

As Passed by the Senate

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Sub. S. B. No. 152

Senator Lehner

**Cosponsors: Senators Beagle, Cafaro, Jones, LaRose, Manning, Patton,
Brown, Burke, Coley, Eklund, Gardner, Hite, Kearney, Peterson, Sawyer,
Schiavoni, Seitz, Skindell, Smith, Tavares, Turner, Uecker**

—

A BILL

To amend sections 2151.281, 2151.353, 2151.414, 1
2151.415, 2151.417, 2151.421, 5101.802, 5103.035, 2
and 5103.162 and to enact section 2151.315 of the 3
Revised Code to permit a court to grant a motion 4
for permanent custody of a child to a movant if 5
the child or another child in the custody of the 6
parent has been adjudicated an abused, neglected, 7
or dependent child on three separate occasions, to 8
require the guardian ad litem for an alleged or 9
adjudicated abused, neglected, or dependent child 10
to file any motions and other court papers in 11
accordance with rules adopted by the Supreme 12
Court, to require court appointed special 13
advocates and guardian ad litem to report 14
suspected child abuse or neglect, to require 15
foster caregivers to use a reasonable and prudent 16
parent standard when authorizing a foster child to 17
participate in activities, to require the 18
department of job and family services to adopt 19
rules that establish policies and procedures for 20
determining when a foster child or an alleged or 21

adjudicated abused, neglected, or dependent child 22
subject to out-of-home care may participate in 23
certain activities, to exempt a public children 24
services agency, private child placing agency, or 25
private noncustodial agency from civil liability 26
that results from a foster caregiver's or agency's 27
decisions using a reasonable and prudent parent 28
standard, to limit the circumstances under which a 29
child is placed into a planned permanent living 30
arrangement, to extend the period for incentive 31
payments under the kinship permanency incentive 32
program, and to provide factors for a person or 33
facility to consider when determining if an 34
alleged or adjudicated abused, neglected, or 35
dependent child subject to out-of-home care is 36
able to participate in certain activities. 37

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

Section 1. That sections 2151.281, 2151.353, 2151.414, 38
2151.415, 2151.417, 2151.421, 5101.802, 5103.035, and 5103.162 be 39
amended and section 2151.315 of the Revised Code be enacted to 40
read as follows: 41

Sec. 2151.281. (A) The court shall appoint a guardian ad 42
litem, subject to rules adopted by the supreme court, to protect 43
the interest of a child in any proceeding concerning an alleged or 44
adjudicated delinquent child or unruly child when either of the 45
following applies: 46

(1) The child has no parent, guardian, or legal custodian. 47

(2) The court finds that there is a conflict of interest 48
between the child and the child's parent, guardian, or legal 49

custodian. 50

(B)(1) The Except as provided in division (K) of this 51
section, the court shall appoint a guardian ad litem, subject to 52
rules adopted by the supreme court, to protect the interest of a 53
child in any proceeding concerning an alleged abused or neglected 54
child and in any proceeding held pursuant to section 2151.414 of 55
the Revised Code. The guardian ad litem so appointed shall not be 56
the attorney responsible for presenting the evidence alleging that 57
the child is an abused or neglected child and shall not be an 58
employee of any party in the proceeding. 59

(2) Except in any proceeding concerning a dependent child 60
involving the permanent custody of an infant under the age of six 61
months for the sole purpose of placement for adoption by a private 62
child placing agency, the court shall appoint a guardian ad litem, 63
subject to rules adopted by the supreme court, to protect the 64
interest of a child in any proceeding concerning an alleged 65
dependent child if any of the following applies: 66

(a) The parent of the child appears to be mentally 67
incompetent or is under eighteen years of age. 68

(b) There is a conflict of interest between the child and the 69
child's parents, guardian, or custodian. 70

(c) The court believes that the parent of the child is not 71
capable of representing the best interest of the child. 72

(3) Except in any proceeding concerning a dependent child 73
involving the permanent custody of an infant under the age of six 74
months for the sole purpose of placement for adoption by a private 75
child placing agency, the court may appoint a guardian ad litem, 76
subject to rules adopted by the supreme court, to protect the 77
interest of the child in any other proceeding concerning an 78
alleged dependent child. 79

(4) The guardian ad litem appointed for an alleged or 80

adjudicated abused or neglected child may bring a civil action 81
against any person who is required by division (A)(1) or (4) of 82
section 2151.421 of the Revised Code to file a report of child 83
abuse or child neglect that is known or reasonably suspected or 84
believed to have occurred if that person knows, or has reasonable 85
cause to suspect or believe based on facts that would cause a 86
reasonable person in a similar position to suspect or believe, as 87
applicable, that the child for whom the guardian ad litem is 88
appointed is the subject of child abuse or child neglect and does 89
not file the required report and if the child suffers any injury 90
or harm as a result of the child abuse or child neglect that is 91
known or reasonably suspected or believed to have occurred or 92
suffers additional injury or harm after the failure to file the 93
report. 94

(C) In any proceeding concerning an alleged or adjudicated 95
delinquent, unruly, abused, neglected, or dependent child in which 96
the parent appears to be mentally incompetent or is under eighteen 97
years of age, the court shall appoint a guardian ad litem to 98
protect the interest of that parent. 99

(D) The court shall require the guardian ad litem to 100
faithfully discharge the guardian ad litem's duties and, upon the 101
guardian ad litem's failure to faithfully discharge the guardian 102
ad litem's duties, shall discharge the guardian ad litem and 103
appoint another guardian ad litem. The court may fix the 104
compensation for the service of the guardian ad litem, which 105
compensation shall be paid from the treasury of the county, 106
subject to rules adopted by the supreme court. 107

(E) A parent who is eighteen years of age or older and not 108
mentally incompetent shall be deemed sui juris for the purpose of 109
any proceeding relative to a child of the parent who is alleged or 110
adjudicated to be an abused, neglected, or dependent child. 111

