent with Chapter 102. and 24191
sections 2921.42, 2921.421, and 2921.43 of the Revised Code; 24192

(3) An individual with an immediate family member who serves 24193
as a county commissioner of any of the counties served by the 24194
county board unless the individual was an employee of the county 24195
board before October 31, 1980; 24196

(4) An individual who is employed by, has an ownership 24197
interest in, performs or provides administrative duties for, or is 24198
a member of the governing board of an entity that provides 24199
specialized services, regardless of whether the entity contracts 24200
with the county board to provide specialized services. 24201

Sec. 5126.0229. As used in this section, "specialized 24202
services" has the same meaning as in section 5126.281 of the 24203
Revised Code. 24204

Notwithstanding any provision of the Revised Code to the 24205
contrary, including applicable provisions of sections 102.03, 24206
102.04, 2921.42, and 2921.43 of the Revised Code, an employee of a 24207
county board of ~~mental retardation and~~ developmental disabilities 24208
also may be a member of the governing board of a political 24209
subdivision, including the board of education of a school 24210
district, or an agency that does not provide specialized services. 24211
The county board may contract with such a governing board even 24212
though the governing board includes an individual who is an 24213
employee of the county board. That member of the governing board 24214
may not vote on any matter before the governing board concerning a 24215
contract with the county board or participate in any discussion or 24216
debate regarding such a contract. 24217

Sec. 5126.03. As used in this section and in sections 24218
5126.031 to 5126.034 of the Revised Code: 24219

(A) "Direct services contract" means any legally enforceable 24220
agreement with an individual, agency, or other entity that, 24221
pursuant to its terms or operation, may result in a payment from a 24222

county board of ~~mental retardation and~~ developmental disabilities 24223
to an eligible person or to a member of the immediate family of an 24224
eligible person for services rendered to the eligible person. 24225
"Direct services contract" includes a contract for supported 24226
living pursuant to sections 5126.40 to 5126.47 of the Revised 24227
Code, family support services under section 5126.11 of the Revised 24228
Code, and reimbursement for transportation expenses. 24229

(B) "Eligible person" means a person eligible to receive 24230
services from a county board or from an entity under contract with 24231
a county board. 24232

(C) "Former board member" means a person whose service on the 24233
county board ended less than one year prior to commencement of 24234
services under a direct services contract. 24235

(D) "Former employee" means a person whose employment by the 24236
county board ended less than one year prior to commencement of 24237
services under a direct services contract. 24238

Sec. 5126.031. (A) Except as provided in division (B) of this 24239
section, annually at the organizational meeting required by 24240
section 5126.0216 of the Revised Code, the chairperson of the 24241
county board of ~~mental retardation and~~ developmental disabilities 24242
shall appoint three members of the board to an ethics council to 24243
review all direct services contracts. The board's chairperson may 24244
be one of those appointed. The superintendent of the board shall 24245
be a nonvoting member of the council. The chairperson shall not 24246
appoint a person to the council if the person, or any member of 24247
the person's immediate family, will have any interest in any 24248
direct services contract under review by the council while the 24249
person serves on the council or during the twelve-month period 24250
after completing service on the council. If a council member or a 24251
member of the council member's immediate family has or will have 24252
such an interest, the chairperson shall replace the member by 24253

appointing another board member to the council. 24254

The council shall meet regularly as directed by the board to 24255
perform its duties. Minutes shall be kept of the actions of the 24256
council. The minutes shall be part of the public record of the 24257
county board. 24258

Any action taken by the council on direct services contracts 24259
under its review shall be in public. The council shall afford an 24260
affected party the opportunity to meet with the council on matters 24261
related to a direct services contract or any action taken by the 24262
council. 24263

(B) If a county board establishes a policy specifying that 24264
the board is not willing to enter into direct services contracts 24265
with any person who is a board member or former board member or a 24266
member of the immediate family of a board member or former board 24267
member, the board may assume the responsibilities and perform the 24268
duties of an ethics council specified in section 5126.032 of the 24269
Revised Code. The policy shall be established by resolution 24270
adopted by a majority of the members of the board in attendance at 24271
a meeting at which there is a quorum and shall be in effect for 24272
one year after its adoption, at which time the board shall, by 24273
resolution adopted in the same manner as the initial resolution, 24274
either renew the policy or establish a new one. 24275

Sec. 5126.032. (A) The ethics council appointed for a county 24276
board of ~~mental retardation and~~ developmental disabilities shall 24277
review all direct services contracts, and approve or disapprove 24278
each contract in accordance with the standards in section 5126.033 24279
of the Revised Code. The council shall develop, in consultation 24280
with the prosecuting attorney, and recommend to the board ethical 24281
standards, contract audit procedures, and grievance procedures 24282
with respect to the award and reconciliation of direct services 24283
contracts. The superintendent, or an employee of the county board 24284

designated by the superintendent, shall, in accordance with a 24285
policy established by the county board, certify to the council a 24286
copy of each proposed direct services contract or contract renewal 24287
at a reasonable time before the contract would take effect if 24288
entered into or renewed, if, at the time the contract or renewal 24289
is proposed, resources approved by the board for such purposes are 24290
available. 24291

The council shall promptly review each direct services 24292
contract certified to it. If the contract does not meet the 24293
conditions specified in section 5126.033 of the Revised Code, the 24294
council shall recommend that the board not enter into the contract 24295
or suggest specified revisions. The superintendent shall provide 24296
all the information the council needs to make its determinations. 24297

The council shall certify to the board its recommendation 24298
with regard to each contract. Except as provided in division (B) 24299
of this section, the board, by resolution, shall enter into each 24300
direct services contract that the council recommends or recommends 24301
with specified revisions. The board shall not enter into any 24302
contract that is not recommended by the council or enter into any 24303
contract to which revisions are suggested if the contract does not 24304
include the specified revisions. 24305

(B) The prosecuting attorney, at the request of the board, 24306
shall prepare a legal review of any direct services contract that 24307
has been recommended, or recommended with revisions, by the 24308
council. The board shall enter into only those contracts submitted 24309
for review that are determined by the prosecuting attorney to be 24310
in compliance with state law. 24311

Sec. 5126.033. (A) A county board of ~~mental retardation and~~ 24312
developmental disabilities shall not enter into a direct services 24313
contract unless the contract is limited either to the actual 24314
amount of the expenses or to a reasonable and allowable amount 24315

projected by the board. 24316

(B) A county board shall not enter into a direct services 24317
contract that would result in payment to a board member, former 24318
board member, employee, former employee, or member of the 24319
immediate family of a board member, former board member, employee, 24320
or former employee if the person who would receive services under 24321
the contract stands to receive any preferential treatment or any 24322
unfair advantage over other eligible persons. 24323

(C) A county board shall not enter into a direct services 24324
contract for services provided in accordance with section 5126.11 24325
or sections 5126.40 to 5126.46 of the Revised Code under which an 24326
individual, agency, or other entity will employ an individual who 24327
is also an employee of that county board unless all of the 24328
following conditions are met: 24329

(1) The employee is not in a capacity to influence the award 24330
of the contract. 24331

(2) The employee has not attempted in any manner to secure 24332
the contract on behalf of the individual, agency, or other entity. 24333

(3) The employee is not employed in management level two or 24334
three according to rules adopted by the director of ~~mental~~ 24335
~~retardation and~~ developmental disabilities and does not provide 24336
service and support administration. 24337

(4) The employee is not employed by the board during the 24338
period when the contract is developed as an administrator or 24339
supervisor responsible for approving or supervising services to be 24340
provided under the contract and agrees not to take such a position 24341
while the contract is in effect, regardless of whether the 24342
position is related to the services provided under the contract. 24343

(5) The employee has not taken any actions that create the 24344
need for the services to be provided under the contract. 24345

(6) The individual, agency, or other entity seeks the 24346
services of the employee because of the employee's expertise and 24347
familiarity with the care and condition of one or more eligible 24348
persons and other individuals with such expertise and familiarity 24349
are unavailable, or an eligible person has requested to have the 24350
services provided by that employee. 24351

The superintendent of the county board shall notify the 24352
employee and the individual, agency, or other entity that seeks 24353
the employee's services of the ethics council's determination 24354
under section 5126.032 of the Revised Code regarding the contract. 24355
The council's determination shall be binding on all parties. 24356

The employee who is the subject of the contract shall inform 24357
the superintendent of the county board of any employment the 24358
employee has outside the county board that is with any individual, 24359
agency, or other entity that has a contract with the county board. 24360

Sec. 5126.034. (A) If the requirements of section 5126.033 of 24361
the Revised Code have been met for a particular direct services 24362
contract, a member or former member of a county board of ~~mental~~ 24363
~~retardation~~ and developmental disabilities, an employee or former 24364
employee of a county board, or an immediate family member of a 24365
member, former member, employee, or former employee of a county 24366
board is not in violation of the restrictions in Chapter 102. and 24367
sections 2921.42 and 5126.0210 of the Revised Code with regard to 24368
that contract. 24369

(B) Nothing in section 5126.033 of the Revised Code shall be 24370
construed to allow a member or employee of a county board to 24371
authorize, or use the authority of the member's or employee's 24372
office or employment to secure authorization of, a contract that 24373
could result in receipt by the county board member or employee or 24374
a member of the immediate family of the county board member or 24375
employee of payment for expenses incurred on behalf of an 24376

immediate family member who is an eligible person. 24377

Sec. 5126.037. No county board of ~~mental retardation and~~ 24378
developmental disabilities shall contract with a nongovernmental 24379
agency whose board includes a county commissioner of any of the 24380
counties served by the county board. 24381

Sec. 5126.038. (A) As used in this section, "professional 24382
services" means all of the following services provided on behalf 24383
of a county board of ~~mental retardation and~~ developmental 24384
disabilities, members or employees of a county board, or both: 24385

(1) Lobbying and other governmental affairs services; 24386

(2) Legal services other than the legal services provided by 24387
a county prosecutor or provided for the purpose of collective 24388
bargaining; 24389

(3) Public relation services; 24390

(4) Consulting services; 24391

(5) Personnel training services, not including tuition or 24392
professional growth reimbursement programs for county board 24393
members or employees. 24394

(B) Each county board of ~~mental retardation and~~ developmental 24395
disabilities shall submit to the board of county commissioners of 24396
each county that is served by the county board, in accordance with 24397
the normal budget process and as part of its budget request, a 24398
list identifying the total expenditures projected for any of the 24399
following: 24400

(1) Any membership dues of the members or employees of the 24401
county board, in any organization, association, or other entity; 24402

(2) Any professional services of the county board, its 24403
members or employees, or both; 24404

(3) Any training of the members or employees of the county board. 24405
24406

Sec. 5126.04. (A) Each county board of ~~mental retardation and~~ developmental disabilities shall plan and set priorities based on available resources for the provision of facilities, programs, and other services to meet the needs of county residents who are individuals with mental retardation and other developmental disabilities, former residents of the county residing in state institutions or placed under purchase of service agreements under section 5123.18 of the Revised Code, and children subject to a determination made pursuant to section 121.38 of the Revised Code. 24407
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Each county board shall assess the facility and service needs of the individuals with mental retardation and other developmental disabilities who are residents of the county or former residents of the county residing in state institutions or placed under purchase of service agreements under section 5123.18 of the Revised Code. 24416
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Each county board shall require individual habilitation or service plans for individuals with mental retardation and other developmental disabilities who are being served or who have been determined eligible for services and are awaiting the provision of services. Each board shall ensure that methods of having their service needs evaluated are available. 24422
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(B)(1) If a foster child is in need of assessment for eligible services or is receiving services from a county board of ~~mental retardation and~~ developmental disabilities and that child is placed in a different county, the agency that placed the child, immediately upon placement, shall inform the county board in the new county all of the following: 24428
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(a) That a foster child has been placed in that county; 24434

(b) The name and other identifying information of the foster child;	24435 24436
(c) The name of the foster child's previous county of residence;	24437 24438
(d) That the foster child was in need of assessment for eligible services or was receiving services from the county board of mental retardation and developmental disabilities in the previous county.	24439 24440 24441 24442
(2) Upon receiving the notice described in division (B)(1) of this section or otherwise learning that the child was in need of assessment for eligible services or was receiving services from a county board of mental retardation and developmental disabilities in the previous county, the county board in the new county shall communicate with the county board of the previous county to determine how services for the foster child shall be provided in accordance with each board's plan and priorities as described in division (A) of this section.	24443 24444 24445 24446 24447 24448 24449 24450 24451
If the two county boards are unable to reach an agreement within ten days of the child's placement, the county board in the new county shall send notice to the Ohio department of mental retardation and developmental disabilities of the failure to agree. The department shall decide how services shall be provided for the foster child within ten days of receiving notice that the county boards could not reach an agreement. The department may decide that one, or both, of the county boards shall provide services. The services shall be provided in accordance with the board's plan and priorities as described in division (A) of this section.	24452 24453 24454 24455 24456 24457 24458 24459 24460 24461 24462
(C) The department of mental retardation and developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. To the	24463 24464 24465

extent that rules adopted under this section apply to the 24466
identification and placement of children with disabilities under 24467
Chapter 3323. of the Revised Code, the rules shall be consistent 24468
with the standards and procedures established under sections 24469
3323.03 to 3323.05 of the Revised Code. 24470

(D) The responsibility or authority of a county board to 24471
provide services under this chapter does not affect the 24472
responsibility of any other entity of state or local government to 24473
provide services to individuals with mental retardation and 24474
developmental disabilities. 24475

(E) On or before the first day of February prior to a school 24476
year, a county board of ~~mental retardation and~~ developmental 24477
disabilities may elect not to participate during that school year 24478
in the provision of or contracting for educational services for 24479
children ages six through twenty-one years of age, provided that 24480
on or before that date the board gives notice of this election to 24481
the superintendent of public instruction, each school district in 24482
the county, and the educational service center serving the county. 24483
If a board makes this election, it shall not have any 24484
responsibility for or authority to provide educational services 24485
that school year for children ages six through twenty-one years of 24486
age. If a board does not make an election for a school year in 24487
accordance with this division, the board shall be deemed to have 24488
elected to participate during that school year in the provision of 24489
or contracting for educational services for children ages six 24490
through twenty-one years of age. 24491

(F) If a county board of ~~mental retardation and~~ developmental 24492
disabilities elects to provide educational services during a 24493
school year to individuals six through twenty-one years of age who 24494
have multiple disabilities, the board may provide these services 24495
to individuals who are appropriately identified and determined 24496
eligible pursuant to Chapter 3323. of the Revised Code, and in 24497

accordance with applicable rules of the state board of education. 24498
The county board may also provide related services to individuals 24499
six through twenty-one years of age who have one or more disabling 24500
conditions, in accordance with section 3317.20 and Chapter 3323. 24501
of the Revised Code and applicable rules of the state board of 24502
education. 24503

Sec. 5126.041. (A) As used in this section: 24504

(1) "Biological risk" and "environmental risk" have the 24505
meanings established pursuant to section 5123.011 of the Revised 24506
Code. 24507

(2) "Preschool child with a disability" has the same meaning 24508
as in section 3323.01 of the Revised Code. 24509

(3) "State institution" means all or part of an institution 24510
under the control of the department of ~~mental retardation and~~ 24511
developmental disabilities pursuant to section 5123.03 of the 24512
Revised Code and maintained for the care, treatment, and training 24513
of the mentally retarded. 24514

(B) Except as provided in division (C) of this section, each 24515
county board of ~~mental retardation and~~ developmental disabilities 24516
shall make eligibility determinations in accordance with the 24517
definition of "developmental disability" in section 5126.01 of the 24518
Revised Code. Pursuant to rules the department of ~~mental~~ 24519
~~retardation and~~ developmental disabilities shall adopt in 24520
accordance with Chapter 119. of the Revised Code, a county board 24521
may establish eligibility for programs and services for either of 24522
the following: 24523

(1) Individuals under age six who have a biological risk or 24524
environmental risk of a developmental delay; 24525

(2) Any preschool child with a disability eligible for 24526
services under section 3323.02 of the Revised Code whose 24527

disability is not attributable solely to mental illness as defined 24528
in section 5122.01 of the Revised Code. 24529

(C)(1) A county board shall make determinations of 24530
eligibility for service and support administration in accordance 24531
with rules adopted under section 5126.08 of the Revised Code. 24532

(2) All persons who were eligible for services and enrolled 24533
in programs offered by a county board of ~~mental retardation and~~ 24534
developmental disabilities pursuant to this chapter on July 1, 24535
1991, shall continue to be eligible for those services and to be 24536
enrolled in those programs as long as they are in need of 24537
services. 24538

(3) A person who resided in a state institution on or before 24539
October 29, 1993, is eligible for programs and services offered by 24540
a county board of ~~mental retardation and~~ developmental 24541
disabilities, unless the person is determined by the county board 24542
not to be in need of those programs and services. 24543

(D) A county board shall refer a person who requests but is 24544
not eligible for programs and services offered by the board to 24545
other entities of state and local government or appropriate 24546
private entities that provide services. 24547

(E) Membership of a person on, or employment of a person by, 24548
a county board of ~~mental retardation and~~ developmental 24549
disabilities does not affect the eligibility of any member of that 24550
person's family for services provided by the board or by any 24551
entity under contract with the board. 24552

Sec. 5126.042. (A) As used in this section: 24553

(1) "Emergency" means any situation that creates for an 24554
individual with mental retardation or developmental disabilities a 24555
risk of substantial self-harm or substantial harm to others if 24556
action is not taken within thirty days. An "emergency" may include 24557

one or more of the following situations: 24558

(a) Loss of present residence for any reason, including legal 24559
action; 24560

(b) Loss of present caretaker for any reason, including 24561
serious illness of the caretaker, change in the caretaker's 24562
status, or inability of the caretaker to perform effectively for 24563
the individual; 24564

(c) Abuse, neglect, or exploitation of the individual; 24565

(d) Health and safety conditions that pose a serious risk to 24566
the individual or others of immediate harm or death; 24567

(e) Change in the emotional or physical condition of the 24568
individual that necessitates substantial accommodation that cannot 24569
be reasonably provided by the individual's existing caretaker. 24570

(2) "Service substitution list" means a service substitution 24571
list established by a county board of ~~mental retardation and~~ 24572
developmental disabilities before ~~the effective date of this~~ 24573
~~amendment~~ September 1, 2008, pursuant to division (B) of this 24574
section as this section existed on the day immediately before ~~the~~ 24575
~~effective date of this amendment~~ September 1, 2008. 24576

(B) If a county board of ~~mental retardation and~~ developmental 24577
disabilities determines that available resources are not 24578
sufficient to meet the needs of all individuals who request 24579
programs and services and may be offered the programs and 24580
services, it shall establish waiting lists for services. The board 24581
may establish priorities for making placements on its waiting 24582
lists according to an individual's emergency status and shall 24583
establish priorities in accordance with divisions (D) and (E) of 24584
this section. 24585

The individuals who may be placed on a waiting list include 24586
individuals with a need for services on an emergency basis and 24587

individuals who have requested services for which resources are 24588
not available. 24589

An individual placed on a county board's service substitution 24590
list before ~~the effective date of this amendment~~ September 1, 24591
2008, for the purpose of obtaining home and community-based 24592
services shall be deemed to have been placed on the county board's 24593
waiting list for home and community-based services on the date the 24594
individual made a request to the county board that the individual 24595
receive home and community-based services instead of the services 24596
the individual received at the time the request for home and 24597
community-based services was made to the county board. 24598

(C) A county board shall establish a separate waiting list 24599
for each of the following categories of services, and may 24600
establish separate waiting lists within the waiting lists: 24601

(1) Early childhood services; 24602

(2) Educational programs for preschool and school age 24603
children; 24604

(3) Adult services; 24605

(4) Service and support administration; 24606

(5) Residential services and supported living; 24607

(6) Transportation services; 24608

(7) Other services determined necessary and appropriate for 24609
persons with mental retardation or a developmental disability 24610
according to their individual habilitation or service plans; 24611

(8) Family support services provided under section 5126.11 of 24612
the Revised Code. 24613

(D) Except as provided in division (G) of this section, a 24614
county board shall do, as priorities, all of the following in 24615
accordance with the assessment component, approved under section 24616
5123.046 of the Revised Code, of the county board's plan developed 24617

under section 5126.054 of the Revised Code: 24618

(1) For the purpose of obtaining additional federal medicaid 24619
funds for home and community-based services and medicaid case 24620
management services, do both of the following: 24621

(a) Give an individual who is eligible for home and 24622
community-based services and meets both of the following 24623
requirements priority over any other individual on a waiting list 24624
established under division (C) of this section for home and 24625
community-based services that include supported living, 24626
residential services, or family support services: 24627

(i) Is twenty-two years of age or older; 24628

(ii) Receives supported living or family support services. 24629

(b) Give an individual who is eligible for home and 24630
community-based services and meets both of the following 24631
requirements priority over any other individual on a waiting list 24632
established under division (C) of this section for home and 24633
community-based services that include adult services: 24634

(i) Resides in the individual's own home or the home of the 24635
individual's family and will continue to reside in that home after 24636
enrollment in home and community-based services; 24637

(ii) Receives adult services from the county board. 24638

(2) As federal medicaid funds become available pursuant to 24639
division (D)(1) of this section, give an individual who is 24640
eligible for home and community-based services and meets any of 24641
the following requirements priority for such services over any 24642
other individual on a waiting list established under division (C) 24643
of this section: 24644

(a) Does not receive residential services or supported 24645
living, either needs services in the individual's current living 24646
arrangement or will need services in a new living arrangement, and 24647

has a primary caregiver who is sixty years of age or older; 24648

(b) Is less than twenty-two years of age and has at least one 24649
of the following service needs that are unusual in scope or 24650
intensity: 24651

(i) Severe behavior problems for which a behavior support 24652
plan is needed; 24653

(ii) An emotional disorder for which anti-psychotic 24654
medication is needed; 24655

(iii) A medical condition that leaves the individual 24656
dependent on life-support medical technology; 24657

(iv) A condition affecting multiple body systems for which a 24658
combination of specialized medical, psychological, educational, or 24659
habilitation services are needed; 24660

(v) A condition the county board determines to be comparable 24661
in severity to any condition described in divisions (D)(2)(b)(i) 24662
to (iv) of this section and places the individual at significant 24663
risk of institutionalization. 24664

(c) Is twenty-two years of age or older, does not receive 24665
residential services or supported living, and is determined by the 24666
county board to have intensive needs for home and community-based 24667
services on an in-home or out-of-home basis. 24668

(E) Except as provided in division (G) of this section and 24669
for a number of years and beginning on a date specified in rules 24670
adopted under division (K) of this section, a county board shall 24671
give an individual who is eligible for home and community-based 24672
services, resides in a nursing facility, and chooses to move to 24673
another setting with the help of home and community-based 24674
services, priority over any other individual on a waiting list 24675
established under division (C) of this section for home and 24676
community-based services who does not meet these criteria. 24677

(F) If two or more individuals on a waiting list established 24678
under division (C) of this section for home and community-based 24679
services have priority for the services pursuant to division 24680
(D)(1) or (2) or (E) of this section, a county board may use 24681
criteria specified in rules adopted under division (K)(2) of this 24682
section in determining the order in which the individuals with 24683
priority will be offered the services. Otherwise, the county board 24684
shall offer the home and community-based services to such 24685
individuals in the order they are placed on the waiting list. 24686

(G) No individual may receive priority for services pursuant 24687
to division (D) or (E) of this section over an individual placed 24688
on a waiting list established under division (C) of this section 24689
on an emergency status. 24690

(H) Prior to establishing any waiting list under this 24691
section, a county board shall develop and implement a policy for 24692
waiting lists that complies with this section and rules adopted 24693
under division (K) of this section. 24694

Prior to placing an individual on a waiting list, the county 24695
board shall assess the service needs of the individual in 24696
accordance with all applicable state and federal laws. The county 24697
board shall place the individual on the appropriate waiting list 24698
and may place the individual on more than one waiting list. The 24699
county board shall notify the individual of the individual's 24700
placement and position on each waiting list on which the 24701
individual is placed. 24702

At least annually, the county board shall reassess the 24703
service needs of each individual on a waiting list. If it 24704
determines that an individual no longer needs a program or 24705
service, the county board shall remove the individual from the 24706
waiting list. If it determines that an individual needs a program 24707
or service other than the one for which the individual is on the 24708
waiting list, the county board shall provide the program or 24709

service to the individual or place the individual on a waiting 24710
list for the program or service in accordance with the board's 24711
policy for waiting lists. 24712

When a program or service for which there is a waiting list 24713
becomes available, the county board shall reassess the service 24714
needs of the individual next scheduled on the waiting list to 24715
receive that program or service. If the reassessment demonstrates 24716
that the individual continues to need the program or service, the 24717
board shall offer the program or service to the individual. If it 24718
determines that an individual no longer needs a program or 24719
service, the county board shall remove the individual from the 24720
waiting list. If it determines that an individual needs a program 24721
or service other than the one for which the individual is on the 24722
waiting list, the county board shall provide the program or 24723
service to the individual or place the individual on a waiting 24724
list for the program or service in accordance with the board's 24725
policy for waiting lists. The county board shall notify the 24726
individual of the individual's placement and position on the 24727
waiting list on which the individual is placed. 24728

(I) A child subject to a determination made pursuant to 24729
section 121.38 of the Revised Code who requires the home and 24730
community-based services provided through a medicaid component 24731
that the department of ~~mental retardation and~~ developmental 24732
disabilities administers under section 5111.871 of the Revised 24733
Code shall receive services through that medicaid component. For 24734
all other services, a child subject to a determination made 24735
pursuant to section 121.38 of the Revised Code shall be treated as 24736
an emergency by the county boards and shall not be subject to a 24737
waiting list. 24738

(J) Not later than the fifteenth day of March of each 24739
even-numbered year, each county board shall prepare and submit to 24740
the director of ~~mental retardation and~~ developmental disabilities 24741

its recommendations for the funding of services for individuals 24742
with mental retardation and developmental disabilities and its 24743
proposals for reducing the waiting lists for services. 24744

(K)(1) The department of ~~mental retardation and~~ developmental 24745
disabilities shall adopt rules in accordance with Chapter 119. of 24746
the Revised Code governing waiting lists established under this 24747
section. The rules shall include procedures to be followed to 24748
ensure that the due process rights of individuals placed on 24749
waiting lists are not violated. 24750

(2) As part of the rules adopted under this division, the 24751
department shall adopt rules establishing criteria a county board 24752
may use under division (F) of this section in determining the 24753
order in which individuals with priority for home and 24754
community-based services will be offered the services. The rules 24755
shall also specify conditions under which a county board, when 24756
there is no individual with priority for home and community-based 24757
services pursuant to division (D)(1) or (2) or (E) of this section 24758
available and appropriate for the services, may offer the services 24759
to an individual on a waiting list for the services but not given 24760
such priority for the services. 24761

(3) As part of the rules adopted under this division, the 24762
department shall adopt rules specifying both of the following for 24763
the priority category established under division (E) of this 24764
section: 24765

(a) The number of years, which shall not exceed five, that 24766
the priority category will be in effect; 24767

(b) The date that the priority category is to go into effect. 24768

(L) The following shall take precedence over the applicable 24769
provisions of this section: 24770

(1) Medicaid rules and regulations; 24771

(2) Any specific requirements that may be contained within a 24772
medicaid state plan amendment or waiver program that a county 24773
board has authority to administer or with respect to which it has 24774
authority to provide services, programs, or supports. 24775

Sec. 5126.044. (A) As used in this section, "eligible person" 24776
has the same meaning as in section 5126.03 of the Revised Code. 24777
24778

(B) Except as provided in division (D) of this section, no 24779
person shall disclose the identity of an individual who requests 24780
programs or services under this chapter or release a record or 24781
report regarding an eligible person that is maintained by a county 24782
board of ~~mental retardation and~~ developmental disabilities or an 24783
entity under contract with a county board unless one of the 24784
following circumstances exists: 24785

(1) The individual, eligible person, or the individual's 24786
guardian, or, if the individual is a minor, the individual's 24787
parent or guardian, makes a written request to the county board or 24788
entity for or approves in writing disclosure of the individual's 24789
identity or release of the record or report regarding the eligible 24790
person. 24791

(2) Disclosure of the identity of an individual is needed for 24792
approval of a direct services contract under section 5126.032 or 24793
5126.033 of the Revised Code. The county board shall release only 24794
the individual's name and the general nature of the services to be 24795
provided. 24796

(3) Disclosure of the identity of the individual is needed to 24797
ascertain that the county board's waiting lists for programs or 24798
services are being maintained in accordance with section 5126.042 24799
of the Revised Code and the rules adopted under that section. The 24800
county board shall release only the individual's name, the general 24801
nature of the programs or services to be provided the individual, 24802

the individual's rank on each waiting list that includes the 24803
individual, and any circumstances under which the individual was 24804
given priority when placed on a waiting list. 24805

(C) A board or entity that discloses an individual's identity 24806
or releases a record or report regarding an eligible person shall 24807
maintain a record of when and to whom the disclosure or release 24808
was made. 24809

(D)(1) At the request of an eligible person or the person's 24810
guardian or, if the eligible person is a minor, the person's 24811
parent or guardian, a county board or entity under contract with a 24812
county board shall provide the person who made the request access 24813
to records and reports regarding the eligible person. On written 24814
request, the county board or entity shall provide copies of the 24815
records and reports to the eligible person, guardian, or parent. 24816
The county board or entity may charge a reasonable fee to cover 24817
the costs of copying. The county board or entity may waive the fee 24818
in cases of hardship. 24819

(2) A county board shall provide access to any waiting list 24820
or record or report regarding an eligible person maintained by the 24821
board to any state agency responsible for monitoring and reviewing 24822
programs and services provided or arranged by the county board, 24823
any state agency involved in the coordination of services for an 24824
eligible person, and any agency under contract with the department 24825
of ~~mental retardation and~~ developmental disabilities for the 24826
provision of protective service pursuant to section 5123.56 of the 24827
Revised Code. 24828

(3) When an eligible person who requests programs or services 24829
under this chapter dies, the county board or entity under contract 24830
with the county board, shall, on written request, provide to both 24831
of the following persons any reports and records in the board or 24832
entity's possession concerning the eligible person: 24833

(a) If the report or records are necessary to administer the estate of the person who is the subject of the reports or records, to the executor or administrator of the person's estate;

(b) To the guardian of the person who is the subject of the reports or records or, if the individual had no guardian at the time of death, to a person in the first applicable of the following categories:

- (i) The person's spouse;
- (ii) The person's children;
- (iii) The person's parents;
- (iv) The person's brothers or sisters;
- (v) The person's uncles or aunts;
- (vi) The person's closest relative by blood or adoption;
- (vii) The person's closest relative by marriage.

The county board or entity shall provide the reports and records as required by division (D)(3) of this section not later than thirty days after receipt of the request.

(E) A county board shall notify an eligible person, the person's guardian, or, if the eligible person is a minor, the person's parent or guardian, prior to destroying any record or report regarding the eligible person.

Sec. 5126.045. (A) As used in this section, "eligible person" means a person eligible to receive services from a county board of ~~mental retardation and~~ developmental disabilities or from an entity under contract with a county board.

(B) A county board shall establish fees for services rendered to eligible persons if such fees are required by federal regulation and by rule adopted by the director of ~~mental retardation and~~ developmental disabilities.

A county board may provide services to a person who does not meet the standards for eligibility. The board may establish fees for these services, which may be paid for by the person, by another person on the person's behalf of the ineligible person, or by another governmental entity.

Sec. 5126.046. (A) Each county board of ~~mental retardation~~ and developmental disabilities that has medicaid local administrative authority under division (A) of section 5126.055 of the Revised Code for habilitation, vocational, or community employment services provided as part of home and community-based services shall create a list of all persons and government entities eligible to provide such habilitation, vocational, or community employment services. If the county board chooses and is eligible to provide such habilitation, vocational, or community employment services, the county board shall include itself on the list. The county board shall make the list available to each individual with mental retardation or other developmental disability who resides in the county and is eligible for such habilitation, vocational, or community employment services. The county board shall also make the list available to such individuals' families.

An individual with mental retardation or other developmental disability who is eligible for habilitation, vocational, or community employment services may choose the provider of the services.

(B) Each month, the department of ~~mental retardation~~ and developmental disabilities shall create a list of all persons and government entities eligible to provide residential services and supported living. The department shall include on the list all residential facilities licensed under section 5123.19 of the Revised Code and all supported living providers certified under

section 5123.161 of the Revised Code. The department shall 24894
distribute the monthly lists to county boards that have local 24895
administrative authority under division (A) of section 5126.055 of 24896
the Revised Code for residential services and supported living 24897
provided as part of home and community-based services. A county 24898
board that receives a list shall make it available to each 24899
individual with mental retardation or other developmental 24900
disability who resides in the county and is eligible for such 24901
residential services or supported living. The county board shall 24902
also make the list available to the families of those individuals. 24903

24904
An individual who is eligible for residential services or 24905
supported living may choose the provider of the residential 24906
services or supported living. 24907

(C) If a county board that has medicaid local administrative 24908
authority under division (A) of section 5126.055 of the Revised 24909
Code for home and community-based services violates the right 24910
established by this section of an individual to choose a provider 24911
that is qualified and willing to provide services to the 24912
individual, the individual shall receive timely notice that the 24913
individual may request a hearing under section 5101.35 of the 24914
Revised Code. 24915

(D) The departments of ~~mental retardation and~~ developmental 24916
disabilities and job and family services shall adopt rules in 24917
accordance with Chapter 119. of the Revised Code governing the 24918
implementation of this section. The rules shall include procedures 24919
for individuals to choose their service providers. The rules shall 24920
not be limited by a provider selection system established under 24921
section 5126.42 of the Revised Code, including any pool of 24922
providers created pursuant to a provider selection system. 24923

Sec. 5126.05. (A) Subject to the rules established by the 24924

director of ~~mental retardation and~~ developmental disabilities 24925
pursuant to Chapter 119. of the Revised Code for programs and 24926
services offered pursuant to this chapter, and subject to the 24927
rules established by the state board of education pursuant to 24928
Chapter 119. of the Revised Code for programs and services offered 24929
pursuant to Chapter 3323. of the Revised Code, the county board of 24930
~~mental retardation and~~ developmental disabilities shall: 24931

(1) Administer and operate facilities, programs, and services 24932
as provided by this chapter and Chapter 3323. of the Revised Code 24933
and establish policies for their administration and operation; 24934

(2) Coordinate, monitor, and evaluate existing services and 24935
facilities available to individuals with mental retardation and 24936
developmental disabilities; 24937

(3) Provide early childhood services, supportive home 24938
services, and adult services, according to the plan and priorities 24939
developed under section 5126.04 of the Revised Code; 24940

(4) Provide or contract for special education services 24941
pursuant to Chapters 3317. and 3323. of the Revised Code and 24942
ensure that related services, as defined in section 3323.01 of the 24943
Revised Code, are available according to the plan and priorities 24944
developed under section 5126.04 of the Revised Code; 24945

(5) Adopt a budget, authorize expenditures for the purposes 24946
specified in this chapter and do so in accordance with section 24947
319.16 of the Revised Code, approve attendance of board members 24948
and employees at professional meetings and approve expenditures 24949
for attendance, and exercise such powers and duties as are 24950
prescribed by the director; 24951

(6) Submit annual reports of its work and expenditures, 24952
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to 24953
the director, the superintendent of public instruction, and the 24954
board of county commissioners at the close of the fiscal year and 24955

at such other times as may reasonably be requested; 24956

(7) Authorize all positions of employment, establish 24957
compensation, including but not limited to salary schedules and 24958
fringe benefits for all board employees, approve contracts of 24959
employment for management employees that are for a term of more 24960
than one year, employ legal counsel under section 309.10 of the 24961
Revised Code, and contract for employee benefits; 24962

(8) Provide service and support administration in accordance 24963
with section 5126.15 of the Revised Code; 24964

(9) Certify respite care homes pursuant to rules adopted 24965
under section 5123.171 of the Revised Code by the director of 24966
~~mental retardation and~~ developmental disabilities. 24967

(B) To the extent that rules adopted under this section apply 24968
to the identification and placement of children with disabilities 24969
under Chapter 3323. of the Revised Code, they shall be consistent 24970
with the standards and procedures established under sections 24971
3323.03 to 3323.05 of the Revised Code. 24972

(C) Any county board may enter into contracts with other such 24973
boards and with public or private, nonprofit, or profit-making 24974
agencies or organizations of the same or another county, to 24975
provide the facilities, programs, and services authorized or 24976
required, upon such terms as may be agreeable, and in accordance 24977
with this chapter and Chapter 3323. of the Revised Code and rules 24978
adopted thereunder and in accordance with sections 307.86 and 24979
5126.071 of the Revised Code. 24980

(D) A county board may combine transportation for children 24981
and adults enrolled in programs and services offered under section 24982
5126.12 with transportation for children enrolled in classes 24983
funded under section 3317.20 or units approved under section 24984
3317.05 of the Revised Code. 24985

(E) A county board may purchase all necessary insurance 24986

policies, may purchase equipment and supplies through the 24987
department of administrative services or from other sources, and 24988
may enter into agreements with public agencies or nonprofit 24989
organizations for cooperative purchasing arrangements. 24990

(F) A county board may receive by gift, grant, devise, or 24991
bequest any moneys, lands, or property for the benefit of the 24992
purposes for which the board is established and hold, apply, and 24993
dispose of the moneys, lands, and property according to the terms 24994
of the gift, grant, devise, or bequest. All money received by 24995
gift, grant, bequest, or disposition of lands or property received 24996
by gift, grant, devise, or bequest shall be deposited in the 24997
county treasury to the credit of such board and shall be available 24998
for use by the board for purposes determined or stated by the 24999
donor or grantor, but may not be used for personal expenses of the 25000
board members. Any interest or earnings accruing from such gift, 25001
grant, devise, or bequest shall be treated in the same manner and 25002
subject to the same provisions as such gift, grant, devise, or 25003
bequest. 25004

(G) The board of county commissioners shall levy taxes and 25005
make appropriations sufficient to enable the county board of 25006
~~mental retardation and~~ developmental disabilities to perform its 25007
functions and duties, and may utilize any available local, state, 25008
and federal funds for such purpose. 25009

Sec. 5126.051. (A) To the extent that resources are 25010
available, a county board of ~~mental retardation and~~ developmental 25011
disabilities shall provide for or arrange residential services and 25012
supported living for individuals with mental retardation and 25013
developmental disabilities. 25014

A county board may acquire, convey, lease, or sell property 25015
for residential services and supported living and enter into loan 25016
agreements, including mortgages, for the acquisition of such 25017

property. A county board is not required to comply with provisions 25018
of Chapter 307. of the Revised Code providing for competitive 25019
bidding or sheriff sales in the acquisition, lease, conveyance, or 25020
sale of property under this division, but the acquisition, lease, 25021
conveyance, or sale must be at fair market value determined by 25022
appraisal of one or more disinterested persons appointed by the 25023
board. 25024

Any action taken by a county board under this division that 25025
will incur debt on the part of the county shall be taken in 25026
accordance with Chapter 133. of the Revised Code. A county board 25027
shall not incur any debt on the part of the county without the 25028
prior approval of the board of county commissioners. 25029

(B)(1) To the extent that resources are available, in 25030
addition to sheltered employment and work activities provided as 25031
adult services pursuant to division (A)(3) of section 5126.05 of 25032
the Revised Code, a county board of ~~mental retardation and~~ 25033
developmental disabilities may provide or arrange for job 25034
training, vocational evaluation, and community employment services 25035
to mentally retarded and developmentally disabled individuals who 25036
are age eighteen and older and not enrolled in a program or 25037
service under Chapter 3323. of the Revised Code or age sixteen or 25038
seventeen and eligible for adult services under rules adopted by 25039
the director of ~~mental retardation and~~ developmental disabilities 25040
under Chapter 119. of the Revised Code. These services shall be 25041
provided in accordance with the individual's individual service or 25042
habilitation plan and shall include support services specified in 25043
the plan. 25044

(2) A county board may, in cooperation with the Ohio 25045
rehabilitation services commission, seek federal funds for job 25046
training and community employment. 25047

(3) A county board may contract with any agency, board, or 25048
other entity that is accredited by the commission on accreditation 25049

of rehabilitation facilities to provide services. A county board 25050
that is accredited by the commission on accreditation of 25051
rehabilitation facilities may provide services for which it is 25052
certified by the commission. 25053

(C) To the extent that resources are available, a county 25054
board may provide services to an individual with mental 25055
retardation or other developmental disability in addition to those 25056
provided pursuant to this section, section 5126.05 of the Revised 25057
Code, or any other section of this chapter. The services shall be 25058
provided in accordance with the individual's habilitation or 25059
service plan and may be provided in collaboration with other 25060
entities of state or local government. 25061

Sec. 5126.052. (A) The superintendent of a county board of 25062
~~mental retardation and~~ developmental disabilities providing 25063
transportation for pupils to special education programs under this 25064
chapter may establish a volunteer bus rider assistance program 25065
under which qualified persons may be authorized to ride with 25066
pupils to and from such programs. Volunteers shall not be 25067
compensated for their services and are not employees for purposes 25068
of Chapter 4117. or 4123. of the Revised Code. Nothing in this 25069
section authorizes a superintendent or board to adversely affect 25070
the employment of any employee of the board. 25071

