

As Introduced

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S. B. No. 152

Senator Lehner

Cosponsors: Senators Beagle, Cafaro, Jones, LaRose, Manning, Patton

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A B I L L

To amend sections 2151.281, 2151.353, 2151.414, 1
2151.415, 2151.417, and 5103.162 of the Revised 2
Code to permit a court to grant a motion for 3
permanent custody of a child to a movant if the 4
child or another child in the custody of the 5
parent has been adjudicated an abused, neglected, 6
or dependent child on three separate occasions, to 7
require the court to appoint a guardian ad litem 8
in any proceeding concerning an alleged dependent 9
child, to require the guardian ad litem for an 10
alleged or adjudicated abused, neglected, or 11
dependent child to file any motions and other 12
court papers in accordance with rules adopted by 13
the Supreme Court, to require foster caregivers to 14
use a reasonable and prudent parent standard when 15
authorizing a foster child to participate in 16
activities, to exempt the caregiver from civil or 17
criminal liability that results from a foster 18
caregiver's or agency's decisions made in good 19
faith, and to limit the circumstances under which 20
a child is placed into a planned permanent living 21
arrangement. 22

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

Section 1. That sections 2151.281, 2151.353, 2151.414, 23
2151.415, 2151.417, and 5103.162 of the Revised Code be amended to 24
read as follows: 25

Sec. 2151.281. (A) The court shall appoint a guardian ad 26
litem, subject to rules adopted by the supreme court, to protect 27
the interest of a child in any proceeding concerning an alleged or 28
adjudicated delinquent child or unruly child when either of the 29
following applies: 30

(1) The child has no parent, guardian, or legal custodian. 31

(2) The court finds that there is a conflict of interest 32
between the child and the child's parent, guardian, or legal 33
custodian. 34

(B)(1) The court shall appoint a guardian ad litem, subject 35
to rules adopted by the supreme court, to protect the interest of 36
a child in any proceeding concerning an alleged abused ~~or~~ 37
neglected, or dependent child and in any proceeding held pursuant 38
to section 2151.414 of the Revised Code. The guardian ad litem so 39
appointed shall not be the attorney responsible for presenting the 40
evidence alleging that the child is an abused ~~or~~ neglected, or 41
dependent child and shall not be an employee of any party in the 42
proceeding. 43

(2) The guardian ad litem appointed for an alleged or 44
adjudicated abused or neglected child may bring a civil action 45
against any person who is required by division (A)(1) or (4) of 46
section 2151.421 of the Revised Code to file a report of child 47
abuse or child neglect that is known or reasonably suspected or 48
believed to have occurred if that person knows, or has reasonable 49
cause to suspect or believe based on facts that would cause a 50

reasonable person in a similar position to suspect or believe, as 51
applicable, that the child for whom the guardian ad litem is 52
appointed is the subject of child abuse or child neglect and does 53
not file the required report and if the child suffers any injury 54
or harm as a result of the child abuse or child neglect that is 55
known or reasonably suspected or believed to have occurred or 56
suffers additional injury or harm after the failure to file the 57
report. 58

(C) In any proceeding concerning an alleged or adjudicated 59
delinquent, unruly, abused, neglected, or dependent child in which 60
the parent appears to be mentally incompetent or is under eighteen 61
years of age, the court shall appoint a guardian ad litem to 62
protect the interest of that parent. 63

(D) The court shall require the guardian ad litem to 64
faithfully discharge the guardian ad litem's duties and, upon the 65
guardian ad litem's failure to faithfully discharge the guardian 66
ad litem's duties, shall discharge the guardian ad litem and 67
appoint another guardian ad litem. The court may fix the 68
compensation for the service of the guardian ad litem, which 69
compensation shall be paid from the treasury of the county, 70
subject to rules adopted by the supreme court. 71

(E) A parent who is eighteen years of age or older and not 72
mentally incompetent shall be deemed sui juris for the purpose of 73
any proceeding relative to a child of the parent who is alleged or 74
adjudicated to be an abused, neglected, or dependent child. 75

(F) In any case in which a parent of a child alleged or 76
adjudicated to be an abused, neglected, or dependent child is 77
under eighteen years of age, the parents of that parent shall be 78
summoned to appear at any hearing respecting the child, who is 79
alleged or adjudicated to be an abused, neglected, or dependent 80
child. 81

(G) In any case involving an alleged or adjudicated abused 82
~~or, neglected, or dependent~~ child or an agreement for the 83
voluntary surrender of temporary or permanent custody of a child 84
that is made in accordance with section 5103.15 of the Revised 85
Code, the court shall appoint the guardian ad litem in each case 86
as soon as possible after the complaint is filed, the request for 87
an extension of the temporary custody agreement is filed with the 88
court, or the request for court approval of the permanent custody 89
agreement is filed. ~~In any case involving an alleged dependent~~ 90
~~child in which the parent of the child appears to be mentally~~ 91
~~incompetent or is under eighteen years of age, there is a conflict~~ 92
~~of interest between the child and the child's parents, guardian,~~ 93
~~or custodian, or the court believes that the parent of the child~~ 94
~~is not capable of representing the best interest of the child, the~~ 95
~~court shall appoint a guardian ad litem for the child. The~~ 96
guardian ad litem or the guardian ad litem's replacement shall 97
continue to serve until any of the following occur: 98

(1) The complaint is dismissed or the request for an 99
extension of a temporary custody agreement or for court approval 100
of the permanent custody agreement is withdrawn or denied; 101

(2) All dispositional orders relative to the child have 102
terminated; 103

(3) The legal custody of the child is granted to a relative 104
of the child, or to another person; 105

(4) The child is placed in an adoptive home or, at the 106
court's discretion, a final decree of adoption is issued with 107
respect to the child; 108

(5) The child reaches the age of eighteen if the child is not 109
mentally retarded, developmentally disabled, or physically 110
impaired or the child reaches the age of twenty-one if the child 111
is mentally retarded, developmentally disabled, or physically 112

impaired;	113
(6) The guardian ad litem resigns or is removed by the court	114
and a replacement is appointed by the court.	115
If a guardian ad litem ceases to serve a child pursuant to	116
division (G)(4) of this section and the petition for adoption with	117
respect to the child is denied or withdrawn prior to the issuance	118
of a final decree of adoption or prior to the date an	119
interlocutory order of adoption becomes final, the juvenile court	120
shall reappoint a guardian ad litem for that child. The public	121
children services agency or private child placing agency with	122
permanent custody of the child shall notify the juvenile court if	123
the petition for adoption is denied or withdrawn.	124
(H) If the guardian ad litem for an alleged or adjudicated	125
abused, neglected, or dependent child is an attorney admitted to	126
the practice of law in this state, the guardian ad litem also may	127
serve as counsel to the ward. Until the supreme court adopts rules	128
regarding service as a guardian ad litem that regulate conflicts	129
between a person's role as guardian ad litem and as counsel, if a	130
person is serving as guardian ad litem and counsel for a child and	131
either that person or the court finds that a conflict may exist	132
between the person's roles as guardian ad litem and as counsel,	133
the court shall relieve the person of duties as guardian ad litem	134
and appoint someone else as guardian ad litem for the child. If	135
the court appoints a person who is not an attorney admitted to the	136
practice of law in this state to be a guardian ad litem, the court	137
also may appoint an attorney admitted to the practice of law in	138
this state to serve as counsel for the guardian ad litem.	139
(I) The guardian ad litem for an alleged or adjudicated	140
abused, neglected, or dependent child shall perform whatever	141
functions are necessary to protect the best interest of the child,	142
including, but not limited to, investigation, mediation,	143
monitoring court proceedings, and monitoring the services provided	144

the child by the public children services agency or private child placing agency that has temporary or permanent custody of the child, and shall file any motions and other court papers that are in the best interest of the child in accordance with rules adopted by the supreme court.