(F) In any case in which a parent of a child alleged or 112

adjudicated to be an abused, neglected, or dependent child is 113
under eighteen years of age, the parents of that parent shall be 114
summoned to appear at any hearing respecting the child, who is 115
alleged or adjudicated to be an abused, neglected, or dependent 116
child. 117

(G) ~~In~~ Except as provided in division (K) of this section, in 118
any case involving in which a guardian ad litem is to be appointed 119
for an alleged or adjudicated abused or, neglected, or dependent 120
child or in any case involving an agreement for the voluntary 121
surrender of temporary or permanent custody of a child that is 122
made in accordance with section 5103.15 of the Revised Code, the 123
court shall appoint the guardian ad litem in each case as soon as 124
possible after the complaint is filed, the request for an 125
extension of the temporary custody agreement is filed with the 126
court, or the request for court approval of the permanent custody 127
agreement is filed. In any case involving an alleged dependent 128
child in which the parent of the child appears to be mentally 129
incompetent or is under eighteen years of age, there is a conflict 130
of interest between the child and the child's parents, guardian, 131
or custodian, or the court believes that the parent of the child 132
is not capable of representing the best interest of the child, the 133
court shall appoint a guardian ad litem for the child. The 134
guardian ad litem or the guardian ad litem's replacement shall 135
continue to serve until any of the following occur: 136

(1) The complaint is dismissed or the request for an 137
extension of a temporary custody agreement or for court approval 138
of the permanent custody agreement is withdrawn or denied; 139

(2) All dispositional orders relative to the child have 140
terminated; 141

(3) The legal custody of the child is granted to a relative 142
of the child, or to another person; 143

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

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

(6) The guardian ad litem resigns or is removed by the court and a replacement is appointed by the court.

If a guardian ad litem ceases to serve a child pursuant to division (G)(4) of this section and the petition for adoption with respect to the child is denied or withdrawn prior to the issuance of a final decree of adoption or prior to the date an interlocutory order of adoption becomes final, the juvenile court shall reappoint a guardian ad litem for that child. The public children services agency or private child placing agency with permanent custody of the child shall notify the juvenile court if the petition for adoption is denied or withdrawn.

(H) If the guardian ad litem for an alleged or adjudicated abused, neglected, or dependent child is an attorney admitted to the practice of law in this state, the guardian ad litem also may serve as counsel to the ward. Until the supreme court adopts rules regarding service as a guardian ad litem that regulate conflicts between a person's role as guardian ad litem and as counsel, if a person is serving as guardian ad litem and counsel for a child and either that person or the court finds that a conflict may exist between the person's roles as guardian ad litem and as counsel, the court shall relieve the person of duties as guardian ad litem and appoint someone else as guardian ad litem for the child. If the court appoints a person who is not an attorney admitted to the practice of law in this state to be a guardian ad litem, the court

also may appoint an attorney admitted to the practice of law in 176
this state to serve as counsel for the guardian ad litem. 177

(I) The guardian ad litem for an alleged or adjudicated 178
abused, neglected, or dependent child shall perform whatever 179
functions are necessary to protect the best interest of the child, 180
including, but not limited to, investigation, mediation, 181
monitoring court proceedings, and monitoring the services provided 182
the child by the public children services agency or private child 183
placing agency that has temporary or permanent custody of the 184
child, and shall file any motions and other court papers that are 185
in the best interest of the child in accordance with rules adopted 186
by the supreme court. 187

The guardian ad litem shall be given notice of all hearings, 188
administrative reviews, and other proceedings in the same manner 189
as notice is given to parties to the action. 190

(J)(1) When the court appoints a guardian ad litem pursuant 191
to this section, it shall appoint a qualified volunteer or court 192
appointed special advocate whenever one is available and the 193
appointment is appropriate. 194

(2) Upon request, the department of job and family services 195
shall provide for the training of volunteer guardians ad litem. 196

(K) A guardian ad litem shall not be appointed for a child 197
who is under six months of age in any proceeding in which a 198
private child placing agency is seeking permanent custody of the 199
child or seeking approval of a voluntary permanent custody 200
surrender agreement for the sole purpose of the adoption of the 201
child. 202

Sec. 2151.315. (A) As used in this section, "age-appropriate" 203
means activities or items that are generally accepted as suitable 204
for children of the same chronological age or level of maturity. 205

Age appropriateness is based on the development of cognitive, 206
emotional, physical, and behavioral capacity that is typical for 207
an age or age group. 208

(B) A child who is subject to out-of-home care for alleged or 209
adjudicated abused, neglected, or dependent children is entitled 210
to participate in age-appropriate extracurricular, enrichment, and 211
social activities. 212

(C) A person or facility that is providing out-of-home care 213
for an alleged or adjudicated abused, neglected, or dependent 214
child shall consider all of the following when determining whether 215
to give permission for that child to participate in 216
extracurricular, enrichment, or social activities: 217

(1) The child's age, maturity, and developmental level to 218
maintain the overall health and safety of the child; 219

(2) The potential risk factors and the appropriateness of the 220
extracurricular, enrichment, or social activity; 221

(3) The best interest of the child based on information known 222
by the person or facility providing out-of-home care for an 223
alleged or adjudicated abused, neglected, or dependent child; 224

(4) The importance of encouraging the child's emotional and 225
developmental growth; 226

(5) The importance of providing the child with the most 227
family-like living experience possible; 228

(6) The behavioral history of the child and the child's 229
ability to safely participate in the extracurricular, enrichment, 230
or social activity. 231

(D) A person or facility that provides out-of-home care to an 232
alleged or adjudicated abused, neglected, or dependent child shall 233
be immune from liability in a civil action to recover damages for 234
injury, death, or loss to person or property caused to the child 235

who participates in an extracurricular, enrichment, or social 236
activity approved by the person or facility provided that the 237
person or facility considered the factors described in division 238
(C) of this section. 239