Volunteers may be assigned duties or responsibilities by the 25072
superintendent, including but not limited to, assisting pupils in 25073
embarking and disembarking from buses and in crossing streets 25074
where necessary to ensure the safety of the pupil, assisting the 25075
bus driver, and such other activities as the superintendent 25076
determines will aid in the safe and efficient transportation of 25077
pupils. 25078

(B) The superintendent shall ensure that each pupil receiving 25079
transportation under this chapter is instructed in school bus 25080

safety, proper bus rider behavior, and the potential problems and 25081
hazards associated with school bus ridership. Such instruction 25082
shall occur within two weeks after the pupil first receives 25083
transportation under this chapter. 25084

Sec. 5126.054. (A) Each county board of ~~mental retardation~~ 25085
~~and~~ developmental disabilities shall, by resolution, develop a 25086
three-calendar year plan that includes the following three 25087
components: 25088

(1) An assessment component that includes all of the 25089
following: 25090

(a) The number of individuals with mental retardation or 25091
other developmental disability residing in the county who need the 25092
level of care provided by an intermediate care facility for the 25093
mentally retarded, may seek home and community-based services, are 25094
given priority for the services pursuant to division (D) of 25095
section 5126.042 of the Revised Code; the service needs of those 25096
individuals; and the projected annualized cost for services; 25097

(b) The source of funds available to the county board to pay 25098
the nonfederal share of medicaid expenditures that the county 25099
board is required by sections 5126.059 and 5126.0510 of the 25100
Revised Code to pay; 25101

(c) Any other applicable information or conditions that the 25102
department of ~~mental retardation and~~ developmental disabilities 25103
requires as a condition of approving the component under section 25104
5123.046 of the Revised Code. 25105

(2) ~~A~~ preliminary implementation component that specifies 25106
the number of individuals to be provided, during the first year 25107
that the plan is in effect, home and community-based services 25108
pursuant to the priority given to them under divisions (D)(1) and 25109
(2) of section 5126.042 of the Revised Code and the types of home 25110

and community-based services the individuals are to receive; 25111

(3) A component that provides for the implementation of 25112
medicaid case management services and home and community-based 25113
services for individuals who begin to receive the services on or 25114
after the date the plan is approved under section 5123.046 of the 25115
Revised Code. A county board shall include all of the following in 25116
the component: 25117

(a) If the department of ~~mental retardation and~~ developmental 25118
disabilities or department of job and family services requires, an 25119
agreement to pay the nonfederal share of medicaid expenditures 25120
that the county board is required by sections 5126.059 and 25121
5126.0510 of the Revised Code to pay; 25122

(b) How the services are to be phased in over the period the 25123
plan covers, including how the county board will serve individuals 25124
on a waiting list established under division (C) of section 25125
5126.042 who are given priority status under division (D)(1) of 25126
that section; 25127

(c) Any agreement or commitment regarding the county board's 25128
funding of home and community-based services that the county board 25129
has with the department at the time the county board develops the 25130
component; 25131

(d) Assurances adequate to the department that the county 25132
board will comply with all of the following requirements: 25133

(i) To provide the types of home and community-based services 25134
specified in the preliminary implementation component required by 25135
division (A)(2) of this section to at least the number of 25136
individuals specified in that component; 25137

(ii) To use any additional funds the county board receives 25138
for the services to improve the county board's resource 25139
capabilities for supporting such services available in the county 25140
at the time the component is developed and to expand the services 25141

to accommodate the unmet need for those services in the county; 25142

(iii) To employ a business manager who is either a new 25143
employee who has earned at least a bachelor's degree in business 25144
administration or a current employee who has the equivalent 25145
experience of a bachelor's degree in business administration. If 25146
the county board will employ a new employee, the county board 25147
shall include in the component a timeline for employing the 25148
employee. 25149

(iv) To employ or contract with a medicaid services manager 25150
who is either a new employee who has earned at least a bachelor's 25151
degree or a current employee who has the equivalent experience of 25152
a bachelor's degree. If the county board will employ a new 25153
employee, the county board shall include in the component a 25154
timeline for employing the employee. Two or three county boards 25155
that have a combined total enrollment in county board services not 25156
exceeding one thousand individuals as determined pursuant to 25157
certifications made under division (B) of section 5126.12 of the 25158
Revised Code may satisfy this requirement by sharing the services 25159
of a medicaid services manager or using the services of a medicaid 25160
services manager employed by or under contract with a regional 25161
council that the county boards establish under section 5126.13 of 25162
the Revised Code. 25163

(e) Programmatic and financial accountability measures and 25164
projected outcomes expected from the implementation of the plan; 25165

(f) Any other applicable information or conditions that the 25166
department requires as a condition of approving the component 25167
under section 5123.046 of the Revised Code. 25168

(B) A county board whose plan developed under division (A) of 25169
this section is approved by the department under section 5123.046 25170
of the Revised Code shall update and renew the plan in accordance 25171
with a schedule the department shall develop. 25172

Sec. 5126.055. (A) Except as provided in section 5126.056 of 25173
the Revised Code, a county board of ~~mental retardation and~~ 25174
developmental disabilities has medicaid local administrative 25175
authority to, and shall, do all of the following for an individual 25176
with mental retardation or other developmental disability who 25177
resides in the county that the county board serves and seeks or 25178
receives home and community-based services: 25179

(1) Perform assessments and evaluations of the individual. As 25180
part of the assessment and evaluation process, the county board 25181
shall do all of the following: 25182

(a) Make a recommendation to the department of ~~mental~~ 25183
~~retardation and~~ developmental disabilities on whether the 25184
department should approve or deny the individual's application for 25185
the services, including on the basis of whether the individual 25186
needs the level of care an intermediate care facility for the 25187
mentally retarded provides; 25188

(b) If the individual's application is denied because of the 25189
county board's recommendation and the individual requests a 25190
hearing under section 5101.35 of the Revised Code, present, with 25191
the department of ~~mental retardation and~~ developmental 25192
disabilities or department of job and family services, whichever 25193
denies the application, the reasons for the recommendation and 25194
denial at the hearing; 25195

(c) If the individual's application is approved, recommend to 25196
the departments of ~~mental retardation and~~ developmental 25197
disabilities and job and family services the services that should 25198
be included in the individual's individualized service plan and, 25199
if either department approves, reduces, denies, or terminates a 25200
service included in the individual's individualized service plan 25201
under section 5111.871 of the Revised Code because of the county 25202
board's recommendation, present, with the department that made the 25203

approval, reduction, denial, or termination, the reasons for the 25204
recommendation and approval, reduction, denial, or termination at 25205
a hearing under section 5101.35 of the Revised Code. 25206

(2) In accordance with the rules adopted under section 25207
5126.046 of the Revised Code, perform the county board's duties 25208
under that section regarding assisting the individual's right to 25209
choose a qualified and willing provider of the services and, at a 25210
hearing under section 5101.35 of the Revised Code, present 25211
evidence of the process for appropriate assistance in choosing 25212
providers; 25213

(3) If the county board is certified under section 5123.161 25214
of the Revised Code to provide the services and agrees to provide 25215
the services to the individual and the individual chooses the 25216
county board to provide the services, furnish, in accordance with 25217
the county board's medicaid provider agreement and for the 25218
authorized reimbursement rate, the services the individual 25219
requires; 25220

(4) Monitor the services provided to the individual and 25221
ensure the individual's health, safety, and welfare. The 25222
monitoring shall include quality assurance activities. If the 25223
county board provides the services, the department of ~~mental~~ 25224
~~retardation and~~ developmental disabilities shall also monitor the 25225
services. 25226

(5) Develop, with the individual and the provider of the 25227
individual's services, an effective individualized service plan 25228
that includes coordination of services, recommend that the 25229
departments of ~~mental retardation and~~ developmental disabilities 25230
and job and family services approve the plan, and implement the 25231
plan unless either department disapproves it; 25232

(6) Have an investigative agent conduct investigations under 25233
section 5126.313 of the Revised Code that concern the individual; 25234

(7) Have a service and support administrator perform the 25235
duties under division (B)(9) of section 5126.15 of the Revised 25236
Code that concern the individual. 25237

(B) A county board shall perform its medicaid local 25238
administrative authority under this section in accordance with all 25239
of the following: 25240

(1) The county board's plan that the department of ~~mental~~ 25241
~~retardation and~~ developmental disabilities approves under section 25242
5123.046 of the Revised Code; 25243

(2) All applicable federal and state laws; 25244

(3) All applicable policies of the departments of ~~mental~~ 25245
~~retardation and~~ developmental disabilities and job and family 25246
services and the United States department of health and human 25247
services; 25248

(4) The department of job and family services' supervision 25249
under its authority under section 5111.01 of the Revised Code to 25250
act as the single state medicaid agency; 25251

(5) The department of ~~mental retardation and~~ developmental 25252
disabilities' oversight. 25253

(C) The departments of ~~mental retardation and~~ developmental 25254
disabilities and job and family services shall communicate with 25255
and provide training to county boards regarding medicaid local 25256
administrative authority granted by this section. The 25257
communication and training shall include issues regarding audit 25258
protocols and other standards established by the United States 25259
department of health and human services that the departments 25260
determine appropriate for communication and training. County 25261
boards shall participate in the training. The departments shall 25262
assess the county board's compliance against uniform standards 25263
that the departments shall establish. 25264

(D) A county board may not delegate its medicaid local administrative authority granted under this section but may contract with a person or government entity, including a council of governments, for assistance with its medicaid local administrative authority. A county board that enters into such a contract shall notify the director of ~~mental retardation and~~ developmental disabilities. The notice shall include the tasks and responsibilities that the contract gives to the person or government entity. The person or government entity shall comply in full with all requirements to which the county board is subject regarding the person or government entity's tasks and responsibilities under the contract. The county board remains ultimately responsible for the tasks and responsibilities.

(E) A county board that has medicaid local administrative authority under this section shall, through the departments of ~~mental retardation and~~ developmental disabilities and job and family services, reply to, and cooperate in arranging compliance with, a program or fiscal audit or program violation exception that a state or federal audit or review discovers. The department of job and family services shall timely notify the department of ~~mental retardation and~~ developmental disabilities and the county board of any adverse findings. After receiving the notice, the county board, in conjunction with the department of ~~mental retardation and~~ developmental disabilities, shall cooperate fully with the department of job and family services and timely prepare and send to the department a written plan of correction or response to the adverse findings. The county board is liable for any adverse findings that result from an action it takes or fails to take in its implementation of medicaid local administrative authority.

(F) If the department of ~~mental retardation and~~ developmental disabilities or department of job and family services determines

that a county board's implementation of its medicaid local 25297
administrative authority under this section is deficient, the 25298
department that makes the determination shall require that county 25299
board do the following: 25300

(1) If the deficiency affects the health, safety, or welfare 25301
of an individual with mental retardation or other developmental 25302
disability, correct the deficiency within twenty-four hours; 25303

(2) If the deficiency does not affect the health, safety, or 25304
welfare of an individual with mental retardation or other 25305
developmental disability, receive technical assistance from the 25306
department or submit a plan of correction to the department that 25307
is acceptable to the department within sixty days and correct the 25308
deficiency within the time required by the plan of correction. 25309

Sec. 5126.056. (A) The department of ~~mental retardation and~~ 25310
developmental disabilities shall take action under division (B) of 25311
this section against a county board of ~~mental retardation and~~ 25312
developmental disabilities if any of the following are the case: 25313

(1) The county board fails to submit to the department all 25314
the components of its three-year plan required by section 5126.054 25315
of the Revised Code. 25316

(2) The department disapproves the county board's three-year 25317
plan under section 5123.046 of the Revised Code. 25318

(3) The county board fails, as required by division (B) of 25319
section 5126.054 of the Revised Code, to update and renew its 25320
three-year plan in accordance with a schedule the department 25321
develops under that section. 25322

(4) The county board fails to implement its initial or 25323
renewed three-year plan approved by the department. 25324

(5) The county board fails to correct a deficiency within the 25325
time required by division (F) of section 5126.055 of the Revised 25326

Code to the satisfaction of the department. 25327

(6) The county board fails to submit an acceptable plan of 25328
correction to the department within the time required by division 25329
(F)(2) of section 5126.055 of the Revised Code. 25330

(B) If required by division (A) of this section to take 25331
action against a county board, the department shall issue an order 25332
terminating the county board's medicaid local administrative 25333
authority over all or part of home and community-based services, 25334
medicaid case management services, or all or part of both of those 25335
services. The department shall provide a copy of the order to the 25336
board of county commissioners, senior probate judge, county 25337
auditor, and president and superintendent of the county board. The 25338
department shall specify in the order the medicaid local 25339
administrative authority that the department is terminating, the 25340
reason for the termination, and the county board's option and 25341
responsibilities under this division. 25342

A county board whose medicaid local administrative authority 25343
is terminated may, not later than thirty days after the department 25344
issues the termination order, recommend to the department that 25345
another county board that has not had any of its medicaid local 25346
administrative authority terminated or another entity the 25347
department approves administer the services for which the county 25348
board's medicaid local administrative authority is terminated. The 25349
department may contract with the other county board or entity to 25350
administer the services. If the department enters into such a 25351
contract, the county board shall adopt a resolution giving the 25352
other county board or entity full medicaid local administrative 25353
authority over the services that the other county board or entity 25354
is to administer. The other county board or entity shall be known 25355
as the contracting authority. 25356

If the department rejects the county board's recommendation 25357
regarding a contracting authority, the county board may appeal the 25358

rejection under section 5123.043 of the Revised Code. 25359

If the county board does not submit a recommendation to the 25360
department regarding a contracting authority within the required 25361
time or the department rejects the county board's recommendation 25362
and the rejection is upheld pursuant to an appeal, if any, under 25363
section 5123.043 of the Revised Code, the department shall appoint 25364
an administrative receiver to administer the services for which 25365
the county board's medicaid local administrative authority is 25366
terminated. To the extent necessary for the department to appoint 25367
an administrative receiver, the department may utilize employees 25368
of the department, management personnel from another county board, 25369
or other individuals who are not employed by or affiliated with in 25370
any manner a person that provides home and community-based 25371
services or medicaid case management services pursuant to a 25372
contract with any county board. The administrative receiver shall 25373
assume full administrative responsibility for the county board's 25374
services for which the county board's medicaid local 25375
administrative authority is terminated. 25376

The contracting authority or administrative receiver shall 25377
develop and submit to the department a plan of correction to 25378
remediate the problems that caused the department to issue the 25379
termination order. If, after reviewing the plan, the department 25380
approves it, the contracting authority or administrative receiver 25381
shall implement the plan. 25382

The county board shall transfer control of state and federal 25383
funds it is otherwise eligible to receive for the services for 25384
which the county board's medicaid local administrative authority 25385
is terminated and funds the county board may use under division 25386
(A) of section 5126.0511 of the Revised Code to pay the nonfederal 25387
share of the services that the county board is required by 25388
sections 5126.059 and 5126.0510 of the Revised Code to pay. The 25389
county board shall transfer control of the funds to the 25390

contracting authority or administrative receiver administering the 25391
services. The amount the county board shall transfer shall be the 25392
amount necessary for the contracting authority or administrative 25393
receiver to fulfill its duties in administering the services, 25394
including its duties to pay its personnel for time worked, travel, 25395
and related matters. If the county board fails to make the 25396
transfer, the department may withhold the state and federal funds 25397
from the county board and bring a mandamus action against the 25398
county board in the court of common pleas of the county served by 25399
the county board or in the Franklin county court of common pleas. 25400
The mandamus action may not require that the county board transfer 25401
any funds other than the funds the county board is required by 25402
division (B) of this section to transfer. 25403

The contracting authority or administrative receiver has the 25404
right to authorize the payment of bills in the same manner that 25405
the county board may authorize payment of bills under this chapter 25406
and section 319.16 of the Revised Code. 25407

Sec. 5126.058. (A) Each county board of ~~mental retardation~~ 25408
~~and~~ developmental disabilities shall prepare a memorandum of 25409
understanding that is developed by all of the following and that 25410
is signed by the persons identified in divisions (A)(2) to (7) of 25411
this section: 25412

(1) The senior probate judge of the county or the senior 25413
probate judge's representative; 25414

(2) The county peace officer; 25415

(3) All chief municipal peace officers within the county; 25416

(4) Other law enforcement officers handling abuse, neglect, 25417
and exploitation of mentally retarded and developmentally disabled 25418
persons in the county; 25419

(5) The prosecuting attorney of the county; 25420

(6) The public children services agency;	25421
(7) The coroner of the county.	25422
(B) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and sections 313.12, 2151.421, 2903.16, 5126.31, and 5126.33 of the Revised Code and shall have as its primary goal the elimination of all unnecessary interviews of persons who are the subject of reports made pursuant to this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charge or complaint arising from any reported case of abuse, neglect, or exploitation or the suppression of any evidence obtained as a result of any reported abuse, neglect, or exploitation and does not give any rights or grounds for appeal or post-conviction relief to any person.	25423 25424 25425 25426 25427 25428 25429 25430 25431 25432 25433 25434 25435 25436
(C) A memorandum of understanding shall include, but is not limited to, all of the following:	25437 25438
(1) The roles and responsibilities for handling emergency and nonemergency cases of abuse, neglect, or exploitation;	25439 25440
(2) The roles and responsibilities for handling and coordinating investigations of reported cases of abuse, neglect, or exploitation and methods to be used in interviewing the person who is the subject of the report and who allegedly was abused, neglected, or exploited;	25441 25442 25443 25444 25445
(3) The roles and responsibilities for addressing the categories of persons who may interview the person who is the subject of the report and who allegedly was abused, neglected, or exploited;	25446 25447 25448 25449
(4) The roles and responsibilities for providing victim services to mentally retarded and developmentally disabled persons	25450 25451

pursuant to Chapter 2930. of the Revised Code; 25452

(5) The roles and responsibilities for the filing of criminal 25453
charges against persons alleged to have abused, neglected, or 25454
exploited mentally retarded or developmentally disabled persons. 25455

(D) A memorandum of understanding may be signed by victim 25456
advocates, municipal court judges, municipal prosecutors, and any 25457
other person whose participation furthers the goals of a 25458
memorandum of understanding, as set forth in this section. 25459

Sec. 5126.059. A county board of ~~mental retardation and~~ 25460
developmental disabilities shall pay the nonfederal share of 25461
medicaid expenditures for medicaid case management services the 25462
county board provides to an individual with mental retardation or 25463
other developmental disability who the county board determines 25464
under section 5126.041 of the Revised Code is eligible for county 25465
board services. 25466

Sec. 5126.0510. (A) Except as otherwise provided in an 25467
agreement entered into under section 5123.048 of the Revised Code 25468
and subject to divisions (B), (C), and (D) of this section, a 25469
county board of ~~mental retardation and~~ developmental disabilities 25470
shall pay the nonfederal share of medicaid expenditures for the 25471
following home and community-based services provided to an 25472
individual with mental retardation or other developmental 25473
disability who the county board determines under section 5126.041 25474
of the Revised Code is eligible for county board services: 25475

(1) Home and community-based services provided by the county 25476
board to such an individual; 25477

(2) Home and community-based services provided by a provider 25478
other than the county board to such an individual who is enrolled 25479
as of June 30, 2007, in the medicaid waiver component under which 25480
the services are provided; 25481

(3) Home and community-based services provided by a provider 25482
other than the county board to such an individual who, pursuant to 25483
a request the county board makes, enrolls in the medicaid waiver 25484
component under which the services are provided after June 30, 25485
2007; 25486

(4) Home and community-based services provided by a provider 25487
other than the county board to such an individual for whom there 25488
is in effect an agreement entered into under division (E) of this 25489
section between the county board and director of ~~mental~~ 25490
~~retardation and~~ developmental disabilities. 25491

(B) In the case of medicaid expenditures for home and 25492
community-based services for which division (A)(2) of this section 25493
requires a county board to pay the nonfederal share, the following 25494
shall apply to such services provided during fiscal year 2008 25495
under the individual options medicaid waiver component: 25496

(1) The county board shall pay no less than the total amount 25497
the county board paid as the nonfederal share for home and 25498
community-based services provided in fiscal year 2007 under the 25499
individual options medicaid waiver component; 25500

(2) The county board shall pay no more than the sum of the 25501
following: 25502

(a) The total amount the county board paid as the nonfederal 25503
share for home and community-based services provided in fiscal 25504
year 2007 under the individual options medicaid waiver component; 25505

(b) An amount equal to one per cent of the total amount the 25506
department of ~~mental retardation and~~ developmental disabilities 25507
and county board paid as the nonfederal share for home and 25508
community-based services provided in fiscal year 2007 under the 25509
individual options medicaid waiver component to individuals the 25510
county board determined under section 5126.041 of the Revised Code 25511
are eligible for county board services. 25512

(C) A county board is not required to pay the nonfederal 25513
share of home and community-based services provided after June 30, 25514
2008, that the county board is otherwise required by division 25515
(A)(2) of this section to pay if the department of ~~mental~~ 25516
~~retardation and~~ developmental disabilities fails to comply with 25517
division (A) of section 5123.0416 of the Revised Code. 25518

(D) A county board is not required to pay the nonfederal 25519
share of home and community-based services that the county board 25520
is otherwise required by division (A)(3) of this section to pay if 25521
both of the following apply: 25522

(1) The services are provided to an individual who enrolls in 25523
the medicaid waiver component under which the services are 25524
provided as the result of an order issued following a state 25525
hearing, administrative appeal, or appeal to a court of common 25526
pleas made under section 5101.35 of the Revised Code; 25527

(2) There are more individuals who are eligible for services 25528
from the county board enrolled in the medicaid waiver component 25529
than is required by section 5126.0512 of the Revised Code. 25530

(E) A county board may enter into an agreement with the 25531
director of ~~mental retardation and~~ developmental disabilities 25532
under which the county board agrees to pay the nonfederal share of 25533
medicaid expenditures for one or more home and community-based 25534
services that the county board is not otherwise required by 25535
division (A)(1), (2), or (3) of this section to pay and that are 25536
provided to an individual the county board determines under 25537
section 5126.041 of the Revised Code is eligible for county board 25538
services. The agreement shall specify which home and 25539
community-based services the agreement covers. The county board 25540
shall pay the nonfederal share of medicaid expenditures for the 25541
home and community-based services that the agreement covers as 25542
long as the agreement is in effect. 25543

Sec. 5126.0511. (A) A county board of ~~mental retardation and~~ 25544
developmental disabilities may use the following funds to pay the 25545
nonfederal share of the medicaid expenditures that the county 25546
board is required by sections 5126.059 and 5126.0510 of the 25547
Revised Code to pay: 25548

(1) To the extent consistent with the levy that generated the 25549
taxes, the following taxes: 25550

(a) Taxes levied pursuant to division (L) of section 5705.19 25551
of the Revised Code and section 5705.222 of the Revised Code; 25552

(b) Taxes levied under section 5705.191 of the Revised Code 25553
that the board of county commissioners allocates to the county 25554
board. 25555

(2) Funds that the department of ~~mental retardation and~~ 25556
developmental disabilities distributes to the county board under 25557
sections 5126.11 and 5126.18 of the Revised Code; 25558

(3) Earned federal revenue funds the county board receives 25559
for medicaid services the county board provides pursuant to the 25560
county board's valid medicaid provider agreement; 25561

(4) Funds that the department of ~~mental retardation and~~ 25562
developmental disabilities distributes to the county board as 25563
subsidy payments; 25564

(5) In the case of medicaid expenditures for home and 25565
community-based services, funds allocated to or otherwise made 25566
available for the county board under section 5123.0416 of the 25567
Revised Code to pay the nonfederal share of such medicaid 25568
expenditures. 25569

Each year, each county board shall adopt a resolution 25570
specifying the amount of funds it will use in the next year to pay 25571
the nonfederal share of the medicaid expenditures that the county 25572
board is required by sections 5126.059 and 5126.0510 of the 25573

Revised Code to pay. The amount specified shall be adequate to 25574
assure that the services for which the medicaid expenditures are 25575
made will be available in the county in a manner that conforms to 25576
all applicable state and federal laws. A county board shall state 25577
in its resolution that the payment of the nonfederal share 25578
represents an ongoing financial commitment of the county board. A 25579
county board shall adopt the resolution in time for the county 25580
auditor to make the determination required by division (C) of this 25581
section. 25582

(C) Each year, a county auditor shall determine whether the 25583
amount of funds a county board specifies in the resolution it 25584
adopts under division (B) of this section will be available in the 25585
following year for the county board to pay the nonfederal share of 25586
the medicaid expenditures that the county board is required by 25587
sections 5126.059 and 5126.0510 of the Revised Code to pay. The 25588
county auditor shall make the determination not later than the 25589
last day of the year before the year in which the funds are to be 25590
used. 25591

Sec. 5126.0512. (A) As used in this section, "medicaid waiver 25592
component" means a medicaid waiver component as defined in section 25593
5111.85 of the Revised Code under which home and community-based 25594
services are provided. 25595

(B) Effective July 1, 2007, each county board of ~~mental~~ 25596
~~retardation and~~ developmental disabilities shall ensure, for each 25597
medicaid waiver component, that the number of individuals eligible 25598
under section 5126.041 of the Revised Code for services from the 25599
county board who are enrolled in a medicaid waiver component is no 25600
less than the sum of the following: 25601

(1) The number of individuals eligible for services from the 25602
county board who are enrolled in the medicaid waiver component on 25603
June 30, 2007; 25604

(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 section.

Sec. 5126.06. (A) Except as provided in division (B) of this section, any person who has a complaint involving any of the programs, services, policies, or administrative practices of a county board of ~~mental retardation and~~ developmental disabilities or any of the entities under contract with the county board, may file a complaint with the board. Prior to commencing a civil action regarding the complaint, a person shall attempt to have the complaint resolved through the administrative resolution process established in the rules adopted under section 5123.043 of the Revised Code. After exhausting the administrative resolution process, the person may commence a civil action if the complaint is not settled to the person's satisfaction.

(B) An employee of a county board may not file under this 25636
section a complaint related to the terms and conditions of 25637
employment of the employee. 25638

Sec. 5126.07. No county board of ~~mental retardation and~~ 25639
developmental disabilities or any agency, corporation, or 25640
association under contract with a county board of ~~mental~~ 25641
~~retardation and~~ developmental disabilities shall discriminate in 25642
the provision of services under its authority or contract on the 25643
basis of race, color, sex, creed, disability, national origin, or 25644
the inability to pay. 25645

Each county board of ~~mental retardation and~~ developmental 25646
disabilities shall provide a plan of affirmative action describing 25647
its goals and methods for the provision of equal employment 25648
opportunities for all persons under its authority and shall ensure 25649
nondiscrimination in employment under its authority or contract on 25650
the basis of race, color, sex, creed, disability, or national 25651
origin. 25652

Sec. 5126.071. (A) As used in this section, "minority 25653
business enterprise" has the meaning given in division (E)(1) of 25654
section 122.71 of the Revised Code. 25655

(B) Any minority business enterprise that desires to bid on a 25656
contract under division (C) or (D) of this section shall first 25657
apply to the equal employment opportunity coordinator in the 25658
department of administrative services for certification as a 25659
minority business enterprise. The coordinator shall approve the 25660
application of any minority business enterprise that complies with 25661
the rules adopted under section 122.71 of the Revised Code. The 25662
coordinator shall prepare and maintain a list of minority business 25663
enterprises certified under this section. 25664

(C) From the contracts to be awarded for the purchases of 25665

equipment, materials, supplies, insurance, and nonprogram 25666
services, other than contracts entered into and exempt under 25667
sections 307.86 and 5126.05 of the Revised Code, each county board 25668
of ~~mental retardation and~~ developmental disabilities shall select 25669
a number of contracts with an aggregate value of approximately 25670
fifteen per cent of the total estimated value of such contracts to 25671
be awarded in the current calendar year. The board shall set aside 25672
the contracts so selected for bidding by minority business 25673
enterprises only. The bidding procedures for such contracts shall 25674
be the same as for all other contracts awarded under section 25675
307.86 of the Revised Code, except that only minority business 25676
enterprises certified and listed under division (B) of this 25677
section shall be qualified to submit bids. Contracts set aside and 25678
awarded under this section shall not include contracts for the 25679
purchase of services such as direct and ancillary services, 25680
service and support administration, residential services, and 25681
family support services. 25682

(D) To the extent that a board is authorized to enter into 25683
contracts for construction which are not exempt from the 25684
competitive bidding requirements of section 307.86 of the Revised 25685
Code, the board shall set aside a number of contracts the 25686
aggregate value of which equals approximately five per cent of the 25687
aggregate value of construction contracts for the current calendar 25688
year for bidding by minority business enterprises only. The 25689
bidding procedures for the contracts set aside for minority 25690
business enterprises shall be the same as for all other contracts 25691
awarded by the board, except that only minority business 25692
enterprises certified and listed under division (B) of this 25693
section shall be qualified to submit bids. 25694

Any contractor awarded a construction contract pursuant to 25695
this section shall make every effort to ensure that certified 25696
minority business subcontractors and materials suppliers 25697

participate in the contract. In the case of contracts specified in 25698
this division, the total value of subcontracts awarded to and 25699
materials and services purchased from minority businesses shall be 25700
at least ten per cent of the total value of the contract, wherever 25701
possible and whenever the contractor awards subcontracts or 25702
purchases materials or services. 25703

(E) In the case of contracts set aside under divisions (C) 25704
and (D) of this section, if no bid is submitted by a minority 25705
business enterprise, the contract shall be awarded according to 25706
normal bidding procedures. The board shall from time to time set 25707
aside such additional contracts as are necessary to replace those 25708
contracts previously set aside on which no minority business 25709
enterprise bid. 25710

(F) This section does not preclude any minority business 25711
enterprise from bidding on any other contract not specifically set 25712
aside for minority business enterprises. 25713

(G) Within ninety days after the beginning of each calendar 25714
year, each county board of ~~mental retardation and~~ developmental 25715
disabilities shall file a report with the department of ~~mental~~ 25716
~~retardation and~~ developmental disabilities that shows for that 25717
calendar year the name of each minority business enterprise with 25718
which the board entered into a contract, the value and type of 25719
each such contract, the total value of contracts awarded under 25720
divisions (C) and (D) of this section, the total value of 25721
contracts awarded for the purchases of equipment, materials, 25722
supplies, or services, other than contracts entered into under the 25723
exemptions of sections 307.86 and 5126.05 of the Revised Code, and 25724
the total value of contracts entered into for construction. 25725

(H) Any person who intentionally misrepresents that person as 25726
owning, controlling, operating, or participating in a minority 25727
business enterprise for the purpose of obtaining contracts or any 25728
other benefits under this section shall be guilty of theft by 25729

deception as provided for in section 2913.02 of the Revised Code. 25730

Sec. 5126.08. (A) The director of ~~mental retardation and~~ 25731
developmental disabilities shall adopt rules in accordance with 25732
Chapter 119. of the Revised Code for all programs and services 25733
offered by a county board of ~~mental retardation and~~ developmental 25734
disabilities. Such rules shall include, but are not limited to, 25735
the following: 25736

(1) Determination of what constitutes a program or service; 25737

(2) Standards to be followed by a board in administering, 25738
providing, arranging, or operating programs and services; 25739

(3) Standards for determining the nature and degree of mental 25740
retardation, including mild mental retardation, or developmental 25741
disability; 25742

(4) Standards for determining eligibility for programs and 25743
services under sections 5126.042 and 5126.15 of the Revised Code; 25744

(5) Procedures for obtaining consent for the arrangement of 25745
services under section 5126.31 of the Revised Code and for 25746
obtaining signatures on individual service plans under that 25747
section; 25748

(6) Specification of the service and support administration 25749
to be provided by a county board and standards for resolving 25750
grievances in connection with service and support administration; 25751

(7) Standards for the provision of environmental 25752
modifications, including standards that require adherence to all 25753
applicable state and local building codes; 25754

(8) Standards for the provision of specialized medical, 25755
adaptive, and assistive equipment, supplies, and supports. 25756

(B) The director shall be the final authority in determining 25757
the nature and degree of mental retardation or developmental 25758

disability. 25759

Sec. 5126.081. (A) In addition to the rules adopted under 25760
division (A)(2) of section 5126.08 of the Revised Code 25761
establishing standards for the administration, provision, 25762
arrangement, and operation of programs and services by county 25763
boards of ~~mental retardation and~~ developmental disabilities, the 25764
department of ~~mental retardation and~~ developmental disabilities 25765
shall establish a system of accreditation for county boards of 25766
~~mental retardation and~~ developmental disabilities to ensure that 25767
the boards are in compliance with federal and state statutes and 25768
rules. The department shall adopt rules in accordance with Chapter 25769
119. of the Revised Code governing the system of accreditation. 25770
The rules shall include appropriate timelines for compliance when 25771
a board is found to be not in compliance and appropriate actions 25772
to be taken by boards in complying with the accreditation 25773
requirements. 25774

(B) Prior to accrediting a board, the department shall 25775
conduct a comprehensive, on-site review of the board. During the 25776
review, the department shall document the board's compliance with 25777
the department's accreditation requirements. After completing the 25778
review, the department shall conduct an exit conference with the 25779
president of the board, the superintendent of the board, and any 25780
other officials the board asks to have present. The department 25781
shall discuss its findings from the review with the board's 25782
representatives and provide a written report of its findings not 25783
later than thirty days following the exit conference. If the 25784
department finds that the board is in compliance with the 25785
requirements for accreditation, the department shall issue 25786
evidence of accreditation to the board. 25787

Accreditation may be granted for periods of up to five years 25788
and may be renewed. Not less than once prior to the date a board's 25789

accreditation is scheduled to expire, the department shall conduct 25790
a comprehensive, on-site review of the board. 25791

Each board shall conduct an annual audit of itself to 25792
evaluate its compliance with the requirements for accreditation. 25793
The department may conduct an interim review of any new program or 25794
service initiated by a board after its last comprehensive review. 25795
The department may conduct other reviews and investigations as 25796
necessary to enforce this section. 25797

(C) If the department determines through its review of a 25798
board that the board is not in compliance with the requirements 25799
for accreditation, the department shall, except as provided in 25800
division (F) of this section, grant the board an opportunity to 25801
correct the matters in which it is not in compliance. The 25802
department shall grant the board an appropriate length of time to 25803
comply with the requirements prior to taking any action to deny 25804
accreditation to the board. To avoid denial of accreditation, the 25805
board superintendent shall prepare a plan of correction to 25806
remediate the matters specified in the department's written report 25807
as not being in compliance with the requirements for 25808
accreditation. The superintendent shall submit the plan to the 25809
board for review, and the board shall review the plan. If the 25810
board believes that the plan is sufficient to correct the matters, 25811
the board shall approve the plan by resolution and submit the plan 25812
to the department for its review. The department shall review the 25813
plan of correction. If the department approves the plan, the board 25814
shall commence action to implement the plan. The department shall, 25815
as necessary, conduct follow-up reviews of the board to determine 25816
whether it has met the requirements for accreditation. If the plan 25817
of correction submitted by a board is disapproved, the department 25818
shall inform the board of the reasons for disapproval and may 25819
grant the board an opportunity to submit a revised plan of 25820
correction. 25821

A board may request technical assistance from the department, 25822
other boards, or professional organizations in preparing plans of 25823
correction and in implementing plans of correction. 25824

(D) If, after being given the opportunity to implement a plan 25825
of correction, a board continues to fail to meet the requirements 25826
for accreditation, the department shall issue an order denying 25827
accreditation to the board. The department may deny accreditation 25828
to the board for all or part of the programs or services offered 25829
by the board. 25830

The department shall simultaneously notify all of the 25831
following officials in the county: the members of the board of 25832
county commissioners, the senior probate judge, the county 25833
auditor, and the president and superintendent of the county board 25834
of ~~mental retardation and~~ developmental disabilities. The notice 25835
shall identify the programs and services that have been denied 25836
accreditation, the requirements for accreditation with which the 25837
board is not in compliance, and the responsibilities of the county 25838
officials to contract under division (E)(1) of this section to 25839
have the board's programs and services administered by another 25840
party or become subject to administrative receivership under 25841
division (E)(2) of this section. 25842

(E)(1) When a board is denied accreditation, the department 25843
shall first give the board the option of contracting to have the 25844
board's programs and services that were denied accreditation 25845
administered by an accredited county board of ~~mental retardation~~ 25846
~~and~~ developmental disabilities or another qualified entity subject 25847
to the approval of the department. The board may contract with 25848
more than one board that has been accredited. When a board enters 25849
into a contract, the board shall, by resolution, give the 25850
contractor full administrative authority over the programs and 25851
services that the contractor will administer. 25852

(2) If a board fails to exercise its option of entering into 25853

a contract under division (E)(1) of this section sooner than 25854
thirty days after the department denies accreditation, the 25855
department shall appoint an administrative receiver of the board's 25856
programs and services that were denied accreditation. The 25857
department may appoint employees of the department, management 25858
personnel from county boards of ~~mental retardation and~~ 25859
developmental disabilities, or individuals from other entities as 25860
necessary to meet its needs for appointing an administrative 25861
receiver, except that individuals from other entities may be 25862
appointed only when qualified department employees or board 25863
management personnel are unavailable. The department may not 25864
appoint an individual who is employed by or affiliated with an 25865
entity that is under contract with the board. The administrative 25866
receiver shall assume full administrative responsibility for the 25867
board's programs and services that were denied accreditation. 25868

(3) The board or entity that contracts with a board under 25869
division (E)(1) of this section, or the administrative receiver 25870
appointed under division (E)(2) of this section, shall develop and 25871
implement a plan of correction to remediate the matters that 25872
caused the department to deny accreditation. The contractor or 25873
administrative receiver shall submit the plan to the department, 25874
and the department shall review the plan. If the plan is approved 25875
by the department, the contractor or administrative receiver shall 25876
commence action to implement the plan. The contractor or 25877
administrative receiver shall report to the department any 25878
findings it can make pertaining to issues or circumstances that 25879
are beyond the control of the board and result in the unlikelihood 25880
that compliance with the requirements for accreditation can be 25881
achieved unless the issues or circumstances are remediated. 25882

(4) For purposes of divisions (E)(1) and (2) of this section, 25883
the department shall require the board that has been denied 25884
accreditation to transfer control of state and federal funds it is 25885

eligible to receive for the board's programs and services that 25886
have been denied accreditation in an amount necessary for the 25887
contractor or administrative receiver to fulfill its duties in 25888
administering the programs and services for the board. The 25889
transfer of control of funds does not cause any programs and 25890
services of the board that are accredited to lose their 25891
accreditation. If the board refuses to transfer control of funds, 25892
the department may withhold state and federal funds from the board 25893
in an amount necessary for the contractor or administrative 25894
receiver to fulfill its duties. The amount transferred or withheld 25895
from a board shall include reimbursements for the personnel of the 25896
contractor or administrative receiver, including amounts for time 25897
worked, travel, and related expenses. 25898

A contractor or administrative receiver that has assumed the 25899
administration of a board's programs and services has the right to 25900
authorize the payment of bills in the same manner that a board may 25901
authorize payment of bills under this chapter and section 319.16 25902
of the Revised Code. 25903

(F) When the department's review of a board reveals serious 25904
health and safety issues within the programs and services offered 25905
by the board, the department shall order the board to correct the 25906
violations immediately or appoint an administrative receiver. 25907

(G) At any time a board can demonstrate that it is capable of 25908
assuming its duties in compliance with the department's 25909
requirements for accreditation, the department shall reverse its 25910
order denying accreditation and issue evidence of accreditation to 25911
the board. 25912

A board may appeal the department's denial of accreditation 25913
or refusal to reverse a denial of accreditation only by filing a 25914
complaint under section 5123.043 of the Revised Code. If in its 25915
appeal the board can demonstrate that it is capable of assuming 25916
its duties in compliance with the department's requirements for 25917

accreditation, the department shall reverse its order denying 25918
accreditation and shall issue evidence of accreditation to the 25919
board. 25920

(H) All notices issued to a board by the department under 25921
this section shall be delivered to the board's president and 25922
superintendent. 25923

(I) A board's president may designate another member of the 25924
board as the individual to be responsible for fulfilling all or 25925
part of the president's responsibilities established under this 25926
section. 25927

Sec. 5126.082. (A) In addition to the rules adopted under 25928
division (A)(2) of section 5126.08 of the Revised Code 25929
establishing standards to be followed by county boards of ~~mental~~ 25930
~~retardation and~~ developmental disabilities in administering, 25931
providing, arranging, and operating programs and services and in 25932
addition to the board accreditation system established under 25933
section 5126.081 of the Revised Code, the director of ~~mental~~ 25934
~~retardation and~~ developmental disabilities shall adopt rules in 25935
accordance with Chapter 119. of the Revised Code establishing 25936
standards for promoting and advancing the quality of life of 25937
individuals with mental retardation and developmental disabilities 25938
receiving any of the following: 25939

(1) Early childhood services pursuant to section 5126.05 of 25940
the Revised Code for children under age three; 25941

(2) Adult services pursuant to section 5126.05 and division 25942
(B) of section 5126.051 of the Revised Code for individuals age 25943
sixteen or older; 25944

(3) Family support services pursuant to section 5126.11 of 25945
the Revised Code. 25946

(B) The rules adopted under this section shall specify the 25947

actions county boards of ~~mental retardation and~~ developmental 25948
disabilities and the agencies with which they contract should take 25949
to do the following: 25950

(1) Offer individuals with mental retardation and 25951
developmental disabilities, and their families when appropriate, 25952
choices in programs and services that are centered on the needs 25953
and desires of those individuals; 25954

(2) Maintain infants with their families whenever possible by 25955
collaborating with other agencies that provide services to infants 25956
and their families and taking other appropriate actions; 25957

(3) Provide families that have children with mental 25958
retardation and developmental disabilities under age eighteen 25959
residing in their homes the resources necessary to allow the 25960
children to remain in their homes; 25961

(4) Create and implement community employment services based 25962
on the needs and desires of adults with mental retardation and 25963
developmental disabilities; 25964

(5) Create, in collaboration with other agencies, 25965
transportation systems that provide safe and accessible 25966
transportation within the county to individuals with disabilities; 25967

(6) Provide services that allow individuals with disabilities 25968
to be integrated into the community by engaging in educational, 25969
vocational, and recreational activities with individuals who do 25970
not have disabilities; 25971

(7) Provide age-appropriate retirement services for 25972
individuals age sixty-five and older with mental retardation and 25973
developmental disabilities; 25974

(8) Establish residential services and supported living for 25975
individuals with mental retardation and developmental disabilities 25976
in accordance with their needs. 25977

(C) To assist in funding programs and services that meet the standards established under this section, each county board of ~~mental retardation and~~ developmental disabilities shall make a good faith effort to acquire available federal funds, including reimbursements under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended.