The guardian ad litem shall be given notice of all hearings, administrative reviews, and other proceedings in the same manner as notice is given to parties to the action.

(J)(1) When the court appoints a guardian ad litem pursuant to this section, it shall appoint a qualified volunteer or court appointed special advocate whenever one is available and the appointment is appropriate.

(2) Upon request, the department of job and family services shall provide for the training of volunteer guardians ad litem.

Sec. 2151.353. (A) If a child is adjudicated an abused, neglected, or dependent child, the court may make any of the following orders of disposition:

(1) Place the child in protective supervision;

(2) Commit the child to the temporary custody of a public children services agency, a private child placing agency, either parent, a relative residing within or outside the state, or a probation officer for placement in a certified foster home, or in any other home approved by the court;

(3) Award legal custody of the child to either parent or to any other person who, prior to the dispositional hearing, files a motion requesting legal custody of the child or is identified as a proposed legal custodian in a complaint or motion filed prior to the dispositional hearing by any party to the proceedings. A person identified in a complaint or motion filed by a party to the proceedings as a proposed legal custodian shall be awarded legal

custody of the child only if the person identified signs a 175
statement of understanding for legal custody that contains at 176
least the following provisions: 177

(a) That it is the intent of the person to become the legal 178
custodian of the child and the person is able to assume legal 179
responsibility for the care and supervision of the child; 180

(b) That the person understands that legal custody of the 181
child in question is intended to be permanent in nature and that 182
the person will be responsible as the custodian for the child 183
until the child reaches the age of majority. Responsibility as 184
custodian for the child shall continue beyond the age of majority 185
if, at the time the child reaches the age of majority, the child 186
is pursuing a diploma granted by the board of education or other 187
governing authority, successful completion of the curriculum of 188
any high school, successful completion of an individualized 189
education program developed for the student by any high school, or 190
an age and schooling certificate. Responsibility beyond the age of 191
majority shall terminate when the child ceases to continuously 192
pursue such an education, completes such an education, or is 193
excused from such an education under standards adopted by the 194
state board of education, whichever occurs first. 195

(c) That the parents of the child have residual parental 196
rights, privileges, and responsibilities, including, but not 197
limited to, the privilege of reasonable visitation, consent to 198
adoption, the privilege to determine the child's religious 199
affiliation, and the responsibility for support; 200

(d) That the person understands that the person must be 201
present in court for the dispositional hearing in order to affirm 202
the person's intention to become legal custodian, to affirm that 203
the person understands the effect of the custodianship before the 204
court, and to answer any questions that the court or any parties 205
to the case may have. 206

(4) Commit the child to the permanent custody of a public children services agency or private child placing agency, if the court determines in accordance with division (E) of section 2151.414 of the Revised Code that the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent and determines in accordance with division (D)(1) of section 2151.414 of the Revised Code that the permanent commitment is in the best interest of the child. If the court grants permanent custody under this division, the court, upon the request of any party, shall file a written opinion setting forth its findings of fact and conclusions of law in relation to the proceeding.

(5) Place the child in a planned permanent living arrangement with a public children services agency or private child placing agency, if a public children services agency or private child placing agency requests the court to place the child in a planned permanent living arrangement and if the court finds, by clear and convincing evidence, that a planned permanent living arrangement is in the best interest of the child and that one of the following exists:

(a) The child, because of physical, mental, or psychological problems or needs, is unable to function in a family-like setting and must remain in residential or institutional care now and for the foreseeable future beyond the date of the dispositional hearing held pursuant to section 2151.35 of the Revised Code.

(b) The child is sixteen years of age or older, the parents of the child have significant physical, mental, or psychological problems and are unable to care for the child because of those problems, adoption is not in the best interest of the child, as determined in accordance with division (D)(1) of section 2151.414 of the Revised Code, and the child retains a significant and positive relationship with a parent or relative.

(c) The child is sixteen years of age or older, has been 239
counseled on the permanent placement options available to the 240
child, and is unwilling to accept or unable to adapt to a 241
permanent placement, ~~and is in an agency program preparing the~~ 242
~~child for independent living.~~ 243

(6) Order the removal from the child's home until further 244
order of the court of the person who committed abuse as described 245
in section 2151.031 of the Revised Code against the child, who 246
caused or allowed the child to suffer neglect as described in 247
section 2151.03 of the Revised Code, or who is the parent, 248
guardian, or custodian of a child who is adjudicated a dependent 249
child and order any person not to have contact with the child or 250
the child's siblings. 251

(B)(1) When making a determination on whether to place a 252
child in a planned permanent living arrangement pursuant to 253
division (A)(5)(b) or (c) of this section, the court shall 254
consider all relevant information that has been presented to the 255
court, including information gathered from the child, the child's 256
guardian ad litem, or the public children services agency or 257
private child placing agency. 258

(2) A child who is placed in a planned permanent living 259
arrangement pursuant to division (A)(5)(b) or (c) of this section 260
shall be placed in an independent living setting or in a family 261
setting in which the caregiver has signed a statement of 262
understanding of a planned permanent living arrangement that 263
addresses the following: 264

(a) The caregiver understands that the planned permanent 265
living arrangement is intended to be permanent in nature and that 266
the caregiver will be responsible for the child through the 267
child's emancipation or until the court releases the child from 268
the custody of the agency, whichever occurs first. 269

(b) The caregiver pledges the caregiver will actively 270
participate in the youth's independent living case plan, attend 271
agency team meetings and court hearings as appropriate, and assist 272
in the child's transition into adulthood. 273

(C) No order for permanent custody or temporary custody of a 274
child or the placement of a child in a planned permanent living 275
arrangement shall be made pursuant to this section unless the 276
complaint alleging the abuse, neglect, or dependency contains a 277
prayer requesting permanent custody, temporary custody, or the 278
placement of the child in a planned permanent living arrangement 279
as desired, the summons served on the parents of the child 280
contains as is appropriate a full explanation that the granting of 281
an order for permanent custody permanently divests them of their 282
parental rights, a full explanation that an adjudication that the 283
child is an abused, neglected, or dependent child may result in an 284
order of temporary custody that will cause the removal of the 285
child from their legal custody until the court terminates the 286
order of temporary custody or permanently divests the parents of 287
their parental rights, or a full explanation that the granting of 288
an order for a planned permanent living arrangement will result in 289
the removal of the child from their legal custody if any of the 290
conditions listed in divisions (A)(5)(a) to (c) of this section 291
are found to exist, and the summons served on the parents contains 292
a full explanation of their right to be represented by counsel and 293
to have counsel appointed pursuant to Chapter 120. of the Revised 294
Code if they are indigent. 295

If after making disposition as authorized by division (A)(2) 296
of this section, a motion is filed that requests permanent custody 297
of the child, the court may grant permanent custody of the child 298
to the movant in accordance with section 2151.414 of the Revised 299
Code. 300

~~(C)~~(D) If the court issues an order for protective 301

supervision pursuant to division (A)(1) of this section, the court 302
may place any reasonable restrictions upon the child, the child's 303
parents, guardian, or custodian, or any other person, including, 304
but not limited to, any of the following: 305