Sec. 2151.353. (A) If a child is adjudicated an abused, 240
neglected, or dependent child, the court may make any of the 241
following orders of disposition: 242

(1) Place the child in protective supervision; 243

(2) Commit the child to the temporary custody of a public 244
children services agency, a private child placing agency, either 245
parent, a relative residing within or outside the state, or a 246
probation officer for placement in a certified foster home, or in 247
any other home approved by the court; 248

(3) Award legal custody of the child to either parent or to 249
any other person who, prior to the dispositional hearing, files a 250
motion requesting legal custody of the child or is identified as a 251
proposed legal custodian in a complaint or motion filed prior to 252
the dispositional hearing by any party to the proceedings. A 253
person identified in a complaint or motion filed by a party to the 254
proceedings as a proposed legal custodian shall be awarded legal 255
custody of the child only if the person identified signs a 256
statement of understanding for legal custody that contains at 257
least the following provisions: 258

(a) That it is the intent of the person to become the legal 259
custodian of the child and the person is able to assume legal 260
responsibility for the care and supervision of the child; 261

(b) That the person understands that legal custody of the 262
child in question is intended to be permanent in nature and that 263
the person will be responsible as the custodian for the child 264
until the child reaches the age of majority. Responsibility as 265

custodian for the child shall continue beyond the age of majority 266
if, at the time the child reaches the age of majority, the child 267
is pursuing a diploma granted by the board of education or other 268
governing authority, successful completion of the curriculum of 269
any high school, successful completion of an individualized 270
education program developed for the student by any high school, or 271
an age and schooling certificate. Responsibility beyond the age of 272
majority shall terminate when the child ceases to continuously 273
pursue such an education, completes such an education, or is 274
excused from such an education under standards adopted by the 275
state board of education, whichever occurs first. 276

(c) That the parents of the child have residual parental 277
rights, privileges, and responsibilities, including, but not 278
limited to, the privilege of reasonable visitation, consent to 279
adoption, the privilege to determine the child's religious 280
affiliation, and the responsibility for support; 281

(d) That the person understands that the person must be 282
present in court for the dispositional hearing in order to affirm 283
the person's intention to become legal custodian, to affirm that 284
the person understands the effect of the custodianship before the 285
court, and to answer any questions that the court or any parties 286
to the case may have. 287

(4) Commit the child to the permanent custody of a public 288
children services agency or private child placing agency, if the 289
court determines in accordance with division (E) of section 290
2151.414 of the Revised Code that the child cannot be placed with 291
one of the child's parents within a reasonable time or should not 292
be placed with either parent and determines in accordance with 293
division (D)(1) of section 2151.414 of the Revised Code that the 294
permanent commitment is in the best interest of the child. If the 295
court grants permanent custody under this division, the court, 296
upon the request of any party, shall file a written opinion 297

setting forth its findings of fact and conclusions of law in 298
relation to the proceeding. 299

(5) Place the child in a planned permanent living arrangement 300
with a public children services agency or private child placing 301
agency, if a public children services agency or private child 302
placing agency requests the court to place the child in a planned 303
permanent living arrangement and if the court finds, by clear and 304
convincing evidence, that a planned permanent living arrangement 305
is in the best interest of the child and that one of the following 306
exists: 307

(a) The child, because of physical, mental, or psychological 308
problems or needs, is unable to function in a family-like setting 309
and must remain in residential or institutional care now and for 310
the foreseeable future beyond the date of the dispositional 311
hearing held pursuant to section 2151.35 of the Revised Code. 312

(b) The child is sixteen years of age or older, the parents 313
of the child have significant physical, mental, or psychological 314
problems and are unable to care for the child because of those 315
problems, adoption is not in the best interest of the child, as 316
determined in accordance with division (D)(1) of section 2151.414 317
of the Revised Code, and the child retains a significant and 318
positive relationship with a parent or relative. 319

(c) The child is sixteen years of age or older, has been 320
counseled on the permanent placement options available to the 321
child, and is unwilling to accept or unable to adapt to a 322
permanent placement, ~~and is in an agency program preparing the~~ 323
~~child for independent living.~~ 324

(6) Order the removal from the child's home until further 325
order of the court of the person who committed abuse as described 326
in section 2151.031 of the Revised Code against the child, who 327
caused or allowed the child to suffer neglect as described in 328

section 2151.03 of the Revised Code, or who is the parent, 329
guardian, or custodian of a child who is adjudicated a dependent 330
child and order any person not to have contact with the child or 331
the child's siblings. 332

(B)(1) When making a determination on whether to place a 333
child in a planned permanent living arrangement pursuant to 334
division (A)(5)(b) or (c) of this section, the court shall 335
consider all relevant information that has been presented to the 336
court, including information gathered from the child, the child's 337
guardian ad litem, and the public children services agency or 338
private child placing agency. 339

(2) A child who is placed in a planned permanent living 340
arrangement pursuant to division (A)(5)(b) or (c) of this section 341
shall be placed in an independent living setting or in a family 342
setting in which the caregiver has been provided by the agency 343
that has custody of the child with a notice that addresses the 344
following: 345

(a) The caregiver understands that the planned permanent 346
living arrangement is intended to be permanent in nature and that 347
the caregiver will provide a stable placement for the child 348
through the child's emancipation or until the court releases the 349
child from the custody of the agency, whichever occurs first. 350

(b) The caregiver is expected to actively participate in the 351
youth's independent living case plan, attend agency team meetings 352
and court hearings as appropriate, complete training, as provided 353
in division (B) of section 5103.035 of the Revised Code, related 354
to providing the child independent living services, and assist in 355
the child's transition into adulthood. 356