(D) Each county board of ~~mental retardation and~~ developmental disabilities shall work toward full compliance with the standards established under this section, based on its available resources. Funds received under this chapter shall be used to comply with the standards. Annually, each board shall conduct a self audit to evaluate the board's progress in complying fully with the standards.

(E) The department shall complete a program quality review of each county board of ~~mental retardation and~~ developmental disabilities to determine the extent to which the board has complied with the standards. The review shall be conducted in conjunction with the comprehensive accreditation review of the board that is conducted under section 5126.081 of the Revised Code.

Notwithstanding any provision of this chapter or Chapter 5123. of the Revised Code requiring the department to distribute funds to county boards of ~~mental retardation and~~ developmental disabilities, the department may withhold funds from a board if it finds that the board is not in substantial compliance with the standards established under this section.

(F) When the standards for accreditation from the commission on accreditation of rehabilitation facilities, or another accrediting agency, meet or exceed the standards established under this section, the director may accept accreditation from the commission or other agency as evidence that the board is in compliance with all or part of the standards established under

this section. Programs and services accredited by the commission 26010
or agency are exempt from the program quality reviews required by 26011
division (E) of this section. 26012

Sec. 5126.09. A county board of ~~mental retardation and~~ 26013
developmental disabilities may procure a policy or policies of 26014
insurance insuring board members or employees of the board or 26015
agencies with which the board contracts or volunteer bus rider 26016
assistants authorized by section 5126.061 of the Revised Code 26017
against liability arising from the performance of their official 26018
duties. 26019

Sec. 5126.10. The director of ~~mental retardation and~~ 26020
developmental disabilities shall adopt rules in accordance with 26021
Chapter 119. of the Revised Code establishing standard cost 26022
allocation procedures and shall require county boards of ~~mental~~ 26023
~~retardation and~~ developmental disabilities to use such procedures 26024
to allocate all indirect costs to services provided pursuant to 26025
Chapters 3323. and 5126. of the Revised Code. 26026

Sec. 5126.11. (A) As used in this section, "respite care" 26027
means appropriate, short-term, temporary care that is provided to 26028
a mentally retarded or developmentally disabled person to sustain 26029
the family structure or to meet planned or emergency needs of the 26030
family. 26031

(B) Subject to rules adopted by the director of ~~mental~~ 26032
~~retardation and~~ developmental disabilities, and subject to the 26033
availability of money from state and federal sources, the county 26034
board of ~~mental retardation and~~ developmental disabilities shall 26035
establish a family support services program. Under such a program, 26036
the board shall make payments to an individual with mental 26037
retardation or other developmental disability or the family of an 26038
individual with mental retardation or other developmental 26039

disability who desires to remain in and be supported in the family 26040
home. Payments shall be made for all or part of costs incurred or 26041
estimated to be incurred for services that would promote 26042
self-sufficiency and normalization, prevent or reduce 26043
inappropriate institutional care, and further the unity of the 26044
family by enabling the family to meet the special needs of the 26045
individual and to live as much like other families as possible. 26046
Payments may be made in the form of reimbursement for expenditures 26047
or in the form of vouchers to be used to purchase services. 26048

(C) Payment shall not be made under this section to an 26049
individual or the individual's family if the individual is living 26050
in a residential facility that is providing residential services 26051
under contract with the department of ~~mental-retardation and~~ 26052
developmental disabilities or a county board. 26053

(D) Payments may be made for the following services: 26054

(1) Respite care, in or out of the home; 26055

(2) Counseling, supervision, training, and education of the 26056
individual, the individual's caregivers, and members of the 26057
individual's family that aid the family in providing proper care 26058
for the individual, provide for the special needs of the family, 26059
and assist in all aspects of the individual's daily living; 26060

(3) Special diets, purchase or lease of special equipment, or 26061
modifications of the home, if such diets, equipment, or 26062
modifications are necessary to improve or facilitate the care and 26063
living environment of the individual; 26064

(4) Providing support necessary for the individual's 26065
continued skill development, including such services as 26066
development of interventions to cope with unique problems that may 26067
occur within the complexity of the family, enrollment of the 26068
individual in special summer programs, provision of appropriate 26069
leisure activities, and other social skills development 26070

activities; 26071

(5) Any other services that are consistent with the purposes 26072
specified in division (B) of this section and specified in the 26073
individual's service plan. 26074

(E) In order to be eligible for payments under a family 26075
support services program, the individual or the individual's 26076
family must reside in the county served by the county board, and 26077
the individual must be in need of habilitation. Payments shall be 26078
adjusted for income in accordance with the payment schedule 26079
established in rules adopted under this section. Payments shall be 26080
made only after the county board has taken into account all other 26081
available assistance for which the individual or family is 26082
eligible. 26083

(F) Before incurring expenses for a service for which payment 26084
will be sought under a family support services program, the 26085
individual or family shall apply to the county board for a 26086
determination of eligibility and approval of the service. The 26087
service need not be provided in the county served by the county 26088
board. After being determined eligible and receiving approval for 26089
the service, the individual or family may incur expenses for the 26090
service or use the vouchers received from the county board for the 26091
purchase of the service. 26092

If the county board refuses to approve a service, an appeal 26093
may be made in accordance with rules adopted by the department 26094
under this section. 26095

(G) To be reimbursed for expenses incurred for approved 26096
services, the individual or family shall submit to the county 26097
board a statement of the expenses incurred accompanied by any 26098
evidence required by the board. To redeem vouchers used to 26099
purchase approved services, the entity that provided the service 26100
shall submit to the county board evidence that the service was 26101

provided and a statement of the charges. The county board shall 26102
make reimbursements and redeem vouchers no later than forty-five 26103
days after it receives the statements and evidence required by 26104
this division. 26105

(H) A county board shall consider the following objectives in 26106
carrying out a family support services program: 26107

(1) Enabling individuals to return to their families from an 26108
institution under the jurisdiction of the department of ~~mental~~ 26109
~~retardation and~~ developmental disabilities; 26110

(2) Enabling individuals found to be subject to 26111
institutionalization by court order under section 5123.76 of the 26112
Revised Code to remain with their families with the aid of 26113
payments provided under this section; 26114

(3) Providing services to eligible children and adults 26115
currently residing in the community; 26116

(4) Providing services to individuals with developmental 26117
disabilities who are not receiving other services from the board. 26118

(I) The director shall adopt, and may amend and rescind, 26119
rules for the implementation of family support services programs 26120
by county boards. Such rules shall include the following: 26121

(1) A payment schedule adjusted for income; 26122

(2) A formula for distributing to county boards the money 26123
appropriated for family support services; 26124

(3) Standards for supervision, training, and quality control 26125
in the provision of respite care services; 26126

(4) Eligibility standards and procedures for providing 26127
temporary emergency respite care; 26128

(5) Procedures for hearing and deciding appeals made under 26129
division (F) of this section; 26130

(6) Requirements to be followed by county boards regarding reports submitted under division (K) of this section. 26131
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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. 26133
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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. 26138
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(K) The department of ~~mental retardation and~~ developmental disabilities shall distribute to county boards money appropriated for family support services in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June. A county board shall use no more than seven per cent of the funds for administrative costs. Each county board shall submit reports to the department on payments made under this section. The reports shall be submitted at those times and in the manner specified in rules adopted under this section. 26145
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(L) The county board shall not be required to make payments for family support services at a level that exceeds available state and federal funds for such payments. 26156
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Sec. 5126.12. (A) As used in this section: 26159

(1) "Approved school age class" means a class operated by a 26160

county board of ~~mental retardation and~~ developmental disabilities 26161
and funded by the department of education under section 3317.20 of 26162
the Revised Code. 26163

(2) "Approved preschool unit" means a class or unit operated 26164
by a county board of ~~mental retardation and~~ developmental 26165
disabilities and approved under division (B) of section 3317.05 of 26166
the Revised Code. 26167

(3) "Active treatment" means a continuous treatment program, 26168
which includes aggressive, consistent implementation of a program 26169
of specialized and generic training, treatment, health services, 26170
and related services, that is directed toward the acquisition of 26171
behaviors necessary for an individual with mental retardation or 26172
other developmental disability to function with as much 26173
self-determination and independence as possible and toward the 26174
prevention of deceleration, regression, or loss of current optimal 26175
functional status. 26176

(4) "Eligible for active treatment" means that an individual 26177
with mental retardation or other developmental disability resides 26178
in an intermediate care facility for the mentally retarded 26179
certified under Title XIX of the "Social Security Act," 79 Stat. 26180
286 (1965), 42 U.S.C. 1396, as amended; resides in a state 26181
institution operated by the department of ~~mental retardation and~~ 26182
developmental disabilities; or is enrolled in home and 26183
community-based services. 26184

(5) "Traditional adult services" means vocational and 26185
nonvocational activities conducted within a sheltered workshop or 26186
adult activity center or supportive home services. 26187

(B) Each county board of ~~mental retardation and~~ developmental 26188
disabilities shall certify to the director of ~~mental retardation~~ 26189
~~and~~ developmental disabilities all of the following: 26190

(1) On or before the fifteenth day of October, the average 26191

daily membership for the first full week of programs and services	26192
during October receiving:	26193
(a) Early childhood services provided pursuant to section	26194
5126.05 of the Revised Code for children who are less than three	26195
years of age on the thirtieth day of September of the academic	26196
year;	26197
(b) Special education for children with disabilities in	26198
approved school age classes;	26199
(c) Adult services for persons sixteen years of age and older	26200
operated pursuant to section 5126.05 and division (B) of section	26201
5126.051 of the Revised Code. Separate counts shall be made for	26202
the following:	26203
(i) Persons enrolled in traditional adult services who are	26204
eligible for but not enrolled in active treatment;	26205
(ii) Persons enrolled in traditional adult services who are	26206
eligible for and enrolled in active treatment;	26207
(iii) Persons enrolled in traditional adult services but who	26208
are not eligible for active treatment;	26209
(iv) Persons participating in community employment services.	26210
To be counted as participating in community employment services, a	26211
person must have spent an average of no less than ten hours per	26212
week in that employment during the preceding six months.	26213
(d) Other programs in the county for individuals with mental	26214
retardation and developmental disabilities that have been approved	26215
for payment of subsidy by the department of mental retardation and	26216
developmental disabilities.	26217
The membership in each such program and service in the county	26218
shall be reported on forms prescribed by the department of mental	26219
retardation and developmental disabilities.	26220
The department of mental retardation and developmental	26221

disabilities shall adopt rules defining full-time equivalent 26222
enrollees and for determining the average daily membership 26223
therefrom, except that certification of average daily membership 26224
in approved school age classes shall be in accordance with rules 26225
adopted by the state board of education. The average daily 26226
membership figure shall be determined by dividing the amount 26227
representing the sum of the number of enrollees in each program or 26228
service in the week for which the certification is made by the 26229
number of days the program or service was offered in that week. No 26230
enrollee may be counted in average daily membership for more than 26231
one program or service. 26232

(2) By the fifteenth day of December, the number of children 26233
enrolled in approved preschool units on the first day of December; 26234

(3) On or before the thirtieth day of April, an itemized 26235
report of all income and operating expenditures for the 26236
immediately preceding calendar year, in the format specified by 26237
the department of ~~mental retardation and~~ developmental 26238
disabilities; 26239

(4) That each required certification and report is in 26240
accordance with rules established by the department of ~~mental~~ 26241
~~retardation and~~ developmental disabilities and the state board of 26242
education for the operation and subsidization of the programs and 26243
services. 26244

Sec. 5126.121. Each county board of ~~mental retardation and~~ 26245
developmental disabilities may be eligible to receive a subsidy 26246
from the department of ~~mental retardation and~~ developmental 26247
disabilities for the employment of a business manager as provided 26248
in this section. The department shall adopt rules in accordance 26249
with Chapter 119. of the Revised Code specifying standards for the 26250
employment of such a business manager. The rules shall include the 26251
minimum education and experience requirements for the position of 26252

business manager and shall specify requirements for courses in 26253
fiscal and business management that are annually sponsored or 26254
certified by the department and that are applicable to the 26255
position and designed to teach effective business practices. Each 26256
county board of ~~mental retardation and~~ developmental disabilities 26257
that employs a business manager in accordance with the standards 26258
adopted under this section may receive a subsidy from the 26259
department. 26260

The department shall distribute this subsidy to eligible 26261
county boards in quarterly installments of equal amounts. The 26262
installments shall be made not later than the thirtieth day of 26263
September, the thirty-first day of December, the thirty-first day 26264
of March, and the thirtieth day of June. 26265

Sec. 5126.13. (A) A county board of ~~mental retardation and~~ 26266
developmental disabilities may enter into an agreement with one or 26267
more other county boards of ~~mental retardation and~~ developmental 26268
disabilities to establish a regional council in accordance with 26269
Chapter 167. of the Revised Code. The agreement shall specify the 26270
duties and functions to be performed by the council, which may 26271
include any duty or function a county board is required or 26272
authorized to perform under this chapter. If directed to do so by 26273
a resolution adopted by a county board that is a member of a 26274
regional council, the department of ~~mental retardation and~~ 26275
developmental disabilities shall make any distributions of money 26276
for that county for the duties or functions performed by the 26277
council pursuant to its agreement that are otherwise required to 26278
be made to the county board under this chapter to the fiscal 26279
officer of the council designated under section 167.04 of the 26280
Revised Code. 26281

A county board may also enter into an agreement with one or 26282
more school districts or other political subdivisions to establish 26283

a regional council in accordance with Chapter 167. of the Revised Code. 26284
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(B) On or before the thirtieth day of March, the fiscal officer of a regional council described in this section shall report to the department of ~~mental retardation and~~ developmental disabilities, in the format specified by the department, all income and operating expenditures of the council for the immediately preceding calendar year. 26286
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Sec. 5126.14. The entity responsible for the habilitation management included in adult day habilitation services, the program management included in residential services, and the program management included in supported living shall provide administrative oversight by doing all of the following: 26292
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(A) Having available supervisory personnel to monitor and ensure implementation of all interventions in accordance with every individual service plan implemented by the staff who work with the individuals receiving the services; 26297
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(B) Providing appropriate training and technical assistance for all staff who work with the individuals receiving services; 26301
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(C) Communicating with service and support administration staff for the purpose of coordinating activities to ensure that services are provided to individuals in accordance with individual service plans and intended outcomes; 26303
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(D) Monitoring for unusual and major unusual incidents and cases of abuse, neglect, exploitation, or misappropriation of funds involving the individual under the care of staff who are providing the services; taking immediate actions as necessary to maintain the health, safety, and welfare of the individuals receiving the services; and providing notice of unusual and major unusual incidents and suspected cases of abuse, neglect, 26307
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exploitation, or misappropriation of funds to the county board of 26314
~~mental retardation and~~ developmental disabilities; 26315

(E) Performing other administrative duties as required by 26316
state or federal law or by the county board of ~~mental retardation~~ 26317
~~and~~ developmental disabilities through contracts with providers. 26318

Sec. 5126.15. (A) A county board of ~~mental retardation and~~ 26319
developmental disabilities shall provide service and support 26320
administration to each individual three years of age or older who 26321
is eligible for service and support administration if the 26322
individual requests, or a person on the individual's behalf 26323
requests, service and support administration. A board shall 26324
provide service and support administration to each individual 26325
receiving home and community-based services. A board may provide, 26326
in accordance with the service coordination requirements of 34 26327
C.F.R. 303.23, service and support administration to an individual 26328
under three years of age eligible for early intervention services 26329
under 34 C.F.R. part 303. A board may provide service and support 26330
administration to an individual who is not eligible for other 26331
services of the board. Service and support administration shall be 26332
provided in accordance with rules adopted under section 5126.08 of 26333
the Revised Code. 26334

A board may provide service and support administration by 26335
directly employing service and support administrators or by 26336
contracting with entities for the performance of service and 26337
support administration. Individuals employed or under contract as 26338
service and support administrators shall not be in the same 26339
collective bargaining unit as employees who perform duties that 26340
are not administrative. 26341

Individuals employed by a board as service and support 26342
administrators shall not be assigned responsibilities for 26343
implementing other services for individuals and shall not be 26344

employed by or serve in a decision-making or policy-making 26345
capacity for any other entity that provides programs or services 26346
to individuals with mental retardation or developmental 26347
disabilities. An individual employed as a conditional status 26348
service and support administrator shall perform the duties of 26349
service and support administration only under the supervision of a 26350
management employee who is a service and support administration 26351
supervisor. 26352

(B) The individuals employed by or under contract with a 26353
board to provide service and support administration shall do all 26354
of the following: 26355

(1) Establish an individual's eligibility for the services of 26356
the county board of ~~mental retardation and~~ developmental 26357
disabilities; 26358

(2) Assess individual needs for services; 26359

(3) Develop individual service plans with the active 26360
participation of the individual to be served, other persons 26361
selected by the individual, and, when applicable, the provider 26362
selected by the individual, and recommend the plans for approval 26363
by the department of ~~mental retardation and~~ developmental 26364
disabilities when services included in the plans are funded 26365
through medicaid; 26366

(4) Establish budgets for services based on the individual's 26367
assessed needs and preferred ways of meeting those needs; 26368

(5) Assist individuals in making selections from among the 26369
providers they have chosen; 26370

(6) Ensure that services are effectively coordinated and 26371
provided by appropriate providers; 26372

(7) Establish and implement an ongoing system of monitoring 26373
the implementation of individual service plans to achieve 26374

consistent implementation and the desired outcomes for the individual;	26375 26376
(8) Perform quality assurance reviews as a distinct function of service and support administration;	26377 26378
(9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual;	26379 26380 26381 26382 26383
(10) Ensure that each individual receiving services has a designated person who is responsible on a continuing basis for providing the individual with representation, advocacy, advice, and assistance related to the day-to-day coordination of services in accordance with the individual's service plan. The service and support administrator shall give the individual receiving services an opportunity to designate the person to provide daily representation. If the individual declines to make a designation, the administrator shall make the designation. In either case, the individual receiving services may change at any time the person designated to provide daily representation.	26384 26385 26386 26387 26388 26389 26390 26391 26392 26393 26394
Sec. 5126.18. (A) As used in this section:	26395
(1) "County board" means a county board of mental retardation and developmental disabilities.	26396 26397
(2) Notwithstanding section 5126.01 of the Revised Code, "adult services" means the following services, as they are identified on individual information forms submitted by county boards to the department of mental retardation and developmental disabilities, provided to an individual with mental retardation or other developmental disability who is at least twenty-two years of age:	26398 26399 26400 26401 26402 26403 26404

(a) Assessment;	26405
(b) Home service;	26406
(c) Adult program;	26407
(d) Community employment services;	26408
(e) Retirement.	26409
(3) "Adult services enrollment" means a county board's	26410
average daily membership in adult services, exclusive of such	26411
services provided to individuals served solely through service and	26412
support administration provided pursuant to section 5126.15 of the	26413
Revised Code or family support services provided pursuant to	26414
section 5126.11 of the Revised Code.	26415
(4) "Taxable value" means the taxable value of a county board	26416
certified under division (B)(1) of this section.	26417
(5) "Per-mill yield" of a county board means the quotient	26418
obtained by dividing (a) the taxable value of the county board by	26419
(b) one thousand.	26420
(6) "Local adult services cost" means a county board's	26421
expenditures for adult services, excluding all federal and state	26422
reimbursements and subsidy allocations received by such boards and	26423
expended for such services, as certified under section 5126.12 of	26424
the Revised Code.	26425
(7) "Statewide average millage" means one thousand multiplied	26426
by the quotient obtained by dividing (a) the total of the local	26427
adult services costs of all county boards by (b) the total of the	26428
taxable values of all county boards.	26429
(8) "County yield" of a county board means the product	26430
obtained by multiplying (a) the statewide average millage by (b)	26431
the per-mill yield of the county board.	26432
(9) "County yield per enrollee" of a county board means the	26433
quotient obtained by dividing (a) the county yield of the county	26434

board by (b) the adult enrollment of the county board. 26435

(10) "Statewide yield per enrollee" means the quotient 26436
obtained by dividing (a) the sum of the county yields of all 26437
county boards by (b) the sum of the adult enrollments of all 26438
county boards. 26439

(11) "Local tax effort for adult services" of a county board 26440
means one thousand multiplied by the quotient obtained by dividing 26441
(a) the local adult services cost of the county board by (b) the 26442
taxable value of the county board. 26443

(12) "Funding percentage" for a fiscal year means the 26444
percentage that the amount appropriated to the department for the 26445
purpose of making payments under this section in the fiscal year 26446
is of the amount computed under division (C)(3) of this section 26447
for the fiscal year. 26448

(13) "Funding-adjusted required millage" for a fiscal year 26449
means the statewide average millage multiplied by the funding 26450
percentage for that fiscal year. 26451

(B)(1) On the request of the director of ~~mental retardation~~ 26452
~~and~~ developmental disabilities, the tax commissioner shall provide 26453
to the department of ~~mental retardation and~~ developmental 26454
disabilities information specifying the taxable value of property 26455
on each county's tax list of real and public utility property and 26456
tax list of personal property for the most recent tax year for 26457
which such information is available. The director may request any 26458
other tax information necessary for the purposes of this section. 26459

(2) On the request of the director, each county board shall 26460
report the county board's adult services enrollment and local 26461
adult services cost. 26462

(C) Each year, the department of ~~mental retardation and~~ 26463
developmental disabilities shall compute the following: 26464

(1) For each county board, the amount, if any, by which the statewide yield per enrollee exceeds the county yield per enrollee; 26465
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(2) For each county board, the amount of any excess computed under division (C)(1) of this section multiplied by the adult services enrollment of the county board; 26468
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(3) The sum of the amounts computed under division (C)(2) of this section for all county boards. 26471
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(D) From money appropriated for the purpose, the department shall provide for payment to each county board of the amount computed for that county board under division (C)(2) of this section, subject to any reduction or adjustment under division (E), (F), or (G) of this section. The department shall make the payments in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, thirty-first day of December, thirty-first day of March, and thirtieth day of June. 26473
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(E) If a county board's local tax effort for adult services is less than the funding-adjusted required millage, the director shall reduce the amount of payment otherwise computed under division (C)(2) of this section so that the amount paid, after the reduction, is the same percentage of the amount computed under division (C)(2) of this section as the county board's local tax effort for adult services is of the funding-adjusted required millage. 26482
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If the director reduces the amount of a county board's payment under this division, the department, not later than the fifteenth day of July, shall notify the county board of the reduction and the amount of the reduction. The notice shall include a statement that the county board may request to be exempted from the reduction by filing a request with the director, 26490
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in the manner and form prescribed by the director, within 26496
twenty-one days after such notification is issued. The board may 26497
present evidence of its attempt to obtain passage of levies or any 26498
other extenuating circumstances the board considers relevant. If 26499
the county board requests a hearing before the director to present 26500
such evidence, the director shall conduct a hearing on the request 26501
unless the director exempts the board from the reduction on the 26502
basis of the evidence presented in the request filed by the board. 26503
Upon receiving a properly and timely filed request for exemption, 26504
but not later than the thirty-first day of August, the director 26505
shall determine whether the county board shall be exempted from 26506
all or a part of the reduction. The director may exempt the board 26507
from all or part of the reduction if the director finds that the 26508
board has made good faith efforts to obtain passage of tax levies 26509
or that there are extenuating circumstances. 26510

(F) If a payment is reduced under division (E) of this 26511
section and the director does not exempt the county board from the 26512
reduction, the amount of the reduction shall be apportioned among 26513
all county boards entitled to payments under this section for 26514
which payments were not so reduced. The amount apportioned to each 26515
county board shall be proportionate to the amount of the board's 26516
payment as computed under division (C)(2) of this section. 26517

(G) If, for any fiscal year, the amount appropriated to the 26518
department for the purpose of this section is less than the amount 26519
computed under division (C)(3) of this section for the fiscal 26520
year, the department shall adjust the amount of each payment as 26521
computed under divisions (C)(2), (E), and (F) of this section by 26522
multiplying that amount by the funding percentage. 26523

(H) The payments authorized by this section are supplemental 26524
to all other funds that may be received by a county board. A 26525
county board shall use the payments solely to pay the nonfederal 26526
share of medicaid expenditures that sections 5126.059 and 26527

5126.0510 of the Revised Code require the county board to pay. 26528

Sec. 5126.19. (A) The director of ~~mental retardation and~~ 26529
developmental disabilities may grant temporary funding from the 26530
community ~~mental retardation and~~ developmental disabilities trust 26531
fund based on allocations to county boards of ~~mental retardation~~ 26532
~~and~~ developmental disabilities. The director may distribute all or 26533
part of the funding directly to a county board, the persons who 26534
provide the services for which the funding is granted, or persons 26535
with mental retardation or developmental disabilities who are to 26536
receive those services. 26537

(B) Funding granted under division (A) of this section shall 26538
be granted according to the availability of moneys in the fund and 26539
priorities established by the director. Funding may be granted for 26540
any of the following purposes: 26541

(1) Behavioral or short-term interventions for persons with 26542
mental retardation or developmental disabilities that assist them 26543
in remaining in the community by preventing institutionalization; 26544

(2) Emergency respite care services, as defined in section 26545
5126.11 of the Revised Code; 26546

(3) Family support services provided under section 5126.11 of 26547
the Revised Code; 26548

(4) Supported living, as defined in section 5126.01 of the 26549
Revised Code; 26550

(5) Staff training for county board employees, employees of 26551
providers of residential services as defined in section 5126.01 of 26552
the Revised Code, and other personnel under contract with a county 26553
board, to provide the staff with necessary training in serving 26554
mentally retarded or developmentally disabled persons in the 26555
community; 26556

(6) Short-term provision of early childhood services provided 26557

under section 5126.05, adult services provided under sections 26558
5126.05 and 5126.051, and service and support administration 26559
provided under section 5126.15 of the Revised Code, when local 26560
moneys are insufficient to meet the need for such services due to 26561
the successive failure within a two-year period of three or more 26562
proposed levies for the services; 26563

(7) Contracts with providers of residential services to 26564
maintain persons with mental retardation and developmental 26565
disabilities in their programs and avoid institutionalization. 26566

(C) If the trust fund contains more than ten million dollars 26567
on the first day of July the director shall use one million 26568
dollars for payments under section 5126.18 of the Revised Code, 26569
two million dollars for subsidies to county boards for supported 26570
living, and one million dollars for subsidies to county boards for 26571
early childhood services and adult services provided under section 26572
5126.05 of the Revised Code. Distributions of funds under this 26573
division shall be made prior to August 31 of the state fiscal year 26574
in which the funds are available. The funds shall be allocated to 26575
a county board in an amount equal to the same percentage of the 26576
total amount allocated to the county board the immediately 26577
preceding state fiscal year. 26578

(D) In addition to making grants under division (A) of this 26579
section, the director may use money available in the trust fund 26580
for the same purposes that rules adopted under section 5123.0413 26581
of the Revised Code provide for money in the state ~~MR/DD~~ 26582
developmental disabilities risk fund and the state insurance 26583
against ~~MR/DD~~ developmental disabilities risk fund, both created 26584
under that section, to be used. 26585

Sec. 5126.20. As used in this section and sections 5126.21 to 26586
5126.29 of the Revised Code: 26587

(A) "Service employee" means a person employed by a county 26588

board of ~~mental retardation~~ and developmental disabilities in a 26589
position which may require evidence of registration under section 26590
5126.25 of the Revised Code but for which a bachelor's degree from 26591
an accredited college or university is not required, and includes 26592
employees in the positions listed in division (C) of section 26593
5126.22 of the Revised Code. 26594

(B)(1) "Professional employee" means both of the following: 26595

(a) A person employed by a board in a position for which 26596
either a bachelor's degree from an accredited college or 26597
university or a license or certificate issued under Title XLVII of 26598
the Revised Code is a minimum requirement; 26599

(b) A person employed by a board as a conditional status 26600
service and support administrator. 26601

(2) "Professional employee" includes employees in the 26602
positions listed in division (B) of section 5126.22 of the Revised 26603
Code. 26604

(C) "Management employee" means a person employed by a board 26605
in a position having supervisory or managerial responsibilities 26606
and duties, and includes employees in the positions listed in 26607
division (A) of section 5126.22 of the Revised Code. 26608

(D) "Limited contract" means a contract of limited duration 26609
which is renewable at the discretion of the superintendent. 26610

(E) "Continuing contract" means a contract of employment that 26611
was issued prior to June 24, 1988, to a classified employee under 26612
which the employee has completed the employee's probationary 26613
period and under which the employee retains employment until the 26614
employee retires or resigns, is removed pursuant to section 26615
5126.23 of the Revised Code, or is laid off. 26616

(F) "Supervisory responsibilities and duties" includes the 26617
authority to hire, transfer, suspend, lay off, recall, promote, 26618

discharge, assign, reward, or discipline other employees of the board; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature but requires the use of independent judgment.

(G) "Managerial responsibilities and duties" includes formulating policy on behalf of the board, responsibly directing the implementation of policy, assisting in the preparation for the conduct of collective negotiations, administering collectively negotiated agreements, or having a major role in personnel administration.

(H) "Investigative agent" means an individual who conducts investigations under section 5126.313 of the Revised Code.

Sec. 5126.201. A person may be employed by a county board of ~~mental retardation and~~ developmental disabilities as a conditional status service and support administrator only if either of the following is true:

(A) The person has at least an appropriate associate degree;

(B) The person meets both of the following requirements:

(1) The person was employed by the county board and performed service and support administration duties on June 30, 2005;

(2) The person holds a high school diploma or a general educational development certificate of high school equivalence.

Sec. 5126.21. As used in this section, "management employee" does not include the superintendent of a county board of ~~mental retardation and~~ developmental disabilities.

(A)(1) Each management employee of a county board of ~~mental retardation and~~ developmental disabilities shall hold a limited contract for a period of not less than one year and not more than

five years, except that a management employee hired after the 26648
beginning of a program year may be employed under a limited 26649
contract expiring at the end of the program year. The board shall 26650
approve all contracts of employment for management employees that 26651
are for a term of more than one year. A management employee shall 26652
receive notice of the superintendent's intention not to rehire the 26653
employee at least ninety days prior to the expiration of the 26654
contract. If the superintendent fails to notify a management 26655
employee, the employee shall be reemployed under a limited 26656
contract of one year at the same salary plus any authorized salary 26657
increases. 26658

(2) During the term of a contract a management employee's 26659
salary may be increased, but shall not be reduced unless the 26660
reduction is part of a uniform plan affecting all employees of the 26661
board. 26662

(B) All management employees may be removed, suspended, or 26663
demoted for cause pursuant to section 5126.23 of the Revised Code. 26664

(C) All management employees shall receive employee benefits 26665
that shall include sick leave, vacation leave, holiday pay, and 26666
such other benefits as are established by the board. Sections 26667
124.38 and 325.19 of the Revised Code do not apply to management 26668
employees. 26669

(D) The superintendent of a county board of ~~mental~~ 26670
~~retardation and~~ developmental disabilities shall notify all 26671
management employees of the board of their salary no later than 26672
thirty days before the first day of the new contract year. 26673

(E) All management employees of a county board of ~~mental~~ 26674
~~retardation and~~ developmental disabilities who were given 26675
continuing contract status prior to the effective date of this 26676
section have continuing contract status so long as they maintain 26677
employment with the board. 26678

(F) All management employees who were probationary employees 26679
on the effective date of this section shall, upon completion of 26680
their probationary period, be granted continuing contract status 26681
if retained in employment. 26682

(G) Each county board of ~~mental retardation and~~ developmental 26683
disabilities shall establish a lay-off policy to be followed if it 26684
determines a reduction in the number of management employees is 26685
necessary. 26686

Sec. 5126.22. (A) Employees who hold the following positions 26687
in a county board of ~~mental retardation and~~ developmental 26688
disabilities are management employees: 26689

assistant superintendent 26690

director of business 26691

director of personnel 26692

adult services director 26693

workshop director 26694

habilitation manager 26695

director of residential services 26696

principal (director of children services) 26697

program or service supervisor 26698

plant manager 26699

production manager 26700

service and support administration supervisor 26701

investigative agent 26702

confidential employees as defined in section 4117.01 of the 26703
Revised Code 26704

positions designated by the director of ~~mental retardation~~ 26705

and developmental disabilities as having managerial or supervisory responsibilities and duties	26706 26707
positions designated by the county board in accordance with division (D) of this section.	26708 26709
(B) Employees who hold the following positions in a board are professional employees:	26710 26711
personnel certified pursuant to Chapter 3319. of the Revised Code	26712 26713
early intervention specialist	26714
physical development specialist	26715
habilitation specialist	26716
work adjustment specialist	26717
placement specialist	26718
vocational evaluator	26719
psychologist	26720
occupational therapist	26721
speech and language pathologist	26722
recreation specialist	26723
behavior management specialist	26724
physical therapist	26725
supportive home services specialist	26726
licensed practical nurse or registered nurse	26727
rehabilitation counselor	26728
doctor of medicine and surgery or of osteopathic medicine and surgery	26729 26730
dentist	26731
service and support administrator	26732

conditional status service and support administrator	26733
social worker	26734
any position that is not a management position and for which	26735
the standards for certification established by the director of	26736
mental retardation and developmental disabilities under section	26737
5126.25 of the Revised Code require a bachelor's or higher degree	26738
professional positions designated by the director	26739
professional positions designated by the county board in	26740
accordance with division (D) of this section.	26741
(C) Employees who hold positions in a board that are neither	26742
management positions nor professional positions are service	26743
employees. Service employee positions include:	26744
workshop specialist	26745
workshop specialist assistant	26746
contract procurement specialist	26747
community employment specialist	26748
any assistant to a professional employee certified to	26749
provide, or supervise the provision of, adult services or service	26750
and support administration	26751
service positions designated by the director	26752
service positions designated by a county board in accordance	26753
with division (D) of this section.	26754
(D) A county board may designate a position only if the	26755
position does not include directly providing, or supervising	26756
employees who directly provide, service or instruction to	26757
individuals with mental retardation or developmental disabilities.	26758
(E) If a county board desires to have a position established	26759
that is not specifically listed in this section that includes	26760
directly providing, or supervising employees who directly provide,	26761

services or instruction to individuals with mental retardation or 26762
developmental disabilities, the board shall submit to the director 26763
a written description of the position and request that the 26764
director designate the position as a management, professional, or 26765
service position under this section. The director shall consider 26766
each request submitted under this division and respond within 26767
thirty days. If the director approves the request, the director 26768
shall designate the position as a management, professional, or 26769
service position. 26770

(F) A county board shall not terminate its employment of any 26771
management, professional, or service employee solely because a 26772
position is added to or eliminated from those positions listed in 26773
this section or because a position is designated or no longer 26774
designated by the director or a county board. 26775

Sec. 5126.221. Each county board of ~~mental retardation and~~ 26776
developmental disabilities shall employ at least one investigative 26777
agent or contract with a person or government entity, including 26778
another county board of ~~mental retardation and~~ developmental 26779
disabilities or a regional council established under section 26780
5126.13 of the Revised Code, for the services of an investigative 26781
agent. Neither a county board nor a person or government entity 26782
with which a county board contracts for the services of an 26783
investigative agent shall assign any duties to an investigative 26784
agent other than conducting investigations under section 5126.313 26785
of the Revised Code. 26786

All investigative agents shall be trained in civil and 26787
criminal investigatory practices. The person responsible for 26788
supervising the work of the investigative agents shall report 26789
directly to a county board's superintendent regarding the 26790
investigative agents. 26791

No investigative agent shall do anything that interferes with 26792

the investigative agent's objectivity in conducting investigations 26793
under section 5126.313 of the Revised Code. 26794

Sec. 5126.23. (A) As used in this section, "employee" means a 26795
management employee or superintendent of a county board of ~~mental~~ 26796
~~retardation and~~ developmental disabilities. 26797

(B) An employee may be removed, suspended, or demoted in 26798
accordance with this section for violation of written rules set 26799
forth by the board or for incompetency, inefficiency, dishonesty, 26800
drunkenness, immoral conduct, insubordination, discourteous 26801
treatment of the public, neglect of duty, or other acts of 26802
misfeasance, malfeasance, or nonfeasance. 26803

(C) Prior to the removal, suspension, or demotion of an 26804
employee pursuant to this section, the employee shall be notified 26805
in writing of the charges against ~~him~~ the employee. Except as 26806
otherwise provided in division (H) of this section, not later than 26807
thirty days after receiving such notification, a predisciplinary 26808
conference shall be held to provide the employee an opportunity to 26809
refute the charges against ~~him~~ the employee. At least seventy-two 26810
hours prior to the conference, the employee shall be given a copy 26811
of the charges against ~~him~~ the employee. 26812

If the removal, suspension, or demotion action is directed 26813
against a management employee, the conference shall be held by the 26814
superintendent or a person ~~he~~ the superintendent designates, and 26815
the superintendent shall notify the management employee within 26816
fifteen days after the conference of the decision made with 26817
respect to the charges. If the removal, suspension, or demotion 26818
action is directed against a superintendent, the conference shall 26819
be held by the members of the board or their designees, and the 26820
board shall notify the superintendent within fifteen days after 26821
the conference of its decision with respect to the charges. 26822

(D) Within fifteen days after receiving notification of the 26823

results of the predisciplinary conference, an employee may file 26824
with the board a written demand for a hearing before the board or 26825
before a referee, and the board shall set a time for the hearing 26826
which shall be within thirty days from the date of receipt of the 26827
written demand, and the board shall give the employee at least 26828
twenty days notice in writing of the time and place of the 26829
hearing. 26830

(E) If a referee is demanded by an employee or a county 26831
board, the hearing shall be conducted by a referee selected in 26832
accordance with division (F) of this section; otherwise, it shall 26833
be conducted by a majority of the members of the board and shall 26834
be confined to the charges enumerated at the predisciplinary 26835
conference. 26836

(F) Referees for the hearings required by this section shall 26837
be selected from the list of names compiled by the superintendent 26838
of public instruction pursuant to section 3319.161 of the Revised 26839
Code. Upon receipt of notice that a referee has been demanded by 26840
an employee or a county board, the superintendent of public 26841
instruction shall immediately designate three persons from such 26842
list, from whom the referee for the hearing shall be chosen, and 26843
~~he~~ the superintendent of public instruction shall immediately 26844
notify the designees, the county board, and the employee. If 26845
within five days of receipt of the notice, the county board and 26846
employee are unable to agree upon one of the designees to serve as 26847
referee, the superintendent of public instruction shall appoint 26848
one of the designees to serve as referee. The appointment of the 26849
referee shall be entered in the minutes of the county board. The 26850
referee appointed shall be paid ~~his~~ the referee's usual and 26851
customary fee for attending the hearing which shall be paid from 26852
the general fund of the county board of ~~mental retardation and~~ 26853
developmental disabilities. 26854

(G) The board shall provide for a complete stenographic 26855

record of the proceedings, and a copy of the record shall be 26856
furnished to the employee. 26857

Both parties may be present at the hearing, be represented by 26858
counsel, require witnesses to be under oath, cross-examine 26859
witnesses, take a record of the proceedings, and require the 26860
presence of witnesses in their behalf upon subpoena to be issued 26861
by the county board. If any person fails to comply with a 26862
subpoena, a judge of the court of common pleas of the county in 26863
which the person resides, upon application of any interested 26864
party, shall compel attendance of the person by attachment 26865
proceedings as for contempt. Any member of the board or the 26866
referee may administer oaths to witnesses. After a hearing by a 26867
referee, the referee shall file ~~his~~ a report within ten days after 26868
the termination of the hearing. After consideration of the 26869
referee's report, the board, by a majority vote, may accept or 26870
reject the referee's recommendation. After a hearing by the board, 26871
the board, by majority vote, may enter its determination upon its 26872
minutes. If the decision, after hearing, is in favor of the 26873
employee, the charges and the record of the hearing shall be 26874
physically expunged from the minutes and, if the employee has 26875
suffered any loss of salary by reason of being suspended, ~~he~~ the 26876
employee shall be paid ~~his~~ the employee's full salary for the 26877
period of such suspension. 26878

Any employee affected by a determination of the board under 26879
this division may appeal to the court of common pleas of the 26880
county in which the board is located within thirty days after 26881
receipt of notice of the entry of such determination. The appeal 26882
shall be an original action in the court and shall be commenced by 26883
the filing of a complaint against the board, in which complaint 26884
the facts shall be alleged upon which the employee relies for a 26885
reversal or modification of such determination. Upon service or 26886
waiver of summons in that appeal, the board immediately shall 26887

transmit to the clerk of the court for filing a transcript of the 26888
original papers filed with the board, a certified copy of the 26889
minutes of the board into which the determination was entered, and 26890
a certified transcript of all evidence adduced at the hearing or 26891
hearings before the board or a certified transcript of all 26892
evidence adduced at the hearing or hearings before the referee, 26893
whereupon the cause shall be at issue without further pleading and 26894
shall be advanced and heard without delay. The court shall examine 26895
the transcript and record of the hearing and shall hold such 26896
additional hearings as it considers advisable, at which it may 26897
consider other evidence in addition to the transcript and record. 26898

Upon final hearing, the court shall grant or deny the relief 26899
prayed for in the complaint as may be proper in accordance with 26900
the evidence adduced in the hearing. Such an action is a special 26901
proceeding, and either the employee or the board may appeal from 26902
the decision of the court of common pleas pursuant to the Rules of 26903
Appellate Procedure and, to the extent not in conflict with those 26904
rules, Chapter 2505. of the Revised Code. 26905

(H) Notwithstanding divisions (C) to (G) of this section, a 26906
county board and an employee may agree to submit issues regarding 26907
the employee's removal, suspension, or demotion to binding 26908
arbitration. The terms of the submission, including the method of 26909
selecting the arbitrator or arbitrators and the responsibility for 26910
compensating the arbitrator, shall be provided for in the 26911
arbitration agreement. The arbitrator shall be selected within 26912
fifteen days of the execution of the agreement. Chapter 2711. of 26913
the Revised Code governs the arbitration proceedings. 26914

Sec. 5126.24. (A) As used in this section: 26915

(1) "License" means an educator license issued by the state 26916
board of education under section 3319.22 of the Revised Code or a 26917
certificate issued by the department of ~~mental retardation and~~ 26918

developmental disabilities. 26919

(2) "Teacher" means a person employed by a county board of 26920
~~mental retardation and~~ developmental disabilities in a position 26921
that requires a license. 26922

(3) "Nonteaching employee" means a person employed by a 26923
county board of ~~mental retardation and~~ developmental disabilities 26924
in a position that does not require a license. 26925

(4) "Years of service" includes all service described in 26926
division (A) of section 3317.13 of the Revised Code. 26927

(B) Subject to rules established by the director of ~~mental~~ 26928
~~retardation and~~ developmental disabilities pursuant to Chapter 26929
119. of the Revised Code, each county board of ~~mental retardation~~ 26930
~~and~~ developmental disabilities shall annually adopt separate 26931
salary schedules for teachers and nonteaching employees. 26932

(C) The teachers' salary schedule shall provide for 26933
increments based on training and years of service. The board may 26934
establish its own service requirements provided no teacher 26935
receives less than the salary the teacher would be paid under 26936
section 3317.13 of the Revised Code if the teacher were employed 26937
by a school district board of education and provided full credit 26938
for a minimum of five years of actual teaching and military 26939
experience as defined in division (A) of such section is given to 26940
each teacher. 26941

Each teacher who has completed training that would qualify 26942
the teacher for a higher salary bracket pursuant to this section 26943
shall file by the fifteenth day of September with the fiscal 26944
officer of the board, satisfactory evidence of the completion of 26945
such additional training. The fiscal officer shall then 26946
immediately place the teacher, pursuant to this section, in the 26947
proper salary bracket in accordance with training and years of 26948
service. No teacher shall be paid less than the salary to which 26949

the teacher would be entitled under section 3317.13 of the Revised Code if the teacher were employed by a school district board of education.