(1) Order a party, within forty-eight hours after the 306
issuance of the order, to vacate the child's home indefinitely or 307
for a specified period of time; 308

(2) Order a party, a parent of the child, or a physical 309
custodian of the child to prevent any particular person from 310
having contact with the child; 311

(3) Issue an order restraining or otherwise controlling the 312
conduct of any person which conduct would not be in the best 313
interest of the child. 314

~~(D)~~(E) As part of its dispositional order, the court shall 315
journalize a case plan for the child. The journalized case plan 316
shall not be changed except as provided in section 2151.412 of the 317
Revised Code. 318

~~(E)~~(F)(1) The court shall retain jurisdiction over any child 319
for whom the court issues an order of disposition pursuant to 320
division (A) of this section or pursuant to section 2151.414 or 321
2151.415 of the Revised Code until the child attains the age of 322
eighteen years if the child is not mentally retarded, 323
developmentally disabled, or physically impaired, the child 324
attains the age of twenty-one years if the child is mentally 325
retarded, developmentally disabled, or physically impaired, or the 326
child is adopted and a final decree of adoption is issued, except 327
that the court may retain jurisdiction over the child and continue 328
any order of disposition under division (A) of this section or 329
under section 2151.414 or 2151.415 of the Revised Code for a 330
specified period of time to enable the child to graduate from high 331
school or vocational school. The court shall make an entry 332

continuing its jurisdiction under this division in the journal. 333

(2) Any public children services agency, any private child 334
placing agency, the department of job and family services, or any 335
party, other than any parent whose parental rights with respect to 336
the child have been terminated pursuant to an order issued under 337
division (A)(4) of this section, by filing a motion with the 338
court, may at any time request the court to modify or terminate 339
any order of disposition issued pursuant to division (A) of this 340
section or section 2151.414 or 2151.415 of the Revised Code. The 341
court shall hold a hearing upon the motion as if the hearing were 342
the original dispositional hearing and shall give all parties to 343
the action and the guardian ad litem notice of the hearing 344
pursuant to the Juvenile Rules. If applicable, the court shall 345
comply with section 2151.42 of the Revised Code. 346

~~(F)~~(G) Any temporary custody order issued pursuant to 347
division (A) of this section shall terminate one year after the 348
earlier of the date on which the complaint in the case was filed 349
or the child was first placed into shelter care, except that, upon 350
the filing of a motion pursuant to section 2151.415 of the Revised 351
Code, the temporary custody order shall continue and not terminate 352
until the court issues a dispositional order under that section. 353
In resolving the motion, the court shall not order an existing 354
temporary custody order to continue beyond two years after the 355
date on which the complaint was filed or the child was first 356
placed into shelter care, whichever date is earlier, regardless of 357
whether any extensions have been previously ordered pursuant to 358
division (D) of section 2151.415 of the Revised Code. 359

~~(G)~~(H)(1) No later than one year after the earlier of the 360
date the complaint in the case was filed or the child was first 361
placed in shelter care, a party may ask the court to extend an 362
order for protective supervision for six months or to terminate 363
the order. A party requesting extension or termination of the 364

order shall file a written request for the extension or 365
termination with the court and give notice of the proposed 366
extension or termination in writing before the end of the day 367
after the day of filing it to all parties and the child's guardian 368
ad litem. If a public children services agency or private child 369
placing agency requests termination of the order, the agency shall 370
file a written status report setting out the facts supporting 371
termination of the order at the time it files the request with the 372
court. If no party requests extension or termination of the order, 373
the court shall notify the parties that the court will extend the 374
order for six months or terminate it and that it may do so without 375
a hearing unless one of the parties requests a hearing. All 376
parties and the guardian ad litem shall have seven days from the 377
date a notice is sent pursuant to this division to object to and 378
request a hearing on the proposed extension or termination. 379

(a) If it receives a timely request for a hearing, the court 380
shall schedule a hearing to be held no later than thirty days 381
after the request is received by the court. The court shall give 382
notice of the date, time, and location of the hearing to all 383
parties and the guardian ad litem. At the hearing, the court shall 384
determine whether extension or termination of the order is in the 385
child's best interest. If termination is in the child's best 386
interest, the court shall terminate the order. If extension is in 387
the child's best interest, the court shall extend the order for 388
six months. 389

(b) If it does not receive a timely request for a hearing, 390
the court may extend the order for six months or terminate it 391
without a hearing and shall journalize the order of extension or 392
termination not later than fourteen days after receiving the 393
request for extension or termination or after the date the court 394
notifies the parties that it will extend or terminate the order. 395
If the court does not extend or terminate the order, it shall 396

schedule a hearing to be held no later than thirty days after the 397
expiration of the applicable fourteen-day time period and give 398
notice of the date, time, and location of the hearing to all 399
parties and the child's guardian ad litem. At the hearing, the 400
court shall determine whether extension or termination of the 401
order is in the child's best interest. If termination is in the 402
child's best interest, the court shall terminate the order. If 403
extension is in the child's best interest, the court shall issue 404
an order extending the order for protective supervision six 405
months. 406

(2) If the court grants an extension of the order for 407
protective supervision pursuant to division ~~(G)~~(H)(1) of this 408
section, a party may, prior to termination of the extension, file 409
with the court a request for an additional extension of six months 410
or for termination of the order. The court and the parties shall 411
comply with division ~~(G)~~(H)(1) of this section with respect to 412
extending or terminating the order. 413

(3) If a court grants an extension pursuant to division 414
~~(G)~~(H)(2) of this section, the court shall terminate the order for 415
protective supervision at the end of the extension. 416

~~(H)~~(I) The court shall not issue a dispositional order 417
pursuant to division (A) of this section that removes a child from 418
the child's home unless the court complies with section 2151.419 419
of the Revised Code and includes in the dispositional order the 420
findings of fact required by that section. 421

~~(I)~~(J) If a motion or application for an order described in 422
division (A)(6) of this section is made, the court shall not issue 423
the order unless, prior to the issuance of the order, it provides 424
to the person all of the following: 425

(1) Notice and a copy of the motion or application; 426

(2) The grounds for the motion or application; 427

(3) An opportunity to present evidence and witnesses at a 428
hearing regarding the motion or application; 429

(4) An opportunity to be represented by counsel at the 430
hearing. 431

~~(J)~~(K) The jurisdiction of the court shall terminate one year 432
after the date of the award or, if the court takes any further 433
action in the matter subsequent to the award, the date of the 434
latest further action subsequent to the award, if the court awards 435
legal custody of a child to either of the following: 436

(1) A legal custodian who, at the time of the award of legal 437
custody, resides in a county of this state other than the county 438
in which the court is located; 439

(2) A legal custodian who resides in the county in which the 440
court is located at the time of the award of legal custody, but 441
moves to a different county of this state prior to one year after 442
the date of the award or, if the court takes any further action in 443
the matter subsequent to the award, one year after the date of the 444
latest further action subsequent to the award. 445

The court in the county in which the legal custodian resides 446
then shall have jurisdiction in the matter. 447

Sec. 2151.414. (A)(1) Upon the filing of a motion pursuant to 448
section 2151.413 of the Revised Code for permanent custody of a 449
child, the court shall schedule a hearing and give notice of the 450
filing of the motion and of the hearing, in accordance with 451
section 2151.29 of the Revised Code, to all parties to the action 452
and to the child's guardian ad litem. The notice also shall 453
contain a full explanation that the granting of permanent custody 454
permanently divests the parents of their parental rights, a full 455
explanation of their right to be represented by counsel and to 456
have counsel appointed pursuant to Chapter 120. of the Revised 457