(3) The department of job and family services shall develop a 357
model notice to be provided by an agency that has custody of a 358
child to a caregiver under division (B)(2) of this section. The 359

agency may modify the model notice to apply to the needs of the 360
agency. 361

(C) No order for permanent custody or temporary custody of a 362
child or the placement of a child in a planned permanent living 363
arrangement shall be made pursuant to this section unless the 364
complaint alleging the abuse, neglect, or dependency contains a 365
prayer requesting permanent custody, temporary custody, or the 366
placement of the child in a planned permanent living arrangement 367
as desired, the summons served on the parents of the child 368
contains as is appropriate a full explanation that the granting of 369
an order for permanent custody permanently divests them of their 370
parental rights, a full explanation that an adjudication that the 371
child is an abused, neglected, or dependent child may result in an 372
order of temporary custody that will cause the removal of the 373
child from their legal custody until the court terminates the 374
order of temporary custody or permanently divests the parents of 375
their parental rights, or a full explanation that the granting of 376
an order for a planned permanent living arrangement will result in 377
the removal of the child from their legal custody if any of the 378
conditions listed in divisions (A)(5)(a) to (c) of this section 379
are found to exist, and the summons served on the parents contains 380
a full explanation of their right to be represented by counsel and 381
to have counsel appointed pursuant to Chapter 120. of the Revised 382
Code if they are indigent. 383

If after making disposition as authorized by division (A)(2) 384
of this section, a motion is filed that requests permanent custody 385
of the child, the court may grant permanent custody of the child 386
to the movant in accordance with section 2151.414 of the Revised 387
Code. 388

~~(C)~~(D) If the court issues an order for protective 389
supervision pursuant to division (A)(1) of this section, the court 390
may place any reasonable restrictions upon the child, the child's 391

parents, guardian, or custodian, or any other person, including, 392
but not limited to, any of the following: 393

(1) Order a party, within forty-eight hours after the 394
issuance of the order, to vacate the child's home indefinitely or 395
for a specified period of time; 396

(2) Order a party, a parent of the child, or a physical 397
custodian of the child to prevent any particular person from 398
having contact with the child; 399

(3) Issue an order restraining or otherwise controlling the 400
conduct of any person which conduct would not be in the best 401
interest of the child. 402

~~(D)~~(E) As part of its dispositional order, the court shall 403
journalize a case plan for the child. The journalized case plan 404
shall not be changed except as provided in section 2151.412 of the 405
Revised Code. 406

~~(E)~~(F)(1) The court shall retain jurisdiction over any child 407
for whom the court issues an order of disposition pursuant to 408
division (A) of this section or pursuant to section 2151.414 or 409
2151.415 of the Revised Code until the child attains the age of 410
eighteen years if the child is not mentally retarded, 411
developmentally disabled, or physically impaired, the child 412
attains the age of twenty-one years if the child is mentally 413
retarded, developmentally disabled, or physically impaired, or the 414
child is adopted and a final decree of adoption is issued, except 415
that the court may retain jurisdiction over the child and continue 416
any order of disposition under division (A) of this section or 417
under section 2151.414 or 2151.415 of the Revised Code for a 418
specified period of time to enable the child to graduate from high 419
school or vocational school. The court shall make an entry 420
continuing its jurisdiction under this division in the journal. 421

(2) Any public children services agency, any private child 422

placing agency, the department of job and family services, or any 423
party, other than any parent whose parental rights with respect to 424
the child have been terminated pursuant to an order issued under 425
division (A)(4) of this section, by filing a motion with the 426
court, may at any time request the court to modify or terminate 427
any order of disposition issued pursuant to division (A) of this 428
section or section 2151.414 or 2151.415 of the Revised Code. The 429
court shall hold a hearing upon the motion as if the hearing were 430
the original dispositional hearing and shall give all parties to 431
the action and the guardian ad litem notice of the hearing 432
pursuant to the Juvenile Rules. If applicable, the court shall 433
comply with section 2151.42 of the Revised Code. 434

~~(F)~~(G) Any temporary custody order issued pursuant to 435
division (A) of this section shall terminate one year after the 436
earlier of the date on which the complaint in the case was filed 437
or the child was first placed into shelter care, except that, upon 438
the filing of a motion pursuant to section 2151.415 of the Revised 439
Code, the temporary custody order shall continue and not terminate 440
until the court issues a dispositional order under that section. 441
In resolving the motion, the court shall not order an existing 442
temporary custody order to continue beyond two years after the 443
date on which the complaint was filed or the child was first 444
placed into shelter care, whichever date is earlier, regardless of 445
whether any extensions have been previously ordered pursuant to 446
division (D) of section 2151.415 of the Revised Code. 447

~~(G)~~(H)(1) No later than one year after the earlier of the 448
date the complaint in the case was filed or the child was first 449
placed in shelter care, a party may ask the court to extend an 450
order for protective supervision for six months or to terminate 451
the order. A party requesting extension or termination of the 452
order shall file a written request for the extension or 453
termination with the court and give notice of the proposed 454

extension or termination in writing before the end of the day 455
after the day of filing it to all parties and the child's guardian 456
ad litem. If a public children services agency or private child 457
placing agency requests termination of the order, the agency shall 458
file a written status report setting out the facts supporting 459
termination of the order at the time it files the request with the 460
court. If no party requests extension or termination of the order, 461
the court shall notify the parties that the court will extend the 462
order for six months or terminate it and that it may do so without 463
a hearing unless one of the parties requests a hearing. All 464
parties and the guardian ad litem shall have seven days from the 465
date a notice is sent pursuant to this division to object to and 466
request a hearing on the proposed extension or termination. 467

(a) If it receives a timely request for a hearing, the court 468
shall schedule a hearing to be held no later than thirty days 469
after the request is received by the court. The court shall give 470
notice of the date, time, and location of the hearing to all 471
parties and the guardian ad litem. At the hearing, the court shall 472
determine whether extension or termination of the order is in the 473
child's best interest. If termination is in the child's best 474
interest, the court shall terminate the order. If extension is in 475
the child's best interest, the court shall extend the order for 476
six months. 477