The superintendent of each county board, on or before the fifteenth day of October of each year, shall certify to the state board of education the name of each teacher employed, on an annual salary, in each special education program operated pursuant to section 3323.09 of the Revised Code during the first full school week of October. The superintendent further shall certify, for each teacher, the number of years of training completed at a recognized college, the degrees earned from a college recognized by the state board, the type of license held, the number of months employed by the board, the annual salary, and other information that the state board may request.

(D) The nonteaching employees' salary schedule established by the board shall be based on training, experience, and qualifications with initial salaries no less than salaries in effect on July 1, 1985. Each board shall prepare and may amend from time to time, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the classifications of employees required to perform the duties specified in the salary schedule. All nonteaching employees shall be notified of the position classification to which they are assigned and the salary for the classification. The compensation of all nonteaching employees working for a particular board shall be uniform for like positions except as compensation would be affected by salary increments based upon length of service.

On the fifteenth day of October of each year the nonteaching employees' salary schedule and list of job classifications and salaries in effect on that date shall be filed by each board with the superintendent of public instruction. If such salary schedule and classification plan is not filed, the superintendent of public

instruction shall order the board to file such schedule and list 26982
forthwith. If this condition is not corrected within ten days 26983
after receipt of the order from the superintendent, no money shall 26984
be distributed to the district under Chapter 3317. of the Revised 26985
Code until the superintendent has satisfactory evidence of the 26986
board's full compliance with such order. 26987

Sec. 5126.25. (A) The director of ~~mental retardation and~~ 26988
developmental disabilities shall adopt rules in accordance with 26989
Chapter 119. of the Revised Code establishing uniform standards 26990
and procedures for the certification of persons for employment by 26991
county boards of ~~mental retardation and~~ developmental disabilities 26992
as superintendents, management employees, and professional 26993
employees and uniform standards and procedures for the 26994
registration of persons for employment by county boards as 26995
registered service employees. As part of the rules, the director 26996
may establish continuing education and professional training 26997
requirements for renewal of certificates and evidence of 26998
registration and shall establish such requirements for renewal of 26999
an investigative agent certificate. In the rules, the director 27000
shall establish certification standards for employment in the 27001
position of investigative agent that require an individual to have 27002
or obtain no less than an associate degree from an accredited 27003
college or university or have or obtain comparable experience or 27004
training. The director shall not adopt rules that require any 27005
service employee to have or obtain a bachelor's or higher degree. 27006

The director shall adopt the rules in a manner that provides 27007
for the issuance of certificates and evidence of registration 27008
according to categories, levels, and grades. The rules shall 27009
describe each category, level, and grade. 27010

The rules adopted under this division shall apply to persons 27011
employed or seeking employment in a position that includes 27012

directly providing, or supervising persons who directly provide, 27013
services or instruction to or on behalf of individuals with mental 27014
retardation or developmental disabilities, except that the rules 27015
shall not apply to persons who hold a valid license issued under 27016
Chapter 3319. of the Revised Code and perform no duties other than 27017
teaching or supervision of a teaching program or persons who hold 27018
a valid license or certificate issued under Title XLVII of the 27019
Revised Code and perform only those duties governed by the license 27020
or certificate. The rules shall specify the positions that require 27021
certification or registration. The rules shall specify that the 27022
position of investigative agent requires certification. 27023

(B) The director shall adopt rules in accordance with Chapter 27024
119. of the Revised Code establishing standards for approval of 27025
courses of study to prepare persons to meet certification 27026
requirements. The director shall approve courses of study meeting 27027
the standards and provide for the inspection of the courses to 27028
ensure the maintenance of satisfactory training procedures. The 27029
director shall approve courses of study only if given by a state 27030
university or college as defined in section 3345.32 of the Revised 27031
Code, a state university or college of another state, or an 27032
institution that has received a certificate of authorization to 27033
confer degrees from the board of regents pursuant to Chapter 1713. 27034
of the Revised Code or from a comparable agency of another state. 27035

(C) Each applicant for a certificate for employment or 27036
evidence of registration for employment by a county board shall 27037
apply to the department of ~~mental retardation and~~ developmental 27038
disabilities on forms that the director of the department shall 27039
prescribe and provide. The application shall be accompanied by the 27040
application fee established in rules adopted under this section. 27041

(D) The director shall issue a certificate for employment to 27042
each applicant who meets the standards for certification 27043
established under this section and shall issue evidence of 27044

registration for employment to each applicant who meets the 27045
standards for registration established under this section. Each 27046
certificate or evidence of registration shall state the category, 27047
level, and grade for which it is issued. 27048

The director shall issue, renew, deny, suspend, or revoke 27049
certificates and evidence of registration in accordance with rules 27050
adopted under this section. The director shall deny, suspend, or 27051
revoke a certificate or evidence of registration if the director 27052
finds, pursuant to an adjudication conducted in accordance with 27053
Chapter 119. of the Revised Code, that the applicant for or holder 27054
of the certificate or evidence of registration is guilty of 27055
intemperate, immoral, or other conduct unbecoming to the 27056
applicant's or holder's position, or is guilty of incompetence or 27057
negligence within the scope of the applicant's or holder's duties. 27058
The director shall deny or revoke a certificate or evidence of 27059
registration if the director finds, pursuant to an adjudication 27060
conducted in accordance with Chapter 119. of the Revised Code, 27061
that the applicant for or holder of the certificate or evidence of 27062
registration has been convicted of or pleaded guilty to any of the 27063
offenses described in division (E) of section 5126.28 of the 27064
Revised Code, unless the individual meets standards for 27065
rehabilitation that the director establishes in the rules adopted 27066
under that section. Evidence supporting such allegations shall be 27067
presented to the director in writing and the director shall 27068
provide prompt notice of the allegations to the person who is the 27069
subject of the allegations. A denial, suspension, or revocation 27070
may be appealed in accordance with procedures the director shall 27071
establish in the rules adopted under this section. 27072

(E)(1) A person holding a valid certificate under this 27073
section on the effective date of any rules adopted under this 27074
section that increase certification standards shall have such 27075
period as the rules prescribe, but not less than one year after 27076

the effective date of the rules, to meet the new certification standards. 27077
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A person who is registered under this section on the effective date of any rule that changes the standards adopted under this section shall have such period as the rules prescribe, but not less than one year, to meet the new registration standards. 27079
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(2) If an applicant for a certificate for employment has not completed the courses of instruction necessary to meet the department's standards for certification, the department shall inform the applicant of the courses the applicant must successfully complete to meet the standards and shall specify the time within which the applicant must complete the courses. The department shall grant the applicant at least one year to complete the courses and shall not require the applicant to complete more than four courses in any one year. The applicant is not subject to any changes regarding the courses required for certification that are made after the department informs the applicant of the courses the applicant must complete, unless the applicant does not successfully complete the courses within the time specified by the department. 27084
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(F) A person who holds a certificate or evidence of registration, other than one designated as temporary, is qualified to be employed according to that certificate or evidence of registration by any county board. 27098
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(G) The director shall monitor county boards to ensure that their employees who must be certified or registered are appropriately certified or registered and performing those functions they are authorized to perform under their certificate or evidence of registration. 27102
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(H) A county board superintendent or the superintendent's 27107

designee may certify to the director that county board employees 27108
who are required to meet continuing education or professional 27109
training requirements as a condition of renewal of certificates or 27110
evidence of registration have met the requirements. The 27111
superintendent or the superintendent's designee shall maintain in 27112
appropriate personnel files evidence acceptable to the director 27113
that the employees have met the requirements and permit 27114
representatives of the department access to the evidence on 27115
request. 27116

(I) All fees collected pursuant to this section shall be 27117
deposited in the state treasury to the credit of the program fee 27118
fund created under section 5123.033 of the Revised Code. 27119

(J) Employees of entities that contract with county boards of 27120
~~mental retardation and~~ developmental disabilities to operate 27121
programs and services for individuals with mental retardation and 27122
developmental disabilities are subject to the certification and 27123
registration requirements established under section 5123.082 of 27124
the Revised Code. 27125

Sec. 5126.251. On receipt of a notice pursuant to section 27126
3123.43 of the Revised Code, the director of ~~mental retardation~~ 27127
~~and~~ developmental disabilities shall comply with sections 3123.41 27128
to 3123.50 of the Revised Code and any applicable rules adopted 27129
under section 3123.63 of the Revised Code with respect to a 27130
certificate or evidence of registration issued pursuant to this 27131
chapter. 27132

Sec. 5126.252. Notwithstanding sections 5123.082, 5126.25, 27133
and 5126.26 of the Revised Code, the department of ~~mental~~ 27134
~~retardation and~~ developmental disabilities may authorize county 27135
boards of ~~mental retardation and~~ developmental disabilities to 27136
establish and administer in their counties programs for the 27137

certification and registration of persons for employment by the boards. A certificate or evidence of registration issued by a board participating in programs under this section shall have the same force and effect as a certificate or evidence of registration issued by the department under section 5123.082 or 5126.25 of the Revised Code.

Sec. 5126.253. (A) As used in this section:

(1) "Conduct unbecoming to the teaching profession" shall be as described in rules adopted by the state board of education.

(2) "Intervention in lieu of conviction" means intervention in lieu of conviction under section 2951.041 of the Revised Code.

(3) "License" has the same meaning as in section 3319.31 of the Revised Code.

(4) "Pre-trial diversion program" means a pre-trial diversion program under section 2935.36 of the Revised Code or a similar diversion program under rules of a court.

(B) The superintendent of each county board of ~~mental retardation and~~ developmental disabilities or the president of the board, if division (C) of this section applies, shall promptly submit to the superintendent of public instruction the information prescribed in division (D) of this section when any of the following conditions applies to an employee of the board who holds a license issued by the state board of education:

(1) The superintendent or president knows that the employee has pleaded guilty to, has been found guilty by a jury or court of, has been convicted of, has been found to be eligible for intervention in lieu of conviction for, or has agreed to participate in a pre-trial diversion program for an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(2) The board has initiated termination or nonrenewal proceedings against, has terminated, or has not renewed the contract of the employee because the board has reasonably determined that the employee has committed an act unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(3) The employee has resigned under threat of termination or nonrenewal as described in division (B)(2) of this section.

(4) The employee has resigned because of or in the course of an investigation by the board regarding whether the employee has committed an act unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(C) If the employee to whom any of the conditions prescribed in divisions (B)(1) to (4) of this section applies is the superintendent of a county board of ~~mental retardation and~~ developmental disabilities, the president of the board shall make the report required under this section.

(D) If a report is required under this section, the superintendent or president shall submit to the superintendent of public instruction the name and social security number of the employee about whom information is required and a factual statement regarding any of the conditions prescribed in divisions (B)(1) to (4) of this section that applies to the employee.

(E) A determination made by the board as described in division (B)(2) of this section or a termination, nonrenewal, resignation, or other separation described in divisions (B)(2) to (4) of this section does not create a presumption of the commission or lack of the commission by the employee of an act unbecoming to the teaching profession or an offense described in

division (B)(2) or (C) of section 3319.31 or division (B)(1) of 27199
section 3319.39 of the Revised Code. 27200

(F) No individual required to submit a report under division 27201
(B) of this section shall knowingly fail to comply with that 27202
division. 27203

(G) An individual who provides information to the 27204
superintendent of public instruction in accordance with this 27205
section in good faith shall be immune from any civil liability 27206
that otherwise might be incurred or imposed for injury, death, or 27207
loss to person or property as a result of the provision of that 27208
information. 27209

Sec. 5126.254. The superintendent of each county board of 27210
~~mental retardation and~~ developmental disabilities shall require 27211
that the reports of any investigation by the board of an employee 27212
regarding whether the employee has committed an act or offense for 27213
which the superintendent is required to make a report to the 27214
superintendent of public instruction under section 5126.253 of the 27215
Revised Code be kept in the employee's personnel file. If, after 27216
an investigation under division (A) of section 3319.311 of the 27217
Revised Code, the superintendent of public instruction determines 27218
that the results of that investigation do not warrant initiating 27219
action under section 3319.31 of the Revised Code, the 27220
superintendent of the county board shall require the reports of 27221
the board's investigation to be moved from the employee's 27222
personnel file to a separate public file. 27223

Sec. 5126.26. Except as otherwise provided in this section 27224
and section 5126.27 of the Revised Code, no person shall be 27225
employed or compensated by a county board of ~~mental retardation~~ 27226
~~and~~ developmental disabilities if ~~he~~ the person does not hold the 27227
certificate, evidence of registration, or license required for the 27228

position under the rules of the department or the department of 27229
education, but the superintendent of a county board may employ, 27230
and the board shall compensate, a person pending the issuance of 27231
an initial certificate or registration if ~~he~~ the person meets the 27232
requirements for certification or registration, ~~he~~ the person has 27233
applied for certification or registration, and the application has 27234
not been denied. A person's employment shall be terminated if a 27235
required license, certificate, or registration is denied, 27236
permanently revoked, or not renewed. 27237

Sec. 5126.27. (A) A county board of ~~mental retardation and~~ 27238
developmental disabilities shall allow a professional employee 27239
hired by the board prior to July 17, 1990, who does not meet the 27240
standards for certification established under section 5126.25 of 27241
the Revised Code for the position he holds on July 17, 1990, to 27242
elect to do one of the following: 27243

(1) Accept a position with the board, if such a position is 27244
available, for which ~~he~~ the employee meets the certification 27245
standards; 27246

(2) Remain in the position ~~he~~ the employee holds on July 17, 27247
1990, and comply with the provisions of a professional development 27248
plan prescribed by the director of ~~mental retardation and~~ 27249
developmental disabilities under division (B) of this section. 27250

If the employee accepts a position under division (A)(1) of 27251
this section, ~~his~~ the employee's compensation shall be not less 27252
than the compensation ~~he~~ the employee received in the position ~~he~~ 27253
the employee held on July 17, 1990. 27254

(B) If an employee elects the option described in division 27255
(A)(2) of this section, the board shall notify the department. The 27256
director shall issue a temporary certificate to the employee for 27257
the position ~~he~~ the employee holds and develop a professional 27258
development plan for ~~him~~ the employee. The temporary certificate 27259

shall be valid only during the period required for completion of 27260
the professional development plan and only while the employee is 27261
employed by the board by which ~~he~~ the employee was employed on 27262
July 17, 1990. The plan shall specify the coursework the employee 27263
must successfully complete and any other requirements for 27264
certification and the schedule for completion of the plan, except: 27265

(1) The plan shall not require that the employee complete 27266
more than six semester hours, or the equivalent, of coursework in 27267
any twelve-month period; 27268

(2) All coursework must be completed at an accredited college 27269
or university recognized by the department; 27270

(3) The plan shall not require the employee to complete more 27271
than sixty semester hours, or the equivalent, of coursework, or to 27272
obtain a bachelor's or higher degree if a greater number of hours 27273
of coursework would be required to do so. 27274

Notwithstanding any standards for certification established 27275
by the director under section 5126.25 of the Revised Code, if the 27276
employee successfully completes the professional development plan 27277
within the time specified, the director shall grant ~~him~~ the 27278
employee the appropriate certificate for the position ~~he~~ the 27279
employer holds. 27280

Sec. 5126.28. (A) As used in this section: 27281

(1) "Applicant" means a person who is under final 27282
consideration for appointment to or employment in a position with 27283
a county board of ~~mental retardation and~~ developmental 27284
disabilities, including, but not limited to, a person who is being 27285
transferred to the county board and an employee who is being 27286
recalled or reemployed after a layoff. 27287

(2) "Criminal records check" has the same meaning as in 27288
section 109.572 of the Revised Code. 27289

(3) "Minor drug possession offense" has the same meaning as 27290
in section 2925.01 of the Revised Code. 27291

(B) The superintendent of a county board of ~~mental~~ 27292
~~retardation and~~ developmental disabilities shall request the 27293
superintendent of the bureau of criminal identification and 27294
investigation to conduct a criminal records check with respect to 27295
any applicant who has applied to the board for employment in any 27296
position, except that a county board superintendent is not 27297
required to request a criminal records check for an employee of 27298
the board who is being considered for a different position or is 27299
returning after a leave of absence or seasonal break in 27300
employment, as long as the superintendent has no reason to believe 27301
that the employee has committed any of the offenses listed or 27302
described in division (E) of this section. 27303

If the applicant does not present proof that the applicant 27304
has been a resident of this state for the five-year period 27305
immediately prior to the date upon which the criminal records 27306
check is requested, the county board superintendent shall request 27307
that the superintendent of the bureau obtain information from the 27308
federal bureau of investigation as a part of the criminal records 27309
check for the applicant. If the applicant presents proof that the 27310
applicant has been a resident of this state for that five-year 27311
period, the county board superintendent may request that the 27312
superintendent of the bureau include information from the federal 27313
bureau of investigation in the criminal records check. For 27314
purposes of this division, an applicant may provide proof of 27315
residency in this state by presenting, with a notarized statement 27316
asserting that the applicant has been a resident of this state for 27317
that five-year period, a valid driver's license, notification of 27318
registration as an elector, a copy of an officially filed federal 27319
or state tax form identifying the applicant's permanent residence, 27320
or any other document the superintendent considers acceptable. 27321

(C) The county board superintendent shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the criminal records check is requested.

Any applicant who receives pursuant to this division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the county board superintendent shall not employ that applicant.

(D) A county board superintendent may request any other state or federal agency to supply the board with a written report regarding the criminal record of each applicant. With regard to an applicant who becomes a board employee, if the employee holds an occupational or professional license or other credentials, the superintendent may request that the state or federal agency that regulates the employee's occupation or profession supply the board with a written report of any information pertaining to the employee's criminal record that the agency obtains in the course of conducting an investigation or in the process of renewing the

employee's license or other credentials. 27354

(E) Except as provided in division (K)(2) of this section and 27355
in rules adopted by the department of ~~mental retardation and~~ 27356
developmental disabilities in accordance with division (M) of this 27357
section, no county board of ~~mental retardation and~~ developmental 27358
disabilities shall employ a person to fill a position with the 27359
board who has been convicted of or pleaded guilty to any of the 27360
following: 27361

(1) A violation of section 2903.01, 2903.02, 2903.03, 27362
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 27363
2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 27364
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 27365
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 27366
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 27367
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 27368
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of 27369
section 2905.04 of the Revised Code as it existed prior to July 1, 27370
1996, a violation of section 2919.23 of the Revised Code that 27371
would have been a violation of section 2905.04 of the Revised Code 27372
as it existed prior to July 1, 1996, had the violation occurred 27373
prior to that date, a violation of section 2925.11 of the Revised 27374
Code that is not a minor drug possession offense, or felonious 27375
sexual penetration in violation of former section 2907.12 of the 27376
Revised Code; 27377

(2) A felony contained in the Revised Code that is not listed 27378
in this division, if the felony bears a direct and substantial 27379
relationship to the duties and responsibilities of the position 27380
being filled; 27381

(3) Any offense contained in the Revised Code constituting a 27382
misdemeanor of the first degree on the first offense and a felony 27383
on a subsequent offense, if the offense bears a direct and 27384
substantial relationship to the position being filled and the 27385

nature of the services being provided by the county board; 27386

(4) A violation of an existing or former municipal ordinance 27387
or law of this state, any other state, or the United States, if 27388
the offense is substantially equivalent to any of the offenses 27389
listed or described in division (E)(1), (2), or (3) of this 27390
section. 27391

(F) Prior to employing an applicant, the county board 27392
superintendent shall require the applicant to submit a statement 27393
with the applicant's signature attesting that the applicant has 27394
not been convicted of or pleaded guilty to any of the offenses 27395
listed or described in division (E) of this section. The 27396
superintendent also shall require the applicant to sign an 27397
agreement under which the applicant agrees to notify the 27398
superintendent within fourteen calendar days if, while employed by 27399
the board, the applicant is ever formally charged with, convicted 27400
of, or pleads guilty to any of the offenses listed or described in 27401
division (E) of this section. The agreement shall inform the 27402
applicant that failure to report formal charges, a conviction, or 27403
a guilty plea may result in being dismissed from employment. 27404

(G) A county board of ~~mental retardation and~~ developmental 27405
disabilities shall pay to the bureau of criminal identification 27406
and investigation the fee prescribed pursuant to division (C)(3) 27407
of section 109.572 of the Revised Code for each criminal records 27408
check requested and conducted pursuant to this section. 27409

(H)(1) Any report obtained pursuant to this section is not a 27410
public record for purposes of section 149.43 of the Revised Code 27411
and shall not be made available to any person, other than the 27412
applicant who is the subject of the records check or criminal 27413
records check or the applicant's representative, the board 27414
requesting the records check or criminal records check or its 27415
representative, the department of ~~mental retardation and~~ 27416
developmental disabilities, and any court, hearing officer, or 27417

other necessary individual involved in a case dealing with the 27418
denial of employment to the applicant or the denial, suspension, 27419
or revocation of a certificate or evidence of registration under 27420
section 5126.25 of the Revised Code. 27421

(2) An individual for whom a county board superintendent has 27422
obtained reports under this section may submit a written request 27423
to the county board to have copies of the reports sent to any 27424
state agency, entity of local government, or private entity. The 27425
individual shall specify in the request the agencies or entities 27426
to which the copies are to be sent. On receiving the request, the 27427
county board shall send copies of the reports to the agencies or 27428
entities specified. 27429

A county board may request that a state agency, entity of 27430
local government, or private entity send copies to the board of 27431
any report regarding a records check or criminal records check 27432
that the agency or entity possesses, if the county board obtains 27433
the written consent of the individual who is the subject of the 27434
report. 27435

(I) Each county board superintendent shall request the 27436
registrar of motor vehicles to supply the superintendent with a 27437
certified abstract regarding the record of convictions for 27438
violations of motor vehicle laws of each applicant who will be 27439
required by the applicant's employment to transport individuals 27440
with mental retardation or developmental disabilities or to 27441
operate the board's vehicles for any other purpose. For each 27442
abstract provided under this section, the board shall pay the 27443
amount specified in section 4509.05 of the Revised Code. 27444

(J) The county board superintendent shall provide each 27445
applicant with a copy of any report or abstract obtained about the 27446
applicant under this section. At the request of the director of 27447
~~mental retardation and~~ developmental disabilities, the 27448
superintendent also shall provide the director with a copy of a 27449

report or abstract obtained under this section. 27450

(K)(1) The county board superintendent shall inform each 27451
person, at the time of the person's initial application for 27452
employment, that the person is required to provide a set of 27453
impressions of the person's fingerprints and that a criminal 27454
records check is required to be conducted and satisfactorily 27455
completed in accordance with section 109.572 of the Revised Code 27456
if the person comes under final consideration for appointment or 27457
employment as a precondition to employment in a position. 27458

(2) A board may employ an applicant pending receipt of 27459
reports requested under this section. The board shall terminate 27460
employment of any such applicant if it is determined from the 27461
reports that the applicant failed to inform the county board that 27462
the applicant had been convicted of or pleaded guilty to any of 27463
the offenses listed or described in division (E) of this section. 27464

(L) The board may charge an applicant a fee for costs it 27465
incurs in obtaining reports, abstracts, or fingerprint impressions 27466
under this section. A fee charged under this division shall not 27467
exceed the amount of the fees the board pays under divisions (G) 27468
and (I) of this section. If a fee is charged under this division, 27469
the board shall notify the applicant of the amount of the fee at 27470
the time of the applicant's initial application for employment and 27471
that, unless the fee is paid, the board will not consider the 27472
applicant for employment. 27473

(M) The department of ~~mental retardation and~~ developmental 27474
disabilities shall adopt rules pursuant to Chapter 119. of the 27475
Revised Code to implement this section and section 5126.281 of the 27476
Revised Code, including rules specifying circumstances under which 27477
a county board or contracting entity may hire a person who has 27478
been convicted of or pleaded guilty to an offense listed or 27479
described in division (E) of this section but who meets standards 27480
in regard to rehabilitation set by the department. The rules may 27481

not authorize a county board or contracting entity to hire an 27482
individual who is included in the registry established under 27483
section 5123.52 of the Revised Code. 27484

Sec. 5126.281. (A) As used in this section: 27485

(1) "Contracting entity" means an entity under contract with 27486
a county board of ~~mental retardation and~~ developmental 27487
disabilities for the provision of specialized services to 27488
individuals with mental retardation or a developmental disability. 27489

(2) "Direct services position" means an employment position 27490
in which the employee has physical contact with, the opportunity 27491
to be alone with, or exercises supervision or control over one or 27492
more individuals with mental retardation or a developmental 27493
disability. 27494

(3) "Specialized services" means any program or service 27495
designed and operated to serve primarily individuals with mental 27496
retardation or a developmental disability, including a program or 27497
service provided by an entity licensed or certified by the 27498
department of ~~mental retardation and~~ developmental disabilities. 27499
If there is a question as to whether a contracting entity is 27500
providing specialized services, the contracting entity may request 27501
that the director of ~~mental retardation and~~ developmental 27502
disabilities make a determination. The director's determination is 27503
final. 27504

(B)(1) Except as provided in division (B)(2) of this section, 27505
each contracting entity shall conduct background investigations in 27506
the same manner county boards conduct investigations under section 27507
5126.28 of the Revised Code of all persons under final 27508
consideration for employment with the contracting entity in a 27509
direct services position. On request, the county board shall 27510
assist a contracting entity in obtaining reports from the bureau 27511
of criminal identification and investigation or any other state or 27512

federal agency and in obtaining abstracts from the registrar of motor vehicles. 27513
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(2) A contracting entity is not required to request a criminal records check for either of the following: 27515
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(a) An employee of the entity who is in a direct services position and being considered for a different direct services position or is returning after a leave of absence or seasonal break in employment, as long as the contracting entity has no reason to believe that the employee has committed any of the offenses listed or described in division (E) of section 5126.28 of the Revised Code; 27517
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(b) A person who will provide only respite care under a family support services program established under section 5126.11 of the Revised Code, if the person is selected by a family member of the individual with mental retardation or a developmental disability who is to receive the respite care. 27524
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(C) No contracting entity shall place a person in a direct services position if the person has been convicted of or pleaded guilty to any offense listed or described in division (E) of section 5126.28 of the Revised Code, unless the person meets the standards for rehabilitation established by rules adopted under section 5126.28 of the Revised Code. 27529
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(D) A contracting entity may place a person in a direct services position pending receipt of information concerning the person's background investigation from the bureau of criminal identification and investigation, the registrar of motor vehicles, or any other state or federal agency if the person submits to the contracting entity a statement with the person's signature that the person has not been convicted of or pleaded guilty to any of the offenses listed or described in division (E) of section 5126.28 of the Revised Code. No contracting entity shall fail to 27535
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terminate the placement of such person if the contracting entity 27544
is informed that the person has been convicted of or pleaded 27545
guilty to any of the offenses listed or described in division (E) 27546
of section 5126.28 of the Revised Code. 27547

(E) Prior to employing a person in a direct services 27548
position, the contracting entity shall require the person to 27549
submit a statement with the applicant's signature attesting that 27550
the applicant has not been convicted of or pleaded guilty to any 27551
of the offenses listed or described in division (E) of section 27552
5126.28 of the Revised Code. The contracting entity also shall 27553
require the person to sign an agreement to notify the contracting 27554
entity within fourteen calendar days if, while employed by the 27555
entity, the person is ever formally charged with, convicted of, or 27556
pleads guilty to any of the offenses listed or described in 27557
division (E) of section 5126.28 of the Revised Code. The agreement 27558
shall inform the person that failure to report formal charges, a 27559
conviction, or a guilty plea may result in being dismissed from 27560
employment. 27561

(F) A county board may take appropriate action against a 27562
contracting entity that violates this section, including 27563
terminating the contracting entity's contract with the board. 27564

Sec. 5126.29. (A) No professional or management employee in a 27565
position that requires a license issued by the state board of 27566
education under sections 3319.22 to 3319.31 of the Revised Code or 27567
a certificate issued by the director of ~~mental retardation and~~ 27568
developmental disabilities under section 5126.25 of the Revised 27569
Code shall terminate the employee's employment contract with a 27570
county board of ~~mental retardation and~~ developmental disabilities 27571
without obtaining the written consent of the board prior to the 27572
termination or giving the board written notice of the termination 27573
at least thirty days before its effective date. 27574

(B) Upon complaint by a county board of ~~mental retardation~~ 27575
~~and~~ developmental disabilities that a person holding a license 27576
issued under sections 3319.22 to 3319.31 of the Revised Code has 27577
violated division (A) of this section, the state board of 27578
education shall investigate the complaint. If the state board 27579
determines that the person did violate division (A) of this 27580
section, it may suspend the person's license for a period of time 27581
not exceeding one year as determined by the state board. 27582

(C) Upon complaint by a county board of ~~mental retardation~~ 27583
~~and~~ developmental disabilities that a person holding a certificate 27584
issued under section 5126.25 of the Revised Code has violated 27585
division (A) of this section, the director of ~~mental retardation~~ 27586
~~and~~ developmental disabilities shall investigate the complaint. If 27587
the director determines that the person did violate division (A) 27588
of this section, the director may suspend the person's certificate 27589
for a period of time not exceeding one year as determined by the 27590
director. 27591

Sec. 5126.30. As used in sections 5126.30 to 5126.34 of the 27592
Revised Code: 27593

(A) "Adult" means a person eighteen years of age or older 27594
with mental retardation or a developmental disability. 27595

(B) "Caretaker" means a person who is responsible for the 27596
care of an adult by order of a court, including an order of 27597
guardianship, or who assumes the responsibility for the care of an 27598
adult as a volunteer, as a family member, by contract, or by the 27599
acceptance of payment for care. 27600

(C) "Abuse" has the same meaning as in section 5123.50 of the 27601
Revised Code, except that it includes a misappropriation, as 27602
defined in that section. 27603

(D) "Neglect" has the same meaning as in section 5123.50 of 27604

the Revised Code. 27605

(E) "Exploitation" means the unlawful or improper act of a 27606
caretaker using an adult or an adult's resources for monetary or 27607
personal benefit, profit, or gain, including misappropriation, as 27608
defined in section 5123.50 of the Revised Code, of an adult's 27609
resources. 27610

(F) "Working day" means Monday, Tuesday, Wednesday, Thursday, 27611
or Friday, except when that day is a holiday as defined in section 27612
1.14 of the Revised Code. 27613

(G) "Incapacitated" means lacking understanding or capacity, 27614
with or without the assistance of a caretaker, to make and carry 27615
out decisions regarding food, clothing, shelter, health care, or 27616
other necessities, but does not include mere refusal to consent to 27617
the provision of services. 27618

(H) "Emergency protective services" means protective services 27619
furnished to a person with mental retardation or a developmental 27620
disability to prevent immediate physical harm. 27621

(I) "Protective services" means services provided by the 27622
county board of ~~mental retardation and~~ developmental disabilities 27623
to an adult with mental retardation or a developmental disability 27624
for the prevention, correction, or discontinuance of an act of as 27625
well as conditions resulting from abuse, neglect, or exploitation. 27626

(J) "Protective service plan" means an individualized plan 27627
developed by the county board of ~~mental retardation and~~ 27628
developmental disabilities to prevent the further abuse, neglect, 27629
or exploitation of an adult with mental retardation or a 27630
developmental disability. 27631

(K) "Substantial risk" has the same meaning as in section 27632
2901.01 of the Revised Code. 27633

(L) "Party" means all of the following: 27634

(1) An adult who is the subject of a probate proceeding under sections 5126.30 to 5126.33 of the Revised Code; 27635
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(2) A caretaker, unless otherwise ordered by the probate court; 27637
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(3) Any other person designated as a party by the probate court including but not limited to, the adult's spouse, custodian, guardian, or parent. 27639
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(M) "Board" means a county board of ~~mental retardation and~~ developmental disabilities. 27642
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Sec. 5126.31. (A) A county board of ~~mental retardation and~~ developmental disabilities shall review reports of abuse and neglect made under section 5123.61 of the Revised Code and reports referred to it under section 5101.611 of the Revised Code to determine whether the person who is the subject of the report is an adult with mental retardation or a developmental disability in need of services to deal with the abuse or neglect. The board shall give notice of each report to the registry office of the department of ~~mental retardation and~~ developmental disabilities established pursuant to section 5123.61 of the Revised Code on the first working day after receipt of the report. If the report alleges that there is a substantial risk to the adult of immediate physical harm or death, the board shall initiate review within twenty-four hours of its receipt of the report. If the board determines that the person is sixty years of age or older but does not have mental retardation or a developmental disability, it shall refer the case to the county department of job and family services. If the board determines that the person is an adult with mental retardation or a developmental disability, it shall continue its review of the case. 27644
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(B) For each review over which the board retains responsibility under division (A) of this section, it shall do all 27664
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of the following: 27666

(1) Give both written and oral notice of the purpose of the 27667
review to the adult and, if any, to the adult's legal counsel or 27668
caretaker, in simple and clear language; 27669

(2) Visit the adult, in the adult's residence if possible, 27670
and explain the notice given under division (B)(1) of this 27671
section; 27672

(3) Request from the registry office any prior reports 27673
concerning the adult or other principals in the case; 27674

(4) Consult, if feasible, with the person who made the report 27675
under section 5101.61 or 5123.61 of the Revised Code and with any 27676
agencies or persons who have information about the alleged abuse 27677
or neglect; 27678

(5) Cooperate fully with the law enforcement agency 27679
responsible for investigating the report and for filing any 27680
resulting criminal charges and, on request, turn over evidence to 27681
the agency; 27682

(6) Determine whether the adult needs services, and prepare a 27683
written report stating reasons for the determination. No adult 27684
shall be determined to be abused, neglected, or in need of 27685
services for the sole reason that, in lieu of medical treatment, 27686
the adult relies on or is being furnished spiritual treatment 27687
through prayer alone in accordance with the tenets and practices 27688
of a church or religious denomination of which the adult is a 27689
member or adherent. 27690

(C) The board shall arrange for the provision of services for 27691
the prevention, correction or discontinuance of abuse or neglect 27692
or of a condition resulting from abuse or neglect for any adult 27693
who has been determined to need the services and consents to 27694
receive them. These services may include, but are not limited to, 27695
service and support administration, fiscal management, medical, 27696

mental health, home health care, homemaker, legal, and residential 27697
services and the provision of temporary accommodations and 27698
necessities such as food and clothing. The services do not include 27699
acting as a guardian, trustee, or protector as defined in section 27700
5123.55 of the Revised Code. If the provision of residential 27701
services would require expenditures by the department of ~~mental~~ 27702
~~retardation and~~ developmental disabilities, the board shall obtain 27703
the approval of the department prior to arranging the residential 27704
services. 27705

To arrange services, the board shall: 27706

(1) Develop an individualized service plan identifying the 27707
types of services required for the adult, the goals for the 27708
services, and the persons or agencies that will provide them; 27709

(2) In accordance with rules established by the director of 27710
~~mental retardation and~~ developmental disabilities, obtain the 27711
consent of the adult or the adult's guardian to the provision of 27712
any of these services and obtain the signature of the adult or 27713
guardian on the individual service plan. An adult who has been 27714
found incompetent under Chapter 2111. of the Revised Code may 27715
consent to services. If the board is unable to obtain consent, it 27716
may seek, if the adult is incapacitated, a court order pursuant to 27717
section 5126.33 of the Revised Code authorizing the board to 27718
arrange these services. 27719

(D) The board shall ensure that the adult receives the 27720
services arranged by the board from the provider and shall have 27721
the services terminated if the adult withdraws consent. 27722

(E) On completion of a review, the board shall submit a 27723
written report to the registry office established under section 27724
5123.61 of the Revised Code. If the report includes a finding that 27725
a person with mental retardation or a developmental disability is 27726
a victim of action or inaction that may constitute a crime under 27727

federal law or the law of this state, the board shall submit the 27728
report to the law enforcement agency responsible for investigating 27729
the report. Reports prepared under this section are not public 27730
records as defined in section 149.43 of the Revised Code. 27731

Sec. 5126.311. (A) Notwithstanding the requirement of section 27732
5126.31 of the Revised Code that a county board of ~~mental~~ 27733
~~retardation and~~ developmental disabilities review reports of abuse 27734
and neglect, one of the following government entities, at the 27735
request of the county board or the department of ~~mental~~ 27736
~~retardation and~~ developmental disabilities, shall review the 27737
report instead of the county board if circumstances specified in 27738
rules adopted under division (B) of this section exist: 27739

(1) Another county board of ~~mental retardation and~~ 27740
developmental disabilities; 27741

(2) The department; 27742

(3) A regional council of government established pursuant to 27743
Chapter 167. of the Revised Code; 27744

(4) Any other government entity authorized to investigate 27745
reports of abuse and neglect. 27746

(B) The director of ~~mental retardation and~~ developmental 27747
disabilities shall adopt rules in accordance with Chapter 119. of 27748
the Revised Code specifying circumstances under which it is 27749
inappropriate for a county board to review reports of abuse and 27750
neglect. 27751

Sec. 5126.313. (A) After reviewing a report of abuse or 27752
neglect under section 5126.31 of the Revised Code or a report of a 27753
major unusual incident made in accordance with rules adopted under 27754
section 5123.612 of the Revised Code, a county board of ~~mental~~ 27755
~~retardation and~~ developmental disabilities shall conduct an 27756
investigation if circumstances specified in rules adopted under 27757

division (B) of this section exist. If the circumstances specified 27758
in the rules exist, the county board shall conduct the 27759
investigation in the manner specified by the rules. 27760