Code if they are indigent, and the name and telephone number of 458
the court employee designated by the court pursuant to section 459
2151.314 of the Revised Code to arrange for the prompt appointment 460
of counsel for indigent persons. 461

The court shall conduct a hearing in accordance with section 462
2151.35 of the Revised Code to determine if it is in the best 463
interest of the child to permanently terminate parental rights and 464
grant permanent custody to the agency that filed the motion. The 465
adjudication that the child is an abused, neglected, or dependent 466
child and any dispositional order that has been issued in the case 467
under section 2151.353 of the Revised Code pursuant to the 468
adjudication shall not be readjudicated at the hearing and shall 469
not be affected by a denial of the motion for permanent custody. 470

(2) The court shall hold the hearing scheduled pursuant to 471
division (A)(1) of this section not later than one hundred twenty 472
days after the agency files the motion for permanent custody, 473
except that, for good cause shown, the court may continue the 474
hearing for a reasonable period of time beyond the 475
one-hundred-twenty-day deadline. The court shall issue an order 476
that grants, denies, or otherwise disposes of the motion for 477
permanent custody, and journalize the order, not later than two 478
hundred days after the agency files the motion. 479

If a motion is made under division (D)(2) of section 2151.413 480
of the Revised Code and no dispositional hearing has been held in 481
the case, the court may hear the motion in the dispositional 482
hearing required by division (B) of section 2151.35 of the Revised 483
Code. If the court issues an order pursuant to section 2151.353 of 484
the Revised Code granting permanent custody of the child to the 485
agency, the court shall immediately dismiss the motion made under 486
division (D)(2) of section 2151.413 of the Revised Code. 487

The failure of the court to comply with the time periods set 488
forth in division (A)(2) of this section does not affect the 489

authority of the court to issue any order under this chapter and 490
does not provide any basis for attacking the jurisdiction of the 491
court or the validity of any order of the court. 492

(B)(1) Except as provided in division (B)(2) of this section, 493
the court may grant permanent custody of a child to a movant if 494
the court determines at the hearing held pursuant to division (A) 495
of this section, by clear and convincing evidence, that it is in 496
the best interest of the child to grant permanent custody of the 497
child to the agency that filed the motion for permanent custody 498
and that any of the following apply: 499

(a) The child is not abandoned or orphaned, has not been in 500
the temporary custody of one or more public children services 501
agencies or private child placing agencies for twelve or more 502
months of a consecutive twenty-two-month period, or has not been 503
in the temporary custody of one or more public children services 504
agencies or private child placing agencies for twelve or more 505
months of a consecutive twenty-two-month period if, as described 506
in division (D)(1) of section 2151.413 of the Revised Code, the 507
child was previously in the temporary custody of an equivalent 508
agency in another state, and the child cannot be placed with 509
either of the child's parents within a reasonable time or should 510
not be placed with the child's parents. 511

(b) The child is abandoned. 512

(c) The child is orphaned, and there are no relatives of the 513
child who are able to take permanent custody. 514

(d) The child has been in the temporary custody of one or 515
more public children services agencies or private child placing 516
agencies for twelve or more months of a consecutive 517
twenty-two-month period, or the child has been in the temporary 518
custody of one or more public children services agencies or 519
private child placing agencies for twelve or more months of a 520

consecutive twenty-two-month period and, as described in division 521
(D)(1) of section 2151.413 of the Revised Code, the child was 522
previously in the temporary custody of an equivalent agency in 523
another state. 524

(e) The child or another child in the custody of the parent 525
or parents from whose custody the child has been removed has been 526
adjudicated an abused, neglected, or dependent child on three 527
separate occasions by any court in this state or another state. 528

For the purposes of division (B)(1) of this section, a child 529
shall be considered to have entered the temporary custody of an 530
agency on the earlier of the date the child is adjudicated 531
pursuant to section 2151.28 of the Revised Code or the date that 532
is sixty days after the removal of the child from home. 533

(2) With respect to a motion made pursuant to division (D)(2) 534
of section 2151.413 of the Revised Code, the court shall grant 535
permanent custody of the child to the movant if the court 536
determines in accordance with division (E) of this section that 537
the child cannot be placed with one of the child's parents within 538
a reasonable time or should not be placed with either parent and 539
determines in accordance with division (D) of this section that 540
permanent custody is in the child's best interest. 541

(C) In making the determinations required by this section or 542
division (A)(4) of section 2151.353 of the Revised Code, a court 543
shall not consider the effect the granting of permanent custody to 544
the agency would have upon any parent of the child. A written 545
report of the guardian ad litem of the child shall be submitted to 546
the court prior to or at the time of the hearing held pursuant to 547
division (A) of this section or section 2151.35 of the Revised 548
Code but shall not be submitted under oath. 549

If the court grants permanent custody of a child to a movant 550
under this division, the court, upon the request of any party, 551

shall file a written opinion setting forth its findings of fact 552
and conclusions of law in relation to the proceeding. The court 553
shall not deny an agency's motion for permanent custody solely 554
because the agency failed to implement any particular aspect of 555
the child's case plan. 556

(D)(1) In determining the best interest of a child at a 557
hearing held pursuant to division (A) of this section or for the 558
purposes of division (A)(4) or (5) of section 2151.353 or division 559
(C) of section 2151.415 of the Revised Code, the court shall 560
consider all relevant factors, including, but not limited to, the 561
following: 562

(a) The interaction and interrelationship of the child with 563
the child's parents, siblings, relatives, foster caregivers and 564
out-of-home providers, and any other person who may significantly 565
affect the child; 566

(b) The wishes of the child, as expressed directly by the 567
child or through the child's guardian ad litem, with due regard 568
for the maturity of the child; 569

(c) The custodial history of the child, including whether the 570
child has been in the temporary custody of one or more public 571
children services agencies or private child placing agencies for 572
twelve or more months of a consecutive twenty-two-month period, or 573
the child has been in the temporary custody of one or more public 574
children services agencies or private child placing agencies for 575
twelve or more months of a consecutive twenty-two-month period 576
and, as described in division (D)(1) of section 2151.413 of the 577
Revised Code, the child was previously in the temporary custody of 578
an equivalent agency in another state; 579

(d) The child's need for a legally secure permanent placement 580
and whether that type of placement can be achieved without a grant 581
of permanent custody to the agency; 582

(e) Whether any of the factors in divisions (E)(7) to (11) of this section apply in relation to the parents and child.

For the purposes of division (D)(1) of this section, a child shall be considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the Revised Code or the date that is sixty days after the removal of the child from home.

(2) If all of the following apply, permanent custody is in the best interest of the child and the court shall commit the child to the permanent custody of a public children services agency or private child placing agency:

(a) The court determines by clear and convincing evidence that one or more of the factors in division (E) of this section exist and the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent.

(b) The child has been in an agency's custody for two years or longer, and no longer qualifies for temporary custody pursuant to division (D) of section 2151.415 of the Revised Code.

(c) The child does not meet the requirements for a planned permanent living arrangement pursuant to division (A)(5) of section 2151.353 of the Revised Code.

(d) Prior to the dispositional hearing, no relative or other interested person has filed, or has been identified in, a motion for legal custody of the child.