(b) If it does not receive a timely request for a hearing, 478
the court may extend the order for six months or terminate it 479
without a hearing and shall journalize the order of extension or 480
termination not later than fourteen days after receiving the 481
request for extension or termination or after the date the court 482
notifies the parties that it will extend or terminate the order. 483
If the court does not extend or terminate the order, it shall 484
schedule a hearing to be held no later than thirty days after the 485
expiration of the applicable fourteen-day time period and give 486

notice of the date, time, and location of the hearing to all 487
parties and the child's guardian ad litem. At the hearing, the 488
court shall determine whether extension or termination of the 489
order is in the child's best interest. If termination is in the 490
child's best interest, the court shall terminate the order. If 491
extension is in the child's best interest, the court shall issue 492
an order extending the order for protective supervision six 493
months. 494

(2) If the court grants an extension of the order for 495
protective supervision pursuant to division ~~(G)~~(H)(1) of this 496
section, a party may, prior to termination of the extension, file 497
with the court a request for an additional extension of six months 498
or for termination of the order. The court and the parties shall 499
comply with division ~~(G)~~(H)(1) of this section with respect to 500
extending or terminating the order. 501

(3) If a court grants an extension pursuant to division 502
~~(G)~~(H)(2) of this section, the court shall terminate the order for 503
protective supervision at the end of the extension. 504

~~(H)~~(I) The court shall not issue a dispositional order 505
pursuant to division (A) of this section that removes a child from 506
the child's home unless the court complies with section 2151.419 507
of the Revised Code and includes in the dispositional order the 508
findings of fact required by that section. 509

~~(I)~~(J) If a motion or application for an order described in 510
division (A)(6) of this section is made, the court shall not issue 511
the order unless, prior to the issuance of the order, it provides 512
to the person all of the following: 513

(1) Notice and a copy of the motion or application; 514

(2) The grounds for the motion or application; 515

(3) An opportunity to present evidence and witnesses at a 516
hearing regarding the motion or application; 517

(4) An opportunity to be represented by counsel at the 518
hearing. 519

~~(J)~~(K) The jurisdiction of the court shall terminate one year 520
after the date of the award or, if the court takes any further 521
action in the matter subsequent to the award, the date of the 522
latest further action subsequent to the award, if the court awards 523
legal custody of a child to either of the following: 524

(1) A legal custodian who, at the time of the award of legal 525
custody, resides in a county of this state other than the county 526
in which the court is located; 527

(2) A legal custodian who resides in the county in which the 528
court is located at the time of the award of legal custody, but 529
moves to a different county of this state prior to one year after 530
the date of the award or, if the court takes any further action in 531
the matter subsequent to the award, one year after the date of the 532
latest further action subsequent to the award. 533

The court in the county in which the legal custodian resides 534
then shall have jurisdiction in the matter. 535

Sec. 2151.414. (A)(1) Upon the filing of a motion pursuant to 536
section 2151.413 of the Revised Code for permanent custody of a 537
child, the court shall schedule a hearing and give notice of the 538
filing of the motion and of the hearing, in accordance with 539
section 2151.29 of the Revised Code, to all parties to the action 540
and to the child's guardian ad litem. The notice also shall 541
contain a full explanation that the granting of permanent custody 542
permanently divests the parents of their parental rights, a full 543
explanation of their right to be represented by counsel and to 544
have counsel appointed pursuant to Chapter 120. of the Revised 545
Code if they are indigent, and the name and telephone number of 546
the court employee designated by the court pursuant to section 547
2151.314 of the Revised Code to arrange for the prompt appointment 548

of counsel for indigent persons. 549

The court shall conduct a hearing in accordance with section 550
2151.35 of the Revised Code to determine if it is in the best 551
interest of the child to permanently terminate parental rights and 552
grant permanent custody to the agency that filed the motion. The 553
adjudication that the child is an abused, neglected, or dependent 554
child and any dispositional order that has been issued in the case 555
under section 2151.353 of the Revised Code pursuant to the 556
adjudication shall not be readjudicated at the hearing and shall 557
not be affected by a denial of the motion for permanent custody. 558

(2) The court shall hold the hearing scheduled pursuant to 559
division (A)(1) of this section not later than one hundred twenty 560
days after the agency files the motion for permanent custody, 561
except that, for good cause shown, the court may continue the 562
hearing for a reasonable period of time beyond the 563
one-hundred-twenty-day deadline. The court shall issue an order 564
that grants, denies, or otherwise disposes of the motion for 565
permanent custody, and journalize the order, not later than two 566
hundred days after the agency files the motion. 567

If a motion is made under division (D)(2) of section 2151.413 568
of the Revised Code and no dispositional hearing has been held in 569
the case, the court may hear the motion in the dispositional 570
hearing required by division (B) of section 2151.35 of the Revised 571
Code. If the court issues an order pursuant to section 2151.353 of 572
the Revised Code granting permanent custody of the child to the 573
agency, the court shall immediately dismiss the motion made under 574
division (D)(2) of section 2151.413 of the Revised Code. 575

The failure of the court to comply with the time periods set 576
forth in division (A)(2) of this section does not affect the 577
authority of the court to issue any order under this chapter and 578
does not provide any basis for attacking the jurisdiction of the 579
court or the validity of any order of the court. 580

(B)(1) Except as provided in division (B)(2) of this section, 581
the court may grant permanent custody of a child to a movant if 582
the court determines at the hearing held pursuant to division (A) 583
of this section, by clear and convincing evidence, that it is in 584
the best interest of the child to grant permanent custody of the 585
child to the agency that filed the motion for permanent custody 586
and that any of the following apply: 587