(B) The director of ~~mental retardation and~~ developmental 27761
disabilities shall adopt rules in accordance with Chapter 119. of 27762
the Revised Code specifying circumstances under which a county 27763
board shall conduct investigations under division (A) of this 27764
section and the manner in which the county board shall conduct the 27765
investigation. 27766

Sec. 5126.33. (A) A county board of ~~mental retardation and~~ 27767
developmental disabilities may file a complaint with the probate 27768
court of the county in which an adult with mental retardation or a 27769
developmental disability resides for an order authorizing the 27770
board to arrange services described in division (C) of section 27771
5126.31 of the Revised Code for that adult if the adult is 27772
eligible to receive services or support under section 5126.041 of 27773
the Revised Code and the board has been unable to secure consent. 27774
The complaint shall include: 27775

(1) The name, age, and address of the adult; 27776

(2) Facts describing the nature of the abuse, neglect, or 27777
exploitation and supporting the board's belief that services are 27778
needed; 27779

(3) The types of services proposed by the board, as set forth 27780
in the protective service plan described in division (J) of 27781
section 5126.30 of the Revised Code and filed with the complaint; 27782

(4) Facts showing the board's attempts to obtain the consent 27783
of the adult or the adult's guardian to the services. 27784

(B) The board shall give the adult notice of the filing of 27785
the complaint and in simple and clear language shall inform the 27786
adult of the adult's rights in the hearing under division (C) of 27787

this section and explain the consequences of a court order. This 27788
notice shall be personally served upon all parties, and also shall 27789
be given to the adult's legal counsel, if any, and the legal 27790
rights service. The notice shall be given at least twenty-four 27791
hours prior to the hearing, although the court may waive this 27792
requirement upon a showing that there is a substantial risk that 27793
the adult will suffer immediate physical harm in the twenty-four 27794
hour period and that the board has made reasonable attempts to 27795
give the notice required by this division. 27796

(C) Upon the filing of a complaint for an order under this 27797
section, the court shall hold a hearing at least twenty-four hours 27798
and no later than seventy-two hours after the notice under 27799
division (B) of this section has been given unless the court has 27800
waived the notice. All parties shall have the right to be present 27801
at the hearing, present evidence, and examine and cross-examine 27802
witnesses. The Ohio Rules of Evidence shall apply to a hearing 27803
conducted pursuant to this division. The adult shall be 27804
represented by counsel unless the court finds that the adult has 27805
made a voluntary, informed, and knowing waiver of the right to 27806
counsel. If the adult is indigent, the court shall appoint counsel 27807
to represent the adult. The board shall be represented by the 27808
county prosecutor or an attorney designated by the board. 27809

(D)(1) The court shall issue an order authorizing the board 27810
to arrange the protective services if it finds, on the basis of 27811
clear and convincing evidence, all of the following: 27812

(a) The adult has been abused, neglected, or exploited; 27813

(b) The adult is incapacitated; 27814

(c) There is a substantial risk to the adult of immediate 27815
physical harm or death; 27816

(d) The adult is in need of the services; 27817

(e) No person authorized by law or court order to give 27818

consent for the adult is available or willing to consent to the services. 27819
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(2) The board shall develop a detailed protective service plan describing the services that the board will provide, or arrange for the provision of, to the adult to prevent further abuse, neglect, or exploitation. The board shall submit the plan to the court for approval. The protective service plan may be changed only by court order. 27821
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(3) In formulating the order, the court shall consider the individual protective service plan and shall specifically designate the services that are necessary to deal with the abuse, neglect, or exploitation or condition resulting from abuse, neglect, or exploitation and that are available locally, and authorize the board to arrange for these services only. The court shall limit the provision of these services to a period not exceeding six months, renewable for an additional six-month period on a showing by the board that continuation of the order is necessary. 27827
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(E) If the court finds that all other options for meeting the adult's needs have been exhausted, it may order that the adult be removed from the adult's place of residence and placed in another residential setting. Before issuing that order, the court shall consider the adult's choice of residence and shall determine that the new residential setting is the least restrictive alternative available for meeting the adult's needs and is a place where the adult can obtain the necessary requirements for daily living in safety. The court shall not order an adult to a hospital or public hospital as defined in section 5122.01 or a state institution as defined in section 5123.01 of the Revised Code. 27837
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(F) The court shall not authorize a change in an adult's placement ordered under division (E) of this section unless it finds compelling reasons to justify a change. The parties to whom 27848
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notice was given in division (B) of this section shall be given 27851
notice of a proposed change at least five working days prior to 27852
the change. 27853

(G) The adult, the board, or any other person who received 27854
notice of the petition may file a motion for modification of the 27855
court order at any time. 27856

(H) The county board shall pay court costs incurred in 27857
proceedings brought pursuant to this section. The adult shall not 27858
be required to pay for court-ordered services. 27859

(I)(1) After the filing of a complaint for an order under 27860
this section, the court, prior to the final disposition, may enter 27861
any temporary order that the court finds necessary to protect the 27862
adult with mental retardation or a developmental disability from 27863
abuse, neglect, or exploitation including, but not limited to, the 27864
following: 27865

(a) A temporary protection order; 27866

(b) An order requiring the evaluation of the adult; 27867

(c) An order requiring a party to vacate the adult's place of 27868
residence or legal settlement, provided that, subject to division 27869
(K)(1)(d) of this section, no operator of a residential facility 27870
licensed by the department may be removed under this division; 27871

(d) In the circumstances described in, and in accordance with 27872
the procedures set forth in, section 5123.191 of the Revised Code, 27873
an order of the type described in that section that appoints a 27874
receiver to take possession of and operate a residential facility 27875
licensed by the department. 27876

(2) The court may grant an ex parte order pursuant to this 27877
division on its own motion or if a party files a written motion or 27878
makes an oral motion requesting the issuance of the order and 27879
stating the reasons for it if it appears to the court that the 27880

best interest and the welfare of the adult require that the court 27881
issue the order immediately. The court, if acting on its own 27882
motion, or the person requesting the granting of an ex parte 27883
order, to the extent possible, shall give notice of its intent or 27884
of the request to all parties, the adult's legal counsel, if any, 27885
and the legal rights service. If the court issues an ex parte 27886
order, the court shall hold a hearing to review the order within 27887
seventy-two hours after it is issued or before the end of the next 27888
day after the day on which it is issued, whichever occurs first. 27889
The court shall give written notice of the hearing to all parties 27890
to the action. 27891

Sec. 5126.331. (A) A probate court, through a probate judge 27892
or magistrate, may issue by telephone an ex parte emergency order 27893
authorizing any of the actions described in division (B) of this 27894
section if all of the following are the case: 27895

(1) The court receives notice from the county board of ~~mental~~ 27896
~~retardation and~~ developmental disabilities, or an authorized 27897
employee of the board, that the board or employee believes an 27898
emergency order is needed as described in this section. 27899

(2) The adult who is the subject of the notice is eligible to 27900
receive services or support under section 5126.041 of the Revised 27901
Code. 27902

(3) There is reasonable cause to believe that the adult is 27903
incapacitated. 27904

(4) There is reasonable cause to believe that there is a 27905
substantial risk to the adult of immediate physical harm or death. 27906

(B) An order issued under this section may authorize the 27907
county board of ~~mental retardation and~~ developmental disabilities 27908
to do any of the following: 27909

(1) Provide, or arrange for the provision of, emergency 27910

protective services for the adult; 27911

(2) Remove the adult from the adult's place of residence or 27912
legal settlement; 27913

(3) Remove the adult from the place where the abuse, neglect, 27914
or exploitation occurred. 27915

(C) A court shall not issue an order under this section to 27916
remove an adult from a place described in division (B)(2) or (3) 27917
of this section until the court is satisfied that reasonable 27918
efforts have been made to notify the adult and any person with 27919
whom the adult resides of the proposed removal and the reasons for 27920
it, except that, the court may issue an order prior to giving the 27921
notice if one of the following is the case: 27922

(1) Notification could jeopardize the physical or emotional 27923
safety of the adult. 27924

(2) The notification could result in the adult being removed 27925
from the court's jurisdiction. 27926

(D) An order issued under this section shall be in effect for 27927
not longer than twenty-four hours, except that if the day 27928
following the day on which the order is issued is a weekend-day or 27929
legal holiday, the order shall remain in effect until the next 27930
business day. 27931

(E)(1) Except as provided in division (E)(2) of this section, 27932
not later than twenty-four hours after an order is issued under 27933
this section, the county board or employee that provided notice to 27934
the probate court shall file a complaint with the court in 27935
accordance with division (A) of section 5126.33 of the Revised 27936
Code. 27937

(2) If the day following the day on which the order was 27938
issued is a weekend-day or a holiday, the county board or employee 27939
shall file the complaint with the probate court on the next 27940

business day. 27941

(3) Except as provided in section 5126.332 of the Revised 27942
Code, proceedings on the complaint filed pursuant to this division 27943
shall be conducted in accordance with section 5126.33 of the 27944
Revised Code. 27945

Sec. 5126.333. Any person who has reason to believe that 27946
there is a substantial risk to an adult with mental retardation or 27947
a developmental disability of immediate physical harm or death and 27948
that the responsible county board of ~~mental retardation and~~ 27949
developmental disabilities has failed to seek an order pursuant to 27950
section 5126.33 or 5126.331 of the Revised Code may notify the 27951
department of ~~mental retardation and~~ developmental disabilities. 27952
Within twenty-four hours of receipt of such notice, the department 27953
shall cause an investigation to be conducted regarding the notice. 27954
The department shall provide assistance to the county board to 27955
provide for the health and safety of the adult as permitted by 27956
law. 27957

Sec. 5126.34. Each county board of ~~mental retardation and~~ 27958
developmental disabilities shall provide comprehensive, formal 27959
training for county board employees and other persons authorized 27960
to implement sections 5126.30 to 5126.34 of the Revised Code. 27961

The department of ~~mental retardation and~~ developmental 27962
disabilities shall adopt rules establishing minimum standards for 27963
the training provided by county boards pursuant to this section. 27964
The training provided by the county boards shall meet the minimum 27965
standards prescribed by the rules. 27966

Sec. 5126.36. (A) As used in this section, "health-related 27967
activities," "prescribed medication," and "tube feeding" have the 27968
same meanings as in section 5123.41 of the Revised Code. 27969

(B) In accordance with sections 5123.42 and 5123.651 of the Revised Code, an employee of a county board of ~~mental retardation~~ ~~or~~ developmental disabilities or an entity under contract with the board who is not specifically authorized by other provisions of the Revised Code to administer prescribed medications, perform health-related activities, perform tube feedings, or provide assistance in the self-administration of prescribed medications may do so pursuant to the authority granted under those sections.

Sec. 5126.40. (A) Sections 5126.40 to 5126.47 of the Revised Code do not apply to medicaid-funded supported living.

(B) As used in sections 5126.40 to 5126.47 of the Revised Code, "provider" means a person or government entity certified by the director of ~~mental retardation and~~ developmental disabilities to provide supported living for individuals with mental retardation and developmental disabilities.

(C) On and after July 1, 1995, each county board shall plan and develop supported living for individuals with mental retardation and developmental disabilities who are residents of the county in accordance with sections 5126.41 to 5126.47 of the Revised Code.

Sec. 5126.41. The county board of ~~mental retardation and~~ developmental disabilities shall identify residents of the county for whom supported living is to be provided. Identification of the residents shall be made in accordance with the priorities set under section 5126.04 of the Revised Code and the waiting list policies developed under section 5126.042 of the Revised Code. The board shall assist the residents in identifying their individual service needs.

To arrange supported living for an individual, the board shall assist the individual in developing an individual service

plan. In developing the plan, the individual shall choose a 28000
residence that is appropriate according to local standards; the 28001
individuals, if any, with whom the individual will live in the 28002
residence; the services the individual needs to live in the 28003
individual's residence of choice; and the providers from which the 28004
services will be received. The choices available to an individual 28005
shall be based on available resources. 28006

The board shall obtain the consent of the individual or the 28007
individual's guardian and the signature of the individual or 28008
guardian on the individual service plan. The county board shall 28009
ensure that the individual receives from the provider the services 28010
contracted for under section 5126.45 of the Revised Code. 28011

An individual service plan for supported living shall be 28012
effective for a period of time agreed to by the county board and 28013
the individual. In determining that period, the county board and 28014
the individual shall consider the nature of the services to be 28015
provided and the manner in which they are customarily provided. 28016

Sec. 5126.42. (A) A county board of ~~mental retardation and~~ 28017
developmental disabilities shall establish an advisory council 28018
composed of board members or employees of the board, providers, 28019
individuals receiving supported living, and advocates for 28020
individuals receiving supported living to provide on-going 28021
communication among all persons concerned with supported living. 28022

(B) The board shall develop procedures for the resolution of 28023
grievances between the board and providers or between the board 28024
and an entity with which it has a shared funding agreement. 28025

(C) The board shall develop and implement a provider 28026
selection system. Each system shall enable an individual to choose 28027
to continue receiving supported living from the same providers, to 28028
select additional providers, or to choose alternative providers. 28029
Annually, the board shall review its provider selection system to 28030

determine whether it has been implemented in a manner that allows 28031
individuals fair and equitable access to providers. 28032

In developing a provider selection system, the county board 28033
shall create a pool of providers for individuals to use in 28034
choosing their providers of supported living. The pool shall be 28035
created by placing in the pool all providers on record with the 28036
board or by placing in the pool all providers approved by the 28037
board through soliciting requests for proposals for supported 28038
living contracts. In either case, only providers that are 28039
certified by the director of ~~mental-retardation-and~~ developmental 28040
disabilities may be placed in the pool. 28041

If the board places all providers on record in the pool, the 28042
board shall review the pool at least annually to determine whether 28043
each provider has continued interest in being a provider and has 28044
maintained its certification by the department. At any time, an 28045
interested and certified provider may make a request to the board 28046
that it be added to the pool, and the board shall add the provider 28047
to the pool not later than seven days after receiving the request. 28048

If the board solicits requests for proposals for inclusion of 28049
providers in the pool, the board shall develop standards for 28050
selecting the providers to be included. Requests for proposals 28051
shall be solicited at least annually. When requests are solicited, 28052
the board shall cause legal notices to be published at least once 28053
each week for two consecutive weeks in a newspaper with general 28054
circulation within the county. The board's formal request for 28055
proposals shall include a description of any applicable contract 28056
terms, the standards that are used to select providers for 28057
inclusion in the pool, and the process the board uses to resolve 28058
disputes arising from the selection process. The board shall 28059
accept requests from any entity interested in being a provider of 28060
supported living for individuals served by the board. Requests 28061
shall be approved or denied according to the standards developed 28062

by the board. Providers that previously have been placed in the 28063
pool are not required to resubmit a request for proposal to be 28064
included in the pool, unless the board's standards have been 28065
changed. 28066

In assisting an individual in choosing a provider, the county 28067
board shall provide the individual with uniform and consistent 28068
information pertaining to each provider in the pool. An individual 28069
may choose to receive supported living from a provider that is not 28070
included in the pool, if the provider is certified by the director 28071
of ~~mental retardation and~~ developmental disabilities. 28072

Sec. 5126.43. (A) After receiving notice from the department 28073
of ~~mental retardation and~~ developmental disabilities of the amount 28074
of state funds to be distributed to it for planning, developing, 28075
contracting for, and providing supported living, the county board 28076
of ~~mental retardation and~~ developmental disabilities shall arrange 28077
for supported living on behalf of and with the consent of 28078
individuals based on their individual service plans developed 28079
under section 5126.41 of the Revised Code. With the state 28080
distribution and any other money designated by the board for 28081
supported living, the board shall arrange for supported living in 28082
one or more of the following ways: 28083

(1) By contracting under section 5126.45 of the Revised Code 28084
with providers selected by the individual to be served; 28085

(2) By entering into shared funding agreements with state 28086
agencies, local public agencies, or political subdivisions at 28087
rates negotiated by the board; 28088

(3) By providing direct payment or vouchers to be used to 28089
purchase supported living, pursuant to a written contract in an 28090
amount determined by the board, to the individual or a person 28091
providing the individual with protective services as defined in 28092
section 5123.55 of the Revised Code. 28093

(B) The board may arrange for supported living only with providers that are certified by the director of ~~mental retardation~~ and developmental disabilities.

When no certified provider is willing and able to provide supported living for an individual in accordance with the terms of the individual service plan for that individual, a county board may provide supported living directly if it is certified by the director of ~~mental retardation~~ and developmental disabilities to provide supported living.

A county board may, for a period not to exceed ninety days, contract for or provide supported living without meeting the requirements of this section for an individual it determines to be in emergency need of supported living. Thereafter, the individual shall choose providers in accordance with sections 5126.41 and 5126.42 of the Revised Code.

Sec. 5126.45. (A) A contract between a county board of ~~mental retardation~~ and developmental disabilities and a provider of supported living shall be in writing and shall be based on the individual service plan developed by the individual under section 5126.41 of the Revised Code. The plan may be submitted as an addendum to the contract. An individual receiving services pursuant to a contract shall be considered a third-party beneficiary to the contract.

(B) The contract shall be negotiated between the provider and the county board. The terms of the contract shall include at least the following:

- (1) The contract period and conditions for renewal;
- (2) The services to be provided pursuant to the individual service plan;
- (3) The rights and responsibilities of all parties to the

contract;	28124
(4) The methods that will be used to evaluate the services delivered by the provider;	28125 28126
(5) Procedures for contract modification that ensure all parties affected by the modification are involved and agree;	28127 28128
(6) A process for resolving conflicts between individuals receiving services, the county board, and the provider, as applicable;	28129 28130 28131
(7) Procedures for the retention of applicable records;	28132
(8) Provisions for contract termination by any party involved that include requirements for an appropriate notice of intent to terminate the contract;	28133 28134 28135
(9) Methods to be used to document services provided;	28136
(10) Procedures for submitting reports required by the county board as a condition of receiving payment under the contract;	28137 28138
(11) The method and schedule the board will use to make payments to the provider and whether periodic payment adjustments will be made to the provider;	28139 28140 28141
(12) Provisions for conducting fiscal reconciliations for payments made through methods other than a fee-for-service arrangement.	28142 28143 28144
(C) Payments to the provider under a supported living contract must be determined by the board to be reasonable in accordance with policies and procedures developed by the board. Goods or services provided without charge to the provider shall not be included as expenditures of the provider.	28145 28146 28147 28148 28149
(D) The board shall establish procedures for reconciling expenditures and payments, other than those made under a fee-for-service arrangement, for the prior contract year when a contract is not renewed and shall reconcile expenditures and	28150 28151 28152 28153

payments in accordance with these procedures. 28154

(E) A provider or an entity with which the board has entered 28155
into a shared funding agreement may appeal a negotiated contract 28156
or proposed shared funding rate to the county board using the 28157
procedures established by the board under section 5126.42 of the 28158
Revised Code. 28159

Sec. 5126.46. (A) No county board of ~~mental retardation and~~ 28160
developmental disabilities shall be obligated to use any money 28161
other than money in the community ~~mental retardation and~~ 28162
developmental disabilities residential services fund to furnish 28163
residential services. 28164

(B) Except with respect to a child required to be provided 28165
services pursuant to section 121.38 of the Revised Code, no court 28166
or other entity of state or local government shall order or 28167
otherwise require a county board of ~~mental retardation and~~ 28168
developmental disabilities to use money from local sources for 28169
residential services for an individual with mental retardation or 28170
developmental disabilities or to arrange for residential services 28171
for such an individual unless a vacancy exists in an appropriate 28172
residential setting within the county. 28173

Sec. 5126.47. A county board of ~~mental retardation and~~ 28174
developmental disabilities may, pursuant to a resolution adopted 28175
by an affirmative vote of the majority of its members, establish, 28176
by agreement with one or more other county boards of ~~mental~~ 28177
~~retardation and~~ developmental disabilities, a residential services 28178
consortium to jointly provide residential services and supported 28179
living. The agreement shall designate one board to assume the 28180
fiscal responsibilities for the consortium. The county auditor of 28181
the designated county shall establish a community ~~mental~~ 28182
~~retardation and~~ developmental disabilities residential services 28183

fund for the consortium. Each board that is a member of the 28184
consortium shall cause to be deposited in the fund any state or 28185
federal money received for community residential services the 28186
county board has agreed to contribute to the consortium. 28187

Sec. 5126.49. The county board of ~~mental retardation and~~ 28188
developmental disabilities may adopt a resolution requesting the 28189
board of county commissioners to implement a residential facility 28190
linked deposit program under sections 5126.51 to 5126.62 of the 28191
Revised Code if the county board of ~~mental retardation and~~ 28192
developmental disabilities finds all of the following: 28193

(A) There is a shortage of residential facilities in the 28194
county for individuals with mental retardation or developmental 28195
disabilities. 28196

(B) Eligible organizations, otherwise willing and able to 28197
develop residential facilities in the county, have been unable to 28198
do so because of high interest rates. 28199

(C) Placement of residential facility linked deposits will 28200
assist in financing the development of residential facilities in 28201
the county that otherwise would not be developed because of high 28202
interest rates. 28203

The board shall transmit a certified copy of the resolution 28204
to the board of county commissioners. 28205

Sec. 5126.50. If the board of county commissioners adopts a 28206
resolution under sections 135.801 and 135.802 of the Revised Code 28207
implementing a residential facility linked deposit program, the 28208
county board of ~~mental retardation and~~ developmental disabilities 28209
shall adopt a resolution that does all of the following: 28210

(A) Establishes standards for its review of applications and 28211
its approval or disapproval of proposed residential facilities 28212
under section 5126.55 of the Revised Code; 28213

(B) Prescribes the form of applications under section 5126.54 28214
of the Revised Code; 28215

(C) Establishes standards for approval or disapproval of 28216
applications for linked deposit loans under section 5126.58 of the 28217
Revised Code. 28218

Sec. 5126.54. An eligible organization that seeks a 28219
residential facility linked deposit loan to finance all or part of 28220
the development of a residential facility shall obtain approval of 28221
the proposed project from the county board of ~~mental retardation~~ 28222
~~and~~ developmental disabilities of the county in which the facility 28223
will be developed. The application shall be in the form prescribed 28224
by the board and include all of the following: 28225

(A) The organization's name, business address, and telephone 28226
number; 28227

(B) The name of an officer or employee of the organization 28228
who may be contacted with regard to the application; 28229

(C) A description of the residential facility and a timetable 28230
showing the time at which each phase of its development is 28231
expected to be completed; 28232

(D) The amount of the loan to be applied for; 28233

(E) Any other information the board considers necessary to 28234
successfully review the application. 28235

Whoever knowingly makes a false statement on an application 28236
is guilty of the offense of falsification under section 2921.13 of 28237
the Revised Code. 28238

Sec. 5126.55. The county board of ~~mental retardation and~~ 28239
developmental disabilities shall review each application filed 28240
under section 5126.54 of the Revised Code and adopt a resolution 28241
approving or disapproving development of the proposed residential 28242

facility. The board shall not approve development of the proposed 28243
residential facility unless it finds, based upon the application 28244
and its evaluation of the applicant, that development of the 28245
residential facility is consistent with its plan and priorities, 28246
under section 5126.05 of the Revised Code, for the provision of 28247
residential facilities for individuals with mental retardation or 28248
developmental disabilities residing in the county. 28249

The resolution shall include specific findings of fact 28250
justifying the approval or disapproval. 28251

The board shall transmit a certified copy of the resolution 28252
to the applicant and to the board of county commissioners. 28253

Sec. 5126.57. In reviewing an application for a residential 28254
facility linked deposit loan, the eligible lending institution 28255
shall apply the same lending standards as it customarily applies 28256
to applications for loans for the development of residential 28257
property. The lending institution shall either approve or 28258
disapprove an application for a residential facility linked 28259
deposit loan within a reasonable time, in accordance with 28260
commercial practice. 28261

If the lending institution approves an application, it shall 28262
prepare and transmit each of the following to the county board of 28263
~~mental retardation and~~ developmental disabilities: 28264

(A) A certification that it is an eligible lending 28265
institution; 28266

(B) A statement that it has approved a residential facility 28267
linked deposit loan to the eligible organization and the amount of 28268
the loan; 28269

(C) A copy of the eligible organization's loan application 28270
and a copy of the resolution of the eligible organization's board 28271
of trustees included with the loan application; 28272

(D) Any other information the board of county commissioners requires in the resolution adopted under sections 135.801 and 135.802 of the Revised Code.

If the lending institution does not approve an application for a residential facility linked deposit loan, it shall promptly notify the county board of ~~mental retardation and~~ developmental disabilities of such disapproval.

Sec. 5126.58. The county board of ~~mental retardation and~~ developmental disabilities shall adopt a resolution approving or disapproving an eligible organization's application for a residential facility linked deposit loan. The board shall disapprove an application unless it finds, based on the application and its evaluation of the applicant, each of the following:

(A) The applicant has fully complied with sections 5126.54 and 5126.56 of the Revised Code.

(B) Development of the residential facility will materially contribute to alleviating the shortage of residential facilities in the county for individuals with mental retardation or developmental disabilities.

(C) The applicant is ready to proceed with development of the residential facility, but is unable to do so because of high interest rates.

(D) The board of county commissioners has certified that public moneys of the county are currently available for placement of the residential facility linked deposit necessary to provide low-cost financing to the applicant.

(E) Placement of the residential facility linked deposit, considered in the aggregate with all other residential facility linked deposits under the county's residential facility linked

deposit program, will not cause the total amount of the county's residential facility linked deposits to exceed an amount equal to ten per cent of the operating budget of the county board of ~~mental retardation~~ and developmental disabilities for the current year. If placement of the residential facility linked deposit would cause the total amount of the county's residential facility linked deposits to exceed the maximum established by this division, the board may accept the application but limit the amount of the residential facility linked deposit accordingly.

The resolution shall include specific findings of fact justifying acceptance or rejection of the application. If the board accepts the application, it shall specify the amount of the residential facility linked deposit in the resolution.

The board shall transmit a certified copy of the resolution to the applicant, the eligible lending institution, and the county's investing authority.

Sec. 5126.59. On acceptance of a residential facility linked deposit loan by the county board of ~~mental retardation~~ and developmental disabilities, the county's investing authority shall enter into a residential facility linked deposit agreement with the eligible lending institution. The agreement shall include all of the following terms:

(A) An agreement by the investing authority to place certificates of deposit with the eligible lending institution, in the amount of the residential facility linked deposit specified in the resolution, at an interest rate of up to five per cent per year below current annual market rates, for a term considered appropriate by the investing authority, not to exceed five years, and to renew the certificates of deposit for up to four additional terms, each additional term not to exceed five years;

(B) An agreement by the eligible lending institution to lend

the value of the certificates of deposit placed with the 28334
institution to the eligible organization at an annual interest 28335
rate that is the same number of percentage points below the annual 28336
borrowing rate currently applicable to similar loans as the annual 28337
interest rate agreed to for certificates of deposit placed 28338
pursuant to division (A) of this section is below current annual 28339
market rates; 28340

(C) An agreement by the eligible lending institution to pay 28341
interest on the certificates of deposit at times determined by the 28342
investing authority; 28343

(D) The form in which the eligible lending institution is to 28344
make the certification required by section 5126.60 of the Revised 28345
Code; 28346

(E) Any other terms necessary to carry out the purpose of 28347
sections 5126.51 to 5126.62 of the Revised Code. 28348

The agreement may contain terms specifying the period of time 28349
during which the eligible lending institution is to lend funds 28350
upon placement of the residential facility linked deposit. 28351

The investing authority shall determine current market rates 28352
under the agreement. 28353

Sec. 5126.61. The county investing authority shall monitor 28354
the compliance with sections 5126.51 to 5126.62 of the Revised 28355
Code of eligible lending institutions and eligible organizations 28356
receiving residential facility linked deposits and loans. 28357

The investing authority shall annually report to the board of 28358
county commissioners and county board of ~~mental retardation and~~ 28359
developmental disabilities with regard to the operation of the 28360
county's residential facility linked deposit program. The report 28361
shall list the eligible organizations receiving residential 28362
facility linked deposit loans under the residential facility 28363

linked deposit program. 28364

Sec. 5126.62. The county, board of county commissioners, 28365
county board of ~~mental retardation and~~ developmental disabilities, 28366
and county investing authority are not liable to any eligible 28367
lending institution in any manner for payment of the principal or 28368
interest on a loan to an eligible organization. Delay in payment 28369
or default on the part of an eligible organization does not in any 28370
manner affect the residential facility linked deposit agreement 28371
between the county investing authority and the eligible lending 28372
institution. 28373

Sec. 5126.99. (A) Whoever violates division (B) of section 28374
5126.044 of the Revised Code is guilty of a misdemeanor of the 28375
first degree. 28376

(B) Whoever violates division (F) of section 5126.253 of the 28377
Revised Code shall be punished as follows: 28378

(1) Except as otherwise provided in division (B)(2) of this 28379
section, the person is guilty of a misdemeanor of the fourth 28380
degree. 28381

(2) The person is guilty of a misdemeanor of the first degree 28382
if both of the following conditions apply: 28383

(a) The employee who is the subject of the report that the 28384
person fails to submit was required to be reported for the 28385
commission or alleged commission of an act or offense involving 28386
the infliction on a child of any physical or mental wound, injury, 28387
disability, or condition of a nature that constitutes abuse or 28388
neglect of the child; 28389

(b) During the period between the violation of division (F) 28390
of section 5126.253 of the Revised Code and the conviction of or 28391
plea of guilty by the person for that violation, the employee who 28392
is the subject of the report that the person fails to submit 28393

inflicts on any child attending a school district, educational 28394
service center, public or nonpublic school, or county board of 28395
~~mental retardation and~~ developmental disabilities where the 28396
employee works any physical or mental wound, injury, disability, 28397
or condition of a nature that constitutes abuse or neglect of the 28398
child. 28399

Sec. 5139.08. The department of youth services may enter into 28400
an agreement with the director of rehabilitation and correction 28401
pursuant to which the department of youth services, in accordance 28402
with division (C)(2) of section 5139.06 and section 5120.162 of 28403
the Revised Code, may transfer to a correctional medical center 28404
established by the department of rehabilitation and correction, 28405
children who are within its custody for diagnosis or treatment of 28406
an illness, physical condition, or other medical problem. The 28407
department of youth services may enter into any other agreements 28408
with the director of job and family services, the director of 28409
mental health, the director of ~~mental retardation and~~ 28410
developmental disabilities, the director of rehabilitation and 28411
correction, with the courts having probation officers or other 28412
public officials, and with private agencies or institutions for 28413
separate care or special treatment of children subject to the 28414
control of the department of youth services. The department of 28415
youth services may, upon the request of a juvenile court not 28416
having a regular probation officer, provide probation services for 28417
such court. 28418

Upon request by the department of youth services, any public 28419
agency or group care facility established or administered by the 28420
state for the care and treatment of children and youth shall, 28421
consistent with its functions, accept and care for any child whose 28422
custody is vested in the department in the same manner as it would 28423
be required to do if custody had been vested by a court in such 28424
agency or group care facility. If the department has reasonable 28425

grounds to believe that any child or youth whose custody is vested 28426
in it is mentally ill or mentally retarded, the department may 28427
file an affidavit under section 5122.11 or 5123.76 of the Revised 28428
Code. The department's affidavit for admission of a child or youth 28429
to such institution shall be filed with the probate court of the 28430
county from which the child was committed to the department. Such 28431
court may request the probate court of the county in which the 28432
child is held to conduct the hearing on the application, in which 28433
case the court making such request shall bear the expenses of the 28434
proceeding. If the department files such an affidavit, the child 28435
or youth may be kept in such institution until a final decision on 28436
the affidavit is made by the appropriate court. 28437

Sec. 5139.34. (A) Funds may be appropriated to the department 28438
of youth services for the purpose of granting state subsidies to 28439
counties. A county or the juvenile court that serves a county 28440
shall use state subsidies granted to the county pursuant to this 28441
section only in accordance with divisions (B)(2)(a) and (3)(a) of 28442
section 5139.43 of the Revised Code and the rules pertaining to 28443
the state subsidy funds that the department adopts pursuant to 28444
division (D) of section 5139.04 of the Revised Code. The 28445
department shall not grant financial assistance pursuant to this 28446
section for the provision of care and services for children in a 28447
placement facility unless the facility has been certified, 28448
licensed, or approved by a state or national agency with 28449
certification, licensure, or approval authority, including, but 28450
not limited to, the department of job and family services, 28451
department of education, department of mental health, department 28452
of ~~mental retardation and~~ developmental disabilities, or American 28453
~~Correctional Association~~ correctional association. For the 28454
purposes of this section, placement facilities do not include a 28455
state institution or a county or district children's home. 28456

The department also shall not grant financial assistance 28457

pursuant to this section for the provision of care and services 28458
for children, including, but not limited to, care and services in 28459
a detention facility, in another facility, or in out-of-home 28460
placement, unless the minimum standards applicable to the care and 28461
services that the department prescribes in rules adopted pursuant 28462
to division (D) of section 5139.04 of the Revised Code have been 28463
satisfied. 28464

(B) The department of youth services shall apply the 28465
following formula to determine the amount of the annual grant that 28466
each county is to receive pursuant to division (A) of this 28467
section, subject to the appropriation for this purpose to the 28468
department made by the general assembly: 28469

(1) Each county shall receive a basic annual grant of fifty 28470
thousand dollars. 28471

(2) The sum of the basic annual grants provided under 28472
division (B)(1) of this section shall be subtracted from the total 28473
amount of funds appropriated to the department of youth services 28474
for the purpose of making grants pursuant to division (A) of this 28475
section to determine the remaining portion of the funds 28476
appropriated. The remaining portion of the funds appropriated 28477
shall be distributed on a per capita basis to each county that has 28478
a population of more than twenty-five thousand for that portion of 28479
the population of the county that exceeds twenty-five thousand. 28480

(C)(1) Prior to a county's receipt of an annual grant 28481
pursuant to this section, the juvenile court that serves the 28482
county shall prepare, submit, and file in accordance with division 28483
(B)(3)(a) of section 5139.43 of the Revised Code an annual grant 28484
agreement and application for funding that is for the combined 28485
purposes of, and that satisfies the requirements of, this section 28486
and section 5139.43 of the Revised Code. In addition to the 28487
subject matters described in division (B)(3)(a) of section 5139.43 28488
of the Revised Code or in the rules that the department adopts to 28489

implement that division, the annual grant agreement and 28490
application for funding shall address fiscal accountability and 28491
performance matters pertaining to the programs, care, and services 28492
that are specified in the agreement and application and for which 28493
state subsidy funds granted pursuant to this section will be used. 28494

(2) The county treasurer of each county that receives an 28495
annual grant pursuant to this section shall deposit the state 28496
subsidy funds so received into the county's felony delinquent care 28497
and custody fund created pursuant to division (B)(1) of section 28498
5139.43 of the Revised Code. Subject to exceptions prescribed in 28499
section 5139.43 of the Revised Code that may apply to the 28500
disbursement, the department shall disburse the state subsidy 28501
funds to which a county is entitled in a lump sum payment that 28502
shall be made in July of each calendar year. 28503

(3) Upon an order of the juvenile court that serves a county 28504
and subject to appropriation by the board of county commissioners 28505
of that county, a county treasurer shall disburse from the 28506
county's felony delinquent care and custody fund the state subsidy 28507
funds granted to the county pursuant to this section for use only 28508
in accordance with this section, the applicable provisions of 28509
section 5139.43 of the Revised Code, and the county's approved 28510
annual grant agreement and application for funding. 28511

(4) The moneys in a county's felony delinquent care and 28512
custody fund that represent state subsidy funds granted pursuant 28513
to this section are subject to appropriation by the board of 28514
county commissioners of the county; shall be disbursed by the 28515
county treasurer as required by division (C)(3) of this section; 28516
shall be used in the manners referred to in division (C)(3) of 28517
this section; shall not revert to the county general fund at the 28518
end of any fiscal year; shall carry over in the felony delinquent 28519
care and custody fund from the end of any fiscal year to the next 28520
fiscal year; shall be in addition to, and shall not be used to 28521

reduce, any usual annual increase in county funding that the 28522
juvenile court is eligible to receive or the current level of 28523
county funding of the juvenile court and of any programs, care, or 28524
services for alleged or adjudicated delinquent children, unruly 28525
children, or juvenile traffic offenders or for children who are at 28526
risk of becoming delinquent children, unruly children, or juvenile 28527
traffic offenders; and shall not be used to pay for the care and 28528
custody of felony delinquents who are in the care and custody of an 28529
institution pursuant to a commitment, recommitment, or revocation 28530
of a release on parole by the juvenile court of that county or who 28531
are in the care and custody of a community corrections facility 28532
pursuant to a placement by the department with the consent of the 28533
juvenile court as described in division (E) of section 5139.36 of 28534
the Revised Code. 28535

(5) As a condition of the continued receipt of state subsidy 28536
funds pursuant to this section, each county and the juvenile court 28537
that serves each county that receives an annual grant pursuant to 28538
this section shall comply with divisions (B)(3)(b), (c), and (d) 28539
of section 5139.43 of the Revised Code. 28540

Sec. 5145.18. Any printing or binding performed in a state 28541
correctional institution may be performed for the use of the 28542
institution, the departments of mental health, ~~mental retardation~~ 28543
~~and~~ developmental disabilities, and rehabilitation and correction, 28544
the department of public safety in connection with the 28545
registration of motor vehicles, and for any other purpose 28546
authorized by division (B) of section 5145.03 and by sections 28547
5145.16 and 5145.161 of the Revised Code. 28548

Sec. 5153.16. (A) Except as provided in section 2151.422 of 28549
the Revised Code, in accordance with rules adopted under section 28550
5153.166 of the Revised Code, and on behalf of children in the 28551
county whom the public children services agency considers to be in 28552

need of public care or protective services, the public children 28553
services agency shall do all of the following: 28554

(1) Make an investigation concerning any child alleged to be 28555
an abused, neglected, or dependent child; 28556

(2) Enter into agreements with the parent, guardian, or other 28557
person having legal custody of any child, or with the department 28558
of job and family services, department of mental health, 28559
department of ~~mental retardation~~ and developmental disabilities, 28560
other department, any certified organization within or outside the 28561
county, or any agency or institution outside the state, having 28562
legal custody of any child, with respect to the custody, care, or 28563
placement of any child, or with respect to any matter, in the 28564
interests of the child, provided the permanent custody of a child 28565
shall not be transferred by a parent to the public children 28566
services agency without the consent of the juvenile court; 28567

(3) Accept custody of children committed to the public 28568
children services agency by a court exercising juvenile 28569
jurisdiction; 28570

(4) Provide such care as the public children services agency 28571
considers to be in the best interests of any child adjudicated to 28572
be an abused, neglected, or dependent child the agency finds to be 28573
in need of public care or service; 28574

(5) Provide social services to any unmarried girl adjudicated 28575
to be an abused, neglected, or dependent child who is pregnant 28576
with or has been delivered of a child; 28577

(6) Make available to the bureau for children with medical 28578
handicaps of the department of health at its request any 28579
information concerning a crippled child found to be in need of 28580
treatment under sections 3701.021 to 3701.028 of the Revised Code 28581
who is receiving services from the public children services 28582
agency; 28583

(7) Provide temporary emergency care for any child considered 28584
by the public children services agency to be in need of such care, 28585
without agreement or commitment; 28586

(8) Find certified foster homes, within or outside the 28587
county, for the care of children, including handicapped children 28588
from other counties attending special schools in the county; 28589

(9) Subject to the approval of the board of county 28590
commissioners and the state department of job and family services, 28591
establish and operate a training school or enter into an agreement 28592
with any municipal corporation or other political subdivision of 28593
the county respecting the operation, acquisition, or maintenance 28594
of any children's home, training school, or other institution for 28595
the care of children maintained by such municipal corporation or 28596
political subdivision; 28597

(10) Acquire and operate a county children's home, establish, 28598
maintain, and operate a receiving home for the temporary care of 28599
children, or procure certified foster homes for this purpose; 28600

(11) Enter into an agreement with the trustees of any 28601
district children's home, respecting the operation of the district 28602
children's home in cooperation with the other county boards in the 28603
district; 28604

(12) Cooperate with, make its services available to, and act 28605
as the agent of persons, courts, the department of job and family 28606
services, the department of health, and other organizations within 28607
and outside the state, in matters relating to the welfare of 28608
children, except that the public children services agency shall 28609
not be required to provide supervision of or other services 28610
related to the exercise of parenting time rights granted pursuant 28611
to section 3109.051 or 3109.12 of the Revised Code or 28612
companionship or visitation rights granted pursuant to section 28613
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 28614

juvenile court, pursuant to Chapter 2151. of the Revised Code, or 28615
a common pleas court, pursuant to division (E)(6) of section 28616
3113.31 of the Revised Code, requires the provision of supervision 28617
or other services related to the exercise of the parenting time 28618
rights or companionship or visitation rights; 28619

(13) Make investigations at the request of any superintendent 28620
of schools in the county or the principal of any school concerning 28621
the application of any child adjudicated to be an abused, 28622
neglected, or dependent child for release from school, where such 28623
service is not provided through a school attendance department; 28624

(14) Administer funds provided under Title IV-E of the 28625
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 28626
amended, in accordance with rules adopted under section 5101.141 28627
of the Revised Code; 28628

(15) In addition to administering Title IV-E adoption 28629
assistance funds, enter into agreements to make adoption 28630
assistance payments under section 5153.163 of the Revised Code; 28631

(16) Implement a system of safety and risk assessment, in 28632
accordance with rules adopted by the director of job and family 28633
services, to assist the public children services agency in 28634
determining the risk of abuse or neglect to a child; 28635

(17) Enter into a plan of cooperation with the board of 28636
county commissioners under section 307.983 of the Revised Code and 28637
comply with each fiscal agreement the board enters into under 28638
section 307.98 of the Revised Code that include family services 28639
duties of public children services agencies and contracts the 28640
board enters into under sections 307.981 and 307.982 of the 28641
Revised Code that affect the public children services agency; 28642

(18) Make reasonable efforts to prevent the removal of an 28643
alleged or adjudicated abused, neglected, or dependent child from 28644
the child's home, eliminate the continued removal of the child 28645

from the child's home, or make it possible for the child to return home safely, except that reasonable efforts of that nature are not required when a court has made a determination under division (A)(2) of section 2151.419 of the Revised Code;

(19) Make reasonable efforts to place the child in a timely manner in accordance with the permanency plan approved under division (E) of section 2151.417 of the Revised Code and to complete whatever steps are necessary to finalize the permanent placement of the child;

(20) Administer a Title IV-A program identified under division (A)(4)(c) or (f) of section 5101.80 of the Revised Code that the department of job and family services provides for the public children services agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code;

(21) Administer the kinship permanency incentive program created under section 5101.802 of the Revised Code under the supervision of the director of job and family services;

(22) Provide independent living services pursuant to sections 2151.81 to 2151.84 of the Revised Code.