(E) In determining at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code whether a child cannot be placed with either parent within a reasonable period of time or should not be placed with the parents, the court shall consider all relevant evidence. If the court determines, by clear and convincing

evidence, at a hearing held pursuant to division (A) of this 614
section or for the purposes of division (A)(4) of section 2151.353 615
of the Revised Code that one or more of the following exist as to 616
each of the child's parents, the court shall enter a finding that 617
the child cannot be placed with either parent within a reasonable 618
time or should not be placed with either parent: 619

(1) Following the placement of the child outside the child's 620
home and notwithstanding reasonable case planning and diligent 621
efforts by the agency to assist the parents to remedy the problems 622
that initially caused the child to be placed outside the home, the 623
parent has failed continuously and repeatedly to substantially 624
remedy the conditions causing the child to be placed outside the 625
child's home. In determining whether the parents have 626
substantially remedied those conditions, the court shall consider 627
parental utilization of medical, psychiatric, psychological, and 628
other social and rehabilitative services and material resources 629
that were made available to the parents for the purpose of 630
changing parental conduct to allow them to resume and maintain 631
parental duties. 632

(2) Chronic mental illness, chronic emotional illness, mental 633
retardation, physical disability, or chemical dependency of the 634
parent that is so severe that it makes the parent unable to 635
provide an adequate permanent home for the child at the present 636
time and, as anticipated, within one year after the court holds 637
the hearing pursuant to division (A) of this section or for the 638
purposes of division (A)(4) of section 2151.353 of the Revised 639
Code; 640

(3) The parent committed any abuse as described in section 641
2151.031 of the Revised Code against the child, caused the child 642
to suffer any neglect as described in section 2151.03 of the 643
Revised Code, or allowed the child to suffer any neglect as 644
described in section 2151.03 of the Revised Code between the date 645

that the original complaint alleging abuse or neglect was filed 646
and the date of the filing of the motion for permanent custody; 647

(4) The parent has demonstrated a lack of commitment toward 648
the child by failing to regularly support, visit, or communicate 649
with the child when able to do so, or by other actions showing an 650
unwillingness to provide an adequate permanent home for the child; 651

(5) The parent is incarcerated for an offense committed 652
against the child or a sibling of the child; 653

(6) The parent has been convicted of or pleaded guilty to an 654
offense under division (A) or (C) of section 2919.22 or under 655
section 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.03, 656
2905.04, 2905.05, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 657
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 658
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.24, 659
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, or 3716.11 of the 660
Revised Code and the child or a sibling of the child was a victim 661
of the offense or the parent has been convicted of or pleaded 662
guilty to an offense under section 2903.04 of the Revised Code, a 663
sibling of the child was the victim of the offense, and the parent 664
who committed the offense poses an ongoing danger to the child or 665
a sibling of the child. 666

(7) The parent has been convicted of or pleaded guilty to one 667
of the following: 668

(a) An offense under section 2903.01, 2903.02, or 2903.03 of 669
the Revised Code or under an existing or former law of this state, 670
any other state, or the United States that is substantially 671
equivalent to an offense described in those sections and the 672
victim of the offense was a sibling of the child or the victim was 673
another child who lived in the parent's household at the time of 674
the offense; 675

(b) An offense under section 2903.11, 2903.12, or 2903.13 of 676

the Revised Code or under an existing or former law of this state, 677
any other state, or the United States that is substantially 678
equivalent to an offense described in those sections and the 679
victim of the offense is the child, a sibling of the child, or 680
another child who lived in the parent's household at the time of 681
the offense; 682

(c) An offense under division (B)(2) of section 2919.22 of 683
the Revised Code or under an existing or former law of this state, 684
any other state, or the United States that is substantially 685
equivalent to the offense described in that section and the child, 686
a sibling of the child, or another child who lived in the parent's 687
household at the time of the offense is the victim of the offense; 688

(d) An offense under section 2907.02, 2907.03, 2907.04, 689
2907.05, or 2907.06 of the Revised Code or under an existing or 690
former law of this state, any other state, or the United States 691
that is substantially equivalent to an offense described in those 692
sections and the victim of the offense is the child, a sibling of 693
the child, or another child who lived in the parent's household at 694
the time of the offense; 695

(e) A conspiracy or attempt to commit, or complicity in 696
committing, an offense described in division (E)(7)(a) or (d) of 697
this section. 698

(8) The parent has repeatedly withheld medical treatment or 699
food from the child when the parent has the means to provide the 700
treatment or food, and, in the case of withheld medical treatment, 701
the parent withheld it for a purpose other than to treat the 702
physical or mental illness or defect of the child by spiritual 703
means through prayer alone in accordance with the tenets of a 704
recognized religious body. 705

(9) The parent has placed the child at substantial risk of 706
harm two or more times due to alcohol or drug abuse and has 707

rejected treatment two or more times or refused to participate in 708
further treatment two or more times after a case plan issued 709
pursuant to section 2151.412 of the Revised Code requiring 710
treatment of the parent was journalized as part of a dispositional 711
order issued with respect to the child or an order was issued by 712
any other court requiring treatment of the parent. 713

(10) The parent has abandoned the child. 714

(11) The parent has had parental rights involuntarily 715
terminated with respect to a sibling of the child pursuant to this 716
section or section 2151.353 or 2151.415 of the Revised Code, or 717
under an existing or former law of this state, any other state, or 718
the United States that is substantially equivalent to those 719
sections, and the parent has failed to provide clear and 720
convincing evidence to prove that, notwithstanding the prior 721
termination, the parent can provide a legally secure permanent 722
placement and adequate care for the health, welfare, and safety of 723
the child. 724

(12) The parent is incarcerated at the time of the filing of 725
the motion for permanent custody or the dispositional hearing of 726
the child and will not be available to care for the child for at 727
least eighteen months after the filing of the motion for permanent 728
custody or the dispositional hearing. 729

(13) The parent is repeatedly incarcerated, and the repeated 730
incarceration prevents the parent from providing care for the 731
child. 732

(14) The parent for any reason is unwilling to provide food, 733
clothing, shelter, and other basic necessities for the child or to 734
prevent the child from suffering physical, emotional, or sexual 735
abuse or physical, emotional, or mental neglect. 736

(15) The parent has committed abuse as described in section 737
2151.031 of the Revised Code against the child or caused or 738

allowed the child to suffer neglect as described in section 739
2151.03 of the Revised Code, and the court determines that the 740
seriousness, nature, or likelihood of recurrence of the abuse or 741
neglect makes the child's placement with the child's parent a 742
threat to the child's safety. 743

(16) Any other factor the court considers relevant. 744

(F) The parents of a child for whom the court has issued an 745
order granting permanent custody pursuant to this section, upon 746
the issuance of the order, cease to be parties to the action. This 747
division is not intended to eliminate or restrict any right of the 748
parents to appeal the granting of permanent custody of their child 749
to a movant pursuant to this section. 750

Sec. 2151.415. (A) Except for cases in which a motion for 751
permanent custody described in division (D)(1) of section 2151.413 752
of the Revised Code is required to be made, a public children 753
services agency or private child placing agency that has been 754
given temporary custody of a child pursuant to section 2151.353 of 755
the Revised Code, not later than thirty days prior to the earlier 756
of the date for the termination of the custody order pursuant to 757
division ~~(G)~~(H) of section 2151.353 of the Revised Code or the 758
date set at the dispositional hearing for the hearing to be held 759
pursuant to this section, shall file a motion with the court that 760
issued the order of disposition requesting that any of the 761
following orders of disposition of the child be issued by the 762
court: 763