(a) The child is not abandoned or orphaned, has not been in 588
the temporary custody of one or more public children services 589
agencies or private child placing agencies for twelve or more 590
months of a consecutive twenty-two-month period, or has not been 591
in the temporary custody of one or more public children services 592
agencies or private child placing agencies for twelve or more 593
months of a consecutive twenty-two-month period if, as described 594
in division (D)(1) of section 2151.413 of the Revised Code, the 595
child was previously in the temporary custody of an equivalent 596
agency in another state, and the child cannot be placed with 597
either of the child's parents within a reasonable time or should 598
not be placed with the child's parents. 599

(b) The child is abandoned. 600

(c) The child is orphaned, and there are no relatives of the 601
child who are able to take permanent custody. 602

(d) The child has been in the temporary custody of one or 603
more public children services agencies or private child placing 604
agencies for twelve or more months of a consecutive 605
twenty-two-month period, or the child has been in the temporary 606
custody of one or more public children services agencies or 607
private child placing agencies for twelve or more months of a 608
consecutive twenty-two-month period and, as described in division 609
(D)(1) of section 2151.413 of the Revised Code, the child was 610
previously in the temporary custody of an equivalent agency in 611
another state. 612

(e) The child or another child in the custody of the parent 613
or parents from whose custody the child has been removed has been 614
adjudicated an abused, neglected, or dependent child on three 615
separate occasions by any court in this state or another state. 616

For the purposes of division (B)(1) of this section, a child 617
shall be considered to have entered the temporary custody of an 618
agency on the earlier of the date the child is adjudicated 619
pursuant to section 2151.28 of the Revised Code or the date that 620
is sixty days after the removal of the child from home. 621

(2) With respect to a motion made pursuant to division (D)(2) 622
of section 2151.413 of the Revised Code, the court shall grant 623
permanent custody of the child to the movant if the court 624
determines in accordance with division (E) of this section that 625
the child cannot be placed with one of the child's parents within 626
a reasonable time or should not be placed with either parent and 627
determines in accordance with division (D) of this section that 628
permanent custody is in the child's best interest. 629

(C) In making the determinations required by this section or 630
division (A)(4) of section 2151.353 of the Revised Code, a court 631
shall not consider the effect the granting of permanent custody to 632
the agency would have upon any parent of the child. A written 633
report of the guardian ad litem of the child shall be submitted to 634
the court prior to or at the time of the hearing held pursuant to 635
division (A) of this section or section 2151.35 of the Revised 636
Code but shall not be submitted under oath. 637

If the court grants permanent custody of a child to a movant 638
under this division, the court, upon the request of any party, 639
shall file a written opinion setting forth its findings of fact 640
and conclusions of law in relation to the proceeding. The court 641
shall not deny an agency's motion for permanent custody solely 642
because the agency failed to implement any particular aspect of 643
the child's case plan. 644

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

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

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

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

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

(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 676
is sixty days after the removal of the child from home. 677

(2) If all of the following apply, permanent custody is in 678
the best interest of the child and the court shall commit the 679
child to the permanent custody of a public children services 680
agency or private child placing agency: 681

(a) The court determines by clear and convincing evidence 682
that one or more of the factors in division (E) of this section 683
exist and the child cannot be placed with one of the child's 684
parents within a reasonable time or should not be placed with 685
either parent. 686

(b) The child has been in an agency's custody for two years 687
or longer, and no longer qualifies for temporary custody pursuant 688
to division (D) of section 2151.415 of the Revised Code. 689

(c) The child does not meet the requirements for a planned 690
permanent living arrangement pursuant to division (A)(5) of 691
section 2151.353 of the Revised Code. 692

(d) Prior to the dispositional hearing, no relative or other 693
interested person has filed, or has been identified in, a motion 694
for legal custody of the child. 695

(E) In determining at a hearing held pursuant to division (A) 696
of this section or for the purposes of division (A)(4) of section 697
2151.353 of the Revised Code whether a child cannot be placed with 698
either parent within a reasonable period of time or should not be 699
placed with the parents, the court shall consider all relevant 700
evidence. If the court determines, by clear and convincing 701
evidence, at a hearing held pursuant to division (A) of this 702
section or for the purposes of division (A)(4) of section 2151.353 703
of the Revised Code that one or more of the following exist as to 704
each of the child's parents, the court shall enter a finding that 705
the child cannot be placed with either parent within a reasonable 706

time or should not be placed with either parent: 707

(1) Following the placement of the child outside the child's 708
home and notwithstanding reasonable case planning and diligent 709
efforts by the agency to assist the parents to remedy the problems 710
that initially caused the child to be placed outside the home, the 711
parent has failed continuously and repeatedly to substantially 712
remedy the conditions causing the child to be placed outside the 713
child's home. In determining whether the parents have 714
substantially remedied those conditions, the court shall consider 715
parental utilization of medical, psychiatric, psychological, and 716
other social and rehabilitative services and material resources 717
that were made available to the parents for the purpose of 718
changing parental conduct to allow them to resume and maintain 719
parental duties. 720

(2) Chronic mental illness, chronic emotional illness, mental 721
retardation, physical disability, or chemical dependency of the 722
parent that is so severe that it makes the parent unable to 723
provide an adequate permanent home for the child at the present 724
time and, as anticipated, within one year after the court holds 725
the hearing pursuant to division (A) of this section or for the 726
purposes of division (A)(4) of section 2151.353 of the Revised 727
Code; 728

(3) The parent committed any abuse as described in section 729
2151.031 of the Revised Code against the child, caused the child 730
to suffer any neglect as described in section 2151.03 of the 731
Revised Code, or allowed the child to suffer any neglect as 732
described in section 2151.03 of the Revised Code between the date 733
that the original complaint alleging abuse or neglect was filed 734
and the date of the filing of the motion for permanent custody; 735

(4) The parent has demonstrated a lack of commitment toward 736
the child by failing to regularly support, visit, or communicate 737
with the child when able to do so, or by other actions showing an 738

unwillingness to provide an adequate permanent home for the child; 739

(5) The parent is incarcerated for an offense committed 740
against the child or a sibling of the child; 741