(B) The public children services agency shall use the system implemented pursuant to division (A)(16) of this section in connection with an investigation undertaken pursuant to division (F)(1) of section 2151.421 of the Revised Code to assess both of the following:

(1) The ongoing safety of the child;

(2) The appropriateness of the intensity and duration of the services provided to meet child and family needs throughout the duration of a case.

(C) Except as provided in section 2151.422 of the Revised

Code, in accordance with rules of the director of job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency may do the following:

(1) Provide or find, with other child serving systems, specialized foster care for the care of children in a specialized foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code;

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of this section, contract with the following for the purpose of assisting the agency with its duties:

(i) County departments of job and family services;

(ii) Boards of alcohol, drug addiction, and mental health services;

(iii) County boards of ~~mental retardation and~~ developmental disabilities;

(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;

(v) Private and government providers of services;

(vi) Managed care organizations and prepaid health plans.

(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.

(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 28706
for a county, the board of county commissioners may enter into 28707
contracts pursuant to section 307.982 of the Revised Code 28708
regarding the agency's duties. 28709

Sec. 5153.99. Whoever violates division (F) of section 28710
5153.176 of the Revised Code shall be punished as follows: 28711

(A) Except as otherwise provided in division (B) of this 28712
section, the person is guilty of a misdemeanor of the fourth 28713
degree. 28714

(B) The person is guilty of a misdemeanor of the first degree 28715
if, during the period between the violation and the conviction of 28716
or plea of guilty by the person for that violation, the license 28717
holder who is the subject of the investigation about which the 28718
person fails to provide information inflicts on any child 28719
attending a school district, educational service center, public or 28720
nonpublic school, or county board of ~~mental retardation and~~ 28721
developmental disabilities where the license holder works any 28722
physical or mental wound, injury, disability, or condition of a 28723
nature that constitutes abuse or neglect of the child. 28724

Sec. 5511.03. The director of transportation shall examine 28725
the existing highway facilities serving the several hospitals, 28726
educational institutions, and correctional and other similar 28727
institutions belonging to the state, and located outside municipal 28728
corporations. Where ~~he~~ the director finds that any such state 28729
institution is not located on a state highway or connected with a 28730
highway by a suitable road, affording in its present condition 28731
adequate transportation facilities to those having occasion to 28732
visit such institution, ~~he~~ the director may establish a state 28733
highway leading to such institution from a convenient point on an 28734
existing highway. Where ~~he~~ the director finds that any such 28735

institution is not served by adequate highway facilities 28736
connecting it with the railroad delivery point from which it 28737
principally obtains fuel, provisions, and supplies, ~~he~~ the 28738
director may establish a highway connecting such institution and 28739
railroad delivery point. Limitations imposed on the mileage of 28740
state highways shall not apply to highways established under this 28741
section. 28742

The director may construct at state expense all highways 28743
established under authority of this section and pay the entire 28744
cost thereof from the state highway operating fund. Such highways 28745
shall be maintained by the department of transportation and the 28746
cost shall be paid from the highway operating fund of the 28747
department. 28748

The directors of transportation, mental health, ~~mental~~ 28749
~~retardation and~~ developmental disabilities, and rehabilitation and 28750
correction may cooperate in the establishment, construction, 28751
reconstruction, maintenance, and repair of roads within the limits 28752
of state institutions. The cost shall be paid from funds 28753
appropriated for highway purposes and from the funds appropriated 28754
to the department of mental health, department of ~~mental~~ 28755
~~retardation and~~ developmental disabilities, or the department of 28756
rehabilitation and correction for capital improvements or 28757
maintenance in such proportion as may be agreed upon by the 28758
directors of transportation, mental health, ~~mental retardation and~~ 28759
developmental disabilities, and rehabilitation and correction. 28760

Sec. 5543.011. A county engineer may sell directly to a 28761
county board of ~~mental retardation and~~ developmental disabilities 28762
gasoline and diesel fuel that has been purchased for the use of 28763
the county engineer's office. 28764

Sec. 5705.091. The board of county commissioners of each 28765

county shall establish a county ~~mental retardation and~~ 28766
developmental disabilities general fund. Notwithstanding section 28767
5705.10 of the Revised Code, proceeds from levies under section 28768
5705.222 and division (L) of section 5705.19 of the Revised Code 28769
shall be deposited to the credit of the county ~~mental retardation~~ 28770
~~and~~ developmental disabilities general fund. Accounts shall be 28771
established within the county ~~mental retardation and~~ developmental 28772
disabilities general fund for each of the several particular 28773
purposes of the levies as specified in the resolutions under which 28774
the levies were approved, and proceeds from different levies that 28775
were approved for the same particular purpose shall be credited to 28776
accounts for that purpose. Other money received by the county for 28777
the purposes of Chapters 3323. and 5126. of the Revised Code and 28778
not required by state or federal law to be deposited to the credit 28779
of a different fund shall also be deposited to the credit of the 28780
county ~~mental retardation and~~ developmental disabilities general 28781
fund, in an account appropriate to the particular purpose for 28782
which the money was received. Unless otherwise provided by law, an 28783
unexpended balance at the end of a fiscal year in any account in 28784
the county ~~mental retardation and~~ developmental disabilities 28785
general fund shall be appropriated the next fiscal year to the 28786
same fund. 28787

A county board of ~~mental retardation and~~ developmental 28788
disabilities may request, by resolution, that the board of county 28789
commissioners establish a county ~~mental retardation and~~ 28790
developmental disabilities capital fund for money to be used for 28791
acquisition, construction, or improvement of capital facilities or 28792
acquisition of capital equipment used in providing services to 28793
mentally retarded and developmentally disabled persons. The county 28794
board of ~~mental retardation and~~ developmental disabilities shall 28795
transmit a certified copy of the resolution to the board of county 28796
commissioners. Upon receiving the resolution, the board of county 28797
commissioners shall establish a county ~~mental retardation and~~ 28798

developmental disabilities capital fund. 28799

Sec. 5705.14. No transfer shall be made from one fund of a 28800
subdivision to any other fund, by order of the court or otherwise, 28801
except as follows: 28802

(A) The unexpended balance in a bond fund that is no longer 28803
needed for the purpose for which such fund was created shall be 28804
transferred to the sinking fund or bond retirement fund from which 28805
such bonds are payable. 28806

(B) The unexpended balance in any specific permanent 28807
improvement fund, other than a bond fund, after the payment of all 28808
obligations incurred in the acquisition of such improvement, shall 28809
be transferred to the sinking fund or bond retirement fund of the 28810
subdivision; provided that if such money is not required to meet 28811
the obligations payable from such funds, it may be transferred to 28812
a special fund for the acquisition of permanent improvements, or, 28813
with the approval of the court of common pleas of the county in 28814
which such subdivision is located, to the general fund of the 28815
subdivision. 28816

(C) The unexpended balance in the sinking fund or bond 28817
retirement fund of a subdivision, after all indebtedness, 28818
interest, and other obligations for the payment of which such fund 28819
exists have been paid and retired, shall be transferred, in the 28820
case of the sinking fund, to the bond retirement fund, and in the 28821
case of the bond retirement fund, to the sinking fund; provided 28822
that if such transfer is impossible by reason of the nonexistence 28823
of the fund to receive the transfer, such unexpended balance, with 28824
the approval of the court of common pleas of the county in which 28825
such division is located, may be transferred to any other fund of 28826
the subdivision. 28827

(D) The unexpended balance in any special fund, other than an 28828
improvement fund, existing in accordance with division (D), (F), 28829

or (G) of section 5705.09 or section 5705.12 of the Revised Code, 28830
may be transferred to the general fund or to the sinking fund or 28831
bond retirement fund after the termination of the activity, 28832
service, or other undertaking for which such special fund existed, 28833
but only after the payment of all obligations incurred and payable 28834
from such special fund. 28835

(E) Money may be transferred from the general fund to any 28836
other fund of the subdivision. 28837

(F) Moneys retained or received by a county under section 28838
4501.04 or division (A)(3) of section 5735.27 of the Revised Code 28839
may be transferred from the fund into which they were deposited to 28840
the sinking fund or bond retirement fund from which any principal, 28841
interest, or charges for which such moneys may be used is payable. 28842

(G) Moneys retained or received by a municipal corporation 28843
under section 4501.04 or division (A)(1) or (2) of section 5735.27 28844
of the Revised Code may be transferred from the fund into which 28845
they were deposited to the sinking fund or bond retirement fund 28846
from which any principal, interest, or charges for which such 28847
moneys may be used is payable. 28848

(H)(1) Money may be transferred from the county ~~mental~~ 28849
~~retardation and~~ developmental disabilities general fund to the 28850
county ~~mental retardation and~~ developmental disabilities capital 28851
fund established under section 5705.091 of the Revised Code or to 28852
any other fund created for the purposes of the county board of 28853
~~mental retardation and~~ developmental disabilities, so long as 28854
money in the fund to which the money is transferred can be spent 28855
for the particular purpose of the transferred money. The county 28856
board of ~~mental retardation and~~ developmental disabilities may 28857
request, by resolution, that the board of county commissioners 28858
make the transfer. The county board of ~~mental retardation and~~ 28859
developmental disabilities shall transmit a certified copy of the 28860
resolution to the board of county commissioners. Upon receiving 28861

the resolution, the board of county commissioners may make the 28862
transfer. Money transferred to a fund shall be credited to an 28863
account appropriate to its particular purpose. 28864

(2) An unexpended balance in an account in the county ~~mental~~ 28865
~~retardation and~~ developmental disabilities capital fund or any 28866
other fund created for the purposes of the county board of ~~mental~~ 28867
~~retardation and~~ developmental disabilities may be transferred back 28868
to the county ~~mental retardation and~~ developmental disabilities 28869
general fund. The transfer may be made if the unexpended balance 28870
is no longer needed for its particular purpose and all outstanding 28871
obligations have been paid. Money transferred back to the county 28872
~~mental retardation and~~ developmental disabilities general fund 28873
shall be credited to an account for current expenses within that 28874
fund. The county board of ~~mental retardation and~~ developmental 28875
disabilities may request, by resolution, that the board of county 28876
commissioners make the transfer. The county board of ~~mental~~ 28877
~~retardation and~~ developmental disabilities shall transmit a 28878
certified copy of the resolution to the board of county 28879
commissioners. Upon receiving the resolution, the board of county 28880
commissioners may make the transfer. 28881

Except in the case of transfer pursuant to division (E) of 28882
this section, transfers authorized by this section shall only be 28883
made by resolution of the taxing authority passed with the 28884
affirmative vote of two-thirds of the members. 28885

Sec. 5705.191. The taxing authority of any subdivision, other 28886
than the board of education of a school district or the taxing 28887
authority of a county school financing district, by a vote of 28888
two-thirds of all its members, may declare by resolution that the 28889
amount of taxes that may be raised within the ten-mill limitation 28890
by levies on the current tax duplicate will be insufficient to 28891
provide an adequate amount for the necessary requirements of the 28892

subdivision, and that it is necessary to levy a tax in excess of 28893
such limitation for any of the purposes in section 5705.19 of the 28894
Revised Code, or to supplement the general fund for the purpose of 28895
making appropriations for one or more of the following purposes: 28896
public assistance, human or social services, relief, welfare, 28897
hospitalization, health, and support of general hospitals, and 28898
that the question of such additional tax levy shall be submitted 28899
to the electors of the subdivision at a general, primary, or 28900
special election to be held at a time therein specified. Such 28901
resolution shall not include a levy on the current tax list and 28902
duplicate unless such election is to be held at or prior to the 28903
general election day of the current tax year. Such resolution 28904
shall conform to the requirements of section 5705.19 of the 28905
Revised Code, except that a levy to supplement the general fund 28906
for the purposes of public assistance, human or social services, 28907
relief, welfare, hospitalization, health, or the support of 28908
general or tuberculosis hospitals may not be for a longer period 28909
than ten years. All other levies under this section may not be for 28910
a longer period than five years unless a longer period is 28911
permitted by section 5705.19 of the Revised Code, and the 28912
resolution shall specify the date of holding such election, which 28913
shall not be earlier than seventy-five days after the adoption and 28914
certification of such resolution. The resolution shall go into 28915
immediate effect upon its passage and no publication of the same 28916
is necessary other than that provided for in the notice of 28917
election. A copy of such resolution, immediately after its 28918
passage, shall be certified to the board of elections of the 28919
proper county or counties in the manner provided by section 28920
5705.25 of the Revised Code, and such section shall govern the 28921
arrangements for the submission of such question and other matters 28922
with respect to such election, to which section 5705.25 of the 28923
Revised Code refers, excepting that such election shall be held on 28924
the date specified in the resolution, which shall be consistent 28925

with the requirements of section 3501.01 of the Revised Code, 28926
provided that only one special election for the submission of such 28927
question may be held in any one calendar year and provided that a 28928
special election may be held upon the same day a primary election 28929
is held. Publication of notice of that election shall be made in 28930
one or more newspapers of general circulation in the county once a 28931
week for two consecutive weeks prior to the election, and, if the 28932
board of elections operates and maintains a web site, the board of 28933
elections shall post notice of the election on its web site for 28934
thirty days prior to the election. 28935

If a majority of the electors voting on the question vote in 28936
favor thereof, the taxing authority of the subdivision may make 28937
the necessary levy within such subdivision at the additional rate 28938
or at any lesser rate outside the ten-mill limitation on the tax 28939
list and duplicate for the purpose stated in the resolution. Such 28940
tax levy shall be included in the next annual tax budget that is 28941
certified to the county budget commission. 28942

After the approval of such a levy by the electors, the taxing 28943
authority of the subdivision may anticipate a fraction of the 28944
proceeds of such levy and issue anticipation notes. In the case of 28945
a continuing levy that is not levied for the purpose of current 28946
expenses, notes may be issued at any time after approval of the 28947
levy in an amount not more than fifty per cent of the total 28948
estimated proceeds of the levy for the succeeding ten years, less 28949
an amount equal to the fraction of the proceeds of the levy 28950
previously anticipated by the issuance of anticipation notes. In 28951
the case of a levy for a fixed period that is not for the purpose 28952
of current expenses, notes may be issued at any time after 28953
approval of the levy in an amount not more than fifty per cent of 28954
the total estimated proceeds of the levy throughout the remaining 28955
life of the levy, less an amount equal to the fraction of the 28956
proceeds of the levy previously anticipated by the issuance of 28957

anticipation notes. In the case of a levy for current expenses, 28958
notes may be issued after the approval of the levy by the electors 28959
and prior to the time when the first tax collection from the levy 28960
can be made. Such notes may be issued in an amount not more than 28961
fifty per cent of the total estimated proceeds of the levy 28962
throughout the term of the levy in the case of a levy for a fixed 28963
period, or fifty per cent of the total estimated proceeds for the 28964
first ten years of the levy in the case of a continuing levy. 28965

No anticipation notes that increase the net indebtedness of a 28966
county may be issued without the prior consent of the board of 28967
county commissioners of that county. The notes shall be issued as 28968
provided in section 133.24 of the Revised Code, shall have 28969
principal payments during each year after the year of their 28970
issuance over a period not exceeding the life of the levy 28971
anticipated, and may have a principal payment in the year of their 28972
issuance. 28973

"Taxing authority" and "subdivision" have the same meanings 28974
as in section 5705.01 of the Revised Code. 28975

"Human or social services" includes a county's contributions 28976
to a multicounty board of ~~mental retardation and~~ developmental 28977
disabilities of which the county is a member. 28978

This section is supplemental to and not in derogation of 28979
sections 5705.20, 5705.21, and 5705.22 of the Revised Code. 28980

Sec. 5705.222. (A) At any time the board of county 28981
commissioners of any county by a majority vote of the full 28982
membership may declare by resolution and certify to the board of 28983
elections of the county that the amount of taxes which may be 28984
raised within the ten-mill limitation by levies on the current tax 28985
duplicate will be insufficient to provide the necessary 28986
requirements of the single county board of ~~mental retardation and~~ 28987
developmental disabilities established pursuant to Chapter 5126. 28988

of the Revised Code, or the county's contribution to a multicounty 28989
board created under that chapter of which the county is a member, 28990
and that it is necessary to levy a tax in excess of such 28991
limitation for the operation of programs and services by county 28992
boards of ~~mental retardation and~~ developmental disabilities and 28993
for the acquisition, construction, renovation, financing, 28994
maintenance, and operation of mental retardation and developmental 28995
disabilities facilities. 28996

Such resolution shall conform to section 5705.19 of the 28997
Revised Code, except that the increased rate may be in effect for 28998
any number of years not exceeding ten or for a continuing period 28999
of time. 29000

The resolution shall be certified and submitted in the manner 29001
provided in section 5705.25 of the Revised Code, except that it 29002
may be placed on the ballot in any election, and shall be 29003
certified to the board of elections not less than seventy-five 29004
days before the election at which it will be voted upon. 29005

If the majority of the electors voting on a levy for the 29006
support of the programs and services of the county board of ~~mental~~ 29007
~~retardation and~~ developmental disabilities vote in favor of the 29008
levy, the board of county commissioners may levy a tax within the 29009
county at the additional rate outside the ten-mill limitation 29010
during the specified or continuing period, for the purpose stated 29011
in the resolution. The county board of ~~mental retardation and~~ 29012
developmental disabilities, within its budget and with the 29013
approval of the board of county commissioners through annual 29014
appropriations, shall use the proceeds of a levy approved under 29015
this section solely for the purposes authorized by this section. 29016

(B) When electors have approved a tax levy under this 29017
section, the county commissioners may anticipate a fraction of the 29018
proceeds of the levy and issue anticipation notes in accordance 29019
with section 5705.191 or 5705.193 of the Revised Code. 29020

(C) The county auditor, upon receipt of a resolution from the county board of ~~mental retardation and~~ developmental disabilities, shall establish a capital improvements account or a reserve balance account, or both, as specified in the resolution. The capital improvements account shall be a contingency account for the necessary acquisition, replacement, renovation, or construction of facilities and movable and fixed equipment. Upon the request of the county board of ~~mental retardation and~~ developmental disabilities, moneys not needed to pay for current expenses may be appropriated to this account, in amounts such that this account does not exceed twenty-five per cent of the replacement value of all capital facilities and equipment currently used by the county board of ~~mental retardation and~~ developmental disabilities for mental retardation and developmental disabilities programs and services. Other moneys available for current capital expenses from federal, state, or local sources may also be appropriated to this account.

The reserve balance account shall contain those moneys that are not needed to pay for current operating expenses and not deposited in the capital improvements account but that will be needed to pay for operating expenses in the future. Upon the request of a county board of ~~mental retardation and~~ developmental disabilities, the board of county commissioners may appropriate moneys to the reserve balance account.

Sec. 5705.28. (A) Except as provided in division (B)(1) or (2) of this section or in section 5705.281 of the Revised Code, the taxing authority of each subdivision or other taxing unit shall adopt a tax budget for the next succeeding fiscal year:

(1) On or before the fifteenth day of January in the case of a school district;

(2) On or before the fifteenth day of July in the case of all

other subdivisions and taxing units. 29052

(B)(1) Before the first day of June in each year, the board 29053
of trustees of a school library district entitled to participate 29054
in any appropriation or revenue of a school district or to have a 29055
tax proposed by the board of education of a school district shall 29056
file with the board of education of the school district a tax 29057
budget for the ensuing fiscal year. On or before the fifteenth day 29058
of July in each year, the board of education of a school district 29059
to which a school library district tax budget was submitted under 29060
this division shall adopt such tax budget on behalf of the library 29061
district, but such budget shall not be part of the school 29062
district's tax budget. 29063

(2)(a) The taxing authority of a taxing unit that does not 29064
levy a tax is not required to adopt a tax budget pursuant to 29065
division (A) of this section. Instead, on or before the fifteenth 29066
day of July each year, such taxing authority shall adopt an 29067
operating budget for the taxing unit for the ensuing fiscal year. 29068
The operating budget shall include an estimate of receipts from 29069
all sources, a statement of all taxing unit expenses that are 29070
anticipated to occur, and the amount required for debt charges 29071
during the fiscal year. The operating budget is not required to be 29072
filed with the county auditor or the county budget commission. 29073

(b) Except for this section and sections 5705.36, 5705.38, 29074
5705.40, 5705.41, 5705.43, 5705.44, and 5705.45 of the Revised 29075
Code, a taxing unit that does not levy a tax is not a taxing unit 29076
for purposes of Chapter 5705. of the Revised Code. Documents 29077
prepared in accordance with such sections are not required to be 29078
filed with the county auditor or county budget commission. 29079

(c) The total appropriations from each fund of a taxing unit 29080
that does not levy a tax shall not exceed the total estimated 29081
revenue available for expenditures from the fund, and 29082
appropriations shall be made from each fund only for the purposes 29083

for which the fund is established. 29084

(C)(1) To assist in the preparation of the tax budget, the 29085
head of each department, board, commission, and district authority 29086
entitled to participate in any appropriation or revenue of a 29087
subdivision shall file with the taxing authority, or in the case 29088
of a municipal corporation, with its chief executive officer, 29089
before the forty-fifth day prior to the date on which the budget 29090
must be adopted, an estimate of contemplated revenue and 29091
expenditures for the ensuing fiscal year, in such form as is 29092
prescribed by the taxing authority of the subdivision or by the 29093
auditor of state. The taxing authority shall include in its budget 29094
of expenditures the full amounts requested by district 29095
authorities, not to exceed the amount authorized by law, if such 29096
authorities may fix the amount of revenue they are to receive from 29097
the subdivision. In a municipal corporation in which a special 29098
levy for a municipal university has been authorized to be levied 29099
in excess of the ten-mill limitation, or is required by the 29100
charter of the municipal corporation, the taxing authority shall 29101
include an amount not less than the estimated yield of such levy, 29102
if such amount is requested by the board of directors of the 29103
municipal university. 29104

(2) A county board of ~~mental retardation and~~ developmental 29105
disabilities may include within its estimate of contemplated 29106
revenue and expenditures a reserve balance account in the 29107
community ~~mental retardation and~~ developmental disabilities 29108
residential services fund. The account shall contain money that is 29109
not needed to pay for current expenses for residential services 29110
and supported living but will be needed to pay for expenses for 29111
such services in the future or may be needed for unanticipated 29112
emergency expenses. On the request of the county board of ~~mental~~ 29113
~~retardation and~~ developmental disabilities, the board of county 29114
commissioners shall include such an account in its budget of 29115

expenditures and appropriate money to the account from residential 29116
service moneys for the county board. 29117

(D) The board of trustees of any public library desiring to 29118
participate in the distribution of the county public library fund 29119
shall adopt appropriate rules extending the benefits of the 29120
library service of such library to all the inhabitants of the 29121
county on equal terms, unless such library service is by law 29122
available to all such inhabitants, and shall certify a copy of 29123
such rules to the taxing authority with its estimate of 29124
contemplated revenue and expenditures. Where such rules have been 29125
so certified or where the adoption of such rules is not required, 29126
the taxing authority shall include in its budget of receipts such 29127
amounts as are specified by such board as contemplated revenue 29128
from the county public library fund, and in its budget of 29129
expenditures the full amounts requested therefrom by such board. 29130
No library association, incorporated or unincorporated, is 29131
entitled to participate in the proceeds of the county public 29132
library fund unless such association both was organized and 29133
operating prior to January 1, 1968, and participated in the 29134
distribution of the proceeds of the county public library fund 29135
prior to December 31, 2005. 29136

Sec. 5705.44. When contracts or leases run beyond the 29137
termination of the fiscal year in which they are made, the fiscal 29138
officer of the taxing authority shall make a certification for the 29139
amount required to meet the obligation of such contract or lease 29140
maturing in such fiscal year. The amount of the obligation under 29141
such contract or lease remaining unfulfilled at the end of a 29142
fiscal year, and which will become payable during the next fiscal 29143
year, shall be included in the annual appropriation measure for 29144
the next year as a fixed charge. 29145

The certificate required by section 5705.41 of the Revised 29146

Code as to money in the treasury shall not be required for 29147
contracts on which payments are to be made from the earnings of a 29148
publicly operated water works or public utility, but in the case 29149
of any such contract made without such certification, no payment 29150
shall be made on account thereof, and no claim or demand thereon 29151
shall be recoverable, except out of such earnings. That 29152
certificate also shall not be required if requiring the 29153
certificate makes it impossible for a county board of ~~mental~~ 29154
~~retardation and~~ developmental disabilities to pay the nonfederal 29155
share of medicaid expenditures that the county board is required 29156
by sections 5126.059 and 5126.0510 of the Revised Code to pay. 29157

Sec. 5735.142. (A)(1) Any person who uses any motor fuel, on 29158
which the tax imposed by sections 5735.05, 5735.25, and 5735.29 of 29159
the Revised Code has been paid, for the purpose of operating a 29160
transit bus shall be reimbursed in the amount of the tax paid on 29161
motor fuel used by public transportation systems providing transit 29162
or paratransit service on a regular and continuing basis within 29163
the state; 29164

(2) A city, exempted village, joint vocational, or local 29165
school district or educational service center that purchases any 29166
motor fuel for school district or service center operations, on 29167
which any tax imposed by section 5735.29 of the Revised Code that 29168
became effective on or after July 1, 2003, has been paid, may, if 29169
an application is filed under this section, be reimbursed in the 29170
amount of all but two cents per gallon of the total tax imposed by 29171
such section and paid on motor fuel. 29172

(3) A county board of ~~mental retardation and~~ developmental 29173
disabilities that, on or after July 1, 2005, purchases any motor 29174
fuel for county board operations, on which any tax imposed by 29175
section 5735.29 of the Revised Code has been paid may, if an 29176
application is filed under this section, be reimbursed in the 29177

amount of all but two cents per gallon of the total tax imposed by 29178
such section and paid on motor fuel purchased on or after July 1, 29179
2005. 29180

(B) Such person, school district, educational service center, 29181
or county board shall file with the tax commissioner an 29182
application for refund within one year from the date of purchase, 29183
stating the quantity of fuel used for operating transit buses used 29184
by local transit systems in furnishing scheduled common carrier, 29185
public passenger land transportation service along regular routes 29186
primarily in one or more municipal corporations or for operating 29187
vehicles used for school district, service center, or county board 29188
operations. However, no claim shall be made for the tax on fewer 29189
than one hundred gallons of motor fuel. A school district, 29190
educational service center, or county board shall not apply for a 29191
refund for any tax paid on motor fuel that is sold by the 29192
district, service center, or county board. The application shall 29193
be accompanied by the statement described in section 5735.15 of 29194
the Revised Code showing the purchase, together with evidence of 29195
payment thereof. 29196

(C) After consideration of the application and statement, the 29197
commissioner shall determine the amount of refund to which the 29198
applicant is entitled. If the amount is not less than that 29199
claimed, the commissioner shall certify the amount to the director 29200
of budget and management and treasurer of state for payment from 29201
the tax refund fund created by section 5703.052 of the Revised 29202
Code. If the amount is less than that claimed, the commissioner 29203
shall proceed in accordance with section 5703.70 of the Revised 29204
Code. 29205

The commissioner may require that the application be 29206
supported by the affidavit of the claimant. No refund shall be 29207
authorized or ordered for any single claim for the tax on fewer 29208
than one hundred gallons of motor fuel. No refund shall be 29209

authorized or ordered on motor fuel that is sold by a school 29210
district, educational service center, or county board. 29211

(D) The refund authorized by this section or section 5703.70 29212
of the Revised Code shall be reduced by the cents per gallon 29213
amount of any qualified fuel credit received under section 29214
5735.145 of the Revised Code, as determined by the commissioner, 29215
for each gallon of qualified fuel included in the total gallonage 29216
of motor fuel upon which the refund is computed. 29217

(E) The right to receive any refund under this section or 29218
section 5703.70 of the Revised Code is not assignable. The payment 29219
of this refund shall not be made to any person or entity other 29220
than the person or entity originally entitled thereto who used the 29221
motor fuel upon which the claim for refund is based, except that 29222
the refund when allowed and certified, as provided in this 29223
section, may be paid to the executor, the administrator, the 29224
receiver, the trustee in bankruptcy, or the assignee in insolvency 29225
proceedings of the person. 29226

Sec. 5815.28. (A) As used in this section: 29227

(1) "Ascertainable standard" includes a standard in a trust 29228
instrument requiring the trustee to provide for the care, comfort, 29229
maintenance, welfare, education, or general well-being of the 29230
beneficiary. 29231

(2) "Disability" means any substantial, medically 29232
determinable impairment that can be expected to result in death or 29233
that has lasted or can be expected to last for a continuous period 29234
of at least twelve months, except that "disability" does not 29235
include an impairment that is the result of abuse of alcohol or 29236
drugs. 29237

(3) "Political subdivision" and "state" have the same 29238
meanings as in section 2744.01 of the Revised Code. 29239

(4) "Supplemental services" means services specified by rule 29240
of the department of mental health under section 5119.01 of the 29241
Revised Code or the department of ~~mental retardation and~~ 29242
developmental disabilities under section 5123.04 of the Revised 29243
Code that are provided to an individual with a disability in 29244
addition to services the individual is eligible to receive under 29245
programs authorized by federal or state law. 29246

(B) Any person may create a trust under this section to 29247
provide funding for supplemental services for the benefit of 29248
another individual who meets either of the following conditions: 29249

(1) The individual has a physical or mental disability and is 29250
eligible to receive services through the department of ~~mental~~ 29251
~~retardation and~~ developmental disabilities or a county board of 29252
~~mental retardation and~~ developmental disabilities; 29253

(2) The individual has a mental disability and is eligible to 29254
receive services through the department of mental health or a 29255
board of alcohol, drug addiction, and mental health services. 29256

The trust may confer discretion upon the trustee and may 29257
contain specific instructions or conditions governing the exercise 29258
of the discretion. 29259

(C) The general division of the court of common pleas and the 29260
probate court of the county in which the beneficiary of a trust 29261
authorized by division (B) of this section resides or is confined 29262
have concurrent original jurisdiction to hear and determine 29263
actions pertaining to the trust. In any action pertaining to the 29264
trust in a court of common pleas or probate court and in any 29265
appeal of the action, all of the following apply to the trial or 29266
appellate court: 29267

(1) The court shall render determinations consistent with the 29268
testator's or other settlor's intent in creating the trust, as 29269
evidenced by the terms of the trust instrument. 29270

(2) The court may order the trustee to exercise discretion 29271
that the trust instrument confers upon the trustee only if the 29272
instrument contains specific instructions or conditions governing 29273
the exercise of that discretion and the trustee has failed to 29274
comply with the instructions or conditions. In issuing an order 29275
pursuant to this division, the court shall require the trustee to 29276
exercise the trustee's discretion only in accordance with the 29277
instructions or conditions. 29278

(3) The court may order the trustee to maintain the trust and 29279
distribute assets in accordance with rules adopted by the director 29280
of mental health under section 5119.01 of the Revised Code or the 29281
director of ~~mental retardation~~ and developmental disabilities 29282
under section 5123.04 of the Revised Code if the trustee has 29283
failed to comply with such rules. 29284

(D) To the extent permitted by federal law and subject to the 29285
provisions of division (C)(2) of this section pertaining to the 29286
enforcement of specific instructions or conditions governing a 29287
trustee's discretion, a trust authorized by division (B) of this 29288
section that confers discretion upon the trustee shall not be 29289
considered an asset or resource of the beneficiary, the 29290
beneficiary's estate, the settlor, or the settlor's estate and 29291
shall be exempt from the claims of creditors, political 29292
subdivisions, the state, other governmental entities, and other 29293
claimants against the beneficiary, the beneficiary's estate, the 29294
settlor, or the settlor's estate, including claims based on 29295
provisions of Chapters 5111., 5121., or 5123. of the Revised Code 29296
and claims sought to be satisfied by way of a civil action, 29297
subrogation, execution, garnishment, attachment, judicial sale, or 29298
other legal process, if all of the following apply: 29299

(1) At the time the trust is created, the trust principal 29300
does not exceed the maximum amount determined under division (E) 29301
of this section; 29302

(2) The trust instrument contains a statement of the settlor's intent, or otherwise clearly evidences the settlor's intent, that the beneficiary does not have authority to compel the trustee under any circumstances to furnish the beneficiary with minimal or other maintenance or support, to make payments from the principal of the trust or from the income derived from the principal, or to convert any portion of the principal into cash, whether pursuant to an ascertainable standard specified in the instrument or otherwise;

(3) The trust instrument provides that trust assets can be used only to provide supplemental services, as defined by rule of the director of mental health under section 5119.01 of the Revised Code or the director of ~~mental retardation and~~ developmental disabilities under section 5123.04 of the Revised Code, to the beneficiary;

(4) The trust is maintained and assets are distributed in accordance with rules adopted by the director of mental health under section 5119.01 of the Revised Code or the director of ~~mental retardation and~~ developmental disabilities under section 5123.04 of the Revised Code;

(5) The trust instrument provides that on the death of the beneficiary, a portion of the remaining assets of the trust, which shall be not less than fifty per cent of such assets, will be deposited to the credit of the services fund for individuals with mental illness created by section 5119.17 of the Revised Code or the services fund for individuals with mental retardation and developmental disabilities created by section 5123.40 of the Revised Code.

(E) In 1994, the trust principal maximum amount for a trust created under this section shall be two hundred thousand dollars. The maximum amount for a trust created under this section prior to November 11, 1994, may be increased to two hundred thousand

dollars. 29335

In 1995, the maximum amount for a trust created under this 29336
section shall be two hundred two thousand dollars. Each year 29337
thereafter, the maximum amount shall be the prior year's amount 29338
plus two thousand dollars. 29339

(F) This section does not limit or otherwise affect the 29340
creation, validity, interpretation, or effect of any trust that is 29341
not created under this section. 29342

(G) Once a trustee takes action on a trust created by a 29343
settlor under this section and disburses trust funds on behalf of 29344
the beneficiary of the trust, then the trust may not be terminated 29345
or otherwise revoked by a particular event or otherwise without 29346
payment into the services fund created pursuant to section 5119.17 29347
or 5123.40 of the Revised Code of an amount that is equal to the 29348
disbursements made on behalf of the beneficiary for medical care 29349
by the state from the date the trust vests but that is not more 29350
than fifty per cent of the trust corpus. 29351

Sec. 5815.35. (A)(1) As used in this division, "fiduciary" 29352
means any person, association, or corporation, other than a 29353
trustee of a testamentary trust, an assignee or trustee for an 29354
insolvent debtor, or a guardian under Chapter 5905. of the Revised 29355
Code, that is appointed by and accountable to the probate court, 29356
and that is acting in a fiduciary capacity for another or charged 29357
with duties in relation to any property, interest, or estate for 29358
another's benefit. A fiduciary also includes an agency under 29359
contract with the department of ~~mental retardation and~~ 29360
developmental disabilities for the provision of protective service 29361
under sections 5123.55 to 5123.59 of the Revised Code, when 29362
appointed by and accountable to the probate court as a guardian or 29363
trustee for a mentally retarded or developmentally disabled 29364
person. 29365

(2) A fiduciary who enters a contract as fiduciary on or 29366
after March 22, 1984, is not personally liable on that contract, 29367
unless the contract otherwise specifies, if the contract is within 29368
the fiduciary's authority and the fiduciary discloses that the 29369
contract is being entered into in a fiduciary capacity. In a 29370
contract, the words "fiduciary" or "as fiduciary" or other words 29371
that indicate one's fiduciary capacity following the name or 29372
signature of a fiduciary are sufficient disclosure for purposes of 29373
this division. 29374

(B)(1) As used in this division, "partnership" includes a 29375
partnership composed of only general partners and a partnership 29376
composed of general and limited partners. 29377

(2) Subject to division (D) of this section, an executor or 29378
administrator who acquires, in a fiduciary capacity, a general 29379
partnership interest upon the death of a general partner of a 29380
partnership is not personally liable for any debt, obligation, or 29381
liability of the partnership that arises from the executor's or 29382
administrator's actions, except as provided in this division, as a 29383
general partner, or for any debt, obligation, or liability of the 29384
partnership for which the executor or administrator otherwise 29385
would be personally liable because the executor or administrator 29386
holds the general partnership interest, if the executor or 29387
administrator discloses that the general partnership interest is 29388
held by the executor or administrator in a fiduciary capacity. 29389
This immunity does not apply if an executor or administrator 29390
causes loss or injury to a person who is not a partner in the 29391
partnership by a wrongful act or omission. This immunity is not 29392
available to an executor or administrator who holds a general 29393
partnership interest in a fiduciary capacity if the spouse or any 29394
lineal descendants of the executor or administrator, or the 29395
executor or administrator other than in a fiduciary capacity, 29396
holds any interest in the partnership. 29397

A partnership certificate that is filed pursuant to Chapter 29398
1777. or another chapter of the Revised Code and that indicates 29399
that an executor or administrator holds a general partnership 29400
interest in a fiduciary capacity by the use following the name or 29401
signature of the executor or administrator of the words "executor 29402
under the will of (name of decedent)" or "administrator of the 29403
estate of (name of decedent)" or other words that indicate the 29404
executor's or administrator's fiduciary capacity constitutes a 29405
sufficient disclosure for purposes of this division. 29406

If a partnership certificate is not required to be filed 29407
pursuant to Chapter 1776. or 1777. or another chapter of the 29408
Revised Code, a sufficient disclosure for purposes of this 29409
division can be made by an executor or administrator if a 29410
certificate that satisfies the following requirements is filed 29411
with the recorder of the county in which the partnership's 29412
principal office or place of business is situated and with the 29413
recorder of each county in which the partnership owns real estate: 29414

(a) The certificate shall state in full the names of all 29416
persons holding interests in the partnership and their places of 29417
residence; 29418

(b) The certificate shall be signed by all persons who are 29419
general partners in the partnership, and shall be acknowledged by 29420
a person authorized to take acknowledgements of deeds; 29421

(c) The certificate shall use the words "executor under the 29422
will of (name of decedent)" or "administrator of the estate of 29423
(name of decedent)" or other words that indicate the executor's or 29424
administrator's fiduciary capacity, following the name or 29425
signature of the executor or administrator. 29426

A contract or other written instrument delivered to a party 29427
that contracts with the partnership in which an executor or 29428

administrator holds a general partnership interest in a fiduciary 29429
capacity, that indicates that the executor or administrator so 29430
holds the interest, constitutes a disclosure for purposes of this 29431
division with respect to transactions between the party and the 29432
partnership. If a disclosure has been made by a certificate in 29433
accordance with this division, a disclosure for purposes of this 29434
division with respect to such transactions exists regardless of 29435
whether a contract or other instrument indicates the executor or 29436
administrator holds the general partnership interest in a 29437
fiduciary capacity. 29438

If an executor or administrator acquires, in a fiduciary 29439
capacity, a general partnership interest, the decedent's estate is 29440
liable for debts, obligations, or liabilities of the partnership. 29441

(C) An estate that includes a general partnership interest is 29442
not liable for the debts, obligations, or liabilities of a 29443
partnership in which another estate has a general partnership 29444
interest, merely because the executor or administrator of the 29445
estates holds a general partnership interest in both of the 29446
partnerships in the executor's or administrator's fiduciary 29447
capacities. 29448

(D) Divisions (B) and (C) of this section apply to general 29449
partnership interests held by executors or administrators in their 29450
fiduciary capacities prior to and on or after March 22, 1984. If 29451
an appropriate disclosure is made pursuant to division (B) of this 29452
section, the immunity acquired under that division extends only to 29453
debts, obligations, and liabilities of the partnership arising on 29454
and after the date of the disclosure and to debts, obligations, 29455
and liabilities of the partnership that arose prior to the 29456
acquisition of the general partnership interest by the executor or 29457
administrator becoming a general partner. 29458