(1) An order that the child be returned home and the custody 764
of the child's parents, guardian, or custodian without any 765
restrictions; 766

(2) An order for protective supervision; 767

(3) An order that the child be placed in the legal custody of 768

a relative or other interested individual; 769

(4) An order permanently terminating the parental rights of 770
the child's parents; 771

(5) An order that the child be placed in a planned permanent 772
living arrangement; 773

(6) In accordance with division (D) of this section, an order 774
for the extension of temporary custody. 775

(B) Upon the filing of a motion pursuant to division (A) of 776
this section, the court shall hold a dispositional hearing on the 777
date set at the dispositional hearing held pursuant to section 778
2151.35 of the Revised Code, with notice to all parties to the 779
action in accordance with the Juvenile Rules. After the 780
dispositional hearing or at a date after the dispositional hearing 781
that is not later than one year after the earlier of the date on 782
which the complaint in the case was filed or the child was first 783
placed into shelter care, the court, in accordance with the best 784
interest of the child as supported by the evidence presented at 785
the dispositional hearing, shall issue an order of disposition as 786
set forth in division (A) of this section, except that all orders 787
for permanent custody shall be made in accordance with sections 788
2151.413 and 2151.414 of the Revised Code. In issuing an order of 789
disposition under this section, the court shall comply with 790
section 2151.42 of the Revised Code. 791

(C)(1) If an agency pursuant to division (A) of this section 792
requests the court to place a child into a planned permanent 793
living arrangement, the agency shall present evidence to indicate 794
why a planned permanent living arrangement is appropriate for the 795
child, including, but not limited to, evidence that the agency has 796
tried or considered all other possible dispositions for the child. 797
A court shall not place a child in a planned permanent living 798
arrangement, unless it finds, by clear and convincing evidence, 799

that a planned permanent living arrangement is in the best 800
interest of the child and that one of the following exists: 801

(a) The child, because of physical, mental, or psychological 802
problems or needs, is unable to function in a family-like setting 803
and must remain in residential or institutional care. 804

(b) The parents of the child have significant physical, 805
mental, or psychological problems and are unable to care for the 806
child because of those problems, adoption is not in the best 807
interest of the child, as determined in accordance with division 808
(D)(1) of section 2151.414 of the Revised Code, and the child 809
retains a significant and positive relationship with a parent or 810
relative; 811

(c) The child is sixteen years of age or older, has been 812
counseled on the permanent placement options available, is 813
unwilling to accept or unable to adapt to a permanent placement, 814
and is in an agency program preparing for independent living. 815

(2) If the court issues an order placing a child in a planned 816
permanent living arrangement, both of the following apply: 817

(a) The court shall issue a finding of fact setting forth the 818
reasons for its finding; 819

(b) The agency may make any appropriate placement for the 820
child and shall develop a case plan for the child that is designed 821
to assist the child in finding a permanent home outside of the 822
home of the parents. 823

(D)(1) If an agency pursuant to division (A) of this section 824
requests the court to grant an extension of temporary custody for 825
a period of up to six months, the agency shall include in the 826
motion an explanation of the progress on the case plan of the 827
child and of its expectations of reunifying the child with the 828
child's family, or placing the child in a permanent placement, 829
within the extension period. The court shall schedule a hearing on 830

the motion, give notice of its date, time, and location to all 831
parties and the guardian ad litem of the child, and at the hearing 832
consider the evidence presented by the parties and the guardian ad 833
litem. The court may extend the temporary custody order of the 834
child for a period of up to six months, if it determines at the 835
hearing, by clear and convincing evidence, that the extension is 836
in the best interest of the child, there has been significant 837
progress on the case plan of the child, and there is reasonable 838
cause to believe that the child will be reunified with one of the 839
parents or otherwise permanently placed within the period of 840
extension. In determining whether to extend the temporary custody 841
of the child pursuant to this division, the court shall comply 842
with section 2151.42 of the Revised Code. If the court extends the 843
temporary custody of the child pursuant to this division, upon 844
request it shall issue findings of fact. 845

(2) Prior to the end of the extension granted pursuant to 846
division (D)(1) of this section, the agency that received the 847
extension shall file a motion with the court requesting the 848
issuance of one of the orders of disposition set forth in 849
divisions (A)(1) to (5) of this section or requesting the court to 850
extend the temporary custody order of the child for an additional 851
period of up to six months. If the agency requests the issuance of 852
an order of disposition under divisions (A)(1) to (5) of this 853
section or does not file any motion prior to the expiration of the 854
extension period, the court shall conduct a hearing in accordance 855
with division (B) of this section and issue an appropriate order 856
of disposition. In issuing an order of disposition, the court 857
shall comply with section 2151.42 of the Revised Code. 858

If the agency requests an additional extension of up to six 859
months of the temporary custody order of the child, the court 860
shall schedule and conduct a hearing in the manner set forth in 861
division (D)(1) of this section. The court may extend the 862

temporary custody order of the child for an additional period of 863
up to six months if it determines at the hearing, by clear and 864
convincing evidence, that the additional extension is in the best 865
interest of the child, there has been substantial additional 866
progress since the original extension of temporary custody in the 867
case plan of the child, there has been substantial additional 868
progress since the original extension of temporary custody toward 869
reunifying the child with one of the parents or otherwise 870
permanently placing the child, and there is reasonable cause to 871
believe that the child will be reunified with one of the parents 872
or otherwise placed in a permanent setting before the expiration 873
of the additional extension period. In determining whether to 874
grant an additional extension, the court shall comply with section 875
2151.42 of the Revised Code. If the court extends the temporary 876
custody of the child for an additional period pursuant to this 877
division, upon request it shall issue findings of fact. 878

(3) Prior to the end of the extension of a temporary custody 879
order granted pursuant to division (D)(2) of this section, the 880
agency that received the extension shall file a motion with the 881
court requesting the issuance of one of the orders of disposition 882
set forth in divisions (A)(1) to (5) of this section. Upon the 883
filing of the motion by the agency or, if the agency does not file 884
the motion prior to the expiration of the extension period, upon 885
its own motion, the court, prior to the expiration of the 886
extension period, shall conduct a hearing in accordance with 887
division (B) of this section and issue an appropriate order of 888
disposition. In issuing an order of disposition, the court shall 889
comply with section 2151.42 of the Revised Code. 890

(4) No court shall grant an agency more than two extensions 891
of temporary custody pursuant to division (D) of this section and 892
the court shall not order an existing temporary custody order to 893
continue beyond two years after the date on which the complaint 894

was filed or the child was first placed into shelter care, 895
whichever date is earlier, regardless of whether any extensions 896
have been previously ordered pursuant to division (D) of this 897
section. 898

(E) After the issuance of an order pursuant to division (B) 899
of this section, the court shall retain jurisdiction over the 900
child until the child attains the age of eighteen if the child is 901
not mentally retarded, developmentally disabled, or physically 902
impaired, the child attains the age of twenty-one if the child is 903
mentally retarded, developmentally disabled, or physically 904
impaired, or the child is adopted and a final decree of adoption 905
is issued, unless the court's jurisdiction over the child is 906
extended pursuant to division ~~(E)~~(F) of section 2151.353 of the 907
Revised Code. 908