(6) The parent has been convicted of or pleaded guilty to an 742
offense under division (A) or (C) of section 2919.22 or under 743
section 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.03, 744
2905.04, 2905.05, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 745
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 746
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.24, 747
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, or 3716.11 of the 748
Revised Code and the child or a sibling of the child was a victim 749
of the offense or the parent has been convicted of or pleaded 750
guilty to an offense under section 2903.04 of the Revised Code, a 751
sibling of the child was the victim of the offense, and the parent 752
who committed the offense poses an ongoing danger to the child or 753
a sibling of the child. 754

(7) The parent has been convicted of or pleaded guilty to one 755
of the following: 756

(a) An offense under section 2903.01, 2903.02, or 2903.03 of 757
the Revised Code or under an existing or former law of this state, 758
any other state, or the United States that is substantially 759
equivalent to an offense described in those sections and the 760
victim of the offense was a sibling of the child or the victim was 761
another child who lived in the parent's household at the time of 762
the offense; 763

(b) An offense under section 2903.11, 2903.12, or 2903.13 of 764
the Revised Code or under an existing or former law of this state, 765
any other state, or the United States that is substantially 766
equivalent to an offense described in those sections and the 767
victim of the offense is the child, a sibling of the child, or 768
another child who lived in the parent's household at the time of 769

the offense; 770

(c) An offense under division (B)(2) of section 2919.22 of 771
the Revised Code or under an existing or former law of this state, 772
any other state, or the United States that is substantially 773
equivalent to the offense described in that section and the child, 774
a sibling of the child, or another child who lived in the parent's 775
household at the time of the offense is the victim of the offense; 776

(d) An offense under section 2907.02, 2907.03, 2907.04, 777
2907.05, or 2907.06 of the Revised Code or under an existing or 778
former law of this state, any other state, or the United States 779
that is substantially equivalent to an offense described in those 780
sections and the victim of the offense is the child, a sibling of 781
the child, or another child who lived in the parent's household at 782
the time of the offense; 783

(e) A conspiracy or attempt to commit, or complicity in 784
committing, an offense described in division (E)(7)(a) or (d) of 785
this section. 786

(8) The parent has repeatedly withheld medical treatment or 787
food from the child when the parent has the means to provide the 788
treatment or food, and, in the case of withheld medical treatment, 789
the parent withheld it for a purpose other than to treat the 790
physical or mental illness or defect of the child by spiritual 791
means through prayer alone in accordance with the tenets of a 792
recognized religious body. 793

(9) The parent has placed the child at substantial risk of 794
harm two or more times due to alcohol or drug abuse and has 795
rejected treatment two or more times or refused to participate in 796
further treatment two or more times after a case plan issued 797
pursuant to section 2151.412 of the Revised Code requiring 798
treatment of the parent was journalized as part of a dispositional 799
order issued with respect to the child or an order was issued by 800

any other court requiring treatment of the parent. 801

(10) The parent has abandoned the child. 802

(11) The parent has had parental rights involuntarily 803
terminated with respect to a sibling of the child pursuant to this 804
section or section 2151.353 or 2151.415 of the Revised Code, or 805
under an existing or former law of this state, any other state, or 806
the United States that is substantially equivalent to those 807
sections, and the parent has failed to provide clear and 808
convincing evidence to prove that, notwithstanding the prior 809
termination, the parent can provide a legally secure permanent 810
placement and adequate care for the health, welfare, and safety of 811
the child. 812

(12) The parent is incarcerated at the time of the filing of 813
the motion for permanent custody or the dispositional hearing of 814
the child and will not be available to care for the child for at 815
least eighteen months after the filing of the motion for permanent 816
custody or the dispositional hearing. 817

(13) The parent is repeatedly incarcerated, and the repeated 818
incarceration prevents the parent from providing care for the 819
child. 820

(14) The parent for any reason is unwilling to provide food, 821
clothing, shelter, and other basic necessities for the child or to 822
prevent the child from suffering physical, emotional, or sexual 823
abuse or physical, emotional, or mental neglect. 824

(15) The parent has committed abuse as described in section 825
2151.031 of the Revised Code against the child or caused or 826
allowed the child to suffer neglect as described in section 827
2151.03 of the Revised Code, and the court determines that the 828
seriousness, nature, or likelihood of recurrence of the abuse or 829
neglect makes the child's placement with the child's parent a 830
threat to the child's safety. 831

(16) Any other factor the court considers relevant. 832

(F) The parents of a child for whom the court has issued an 833
order granting permanent custody pursuant to this section, upon 834
the issuance of the order, cease to be parties to the action. This 835
division is not intended to eliminate or restrict any right of the 836
parents to appeal the granting of permanent custody of their child 837
to a movant pursuant to this section. 838

Sec. 2151.415. (A) Except for cases in which a motion for 839
permanent custody described in division (D)(1) of section 2151.413 840
of the Revised Code is required to be made, a public children 841
services agency or private child placing agency that has been 842
given temporary custody of a child pursuant to section 2151.353 of 843
the Revised Code, not later than thirty days prior to the earlier 844
of the date for the termination of the custody order pursuant to 845
division ~~(G)~~(H) of section 2151.353 of the Revised Code or the 846
date set at the dispositional hearing for the hearing to be held 847
pursuant to this section, shall file a motion with the court that 848
issued the order of disposition requesting that any of the 849
following orders of disposition of the child be issued by the 850
court: 851

(1) An order that the child be returned home and the custody 852
of the child's parents, guardian, or custodian without any 853
restrictions; 854

(2) An order for protective supervision; 855

(3) An order that the child be placed in the legal custody of 856
a relative or other interested individual; 857

(4) An order permanently terminating the parental rights of 858
the child's parents; 859

(5) An order that the child be placed in a planned permanent 860
living arrangement; 861