(E) The liability limitations in this section apply to 29459
fiduciaries as partners notwithstanding the broader personal 29460

liabilities otherwise imposed by any partnership law. 29461

(F) If an estate or other fund held by a fiduciary is 29462
identified as a partner, the reference is deemed to be to, and the 29463
partner is, the current executor, administrator, or other 29464
fiduciary of the estate or other fund and their successors as 29465
executors, administrators, or other fiduciaries. 29466

Section 2. That existing sections 9.239, 9.55, 101.37, 29467
101.39, 107.12, 109.57, 109.572, 109.71, 109.77, 109.86, 117.102, 29468
121.02, 121.03, 121.32, 121.36, 121.37, 123.01, 124.11, 124.23, 29469
124.241, 124.27, 124.38, 124.381, 125.602, 125.603, 126.32, 29470
127.16, 135.801, 135.802, 135.803, 140.01, 140.03, 140.05, 29471
145.012, 145.297, 154.17, 154.20, 173.03, 305.14, 307.10, 307.86, 29472
309.10, 319.16, 325.19, 329.06, 1751.01, 1751.02, 2108.521, 29473
2109.01, 2109.04, 2111.01, 2111.02, 2111.10, 2133.25, 2151.011, 29474
2151.421, 2903.33, 2919.271, 2921.36, 2921.38, 2930.061, 2935.03, 29475
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 2967.22, 29476
3109.18, 3301.07, 3301.15, 3301.52, 3301.53, 3301.55, 3301.57, 29477
3301.58, 3304.231, 3313.65, 3313.715, 3314.022, 3314.99, 3317.01, 29478
3317.02, 3317.024, 3317.03, 3317.032, 3317.05, 3317.051, 3317.052, 29479
3317.07, 3317.15, 3317.20, 3319.22, 3319.99, 3323.01, 3323.02, 29480
3323.021, 3323.03, 3323.04, 3323.05, 3323.07, 3323.09, 3323.091, 29481
3323.12, 3323.141, 3323.142, 3323.31, 3326.99, 3501.01, 3701.78, 29482
3701.93, 3701.932, 3701.933, 3705.36, 3721.01, 3721.14, 3722.01, 29483
3727.01, 3735.58, 4109.06, 4115.32, 4141.29, 4511.21, 4511.75, 29484
4723.071, 5101.35, 5101.46, 5101.611, 5103.02, 5103.13, 5104.08, 29485
5107.24, 5111.042, 5111.151, 5111.202, 5111.203, 5111.211, 29486
5111.251, 5111.291, 5111.65, 5111.677, 5111.709, 5111.87, 29487
5111.871, 5111.872, 5111.873, 5111.874, 5111.875, 5111.876, 29488
5111.8710, 5111.915, 5112.30, 5112.32, 5112.37, 5112.371, 5119.16, 29489
5119.221, 5119.51, 5120.07, 5120.135, 5121.01, 5121.02, 5121.03, 29490
5121.04, 5121.05, 5121.051, 5121.06, 5121.061, 5121.07, 5121.08, 29491
5121.09, 5121.10, 5121.11, 5121.12, 5123.01, 5123.012, 5123.02, 29492

5123.021, 5123.03, 5123.031, 5123.032, 5123.033, 5123.04, 29493
5123.042, 5123.043, 5123.044, 5123.046, 5123.047, 5123.048, 29494
5123.049, 5123.0410, 5123.0411, 5123.0412, 5123.0413, 5123.0414, 29495
5123.0415, 5123.0416, 5123.0417, 5123.05, 5123.051, 5123.06, 29496
5123.07, 5123.08, 5123.081, 5123.082, 5123.083, 5123.09, 5123.091, 29497
5123.092, 5123.093, 5123.10, 5123.11, 5123.12, 5123.122, 5123.13, 29498
5123.14, 5123.15, 5123.16, 5123.161, 5123.162, 5123.163, 5123.164, 29499
5123.166, 5123.167, 5123.168, 5123.169, 5123.17, 5123.171, 29500
5123.172, 5123.18, 5123.181, 5123.19, 5123.191, 5123.194, 29501
5123.195, 5123.196, 5123.198, 5123.21, 5123.211, 5123.22, 29502
5123.221, 5123.23, 5123.24, 5123.25, 5123.26, 5123.27, 5123.28, 29503
5123.29, 5123.30, 5123.31, 5123.33, 5123.34, 5123.35, 5123.351, 29504
5123.352, 5123.36, 5123.37, 5123.371, 5123.372, 5123.373, 29505
5123.374, 5123.375, 5123.38, 5123.40, 5123.41, 5123.42, 5123.421, 29506
5123.43, 5123.44, 5123.45, 5123.451, 5123.47, 5123.50, 5123.51, 29507
5123.52, 5123.53, 5123.54, 5123.541, 5123.542, 5123.55, 5123.56, 29508
5123.57, 5123.58, 5123.59, 5123.60, 5123.601, 5123.602, 5123.604, 29509
5123.61, 5123.611, 5123.612, 5123.613, 5123.614, 5123.63, 5123.64, 29510
5123.65, 5123.71, 5123.711, 5123.72, 5123.73, 5123.74, 5123.75, 29511
5123.76, 5123.801, 5123.81, 5123.811, 5123.82, 5123.85, 5123.86, 29512
5123.89, 5123.90, 5123.96, 5126.01, 5126.02, 5126.021, 5126.022, 29513
5126.023, 5126.024, 5126.025, 5126.026, 5126.027, 5126.028, 29514
5126.029, 5126.0210, 5126.0211, 5126.0212, 5126.0213, 5126.0214, 29515
5126.0215, 5126.0216, 5126.0217, 5126.0218, 5126.0219, 5126.0220, 29516
5126.0221, 5126.0222, 5126.0223, 5126.0224, 5126.0225, 5126.0226, 29517
5126.0227, 5126.0228, 5126.0229, 5126.03, 5126.031, 5126.032, 29518
5126.033, 5126.034, 5126.037, 5126.038, 5126.04, 5126.041, 29519
5126.042, 5126.044, 5126.045, 5126.046, 5126.05, 5126.051, 29520
5126.052, 5126.054, 5126.055, 5126.056, 5126.058, 5126.059, 29521
5126.0510, 5126.0511, 5126.0512, 5126.06, 5126.07, 5126.071, 29522
5126.08, 5126.081, 5126.082, 5126.09, 5126.10, 5126.11, 5126.12, 29523
5126.121, 5126.13, 5126.14, 5126.15, 5126.18, 5126.19, 5126.20, 29524

5126.201, 5126.21, 5126.22, 5126.221, 5126.23, 5126.24, 5126.25, 29525
5126.251, 5126.252, 5126.253, 5126.254, 5126.26, 5126.27, 5126.28, 29526
5126.281, 5126.29, 5126.30, 5126.31, 5126.311, 5126.313, 5126.33, 29527
5126.331, 5126.333, 5126.34, 5126.36, 5126.40, 5126.41, 5126.42, 29528
5126.43, 5126.45, 5126.46, 5126.47, 5126.49, 5126.50, 5126.54, 29529
5126.55, 5126.57, 5126.58, 5126.59, 5126.61, 5126.62, 5126.99, 29530
5139.08, 5139.34, 5145.18, 5153.16, 5153.99, 5511.03, 5543.011, 29531
5705.091, 5705.14, 5705.191, 5705.222, 5705.28, 5705.44, 5735.142, 29532
5815.28, and 5815.35 and section 5123.011 as it results from Am. 29533
Sub. S.B. 156 of the 119th General Assembly and section 5123.011 29534
of the Revised Code as it results from Am. Sub. S.B. 285 of the 29535
121st General Assembly are hereby repealed. 29536
29537

Section 3. That Sections 213.30, 269.20.40, 269.20.80, 29538
269.20.90, 269.30.50, 293.30, 309.31.60, 309.31.70, 335.40.10, 29539
337.10, 337.20.10, 337.30.10, 337.30.20, 337.30.30, 337.30.40, 29540
337.30.60, 337.30.70, 337.30.80, 337.40.10, and 337.40.30 of Am. 29541
Sub. H.B. 119 of the 127th General Assembly be amended to read as 29542
follows: 29543

Sec. 213.30. UNIFIED LONG-TERM CARE BUDGET WORKGROUP 29544

(A) There is hereby created the Unified Long-Term Care Budget 29545
Workgroup. The Workgroup shall consist of the following members: 29546

(1) The Director of Aging; 29547

(2) Consumer advocates, representatives of the provider 29548
community, and state policy makers, appointed by the Governor; 29549

(3) Two members of the House of Representatives, one member 29550
from the majority party and one member from the minority party, 29551
appointed by the Speaker of the House of Representatives; 29552

(4) Two members of the Senate, one member from the majority 29553

party and one member from the minority party, appointed by the President of the Senate.

The Director of Aging shall serve as the chairperson of the Workgroup.

(B) The Workgroup shall develop a unified long-term care budget that facilitates the following:

(1) Providing a consumer a choice of services that meet the consumer's health care needs and improve the consumer's quality of life;

(2) Providing a continuum of services that meet the needs of a consumer throughout life;

(3) Consolidating policymaking authority and the associated budgets in a single entity to simplify the consumer's decision making and maximize the state's flexibility in meeting the consumer's needs;

(4) Assuring the state has a system that is cost effective and links disparate services across agencies and jurisdictions.

(C) The Workgroup shall submit a written implementation plan to the Governor, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, and the members of the Joint Legislative Committee on Medicaid Technology and Reform not later than June 1, 2008. The plan shall incorporate the following:

(1) Recommendations regarding the structure of the unified long-term care budget;

(2) A plan outlining how funds can be transferred among involved agencies in a fiscally neutral manner;

(3) Identification of the resources needed to implement the unified budget in a multiphase approach starting in fiscal year

2009;	29584
(4) Success criteria and tools to measure progress against the success criteria.	29585 29586
The plan shall consider the recommendations of the Medicaid Administrative Study Council and the Ohio Commission to Reform Medicaid.	29587 29588 29589
(D) In support of the Unified Long-Term Care Budget the following shall be established in the General Revenue Fund:	29590 29591
(1) In the Department of Aging, 490-423, Long-Term Care Budget - State;	29592 29593
(2) In the Department of Job and Family Services, 600-435, Long-Term Care Budget - State;	29594 29595
(3) In the Department of Mental Retardation and Developmental Disabilities, 322-406, Long-Term Care Budget - State;	29596 29597
(4) In the Department of Mental Health, 335-411, Long-Term Care Budget - State.	29598 29599
(E) On an annual basis, the Directors of Aging and Budget and Management shall submit a written report to the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, and the members of the Joint Legislative Committee on Medicaid Technology and Reform describing the progress towards establishing, or if already established, the effectiveness of the unified long-term care budget.	29600 29601 29602 29603 29604 29605 29606 29607
(F) When the Governor creates the administration described in section 309.30.03 of this act for the Medicaid program, the Director of Budget and Management may do all of the following in support of the Workgroup's proposal:	29608 29609 29610 29611
(1) Transfer funds and appropriations currently appropriated to pay for Medicaid services to any appropriation item referenced	29612 29613

in division (D) of this section;	29614
(2) Transfer funds between appropriation items referenced in division (D) of this section;	29615 29616
(3) Develop a reporting mechanism to transparently show how the funds are being transferred and expended.	29617 29618
The Director shall obtain Controlling Board approval before transferring funds or appropriations under division (F) of this section.	29619 29620 29621
(G) Before a proposal for a unified long-term care budget may be implemented, the Joint Legislative Committee on Medicaid Technology and Reform shall approve implementation of the proposal and submit the Committee's approval to the Governor.	29622 29623 29624 29625
Sec. 269.20.40. EDUCATION MANAGEMENT INFORMATION SYSTEM	29626
The foregoing appropriation item 200-446, Education Management Information System, shall be used by the Department of Education to improve the Education Management Information System (EMIS).	29627 29628 29629 29630
Of the foregoing appropriation item 200-446, Education Management Information System, up to \$1,338,620 in fiscal year 2008 and up to \$1,372,085 in fiscal year 2009 shall be distributed to designated information technology centers for costs relating to processing, storing, and transferring data for the effective operation of the EMIS. These costs may include, but are not limited to, personnel, hardware, software development, communications connectivity, professional development, and support services, and to provide services to participate in the State Education Technology Plan pursuant to section 3301.07 of the Revised Code.	29631 29632 29633 29634 29635 29636 29637 29638 29639 29640 29641
Of the foregoing appropriation item 200-446, Education Management Information System, up to \$8,256,569 in fiscal year	29642 29643

2008 and up to \$8,462,984 in fiscal year 2009 shall be distributed 29644
on a per-pupil basis to school districts, community schools 29645
established under Chapter 3314. of the Revised Code, educational 29646
service centers, joint vocational school districts, and any other 29647
education entity that reports data through EMIS. From this 29648
funding, each school district or community school established 29649
under Chapter 3314. of the Revised Code with enrollment greater 29650
than 100 students and each vocational school district shall 29651
receive a minimum of \$5,000 in each fiscal year. Each school 29652
district or community school established under Chapter 3314. of 29653
the Revised Code with enrollment between one and one hundred and 29654
each educational service center and each county board of ~~MR/DD~~ 29655
developmental disabilities that submits data through EMIS shall 29656
receive \$3,000 in each fiscal year. This subsidy shall be used for 29657
costs relating to reporting, processing, storing, transferring, 29658
and exchanging data necessary to meet requirements of the 29659
Department of Education's data system. 29660

The remainder of appropriation item 200-446, Education 29661
Management Information System, shall be used to develop and 29662
support a common core of data definitions and standards as adopted 29663
by the Education Management Information System Advisory Board, 29664
including the ongoing development and maintenance of the data 29665
dictionary and data warehouse. In addition, such funds shall be 29666
used to support the development and implementation of data 29667
standards and the design, development, and implementation of a new 29668
data exchange system. 29669

Any provider of software meeting the standards approved by 29670
the Education Management Information System Advisory Board shall 29671
be designated as an approved vendor and may enter into contracts 29672
with local school districts, community schools, information 29673
technology centers, or other educational entities for the purpose 29674
of collecting and managing data required under Ohio's education 29675

management information system (EMIS) laws. On an annual basis, the 29676
Department of Education shall convene an advisory group of school 29677
districts, community schools, and other education-related entities 29678
to review the Education Management Information System data 29679
definitions and data format standards. The advisory group shall 29680
recommend changes and enhancements based upon surveys of its 29681
members, education agencies in other states, and current industry 29682
practices, to reflect best practices, align with federal 29683
initiatives, and meet the needs of school districts. 29684

School districts and community schools not implementing a 29685
common and uniform set of data definitions and data format 29686
standards for Education Management Information System purposes 29687
shall have all EMIS funding withheld until they are in compliance. 29688

Sec. 269.20.80. PUPIL TRANSPORTATION 29689

Of the foregoing appropriation item 200-502, Pupil 29690
Transportation, up to \$830,624 in fiscal year 2008 and up to 29691
\$838,930 in fiscal year 2009 may be used by the Department of 29692
Education for training prospective and experienced school bus 29693
drivers in accordance with training programs prescribed by the 29694
Department. Up to \$59,870,514 in fiscal year 2008 and up to 29695
\$60,469,220 in fiscal year 2009 may be used by the Department of 29696
Education for special education transportation reimbursements to 29697
school districts and county ~~MR/DD~~ boards of developmental 29698
disabilities for transportation operating costs as provided in 29699
division (J) of section 3317.024 of the Revised Code. The 29700
remainder of appropriation item 200-502, Pupil Transportation, 29701
shall be used for the state reimbursement of public school 29702
districts' costs in transporting pupils to and from the school 29703
they attend in accordance with the district's policy, State Board 29704
of Education standards, and the Revised Code. 29705

Notwithstanding the distribution formula outlined in division 29706

(D) of section 3317.022 of the Revised Code, each school district shall receive an additional one per cent in state funding for transportation in fiscal year 2008 over what was received in fiscal year 2007, and the local share of transportation costs that is used in the calculation of the charge-off supplement under section 3317.0216 of the Revised Code and the excess cost supplement under division (F) of section 3317.022 of the Revised Code for each school district in fiscal year 2008 shall be increased by one per cent from that used in calculations in fiscal year 2007.

Notwithstanding the distribution formula outlined in division (D) of section 3317.022 of the Revised Code, each school district shall receive an additional one per cent in state funding for transportation in fiscal year 2009 over what was received in fiscal year 2008, and the local share of transportation costs that is used in the calculation of the charge-off supplement under section 3317.0216 of the Revised Code and the excess cost supplement under division (F) of section 3317.022 of the Revised Code for each school district in fiscal year 2009 shall be increased by one per cent from that used in calculations in fiscal year 2008.

School districts not receiving state funding for transportation in fiscal year 2005 under division (D) of section 3317.022 of the Revised Code shall not receive state funding for transportation in fiscal year 2008 or fiscal year 2009.

Sec. 269.20.90. BUS PURCHASE ALLOWANCE

The foregoing appropriation item 200-503, Bus Purchase Allowance, shall be distributed to school districts, educational service centers, and county ~~MR/DD~~ boards of developmental disabilities pursuant to rules adopted under section 3317.07 of the Revised Code. Up to 28 per cent of the amount appropriated may

be used to reimburse school districts and educational service 29738
centers for the purchase of buses to transport students with 29739
disabilities and nonpublic school students and to county ~~MR/DD~~ 29740
boards of developmental disabilities, the Ohio School for the 29741
Deaf, and the Ohio School for the Blind for the purchase of buses 29742
to transport students with disabilities. 29743

SCHOOL LUNCH MATCH 29744

The foregoing appropriation item 200-505, School Lunch Match, 29745
shall be used to provide matching funds to obtain federal funds 29746
for the school lunch program. 29747

Sec. 269.30.50. SPECIAL EDUCATION ENHANCEMENTS 29748

Of the foregoing appropriation item 200-540, Special 29749
Education Enhancements, up to \$2,906,875 in each fiscal year shall 29750
be used for home instruction for children with disabilities; up to 29751
\$1,462,500 in each fiscal year shall be used for parent mentoring 29752
programs; and up to \$2,783,396 in each fiscal year may be used for 29753
school psychology interns. 29754

Of the foregoing appropriation item 200-540, Special 29755
Education Enhancements, \$750,000 in each fiscal year shall be used 29756
for the Out of School Initiative of Sinclair Community College. 29757

Of the foregoing appropriation item 200-540, Special 29758
Education Enhancements, \$200,000 shall be used for a preschool 29759
special education pilot program in Bowling Green City School 29760
District. 29761

Of the foregoing appropriation item 200-540, Special 29762
Education Enhancements, \$200,000 in each fiscal year shall be used 29763
to support the Bellefaire Jewish Children's Bureau. 29764

Of the foregoing appropriation item 200-540, Special 29765
Education Enhancements, up to \$82,707,558 in fiscal year 2008 and 29766
up to \$83,371,505 in fiscal year 2009 shall be distributed by the 29767

Department of Education to county boards of ~~mental retardation and~~ 29768
developmental disabilities, educational service centers, and 29769
school districts for preschool special education units and 29770
preschool supervisory units under section 3317.052 of the Revised 29771
Code. To the greatest extent possible, the Department of Education 29772
shall allocate these units to school districts and educational 29773
service centers. 29774

The Department may reimburse county ~~MR/DD~~ boards of 29775
developmental disabilities, educational service centers, and 29776
school districts for services provided by instructional 29777
assistants, related services as defined in rule 3301-51-11 of the 29778
Administrative Code, physical therapy services provided by a 29779
licensed physical therapist or physical therapist assistant under 29780
the supervision of a licensed physical therapist as required under 29781
Chapter 4755. of the Revised Code and Chapter 4755-27 of the 29782
Administrative Code and occupational therapy services provided by 29783
a licensed occupational therapist or occupational therapy 29784
assistant under the supervision of a licensed occupational 29785
therapist as required under Chapter 4755. of the Revised Code and 29786
Chapter 4755-7 of the Administrative Code. Nothing in this section 29787
authorizes occupational therapy assistants or physical therapist 29788
assistants to generate or manage their own caseloads. 29789
29790

The Department of Education shall require school districts, 29791
educational service centers, and county ~~MR/DD~~ boards of 29792
developmental disabilities serving preschool children with 29793
disabilities to document child progress using research-based 29794
indicators prescribed by the Department and report results 29795
annually. The reporting dates and method shall be determined by 29796
the Department. 29797

Of the foregoing appropriation item 200-540, Special 29798
Education Enhancements, \$650,000 in each fiscal year shall be used 29799

for the Collaborative Language and Literacy Instruction Project. 29800
29801

Of the foregoing appropriation item 200-540, Special 29802
Education Enhancements, \$325,000 in each fiscal year shall be used 29803
by the Ohio Center for Autism and Low Incidence to contract with 29804
the Delaware-Union Educational Service Center for the provision of 29805
autism transition services. 29806

Of the foregoing appropriation item 200-540, Special 29807
Education Enhancements, \$75,000 in each fiscal year shall be used 29808
for Leaf Lake/Geauga Educational Assistance Funding. 29809

Of the foregoing appropriation item 200-540, Special 29810
Education Enhancements, \$650,000 in each fiscal year shall be used 29811
to support Project More for one-to-one reading mentoring. 29812

The remainder of appropriation item 200-540, Special 29813
Education Enhancements, shall be used to fund special education 29814
and related services at county boards of ~~mental retardation and~~ 29815
developmental disabilities for eligible students under section 29816
3317.20 of the Revised Code and at institutions for eligible 29817
students under section 3317.201 of the Revised Code. 29818

Sec. 293.30. ABSTINENCE AND ADOPTION EDUCATION 29819

The foregoing appropriation item 440-425, Abstinence and 29820
Adoption Education, shall be used for abstinence and adoption 29821
education. The Director of Health shall develop guidelines for the 29822
establishment of abstinence and adoption education programs for 29823
teenagers with the purpose of decreasing unplanned pregnancies and 29824
abortion. 29825

HEALTHY OHIO 29826

Of the foregoing appropriation item 440-437, Healthy Ohio, 29827
\$100,000 in each fiscal year shall be allocated to the Center for 29828
Closing Health Gaps to help with disparities in minority health. 29829

Of the foregoing appropriation item 440-437, Healthy Ohio, 29830
\$500,000 in each fiscal year shall be used to support 29831
evidence-based programs for diabetes management and prevention, 29832
utilizing proven behavior change strategies leading to improved 29833
levels of routine physical activity and healthy eating habits. The 29834
program shall provide screening for diabetes, and for those 29835
determined to be at highest risk for diabetes, education on 29836
diabetes, diabetes management, physical activity and eating 29837
habits, and opportunities for monitored physical activity for 29838
adults and families. Grants shall be provided to, but not limited 29839
to, the Ohio YMCA State Alliance in collaboration with other 29840
community organizations. Each program shall include post program 29841
measurements, including, but not limited to, blood sugar testing, 29842
participant satisfaction surveys, and participant retention. 29843

BREAST AND CERVICAL CANCER SCREENING 29844

The foregoing appropriation item 440-438, Breast and Cervical 29845
Cancer Screening, may be used for breast and cervical cancer 29846
screenings and services as permitted under the National Breast and 29847
Cervical Cancer Early Detection Project. 29848

HIV/AIDS PREVENTION/TREATMENT 29849

Of the foregoing appropriation item 440-444, AIDS Prevention 29850
and Treatment, not more than \$6.7 million in each fiscal year 29851
shall be used to assist persons with HIV/AIDS in acquiring 29852
HIV-related medications. 29853

INFECTIOUS DISEASE PREVENTION 29854

The foregoing appropriation item 440-446, Infectious Disease 29855
Prevention, shall be used for the purchase of drugs for sexually 29856
transmitted diseases. 29857

HELP ME GROW 29858

Of the foregoing appropriation item 440-459, Help Me Grow, 29859

\$10,423,397 in fiscal year 2008 and \$13,741,847 in fiscal year 29860
2009 shall be used by the Department of Health to distribute 29861
subsidies to counties to implement the Help Me Grow Program. 29862
Appropriation item 440-459, Help Me Grow, may be used in 29863
conjunction with Temporary Assistance for Needy Families from the 29864
Department of Job and Family Services, Early Intervention funding 29865
from the Department of ~~Mental Retardation~~ and Developmental 29866
Disabilities, and in conjunction with other early childhood funds 29867
and services to promote the optimal development of young children. 29868
Local contracts shall be developed between local departments of 29869
job and family services and family and children first councils for 29870
the administration of TANF funding for the Help Me Grow Program. 29871
The Department of Health shall enter into an interagency agreement 29872
with the Department of Education, Department of ~~Mental Retardation~~ 29873
~~and~~ Developmental Disabilities, Department of Job and Family 29874
Services, and Department of Mental Health to ensure that all early 29875
childhood programs and initiatives are coordinated and school 29876
linked. 29877

Of the foregoing appropriation item 440-459, Help Me Grow, 29878
\$500,000 in fiscal year 2008 and \$300,000 in fiscal year 2009 29879
shall be used for the establishment of the Autism Diagnosis 29880
Education Pilot Program. Not later than December 31, 2008, the 29881
Director of Health shall compile and submit to the Governor and 29882
the General Assembly a written report describing the action taken 29883
under the Autism Diagnosis Education Pilot Program since the 29884
effective date of this section. Not later than December 31, 2009, 29885
the Director shall compile and submit to the Governor and the 29886
General Assembly a written report describing the action taken 29887
under the Pilot Program since December 31, 2008. 29888

TARGETED HEALTH CARE SERVICES OVER 21 29889

In each fiscal year, of the foregoing appropriation item 29890
440-507, Targeted Health Care Services Over 21, \$731,023 shall be 29891

used to administer the cystic fibrosis program and implement the Hemophilia Insurance Premium Payment Program. These funds also may be used, to the extent that funding is available, to provide up to 18 in-patient hospital days for participants in the cystic fibrosis program. The Department shall expend all of these earmarked funds.

Of the foregoing appropriation item 440-507, Targeted Health Care Services Over 21, \$900,000 in each fiscal year shall be used to provide essential medications and to pay the copayments for drugs approved by the Department of Health and covered by Medicare Part D that are dispensed to Bureau for Children with Medical Handicaps (BCMH) participants for the cystic fibrosis program. These funds also may be used, to the extent that funding is available, to provide up to 18 in-patient hospital days for participants in the cystic fibrosis program. The Department shall expend all of these earmarked funds.

UNCOMPENSATED CARE AND EMERGENCY MEDICAL 29908

The foregoing appropriation item 440-511, Uncompensated Care and Emergency Medical Assistance, shall be used to fund programs that provide health care without ability to pay. This is not an entitlement program and services are offered only to the extent that funding is available.

MATERNAL CHILD HEALTH BLOCK GRANT 29914

Of the foregoing appropriation item 440-601, Maternal Child Health Block Grant (Fund 320), \$2,091,299 shall be used in each fiscal year for the purposes of abstinence and adoption education. The Director of Health shall develop guidelines for the establishment of abstinence and adoption education programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion.

GENETICS SERVICES 29922

The foregoing appropriation item 440-608, Genetics Services 29923
(Fund 4D6), shall be used by the Department of Health to 29924
administer programs authorized by sections 3701.501 and 3701.502 29925
of the Revised Code. None of these funds shall be used to counsel 29926
or refer for abortion, except in the case of a medical emergency. 29927

FEE SUPPORTED PROGRAMS 29928

Of the foregoing appropriation item 440-647, Fee Supported 29929
Programs (Fund 470), \$50,000 in fiscal year 2008 shall be used by 29930
the Department to make hospital performance information available 29931
on a web site as required in section 3727.391 of the Revised Code. 29932
29933

MEDICALLY HANDICAPPED CHILDREN AUDIT 29934

The Medically Handicapped Children Audit Fund (Fund 477) 29935
shall receive revenue from audits of hospitals and recoveries from 29936
third-party payers. Moneys may be expended for payment of audit 29937
settlements and for costs directly related to obtaining recoveries 29938
from third-party payers and for encouraging Medically Handicapped 29939
Children's Program recipients to apply for third-party benefits. 29940
Moneys also may be expended for payments for diagnostic and 29941
treatment services on behalf of medically handicapped children, as 29942
defined in division (A) of section 3701.022 of the Revised Code, 29943
and Ohio residents who are twenty-one or more years of age and who 29944
are suffering from cystic fibrosis or hemophilia. Moneys may also 29945
be expended for administrative expenses incurred in operating the 29946
Medically Handicapped Children's Program. 29947

TRANSFER FROM STATE FIRE MARSHAL'S FUND (FUND 546) TO THE 29948
POISON CONTROL FUND (FUND 5CB) IN THE DEPARTMENT OF HEALTH 29949

Notwithstanding section 3737.71 of the Revised Code, on July 29950
1, 2007, or as soon as possible thereafter, the Director of Budget 29951
and Management shall transfer \$150,000 cash from the State Fire 29952
Marshal's Fund (Fund 546) in the Department of Commerce to the 29953

Poison Control Fund (Fund 5CB) in the Department of Health. 29954
Notwithstanding section 3737.71 of the Revised Code, on July 1, 29955
2008, or as soon as possible thereafter, the Director of Budget 29956
and Management shall transfer \$150,000 cash from the State Fire 29957
Marshal's Fund (Fund 546) in the Department of Commerce to the 29958
Poison Control Fund (Fund 5CB) in the Department of Health. 29959

POISON CONTROL CENTERS 29960

Of the foregoing appropriation item 440-640, Poison Control 29961
Centers, in each fiscal year, the poison control centers in the 29962
municipal corporations of Cleveland, Cincinnati, and Columbus 29963
shall each receive an allocation of \$50,000. 29964

SEWAGE TREATMENT SYSTEM INNOVATION 29965

Any revenues deposited to the credit of the Sewage Treatment 29966
System Innovation Fund (Fund 5CJ) in accordance with Section 29967
120.02 of this act are hereby appropriated to appropriation item 29968
440-654, Sewage Treatment System Innovation, in the fiscal year in 29969
which the revenues are received. On July 1, 2008, or as soon as 29970
possible thereafter, the Department of Health shall certify to the 29971
Director of Budget and Management the total fiscal year 2008 29972
unencumbered appropriations in appropriation item 440-654, Sewage 29973
Treatment System Innovation. The Department of Health may direct 29974
the Director of Budget and Management to transfer an amount not to 29975
exceed the total fiscal year 2008 unencumbered appropriations to 29976
fiscal year 2009 for use in appropriation item 440-654, Sewage 29977
Treatment System Innovation. Additional appropriation authority 29978
equal to the amount certified by the Department of Health is 29979
hereby appropriated to appropriation item 440-654, Sewage 29980
Treatment System Innovation, in fiscal year 2009. 29981

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND 29982
PERMIT FUND 29983

The Director of Budget and Management, pursuant to a plan 29984

submitted by the Department of Health, or as otherwise determined 29985
by the Director of Budget and Management, shall set a schedule to 29986
transfer cash from the Liquor Control Fund (Fund 043) to the 29987
Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating 29988
needs of the Alcohol Testing and Permit program. 29989

The Director of Budget and Management shall transfer to the 29990
Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control 29991
Fund (Fund 043) created in section 4301.12 of the Revised Code 29992
such amounts at such times as determined by the transfer schedule. 29993

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS 29994

The foregoing appropriation item 440-607, Medically 29995
Handicapped Children - County Assessments (Fund 666), shall be 29996
used to make payments under division (E) of section 3701.023 of 29997
the Revised Code. 29998

Sec. 309.31.60. TRANSFER OF FUNDS TO THE DEPARTMENT OF ~~MENTAL~~ 29999
~~RETARDATION AND~~ DEVELOPMENTAL DISABILITIES 30000

The Department of Job and Family Services shall transfer, 30001
through intrastate transfer vouchers, cash from Fund 4K1, ICF/MR 30002
Bed Assessments, to Fund 4K8, Home and Community-Based Services, 30003
in the Department of ~~Mental Retardation and~~ Developmental 30004
Disabilities. The amount transferred shall equal \$12,000,000 in 30005
each fiscal year. The transfer may occur on a quarterly basis or 30006
on a schedule developed and agreed to by both departments. 30007

Sec. 309.31.70. FUNDING FOR TRANSITION WAIVER SERVICES 30008

Notwithstanding any limitations contained in sections 5112.31 30009
and 5112.37 of the Revised Code, in each fiscal year, cash from 30010
Fund 4K1, ICF/MR Bed Assessments, in excess of the amounts needed 30011
for transfers to Fund 4K8, Home and Community-Based Services, in 30012
the Department of ~~Mental Retardation and~~ Developmental 30013
Disabilities, may be used by the Department of Job and Family 30014

Services to cover costs of care provided to participants in a 30015
waiver with an ICF/MR level of care requirement administered by 30016
the Department of Job and Family Services. 30017

Sec. 335.40.10. BEHAVIORAL HEALTH SERVICES - CHILDREN 30018

The foregoing appropriation item 335-404, Behavioral Health 30019
Services-Children, shall be used to provide behavioral health 30020
services for children and their families. Behavioral health 30021
services include mental health and alcohol and other drug 30022
treatment services and other necessary supports. 30023

Of the foregoing appropriation item 335-404, Behavioral 30024
Health Services-Children, an amount up to \$4.5 million in fiscal 30025
year 2008 and \$5.5 million in fiscal year 2009 shall be 30026
distributed to local Alcohol, Drug Addiction, and Mental Health 30027
Boards; Community Mental Health Boards; and Alcohol and Drug 30028
Addiction Boards, based upon a distribution formula and guidance 30029
defined by a team of state and local stakeholders appointed by the 30030
Ohio Family and Children First Cabinet Council. This team shall 30031
include, but not be limited to, all of the following: 30032

(A) At least one representative from each of the Departments 30033
of Alcohol and Drug Addiction Services, Mental Health, Education, 30034
Health, Job and Family Services, ~~Mental Retardation and~~ 30035
Developmental Disabilities, and the Department of Youth Services; 30036

(B) At least one person representing local public children's 30037
services agencies; 30038

(C) At least one person representing juvenile courts; 30039

(D) At least one person representing local Alcohol, Drug 30040
Addiction, and Mental Health Boards; Community Mental Health 30041
Boards; and Alcohol and Drug Addiction Boards; 30042

(E) At least one person representing local Family and 30043
Children First Council Coordinators; 30044

(F) At least one family representative. 30045

Funds may be used to support the following services and 30046
activities as determined by local Alcohol, Drug Addiction, and 30047
Mental Health Boards; Community Mental Health Boards; and Alcohol 30048
and Drug Addiction Boards and local family and children first 30049
councils and aligned with county service coordination mechanism as 30050
described in division (C) of section 121.37 of the Revised Code: 30051

(A) Mental health services provided by the Ohio Department of 30052
Mental Health certified agencies and alcohol and other drug 30053
services provided by Department of Alcohol and Drug Addiction 30054
Services certified agencies; 30055

(B) Services and supports for children and their families 30056
that further the implementation of their individual service plans; 30057

(C) Treatment services in out-of-home settings, including 30058
residential facilities, when other alternatives are not available 30059
or feasible; 30060

(D) Administrative support for efforts associated with this 30061
initiative; 30062

(E) These funds shall not be used to supplant existing 30063
efforts. 30064

Of the foregoing appropriation item 335-404, Behavioral 30065
Health Services-Children, an amount up to \$1.0 million in fiscal 30066
year 2008 and \$1.0 million in fiscal year 2009 shall be used to 30067
support projects, as determined by the Ohio Family and Children 30068
First Cabinet Council, in select areas around the state to focus 30069
on improving behavioral health juvenile justice services. 30070

Of the foregoing appropriation item 335-405, Family & 30071
Children First, an amount up to \$500,000 in fiscal year 2008 and 30072
\$500,000 in fiscal year 2009 shall be used for children for whom 30073
the primary focus of treatment is not a mental health or alcohol 30074

or drug addiction disorder and require services or supports to 30075
assist those needs through the County Family and Children First 30076
Council. 30077

Of the foregoing appropriation item 335-404, Behavioral 30078
Health Services - Children, an amount up to \$500,000 in each 30079
fiscal year shall be used to provide behavioral health treatment 30080
services for children from birth to age seven. 30081

Sec. 337.10. ~~DMR DDD~~ DEPARTMENT OF ~~MENTAL RETARDATION AND~~ 30082
DEVELOPMENTAL DISABILITIES 30083

Sec. 337.20.10. LEASE-RENTAL PAYMENTS 30084

The foregoing appropriation item 320-415, Lease-Rental 30085
Payments, shall be used to meet all payments at the time they are 30086
required to be made during the period from July 1, 2007, to June 30087
30, 2009, by the Department of ~~Mental Retardation and~~ 30088
Developmental Disabilities under leases and agreements made under 30089
section 154.20 of the Revised Code. These appropriations are the 30090
source of funds pledged for bond service charges or obligations 30091
issued pursuant to Chapter 154. of the Revised Code. 30092

Sec. 337.30.10. RESIDENTIAL AND SUPPORT SERVICES 30093

The Department of ~~Mental Retardation and~~ Developmental 30094
Disabilities may designate a portion of appropriation item 30095
322-413, Residential and Support Services, for Sermak Class 30096
Services used to implement the requirements of the agreement 30097
settling the ~~condemnee~~ consent decree in *Sermak v. Manuel*, Case 30098
No. c-2-80-220, United States District Court for the Southern 30099
District of Ohio, Eastern Division. 30100

Sec. 337.30.20. OTHER RESIDENTIAL AND SUPPORT SERVICE 30101
PROGRAMS 30102

Notwithstanding Chapters 5123. and 5126. of the Revised Code, 30103
the Department of ~~Mental Retardation and~~ Developmental 30104
Disabilities may develop residential and support service programs 30105
funded by appropriation item 322-413, Residential and Support 30106
Services, and the appropriation for supported living in 30107
appropriation item 322-501, County Board Subsidy, that enable 30108
persons with mental retardation and developmental disabilities to 30109
live in the community. Notwithstanding Chapter 5121. and section 30110
5123.122 of the Revised Code, the Department may waive the support 30111
collection requirements of those statutes for persons in community 30112
programs developed by the Department under this section. The 30113
Department shall adopt rules under Chapter 119. of the Revised 30114
Code or may use existing rules for the implementation of these 30115
programs. 30116

Sec. 337.30.30. MEDICAID WAIVER - STATE MATCH (GRF) 30117

Except as otherwise provided in section 5123.0416 of the 30118
Revised Code, the purposes for which the foregoing appropriation 30119
item 322-416, Medicaid Waiver - State Match, shall be used include 30120
the following: 30121

(A) Home and community-based waiver services under Title XIX 30122
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301,
as amended. 30123
30124

(B) To pay the nonfederal share of the cost of one or more 30125
new intermediate care facility for the mentally retarded certified 30126
beds, if the Director of ~~Mental Retardation and~~ Developmental 30127
Disabilities is required by ~~this act~~ Am. Sub. H.B. 119 of the 30128
127th General Assembly to transfer to the Director of Job and 30129
Family Services funds to pay such nonfederal share. 30130

Except as otherwise provided in section 5123.0416 of the 30131
Revised Code, the Department of ~~Mental Retardation and~~ 30132
Developmental Disabilities may designate a portion of 30133

appropriation item 322-416, Medicaid Waiver - State Match, to 30134
county boards of ~~mental retardation and~~ developmental disabilities 30135
that have greater need for various residential and support 30136
services because of a low percentage of residential and support 30137
services development in comparison to the number of individuals 30138
with mental retardation or developmental disabilities in the 30139
county. 30140

Sec. 337.30.40. STATE SUBSIDY TO COUNTY ~~MR/DD~~ BOARDS OF 30141
DEVELOPMENTAL DISABILITIES 30142

Except as otherwise provided in Section 337.40.30 of ~~this act~~ 30143
Am. Sub. H.B. 119 of the 127th General Assembly, the Department of 30144
~~Mental Retardation and~~ Developmental Disabilities shall use the 30145
foregoing appropriation item 322-501, County Boards Subsidy, to 30146
pay each county board of ~~mental retardation and~~ developmental 30147
disabilities in each fiscal year of the biennium an amount that is 30148
equal to the amount such board received in fiscal year 2007 from 30149
former appropriation items 322-417, Supported Living; 322-452, 30150
Service and Support Administration; and 322-501, County Boards 30151
Subsidies. 30152

Except as otherwise provided in section 5126.0511 of the 30153
Revised Code, county boards shall use the subsidy for early 30154
childhood services and adult services provided under section 30155
5126.05 of the Revised Code, service and support administration 30156
provided under section 5126.15 of the Revised Code, and supported 30157
living as defined in section 5126.01 of the Revised Code. 30158

In the event that the appropriation in appropriation item 30159
322-501, County Board Subsidy, for fiscal year 2008 or fiscal year 30160
2009 is greater than the subsidy paid by the Department for fiscal 30161
year 2007 from former appropriation items 332-417, Supported 30162
Living; 322-452, Services and Support Administration; and 322-501, 30163
County Boards Subsidies, the Department and county boards shall 30164

develop a formula for allocating the additional appropriation to 30165
each county board to support priorities determined by the 30166
Department and county boards. 30167