(F) The court, on its own motion or the motion of the agency 909
or person with legal custody of the child, the child's guardian ad 910
litem, or any other party to the action, may conduct a hearing 911
with notice to all parties to determine whether any order issued 912
pursuant to this section should be modified or terminated or 913
whether any other dispositional order set forth in divisions 914
(A)(1) to (5) of this section should be issued. After the hearing 915
and consideration of all the evidence presented, the court, in 916
accordance with the best interest of the child, may modify or 917
terminate any order issued pursuant to this section or issue any 918
dispositional order set forth in divisions (A)(1) to (5) of this 919
section. In rendering a decision under this division, the court 920
shall comply with section 2151.42 of the Revised Code. 921

(G) If the court places a child in a planned permanent living 922
arrangement with a public children services agency or a private 923
child placing agency pursuant to this section, the agency with 924
which the child is placed in a planned permanent living 925
arrangement shall not remove the child from the residential 926

placement in which the child is originally placed pursuant to the 927
case plan for the child or in which the child is placed with court 928
approval pursuant to this division, unless the court and the 929
guardian ad litem are given notice of the intended removal and the 930
court issues an order approving the removal or unless the removal 931
is necessary to protect the child from physical or emotional harm 932
and the agency gives the court notice of the removal and of the 933
reasons why the removal is necessary to protect the child from 934
physical or emotional harm immediately after the removal of the 935
child from the prior setting. 936

(H) If the hearing held under this section takes the place of 937
an administrative review that otherwise would have been held under 938
section 2151.416 of the Revised Code, the court at the hearing 939
held under this section shall do all of the following in addition 940
to any other requirements of this section: 941

(1) Determine the continued necessity for and the 942
appropriateness of the child's placement; 943

(2) Determine the extent of compliance with the child's case 944
plan; 945

(3) Determine the extent of progress that has been made 946
toward alleviating or mitigating the causes necessitating the 947
child's placement in foster care; 948

(4) Project a likely date by which the child may be returned 949
to the child's home or placed for adoption or legal guardianship; 950

(5) Approve the permanency plan for the child consistent with 951
section 2151.417 of the Revised Code. 952

Sec. 2151.417. (A) Any court that issues a dispositional 953
order pursuant to section 2151.353, 2151.414, or 2151.415 of the 954
Revised Code may review at any time the child's placement or 955
custody arrangement, the case plan prepared for the child pursuant 956

to section 2151.412 of the Revised Code, the actions of the public 957
children services agency or private child placing agency in 958
implementing that case plan, the child's permanency plan if the 959
child's permanency plan has been approved, and any other aspects 960
of the child's placement or custody arrangement. In conducting the 961
review, the court shall determine the appropriateness of any 962
agency actions, the safety and appropriateness of continuing the 963
child's placement or custody arrangement, and whether any changes 964
should be made with respect to the child's permanency plan or 965
placement or custody arrangement or with respect to the actions of 966
the agency under the child's placement or custody arrangement. 967
Based upon the evidence presented at a hearing held after notice 968
to all parties and the guardian ad litem of the child, the court 969
may require the agency, the parents, guardian, or custodian of the 970
child, and the physical custodians of the child to take any 971
reasonable action that the court determines is necessary and in 972
the best interest of the child or to discontinue any action that 973
it determines is not in the best interest of the child. 974

(B) If a court issues a dispositional order pursuant to 975
section 2151.353, 2151.414, or 2151.415 of the Revised Code, the 976
court has continuing jurisdiction over the child as set forth in 977
division ~~(E)~~(F)(1) of section 2151.353 of the Revised Code. The 978
court may amend a dispositional order in accordance with division 979
~~(E)~~(F)(2) of section 2151.353 of the Revised Code at any time upon 980
its own motion or upon the motion of any interested party. The 981
court shall comply with section 2151.42 of the Revised Code in 982
amending any dispositional order pursuant to this division. 983

(C) Any court that issues a dispositional order pursuant to 984
section 2151.353, 2151.414, or 2151.415 of the Revised Code shall 985
hold a review hearing one year after the earlier of the date on 986
which the complaint in the case was filed or the child was first 987
placed into shelter care to review the case plan prepared pursuant 988

to section 2151.412 of the Revised Code and the child's placement 989
or custody arrangement, to approve or review the permanency plan 990
for the child, and to make changes to the case plan and placement 991
or custody arrangement consistent with the permanency plan. The 992
court shall schedule the review hearing at the time that it holds 993
the dispositional hearing pursuant to section 2151.35 of the 994
Revised Code. 995

The court shall hold a similar review hearing no later than 996
every twelve months after the initial review hearing until the 997
child is adopted, returned to the parents, or the court otherwise 998
terminates the child's placement or custody arrangement, except 999
that the dispositional hearing held pursuant to section 2151.415 1000
of the Revised Code shall take the place of the first review 1001
hearing to be held under this section. The court shall schedule 1002
each subsequent review hearing at the conclusion of the review 1003
hearing immediately preceding the review hearing to be scheduled. 1004

(D) If, within fourteen days after a written summary of an 1005
administrative review is filed with the court pursuant to section 1006
2151.416 of the Revised Code, the court does not approve the 1007
proposed change to the case plan filed pursuant to division (E) of 1008
section 2151.416 of the Revised Code or a party or the guardian ad 1009
litem requests a review hearing pursuant to division (E) of that 1010
section, the court shall hold a review hearing in the same manner 1011
that it holds review hearings pursuant to division (C) of this 1012
section, except that if a review hearing is required by this 1013
division and if a hearing is to be held pursuant to division (C) 1014
of this section or section 2151.415 of the Revised Code, the 1015
hearing held pursuant to division (C) of this section or section 1016
2151.415 of the Revised Code shall take the place of the review 1017
hearing required by this division. 1018

(E) If a court determines pursuant to section 2151.419 of the 1019
Revised Code that a public children services agency or private 1020

child placing agency is not required to make reasonable efforts to 1021
prevent the removal of a child from the child's home, eliminate 1022
the continued removal of a child from the child's home, and return 1023
the child to the child's home, and the court does not return the 1024
child to the child's home pursuant to division (A)(3) of section 1025
2151.419 of the Revised Code, the court shall hold a review 1026
hearing to approve the permanency plan for the child and, if 1027
appropriate, to make changes to the child's case plan and the 1028
child's placement or custody arrangement consistent with the 1029
permanency plan. The court may hold the hearing immediately 1030
following the determination under section 2151.419 of the Revised 1031
Code and shall hold it no later than thirty days after making that 1032
determination. 1033

(F) The court shall give notice of the review hearings held 1034
pursuant to this section to every interested party, including, but 1035
not limited to, the appropriate agency employees who are 1036
responsible for the child's care and planning, the child's 1037
parents, any person who had guardianship or legal custody of the 1038
child prior to the custody order, the child's guardian ad litem, 1039
and the child. The court shall summon every interested party to 1040
appear at the review hearing and give them an opportunity to 1041
testify and to present other evidence with respect to the child's 1042
custody arrangement, including, but not limited to, the following: 1043
the case plan for the child; the permanency plan, if one exists; 1044
the actions taken by the child's custodian; the need for a change 1045
in the child's custodian or caseworker; and the need for any 1046
specific action to be taken with respect to the child. The court 1047
shall require any interested party to testify or present other 1048
evidence when necessary to a proper determination of the issues 1049
presented at the review hearing. In any review hearing that 1050
pertains to a permanency plan for a child who will not be returned 1051
to the parent, the court shall consider in-state and out-of-state 1052
placement options and the court shall determine whether the 1053

in-state or the out-of-state placement continues to be appropriate 1054
and in the best interests of the child. In any review hearing that 1055
pertains to a permanency plan for a child, the court or a citizens 1056
board appointed by the court pursuant to division (H) of this 1057
section shall consult with the child, in an age-appropriate 1058
manner, regarding the proposed permanency plan for the child. 1059

(G) After the review hearing, the court shall take the 1060
following actions based upon the evidence presented: 1061

(1) If an administrative review has been conducted, determine 1062
whether the conclusions of the review are supported by a 1063
preponderance of the evidence and approve or modify the case plan 1064
based upon that evidence; 1065

(2) If the hearing was held under division (C) or (E) of this 1066
section, approve a permanency plan for the child that specifies 1067
whether and, if applicable, when the child will be safely returned 1068
home or placed for adoption, for legal custody, or in a planned 1069
permanent living arrangement. A permanency plan approved after a 1070
hearing under division (E) of this section shall not include any 1071
provision requiring the child to be returned to the child's home. 1072

(3) If the child is in temporary custody, do all of the 1073
following: 1074

(a) Determine whether the child can and should be returned 1075
home with or without an order for protective supervision; 1076

(b) If the child can and should be returned home with or 1077
without an order for protective supervision, terminate the order 1078
for temporary custody; 1079

(c) If the child cannot or should not be returned home with 1080
an order for protective supervision, determine whether the agency 1081
currently with custody of the child should retain custody or 1082
whether another public children services agency, private child 1083
placing agency, or an individual should be given custody of the 1084

child. 1085

The court shall comply with section 2151.42 of the Revised Code in taking any action under this division. 1086
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(4) If the child is in permanent custody, determine what actions are required by the custodial agency and of any other organizations or persons in order to facilitate an adoption of the child and make any appropriate orders with respect to the custody arrangement or conditions of the child, including, but not limited to, a transfer of permanent custody to another public children services agency or private child placing agency; 1088
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(5) Journalize the terms of the updated case plan for the child. 1095
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(H) The court may appoint a referee or a citizens review board to conduct the review hearings that the court is required by this section to conduct, subject to the review and approval by the court of any determinations made by the referee or citizens review board. If the court appoints a citizens review board to conduct the review hearings, the board shall consist of one member representing the general public and four members who are trained or experienced in the care or placement of children and have training or experience in the fields of medicine, psychology, social work, education, or any related field. Of the initial appointments to the board, two shall be for a term of one year, two shall be for a term of two years, and one shall be for a term of three years, with all the terms ending one year after the date on which the appointment was made. Thereafter, all terms of the board members shall be for three years and shall end on the same day of the same month of the year as did the term that they succeed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. 1097
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(I) A copy of the court's determination following any review 1116
hearing held pursuant to this section shall be sent to the 1117
custodial agency, the guardian ad litem of the child who is the 1118
subject of the review hearing, and, if that child is not the 1119
subject of a permanent commitment hearing, the parents of the 1120
child. 1121

(J) If the hearing held under this section takes the place of 1122
an administrative review that otherwise would have been held under 1123
section 2151.416 of the Revised Code, the court at the hearing 1124
held under this section shall do all of the following in addition 1125
to any other requirements of this section: 1126

(1) Determine the continued necessity for and the safety and 1127
appropriateness of the child's placement; 1128

(2) Determine the extent of compliance with the child's case 1129
plan; 1130

(3) Determine the extent of progress that has been made 1131
toward alleviating or mitigating the causes necessitating the 1132
child's placement in foster care; 1133

(4) Project a likely date by which the child may be safely 1134
returned home or placed for adoption or legal custody. 1135

(K)(1) Whenever the court is required to approve a permanency 1136
plan under this section or section 2151.415 of the Revised Code, 1137
the public children services agency or private child placing 1138
agency that filed the complaint in the case, has custody of the 1139
child, or will be given custody of the child shall develop a 1140
permanency plan for the child. The agency must file the plan with 1141
the court prior to the hearing under this section or section 1142
2151.415 of the Revised Code. 1143

(2) The permanency plan developed by the agency must specify 1144
whether and, if applicable, when the child will be safely returned 1145
home or placed for adoption or legal custody. If the agency 1146

determines that there is a compelling reason why returning the 1147
child home or placing the child for adoption or legal custody is 1148
not in the best interest of the child, the plan shall provide that 1149
the child will be placed in a planned permanent living 1150
arrangement. A permanency plan developed as a result of a 1151
determination made under division (A)(2) of section 2151.419 of 1152
the Revised Code may not include any provision requiring the child 1153
to be returned home. 1154

Sec. 5103.162. (A) Except as provided in division (B) of this 1155
section, a foster caregiver shall be immune from liability in a 1156
civil action to recover damages for injury, death, or loss to 1157
person or property allegedly caused by an act or omission in 1158
connection with a power, duty, responsibility, or authorization 1159
under this chapter or under rules adopted under authority of this 1160
chapter. 1161

(B) The immunity described in division (A) of this section 1162
does not apply to a foster caregiver if, in relation to the act or 1163
omission in question, any of the following applies: 1164

(1) The act or omission was manifestly outside the scope of 1165
the foster caregiver's power, duty, responsibility, or 1166
authorization. 1167

(2) The act or omission was with malicious purpose, in bad 1168
faith, or in a wanton or reckless manner. 1169

(3) Liability for the act or omission is expressly imposed by 1170
a section of the Revised Code. 1171

(C)(1) A foster caregiver shall use a reasonable and prudent 1172
parent standard when considering whether to authorize a foster 1173
child who resides in the foster home to participate in 1174
extracurricular, enrichment, and social activities in accordance 1175
with policies and procedures developed by the public children 1176

services agency, private child placing agency, or private 1177
noncustodial agency that has placed the child in the care of the 1178
foster caregiver. 1179

(2) A public children services agency, private child placing 1180
agency, or private noncustodial agency that serves as the child's 1181
custodian or as the supervising agency for the foster caregiver 1182
shall be immune from liability in a civil action to recover 1183
damages for injury, death, or loss to person or property that 1184
result from a foster caregiver's or agency's decisions using a 1185
reasonable and prudent parent standard in accordance with division 1186
(C)(1) of this section. 1187

(3) As used in this section, "reasonable and prudent parent 1188
standard" means the standard characterized by careful and sensible 1189
parental decisions that maintain the child's health, safety, and 1190
best interests while at the same time encouraging the child's 1191
emotional and developmental growth, that a caregiver or agency 1192
shall use when determining whether to allow a child in the care of 1193
a foster caregiver to participate in extracurricular, enrichment, 1194
and social activities. 1195

Section 2. That existing sections 2151.281, 2151.353, 1196
2151.414, 2151.415, 2151.417, and 5103.162 of the Revised Code are 1197
hereby repealed. 1198

Section 3. Section 2151.281 of the Revised Code is presented 1199
in this act as a composite of the section as amended by both Am. 1200
Sub. S.B. 17 and Am. Sub. S.B. 238 of the 126th General Assembly. 1201
The General Assembly, applying the principle stated in division 1202
(B) of section 1.52 of the Revised Code that amendments are to be 1203
harmonized if reasonably capable of simultaneous operation, finds 1204
that the composite is the resulting version of the section in 1205
effect prior to the effective date of the section as presented in 1206
this act. 1207