The Department shall distribute this subsidy to county boards 30168
in quarterly installments of equal amounts. The installments shall 30169
be made not later than the thirtieth day of September, the 30170
thirty-first day of December, the thirty-first day of March, and 30171
thirtieth day of June. 30172

The Department also may use the foregoing appropriation item 30173
322-501, County Boards Subsidy, to pay the nonfederal share of the 30174
cost of one or more new intermediate care facility for the 30175
mentally retarded certified beds, if the Director of ~~Mental~~ 30176
~~Retardation and~~ Developmental Disabilities is required by ~~this act~~ 30177
Am. Sub. H.B. 119 of the 127th General Assembly to transfer to the 30178
Director of Job and Family Services funds to pay such nonfederal 30179
share. 30180

Sec. 337.30.60. TARGETED CASE MANAGEMENT SERVICES 30181

County boards of ~~mental retardation and~~ developmental 30182
disabilities shall pay the nonfederal portion of targeted case 30183
management costs to the Department of ~~Mental Retardation and~~ 30184
Developmental Disabilities. The Director of ~~Mental Retardation and~~ 30185
Developmental Disabilities shall withhold any amount owed to the 30186
Department from subsequent disbursements from any appropriation 30187
item or money otherwise due to a nonpaying county. 30188

The Departments of ~~Mental Retardation and~~ Developmental 30189
Disabilities and Job and Family Services may enter into an 30190
interagency agreement under which the Department of ~~Mental~~ 30191
~~Retardation and~~ Developmental Disabilities shall pay the 30192
Department of Job and Family Services the nonfederal portion of 30193
the cost of targeted case management services paid by county 30194
boards and the Department of Job and Family Services shall pay the 30195

total cost of targeted case management claims. 30196

Sec. 337.30.70. TRANSFER TO PROGRAM FEE FUND 30197

On July 1, 2007, or as soon as possible thereafter, the 30198
Director of ~~Mental Retardation and~~ Developmental Disabilities 30199
shall certify to the Director of Budget and Management the amount 30200
of cash that has been deposited into Fund 4B5, 30201
Conference/Training, pursuant to sections 5123.19 and 5126.25 of 30202
the Revised Code, less the amount that has been expended from Fund 30203
4B5 to operate the Certification and Registration Program 30204
established under section 5126.25 of the Revised Code and to 30205
license and inspect residential facilities as outlined in section 30206
5123.19 of the Revised Code. The certified amount shall not 30207
include amounts deposited into Fund 4B5 for training and 30208
conferences conducted by the Department of ~~Mental Retardation and~~ 30209
Developmental Disabilities. Upon receipt of the certification, the 30210
Director of Budget and Management shall transfer cash equal to the 30211
amount certified and all associated liabilities and obligations to 30212
Fund 5EV, Program Fee Fund, in the Department of ~~Mental~~ 30213
~~Retardation and~~ Developmental Disabilities. 30214

Sec. 337.30.80. DEVELOPMENTAL CENTER BILLING FOR SERVICES 30215

Developmental centers of the Department of ~~Mental Retardation~~ 30216
~~and~~ Developmental Disabilities may provide services to persons 30217
with mental retardation or developmental disabilities living in 30218
the community or to providers of services to these persons. The 30219
Department may develop a method for recovery of all costs 30220
associated with the provisions of these services. 30221

Sec. 337.40.10. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER 30222
PHARMACY PROGRAMS 30223

The Department of ~~Mental Retardation and~~ Developmental 30224

Disabilities shall pay the Department of Job and Family Services 30225
quarterly, through intrastate transfer voucher, the nonfederal 30226
share of Medicaid prescription drug claim costs for all 30227
developmental centers paid by the Department of Job and Family 30228
Services. 30229

Sec. 337.40.30. NONFEDERAL SHARE OF NEW ICF/MR BEDS 30230

(A) As used in this section, "intermediate care facility for 30231
the mentally retarded" has the same meaning as in section 5111.20 30232
of the Revised Code. 30233

(B) If one or more new beds obtain certification as an 30234
intermediate care facility for the mentally retarded bed on or 30235
after July 1, 2007, the Director of ~~Mental Retardation and~~ 30236
Developmental Disabilities shall transfer funds to the Department 30237
of Job and Family Services to pay the nonfederal share of the cost 30238
under the Medicaid Program for those beds. Except as otherwise 30239
provided in section 5123.0416 of the Revised Code, the Director 30240
shall use only the following funds for the transfer: 30241

(1) Funds appropriated to the Department of ~~Mental~~ 30242
~~Retardation and~~ Developmental Disabilities in appropriation item 30243
322-416, Medicaid Waiver - State Match; 30244

(2) Funds appropriated to the Department in appropriation 30245
item 322-501, County Boards Subsidies. 30246

(C) If the beds are located in a county served by a county 30247
board of ~~mental retardation and~~ developmental disabilities that 30248
initiates or supports the beds' certification, the funds that the 30249
Director transfers under division (B) of this section shall be 30250
funds that the Director has allocated to the county board serving 30251
the county in which the beds are located unless the amount of the 30252
allocation is insufficient to pay the entire nonfederal share of 30253
the cost under the Medicaid Program for those beds. If the 30254

allocation is insufficient, the Director shall use as much of such 30255
funds allocated to other counties as is needed to make up the 30256
difference. 30257

Section 4. That existing Sections 213.30, 269.20.40, 30258
269.20.80, 269.20.90, 269.30.50, 293.30, 309.31.60, 309.31.70, 30259
335.40.10, 337.10, 337.20.10, 337.30.10, 337.30.20, 337.30.30, 30260
337.30.40, 337.30.60, 337.30.70, 337.30.80, 337.40.10, and 30261
337.40.30 of Am. Sub. H.B. 119 of the 127th General Assembly are 30262
hereby repealed. 30263

Section 5. That Sections 337.30.43, 337.40, and 337.40.15 of 30264
Am. Sub. H.B. 119 of the 127th General Assembly, as amended by Am. 30265
Sub. H.B. 562 of the 127th General Assembly, be amended to read as 30266
follows: 30267

Sec. 337.30.43. TAX EQUITY 30268

Notwithstanding section 5126.18 of the Revised Code, for 30269
fiscal year 2009, if the Department of ~~Mental Retardation and~~ 30270
Developmental Disabilities determines that sufficient funds are 30271
available, the Department shall use the foregoing appropriation 30272
item 322-503, Tax Equity, to pay each county board of ~~mental~~ 30273
~~retardation and~~ developmental disabilities an amount that is equal 30274
to the amount the board received for fiscal year 2008. If the 30275
Department determines that there are not sufficient funds 30276
available in the appropriation item for this purpose, the 30277
Department shall pay to each county board an amount that is 30278
proportionate to the amount the board received for fiscal year 30279
2008. Proportionality shall be determined by dividing the total 30280
tax equity payments distributed to county boards for fiscal year 30281
2008 by the tax equity payment a county board received for fiscal 30282
year 2008. 30283

Sec. 337.40. RESIDENTIAL FACILITIES				30284
General Revenue Fund				30285
GRF	323-321	Developmental Center and Residential Facilities Operation Expenses	\$ 102,796,851 \$ 102,796,851	30286
TOTAL GRF General Revenue Fund				\$ 102,796,851 \$ 102,796,851 30287
General Services Fund Group				30288
152	323-609	Developmental Center and Residential Operating Services	\$ 912,177 \$ 912,177	30289
TOTAL GSF General Services Fund Group				\$ 912,177 \$ 912,177 30290
Federal Special Revenue Fund Group				30292
3A4	323-605	Developmental Center and Residential Facility Services and Support	\$ 136,299,536 \$ 137,555,308	30293
TOTAL FED Federal Special Revenue Fund Group				\$ 136,299,536 \$ 137,555,308 30294
State Special Revenue Fund Group				30296
221	322-620	Supplement Service Trust	\$ 150,000 \$ 150,000	30297
489	323-632	Developmental Center Direct Care Support	\$ 14,543,764 \$ 14,671,616	30298
TOTAL SSR State Special Revenue Fund Group				\$ 14,693,764 \$ 14,821,616 30299
TOTAL ALL RESIDENTIAL FACILITIES				30301
BUDGET FUND GROUPS				\$ 254,702,328 \$ 256,085,952 30302
DEPARTMENT TOTAL				30303
GENERAL REVENUE FUND				\$ 369,669,156 \$ 389,282,941 30304

DEPARTMENT TOTAL				30305	
GENERAL SERVICES FUND GROUP	\$	1,172,177	\$	1,022,177	30306
DEPARTMENT TOTAL				30307	
FEDERAL SPECIAL REVENUE FUND GROUP	\$	610,780,538	\$	658,082,406	30308
DEPARTMENT TOTAL				30309	
STATE SPECIAL REVENUE FUND GROUP	\$	192,359,213	\$	205,307,651	30310
TOTAL DEPARTMENT OF MENTAL				30311	
RETARDATION AND DEVELOPMENTAL				30312	
DISABILITIES	\$	1,173,981,084	\$	1,253,695,175	30313

Sec. 337.40.15. GALLIPOLIS DEVELOPMENTAL CENTER PILOT PROGRAM 30315
30316

The Director of ~~Mental Retardation and~~ Developmental 30317
Disabilities shall establish a pilot program during calendar year 30318
2009 under which the Gallipolis Developmental Center operates an 30319
intermediate care facility for the mentally retarded with eight 30320
beds at a site separate from the grounds of the developmental 30321
center. The Gallipolis Developmental Center may operate the 30322
intermediate care facility for the mentally retarded 30323
notwithstanding section 5123.196 of the Revised Code. Money shall 30324
be expended on the pilot program beginning in the first half of 30325
calendar year 2009. 30326

The Director of ~~Mental Retardation and~~ Developmental 30327
Disabilities and the Director of Job and Family Services shall 30328
provide the Gallipolis Developmental Center technical assistance 30329
regarding the pilot program. 30330

The Director of ~~Mental Retardation and~~ Developmental 30331
Disabilities shall conduct an evaluation of the pilot program, 30332
including an evaluation of the quality and effectiveness of the 30333
services the Gallipolis Developmental Center provides under the 30334
pilot program. The Director shall submit a report of the 30335
evaluation to the Governor and the General Assembly not later than 30336

April 1, 2010. The Director shall include in the report 30337
recommendations regarding the continuation of the pilot program 30338
and whether other developmental centers should be permitted to 30339
establish and operate intermediate care facilities for the 30340
mentally retarded at sites separate from the grounds of the 30341
developmental centers. 30342

Section 6. That existing Sections 337.30.43, 337.40, and 30343
337.40.15 of Am. Sub. H.B. 119 of the 127th General Assembly, as 30344
amended by Am. Sub. H.B. 562 of the 127th General Assembly, are 30345
hereby repealed. 30346

Section 7. That Sections 209.60.40, 209.60.50, and 501.40 of 30347
H.B. 496 of the 127th General Assembly be amended to read as 30348
follows: 30349

Sec. 209.60.40. The foregoing appropriations for the 30350
Department of Alcohol and Drug Addiction Services, C03801, 30351
Community Assistance Projects; Department of Mental Health, 30352
C58001, Community Assistance Projects; and Department of ~~Mental~~ 30353
~~Retardation and~~ Developmental Disabilities, C59004, Community 30354
Assistance Projects, may be used on facilities constructed or to 30355
be constructed pursuant to Chapter 340., 3793., 5119., 5123., or 30356
5126. of the Revised Code or the authority granted by section 30357
154.20 of the Revised Code and the rules adopted pursuant to those 30358
chapters and that section and shall be distributed by the 30359
Department of Alcohol and Drug Addiction Services, the Department 30360
of Mental Health, and the Department of ~~Mental Retardation and~~ 30361
Developmental Disabilities, subject to Controlling Board approval. 30362

Sec. 209.60.50. (A) No capital improvement appropriations 30363
made in Sections 201.60 and 201.60.10 to 201.60.40 of ~~this act~~ 30364
H.B. 496 of the 127th General Assembly shall be released for 30365

planning or for improvement, renovation, or construction or 30366
acquisition of capital facilities if a governmental agency, as 30367
defined in section 154.01 of the Revised Code, does not own the 30368
real property that constitutes the capital facilities or on which 30369
the capital facilities are or will be located. This restriction 30370
does not apply in any of the following circumstances: 30371

(1) The governmental agency has a long-term (at least fifteen 30372
years) lease of, or other interest (such as an easement) in, the 30373
real property. 30374

(2) In the case of an appropriation for capital facilities 30375
that, because of their unique nature or location, will be owned or 30376
be part of facilities owned by a separate nonprofit organization 30377
and made available to the governmental agency for its use, the 30378
nonprofit organization either owns or has a long-term (at least 30379
fifteen years) lease of the real property or other capital 30380
facility to be improved, renovated, constructed, or acquired and 30381
has entered into a joint or cooperative use agreement, approved by 30382
the Department of Mental Health, Department of ~~Mental Retardation~~ 30383
~~and~~ Developmental Disabilities, or Department of Alcohol and Drug 30384
Addiction Services, whichever is applicable, with the governmental 30385
agency for that agency's use of and right to use the capital 30386
facilities to be financed and, if applicable, improved, the value 30387
of such use or right to use being, as determined by the parties, 30388
reasonably related to the amount of the appropriation. 30389

(B) In the case of capital facilities referred to in division 30390
(A)(2) of this section, the joint or cooperative use agreement 30391
shall include, as a minimum, provisions that: 30392

(1) Specify the extent and nature of that joint or 30393
cooperative use, extending for not fewer than fifteen years, with 30394
the value of such use or right to use to be, as determined by the 30395
parties and approved by the applicable department, reasonably 30396

related to the amount of the appropriation; 30397

(2) Provide for pro rata reimbursement to the state should 30398
the arrangement for joint or cooperative use by a governmental 30399
agency be terminated; and 30400

(3) Provide that procedures to be followed during the capital 30401
improvement process will comply with appropriate applicable state 30402
statutes and rules, including provisions of ~~this act~~ H.B. 496 of 30403
the 127th General Assembly. 30404

Sec. 501.40. AGENCY ADMINISTRATION OF CAPITAL FACILITIES 30405
PROJECTS 30406

Notwithstanding sections 123.01 and 123.15 of the Revised 30407
Code, the Director of Administrative Services may authorize the 30408
Departments of Mental Health, ~~Mental Retardation and~~ Developmental 30409
Disabilities, Alcohol and Drug Addiction Services, Agriculture, 30410
Job and Family Services, Rehabilitation and Correction, Youth 30411
Services, Public Safety, Transportation, the Ohio Veterans' Home, 30412
and the Rehabilitation Services Commission to administer any 30413
capital facilities projects when the estimated cost, including 30414
design fees, construction, equipment, and contingency amounts, is 30415
less than \$1,500,000. Requests for authorization to administer 30416
capital facilities projects shall be made in writing to the 30417
Director of Administrative Services by the respective state agency 30418
within sixty days after the effective date of the act in which the 30419
General Assembly initially makes an appropriation for the project. 30420
Upon the release of funds for such projects by the Controlling 30421
Board or the Director of Budget and Management, the agency may 30422
administer the capital project or projects for which agency 30423
administration has been authorized without the supervision, 30424
control, or approval of the Director of Administrative Services. 30425

A state agency authorized by the Director of Administrative 30426
Services to administer capital facilities projects pursuant to 30427

this section shall comply with the applicable procedures and 30428
guidelines established in Chapter 153. of the Revised Code. 30429

Section 8. That existing Sections 209.60.40, 209.60.50, and 30430
501.40 of H.B. 496 of the 127th General Assembly are hereby 30431
repealed. 30432

Section 9. That Section 201.60.30 of H.B. 496 of the 127th 30433
General Assembly, as amended by Am. Sub. H.B. 420 of the 127th 30434
General Assembly, be amended to read as follows: 30435

Reappropriations

Sec. 201.60.30. ~~DMR DDD DEPARTMENT OF MENTAL RETARDATION AND~~ 30436
DEVELOPMENTAL DISABILITIES 30437

STATEWIDE PROJECTS 30438

C59000	Asbestos Abatement	\$	999,637	30439
C59004	Community Assistance Projects	\$	1,202,040	30440
C59020	Kamp Dovetail Project at Rocky Fork Lake	\$	100,000	30441
	State Park			
C59022	Razing of Buildings	\$	80,595	30442
C59024	Telecommunications Systems Improvement	\$	774,454	30443
C59029	Emergency Generator Replacement	\$	1,049,606	30444
C59034	Statewide Developmental Centers	\$	5,479,662	30445
C59050	Emergency Improvements	\$	634,970	30446
Total Statewide and Central Office Projects		\$	10,320,964	30447

COMMUNITY ASSISTANCE PROJECTS 30448

The foregoing appropriation item C59004, Community Assistance 30449
Projects, may be used to provide community assistance funds for 30450
the construction or renovation of facilities for day programs or 30451
residential programs that provide services to persons eligible for 30452
services from the Department of ~~Mental Retardation and~~ 30453
Developmental Disabilities or county boards of ~~mental retardation~~ 30454
~~and~~ developmental disabilities. Any funds provided to nonprofit 30455

agencies for the construction or renovation of facilities for 30456
persons eligible for services from the Department of ~~Mental~~ 30457
~~Retardation and~~ Developmental Disabilities and county boards of 30458
~~mental retardation and~~ developmental disabilities are subject to 30459
the prevailing wage provisions in section 176.05 of the Revised 30460
Code. 30461

Notwithstanding any other provision of law to the contrary, 30462
of the foregoing appropriation item C59004, Community Assistance 30463
Projects, \$75,000 shall be used for the Hanson Home. 30464

STATEWIDE DEVELOPMENTAL CENTERS 30465

CAMBRIDGE DEVELOPMENTAL CENTER 30466

C59005	Residential Renovations - CAMDC	\$	41,398	30467
C59023	HVAC Renovations - Residential Buildings	\$	1,000	30468
C59025	Cambridge HVAC Upgrade - Activity Center	\$	3,538	30469
C59046	Utility Upgrade Centerwide	\$	5,960	30470
Total Cambridge Developmental Center		\$	51,896	30471

COLUMBUS DEVELOPMENTAL CENTER 30472

C59036	Columbus Developmental Center	\$	8,162	30473
Total Columbus Developmental Center		\$	8,162	30474

GALLIPOLIS DEVELOPMENTAL CENTER 30475

C59027	HVAC Replacements	\$	4,873	30476
C59037	Gallipolis Developmental Center	\$	21,849	30477
Total Gallipolis Developmental Center		\$	26,722	30478

MONTGOMERY DEVELOPMENTAL CENTER 30479

C59038	Montgomery Developmental Center	\$	43,634	30480
Total Montgomery Developmental Center		\$	43,634	30481

MOUNT VERNON DEVELOPMENTAL CENTER 30482

C59039	Mount Vernon Developmental Center	\$	160,353	30483
Total Mount Vernon Developmental Center		\$	160,353	30484

NORTHWEST OHIO DEVELOPMENTAL CENTER 30485

C59030	Replace Chiller	\$	8,535	30486
C59040	Northwest Ohio Developmental Center	\$	11,171	30487

Total Northwest Ohio Developmental Center	\$	19,706	30488
SOUTHWEST OHIO DEVELOPMENTAL CENTER			30489
C59016 Residential Renovation - HVAC Upgrade	\$	23,075	30490
C59041 Southwest Ohio Developmental Center	\$	14,566	30491
C59048 Renovation Program and Support Services Building	\$	3,900	30492
Total Southwest Ohio Developmental Center	\$	41,541	30493
TIFFIN DEVELOPMENTAL CENTER			30494
C59026 Roof and Exterior Renovations	\$	19,666	30495
C59043 Tiffin Developmental Center	\$	20,696	30496
Total Tiffin Developmental Center	\$	40,362	30497
WARRENSVILLE DEVELOPMENTAL CENTER			30498
C59017 Residential Renovations - WDC	\$	5,057	30499
C59021 Water Line Replacement - WDC	\$	16,267	30500
C59031 ADA Compliance - WDC	\$	3,628	30501
C59044 Warrensville Developmental Center	\$	29,860	30502
Total Warrensville Developmental Center	\$	54,812	30503
YOUNGSTOWN DEVELOPMENTAL CENTER			30504
C59045 Youngstown Developmental Center	\$	24,400	30505
Total Youngstown Developmental Center	\$	24,400	30506
TOTAL Department of Mental Retardation			30507
and Developmental Disabilities	\$	10,792,552	30508
TOTAL Mental Health Facilities Improvement Fund	\$	43,084,415	30509

Section 10. That existing Section 201.60.30 of H.B. 496 of 30511
the 127th General Assembly, as amended by Am. Sub. H.B. 420 of the 30512
127th General Assembly is hereby repealed. 30513

Section 11. That Sections 231.30.10, 231.30.20, 253.10, and 30514
751.10 of Am. Sub. H.B. 562 of the 127th General Assembly be 30515
amended to read as follows: 30516

Sec. 231.30.10. The foregoing appropriations for the 30517

Department of Mental Health, C58001, Community Assistance 30518
Projects, and the Department of ~~Mental Retardation and~~ 30519
Developmental Disabilities, C59004, Community Assistance Projects, 30520
may be used for facilities constructed or to be constructed 30521
pursuant to Chapter 340., 3793., 5119., 5123., or 5126. of the 30522
Revised Code or the authority granted by section 154.20 of the 30523
Revised Code and the rules issued pursuant to those chapters and 30524
shall be distributed by the Department of Mental Health and the 30525
Department of ~~Mental Retardation and~~ Developmental Disabilities, 30526
all subject to Controlling Board approval. 30527

Sec. 231.30.20. (A) No capital improvement appropriations 30528
made in Sections 231.10.10 to 231.30.10 of ~~this act~~ Am. Sub. H.B. 30529
562 of the 127th General Assembly shall be released for planning 30530
or for improvement, renovation, or construction or acquisition of 30531
capital facilities if a governmental agency, as defined in section 30532
154.01 of the Revised Code, does not own the real property that 30533
constitutes the capital facilities or on which the capital 30534
facilities are or will be located. This restriction does not apply 30535
in any of the following circumstances: 30536

(1) The governmental agency has a long-term (at least fifteen 30537
years) lease of, or other interest (such as an easement) in, the 30538
real property. 30539

(2) In the case of an appropriation for capital facilities 30540
that, because of their unique nature or location, will be owned or 30541
be part of facilities owned by a separate nonprofit organization 30542
and made available to the governmental agency for its use or 30543
operated by the nonprofit organization under contract with the 30544
governmental agency, the nonprofit organization either owns or has 30545
a long-term (at least fifteen years) lease of the real property or 30546
other capital facility to be improved, renovated, constructed, or 30547
acquired and has entered into a joint or cooperative use 30548

agreement, approved by the Department of Mental Health or the 30549
Department of ~~Mental Retardation and~~ Developmental Disabilities, 30550
whichever is applicable, with the governmental agency for that 30551
agency's use of and right to use the capital facilities to be 30552
financed and, if applicable, improved, the value of such use or 30553
right to use being, as determined by the parties, reasonably 30554
related to the amount of the appropriation. 30555

(B) In the case of capital facilities referred to in division 30556
(A)(2) of this section, the joint or cooperative use agreement 30557
shall include, at a minimum, provisions that: 30558

(1) Specify the extent and nature of that joint or 30559
cooperative use, extending for not fewer than fifteen years, with 30560
the value of such use or right to use to be, as determined by the 30561
parties and approved by the approving department, reasonably 30562
related to the amount of the appropriation; 30563

(2) Provide for pro rata reimbursement to the state should 30564
the arrangement for joint or cooperative use by a governmental 30565
agency be terminated; 30566

(3) Provide that procedures to be followed during the capital 30567
improvement process will comply with applicable state statutes and 30568
rules, including the provisions of ~~this act~~ Am. Sub. H.B. 562 of 30569
the 127th General Assembly. 30570

Sec. 253.10. AGENCY ADMINISTRATION OF CAPITAL FACILITIES 30571
PROJECTS 30572

Notwithstanding sections 123.01 and 123.15 of the Revised 30573
Code, the Director of Administrative Services may authorize the 30574
Departments of Mental Health, ~~Mental Retardation and~~ Developmental 30575
Disabilities, Agriculture, Job and Family Services, Rehabilitation 30576
and Correction, Youth Services, Public Safety, Transportation, and 30577
the Ohio Veterans' Home to administer any capital facilities 30578

projects, the estimated cost of which, including design fees, 30579
construction, equipment, and contingency amounts, is less than 30580
\$1,500,000. Requests for authorization to administer capital 30581
facilities projects shall be made in writing to the Director of 30582
Administrative Services by the applicable state agency within 30583
sixty days after the effective date of the section of law in which 30584
the General Assembly initially makes an appropriation for the 30585
project. Upon the release of funds for the projects by the 30586
Controlling Board or the Director of Budget and Management, the 30587
agency may administer the capital project or projects for which 30588
agency administration has been authorized without the supervision, 30589
control, or approval of the Director of Administrative Services. 30590

A state agency authorized by the Director of Administrative 30591
Services to administer capital facilities projects pursuant to 30592
this section shall comply with the applicable procedures and 30593
guidelines established in Chapter 153. of the Revised Code. 30594

Sec. 751.10. ICF/MR CONVERSION 30595

(A) As used in this section, "home and community-based 30596
services" has the same meaning as in section 5123.01 of the 30597
Revised Code. 30598

(B) For each quarter of fiscal year 2009, the Director of 30599
~~Mental Retardation and~~ Developmental Disabilities shall certify to 30600
the Director of Budget and Management the estimated amount to be 30601
transferred from the Department of Job and Family Services to the 30602
Department of ~~Mental Retardation and~~ Developmental Disabilities 30603
for the provision of home and community-based services made 30604
available by the slots sought under section 5111.877 of the 30605
Revised Code. On receipt of the certification from the Director of 30606
~~Mental Retardation and~~ Developmental Disabilities, the Director of 30607
Budget and Management may do one or more of the following: 30608
30609

(1) Reduce GRF appropriation item 600-525, Health 30610
Care/Medicaid, in the Department of Job and Family Services, by 30611
the estimated amount for providing the home and community-based 30612
services and increase GRF appropriation item 322-416, Medicaid 30613
Waiver - State Match, in the Department of ~~Mental Retardation and~~ 30614
Developmental Disabilities, by the state share of the estimated 30615
amount for the provision of the home and community-based services; 30616
30617

(2) Increase appropriation item 322-639, Medicaid Waiver - 30618
Federal, in the Department of ~~Mental Retardation and~~ Developmental 30619
Disabilities, by the federal share amount of the estimated amount 30620
for the provision of the home and community-based services; 30621

(3) Increase appropriation item 600-655, Interagency 30622
Reimbursement, in the Department of Job and Family Services, by 30623
the federal share of the estimated amount for the provision of the 30624
home and community-based services. 30625

Section 12. That existing Sections 231.30.10, 231.30.20, 30626
253.10, and 751.10 of Am. Sub. H.B. 562 of the 127th General 30627
Assembly are hereby repealed. 30628

Section 13. That Section 231.20.30 of Am. Sub. H.B. 562 of 30629
the 127th General Assembly, as amended by Am. Sub. H.B. 420 of the 30630
127th General Assembly, be amended to read as follows: 30631

Appropriations

Sec. 231.20.30. ~~DMR DDD DEPARTMENT OF MENTAL RETARDATION AND~~ 30632
~~DEVELOPMENTAL DISABILITIES~~ 30633
STATEWIDE AND CENTRAL OFFICE PROJECTS 30634

C59004	Community Assistance Projects	\$	13,551,537	30635
C59022	Razing of Buildings	\$	200,000	30636
C59024	Telecommunications	\$	400,000	30637

C59029	Generator Replacement	\$	1,000,000	30638
C59034	Statewide Developmental Centers	\$	4,294,237	30639
C59050	Emergency Improvements	\$	500,000	30640
C59051	Energy Conservation	\$	500,000	30641
C59052	Guernsey County MRDD Boiler Replacement	\$	275,000	30642
C59054	Recreation Unlimited Life Center - Delaware	\$	150,000	30643
C59055	Camp McKinley Improvements	\$	30,000	30644
C59056	The Hope Learning Center	\$	250,000	30645
	Total Statewide and Central Office Projects	\$	21,150,774	30646
	TOTAL Department of Mental Retardation and Developmental Disabilities	\$	21,150,774	30647
	TOTAL Mental Health Facilities Improvement Fund	\$	127,630,774	30648

COMMUNITY ASSISTANCE PROJECTS 30649

The foregoing appropriation item C59004, Community Assistance 30650
 Projects, may be used to provide community assistance funds for 30651
 the development, purchase, construction, or renovation of 30652
 facilities for day programs or residential programs that provide 30653
 services to persons eligible for services from the Department of 30654
~~Mental Retardation and~~ Developmental Disabilities or county boards 30655
 of ~~mental retardation and~~ developmental disabilities. Any funds 30656
 provided to nonprofit agencies for the construction or renovation 30657
 of facilities for persons eligible for services from the 30658
 Department of ~~Mental Retardation and~~ Developmental Disabilities 30659
 and county boards of ~~mental retardation and~~ developmental 30660
 disabilities shall be governed by the prevailing wage provisions 30661
 in section 176.05 of the Revised Code. 30662

Of the foregoing appropriation item C59004, Community 30663
 Assistance Projects, \$250,000 shall be used for North Olmsted 30664
 Welcome House. Notwithstanding any provision of law to the 30665
 contrary, North Olmsted Welcome House is not subject to the 30666
 requirements of Chapter 153. of the Revised Code. 30667

Section 14. That existing Section 231.20.30 of Am. Sub. H.B. 30668
562 of the 127th General Assembly, as amended by Am. Sub. H.B. 420 30669
of the 127th General Assembly is hereby repealed. 30670

Section 15. That Section 4 of Am. Sub. H.B. 516 of the 125th 30671
General Assembly, as most recently amended by Am. Sub. H.B. 100 of 30672
the 127th General Assembly, be amended to read as follows: 30673

Sec. 4. The following agencies shall be retained pursuant to 30674
division (D) of section 101.83 of the Revised Code and shall 30675
expire on December 31, 2010: 30676

REVISED CODE 30677

OR

UNCODIFIED 30678

AGENCY NAME SECTION 30679

Administrator, Interstate Compact on Mental Health 5119.50 30680

Administrator, Interstate Compact on 5103.20 30681

Placement of Children 30682

Advisory Board of Governor's Office of Faith-Based 107.12 30683

and Community Initiatives

Advisory Boards to the EPA for Air Pollution 121.13 30684

Advisory Boards to the EPA for Water Pollution 121.13 30685

Advisory Committee of the State Veterinary Medical 4741.03(D)(3) 30686

Licensing Board

Advisory Committee on Livestock Exhibitions 901.71 30687

Advisory Council on Amusement Ride Safety 1711.51 30688

Advisory Board of Directors for Prison Labor 5145.162 30689

Advisory Council for Each Wild, Scenic, or 1517.18 30690

Recreational River Area

Advisory Councils or Boards for State Departments 107.18 or 30691

121.13

Advisory Group to the Ohio Water Resources Council 1521.19(C) 30692

Alzheimer's Disease Task Force	173.04(F)	30693
AMBER Alert Advisory Committee	5502.521	30694
Apprenticeship Council	4139.02	30695
Armory Board of Control	5911.09	30696
Automated Title Processing Board	4505.09(C)(1)	30697
Banking Commission	1123.01	30698
Board of Directors of the Ohio Health Reinsurance Program	3924.08	30699
Board of Voting Machine Examiners	3506.05(B)	30700
Brain Injury Advisory Committee	3304.231	30701
Capitol Square Review and Advisory Board	105.41	30702
Child Support Guideline Advisory Council	3119.024	30703
Children's Trust Fund Board	3109.15	30704
Citizens Advisory Committee (BMV)	4501.025	30705
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	30706
Clean Ohio Trail Advisory Board	1519.06	30707
Coastal Resources Advisory Council	1506.12	30708
Commission on African-American Males	4112.12	30709
Commission on Hispanic-Latino Affairs	121.31	30710
Commission on Minority Health	3701.78	30711
Committee on Prescriptive Governance	4723.49	30712
Commodity Advisory Commission	926.32	30713
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	30714
Community Oversight Council	3311.77	30715
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA	30716
Continuing Education Committee (for Sheriffs)	109.80	30717
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14	30718
Council on Alcohol and Drug Addiction Services	3793.09	30719

Council on Unreclaimed Strip Mined Lands	1513.29	30720
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34	30721
County Sheriffs' Standard Car-Marking and Uniform Commission	311.25	30722
Credit Union Council	1733.329	30723
Criminal Sentencing Advisory Committee	181.22	30724
Day-Care Advisory Council	5104.08	30725
Dentist Loan Repayment Advisory Board	3702.92	30726
Development Financing Advisory Council	122.40	30727
Education Commission of the States (Interstate Compact for Education)	3301.48	30728
Electrical Safety Inspector Advisory Committee	3783.08	30729
Emergency Response Commission	3750.02	30730
Engineering Experiment Station Advisory Committee	3335.27	30731
Environmental Education Council	3745.21	30732
EPA Advisory Boards or Councils	121.13	30733
Farmland Preservation Advisory Board	901.23	30734
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05	30735
Financial Planning & Supervision Commission for School District	3316.05	30736
Forestry Advisory Council	1503.40	30737
Governance Authority for a State University or College	3345.75	30738
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77	30739
Governor's Council on People with Disabilities	3303.41	30740
Governor's Residence Advisory Commission	107.40	30741
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	30742
Gubernatorial Transition Committee	107.29	30743
Head Start Partnership Study Council	Section 41.35,	30744

	H.B. 95, 125th GA	
Hemophilia Advisory Subcommittee	3701.0210	30745
Housing Trust Fund Advisory Committee	175.25	30746
Industrial Commission Nominating Council	4121.04	30747
Industrial Technology and Enterprise Advisory Council	122.29	30748
Infant Hearing Screening Subcommittee	3701.507	30749
Insurance Agent Education Advisory Council	3905.483	30750
Interagency Council on Hispanic/Latino Affairs	121.32(J)	30751
Interstate Mining Commission (Interstate Mining Compact)	1514.30	30752
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35	30753
Joint Council on MR/DD <u>Developmental Disabilities</u>	101.37	30754
Joint Select Committee on Volume Cap	133.021	30755
Labor-Management Government Advisory Council	4121.70	30756
Legal Rights Service Commission	5123.60	30757
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	30758
Maternal and Child Health Council	3701.025	30759
Medically Handicapped Children's Medical Advisory Council	3701.025	30760
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361	30761
Military Activation Task Force	5902.15	30762
Milk Sanitation Board	917.03	30763
Mine Subsidence Insurance Governing Board	3929.51	30764
Minority Development Financing Board	122.72	30765
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	30766
Multidisciplinary Council	3746.03	30767

Muskingum River Advisory Council	1501.25	30768
National Museum of Afro-American History and Culture Planning Committee	149.303	30769
Ohio Advisory Council for the Aging	173.03	30770
Ohio Aerospace & Defense Advisory Council	122.98	30771
Ohio Arts Council	3379.02	30772
Ohio Business Gateway Steering Committee	5703.57	30773
Ohio Cemetery Dispute Resolution Commission	4767.05	30774
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)	30775
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03	30776
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	30777
Ohio Commission on Dispute Resolution and Conflict Management	179.02	30778
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA	30779
Ohio Community Service Council	121.40	30780
Ohio Council for Interstate Adult Offender Supervision	5149.22	30781
Ohio Cultural Facilities Commission	3383.02	30782
Ohio Developmental Disabilities Council	5123.35	30783
Ohio Expositions Commission	991.02	30784
Ohio Family and Children First Cabinet Council	121.37	30785
Ohio Geology Advisory Council	1505.11	30786
Ohio Grape Industries Committee	924.51	30787
Ohio Hepatitis C Advisory Commission	3701.92	30788
Ohio Historic Site Preservation Advisory Board	149.301	30789
Ohio Historical Society Board of Trustees	149.30	30790
Ohio Judicial Conference	105.91	30791
Ohio Lake Erie Commission	1506.21	30792

Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA	30793
Ohio Medical Quality Foundation	3701.89	30794
Ohio Parks and Recreation Council	1541.40	30795
Ohio Peace Officer Training Commission	109.71	30796
Ohio Public Defender Commission	120.01	30797
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA	30798
Ohio Quarter Horse Development Commission	3769.086	30799
Ohio Small Government Capital Improvements Commission	164.02	30800
Ohio Soil and Water Conservation Commission	1515.02	30801
Ohio Standardbred Development Commission	3769.085	30802
Ohio Steel Industry Advisory Council	122.97	30803
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	30804
Ohio Thoroughbred Racing Advisory Committee	3769.084	30805
Ohio Tuition Trust Authority	3334.03	30806
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	30807
Ohio Vendors Representative Committee	3304.34	30808
Ohio War Orphans Scholarship Board	5910.02	30809
Ohio Water Advisory Council	1521.031	30810
Ohio Water Resources Council	1521.19	30811
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62	30812

Oil and Gas Commission	1509.35	30813
Operating Committee, Agricultural Commodity Marketing Programs	924.07	30814
Organized Crime Investigations Commission	177.01	30815
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81	30816
Physician Loan Repayment Advisory Board	3702.81	30817
Power Siting Board	4906.02	30818
Prequalification Review Board	5525.07	30819
Private Water Systems Advisory Council	3701.346	30820
Public Employment Risk Reduction Advisory Commission	4167.02	30821
Public Health Council	3701.33	30822
Public Utilities Commission Nominating Council	4901.021	30823
Public Utility Property Tax Study Committee	5727.85	30824
Radiation Advisory Council	3748.20	30825
Reclamation Commission	1513.05	30826
Recreation and Resources Commission	1501.04	30827
Recycling and Litter Prevention Advisory Council	1502.04	30828
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	30829
Savings & Loans Associations & Savings Banks Board	1181.16	30830
Schools and Ministerial Lands Divestiture Committee	501.041	30831
Second Chance Trust Fund Advisory Committee	2108.17	30832
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	30833
Solid Waste Management Advisory Council	3734.51	30834
State Agency Coordinating Group	1521.19	30835
State Board of Emergency Medical Services Subcommittees	4765.04	30836
State Council of Uniform State Laws	105.21	30837
State Committee for the Purchase of Products and	4115.32	30838

Services Provided by Persons with Severe
Disabilities

State Criminal Sentencing Commission	181.21	30839
State Fire Commission	3737.81	30840
State Racing Commission	3769.02	30841
State Victims Assistance Advisory Committee	109.91	30842
Student Tuition Recovery Authority	3332.081	30843
Tax Credit Authority	122.17	30844
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35	30845
Technical Advisory Council on Oil and Gas	1509.38	30846
Transportation Review Advisory Council	5512.07	30847
Unemployment Compensation Review Commission	4141.06	30848
Unemployment Compensation Advisory Council	4141.08	30849
Utility Radiological Safety Board	4937.02	30850
Vehicle Management Commission	125.833	30851
Veterans Advisory Committee	5902.02(K)	30852
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02	30853
Water and Sewer Commission	1525.11(C)	30854
Waterways Safety Council	1547.73	30855
Wildlife Council	1531.03	30856
Workers' Compensation Board of Directors Nominating Committee	4121.123	30857

Section 16. That existing Section 4 of Am. Sub. H.B. 516 of 30858
the 125th General Assembly, as most recently amended by Am. Sub. 30859
H.B. 100 of the 127th General Assembly, is hereby repealed. 30860

Section 17. The amendment of section 5120.07 of the Revised 30861
Code is not intended to supersede the earlier repeal, with delayed 30862
effective date, of that section. 30863

Section 18. The General Assembly, applying the principle 30864

stated in division (B) of section 1.52 of the Revised Code that 30865
amendments are to be harmonized if reasonably capable of 30866
simultaneous operation, finds that the following sections, 30867
presented in this act as composites of the sections as amended by 30868
the acts indicated, are the resulting versions of the sections in 30869
effect prior to the effective date of the sections as presented in 30870
this act: 30871

Section 109.57 of the Revised Code as amended by both Sub. 30872
H.B. 428 and Sub. S.B. 163 of the 127th General Assembly. 30873

Section 109.572 of the Revised Code as amended by Sub. H.B. 30874
195, Sub. H.B. 545, and Sub. S.B. 247, all of the 127th General 30875
Assembly. 30876

Section 109.77 of the Revised Code as amended by Am. Sub. 30877
H.B. 490, Sub. H.B. 545, and H.B. 675, all of the 124th General 30878
Assembly. 30879

Section 121.37 of the Revised Code as amended by both Sub. 30880
H.B. 289 and Am. Sub. H.B. 530 of the 126th General Assembly. 30881

Section 325.19 of the Revised Code as amended by both Sub. 30882
H.B. 187 and Sub. S.B. 126 of the 126th General Assembly. 30883

Section 1751.01 of the Revised Code as amended by both Am. 30884
Sub. H.B. 562 and Sub. S.B. 186 of the 127th General Assembly. 30885

Section 3109.18 of the Revised Code as amended by both Am. 30886
Sub. H.B. 11 and Sub. S.B. 66 of the 125th General Assembly. 30887

Section 5126.04 of the Revised Code as amended by both Am. 30888
Sub. H.B. 119 and Am. Sub. H.B. 214 of the 127th General Assembly. 30889

Section 5815.35 of the Revised Code as amended by both Sub. 30890
H.B. 332 and Sub. H.B. 499 of the 127th General Assembly. 30891