(6) In accordance with division (D) of this section, an order 862
for the extension of temporary custody. 863

(B) Upon the filing of a motion pursuant to division (A) of 864
this section, the court shall hold a dispositional hearing on the 865
date set at the dispositional hearing held pursuant to section 866
2151.35 of the Revised Code, with notice to all parties to the 867
action in accordance with the Juvenile Rules. After the 868
dispositional hearing or at a date after the dispositional hearing 869
that is not later than one year after the earlier of the date on 870
which the complaint in the case was filed or the child was first 871
placed into shelter care, the court, in accordance with the best 872
interest of the child as supported by the evidence presented at 873
the dispositional hearing, shall issue an order of disposition as 874
set forth in division (A) of this section, except that all orders 875
for permanent custody shall be made in accordance with sections 876
2151.413 and 2151.414 of the Revised Code. In issuing an order of 877
disposition under this section, the court shall comply with 878
section 2151.42 of the Revised Code. 879

(C)(1) If an agency pursuant to division (A) of this section 880
requests the court to place a child into a planned permanent 881
living arrangement, the agency shall present evidence to indicate 882
why a planned permanent living arrangement is appropriate for the 883
child, including, but not limited to, evidence that the agency has 884
tried or considered all other possible dispositions for the child. 885
A court shall not place a child in a planned permanent living 886
arrangement, unless it finds, by clear and convincing evidence, 887
that a planned permanent living arrangement is in the best 888
interest of the child and that one of the following exists: 889

(a) The child, because of physical, mental, or psychological 890
problems or needs, is unable to function in a family-like setting 891
and must remain in residential or institutional care. 892

(b) The parents of the child have significant physical, 893

mental, or psychological problems and are unable to care for the 894
child because of those problems, adoption is not in the best 895
interest of the child, as determined in accordance with division 896
(D)(1) of section 2151.414 of the Revised Code, and the child 897
retains a significant and positive relationship with a parent or 898
relative; 899

(c) The child is sixteen years of age or older, has been 900
counseled on the permanent placement options available, is 901
unwilling to accept or unable to adapt to a permanent placement, 902
and is in an agency program preparing for independent living. 903

(2) If the court issues an order placing a child in a planned 904
permanent living arrangement, both of the following apply: 905

(a) The court shall issue a finding of fact setting forth the 906
reasons for its finding; 907

(b) The agency may make any appropriate placement for the 908
child and shall develop a case plan for the child that is designed 909
to assist the child in finding a permanent home outside of the 910
home of the parents. 911

(D)(1) If an agency pursuant to division (A) of this section 912
requests the court to grant an extension of temporary custody for 913
a period of up to six months, the agency shall include in the 914
motion an explanation of the progress on the case plan of the 915
child and of its expectations of reunifying the child with the 916
child's family, or placing the child in a permanent placement, 917
within the extension period. The court shall schedule a hearing on 918
the motion, give notice of its date, time, and location to all 919
parties and the guardian ad litem of the child, and at the hearing 920
consider the evidence presented by the parties and the guardian ad 921
litem. The court may extend the temporary custody order of the 922
child for a period of up to six months, if it determines at the 923
hearing, by clear and convincing evidence, that the extension is 924

in the best interest of the child, there has been significant 925
progress on the case plan of the child, and there is reasonable 926
cause to believe that the child will be reunified with one of the 927
parents or otherwise permanently placed within the period of 928
extension. In determining whether to extend the temporary custody 929
of the child pursuant to this division, the court shall comply 930
with section 2151.42 of the Revised Code. If the court extends the 931
temporary custody of the child pursuant to this division, upon 932
request it shall issue findings of fact. 933

(2) Prior to the end of the extension granted pursuant to 934
division (D)(1) of this section, the agency that received the 935
extension shall file a motion with the court requesting the 936
issuance of one of the orders of disposition set forth in 937
divisions (A)(1) to (5) of this section or requesting the court to 938
extend the temporary custody order of the child for an additional 939
period of up to six months. If the agency requests the issuance of 940
an order of disposition under divisions (A)(1) to (5) of this 941
section or does not file any motion prior to the expiration of the 942
extension period, the court shall conduct a hearing in accordance 943
with division (B) of this section and issue an appropriate order 944
of disposition. In issuing an order of disposition, the court 945
shall comply with section 2151.42 of the Revised Code. 946

If the agency requests an additional extension of up to six 947
months of the temporary custody order of the child, the court 948
shall schedule and conduct a hearing in the manner set forth in 949
division (D)(1) of this section. The court may extend the 950
temporary custody order of the child for an additional period of 951
up to six months if it determines at the hearing, by clear and 952
convincing evidence, that the additional extension is in the best 953
interest of the child, there has been substantial additional 954
progress since the original extension of temporary custody in the 955
case plan of the child, there has been substantial additional 956

progress since the original extension of temporary custody toward 957
reunifying the child with one of the parents or otherwise 958
permanently placing the child, and there is reasonable cause to 959
believe that the child will be reunified with one of the parents 960
or otherwise placed in a permanent setting before the expiration 961
of the additional extension period. In determining whether to 962
grant an additional extension, the court shall comply with section 963
2151.42 of the Revised Code. If the court extends the temporary 964
custody of the child for an additional period pursuant to this 965
division, upon request it shall issue findings of fact. 966

(3) Prior to the end of the extension of a temporary custody 967
order granted pursuant to division (D)(2) of this section, the 968
agency that received the extension shall file a motion with the 969
court requesting the issuance of one of the orders of disposition 970
set forth in divisions (A)(1) to (5) of this section. Upon the 971
filing of the motion by the agency or, if the agency does not file 972
the motion prior to the expiration of the extension period, upon 973
its own motion, the court, prior to the expiration of the 974
extension period, shall conduct a hearing in accordance with 975
division (B) of this section and issue an appropriate order of 976
disposition. In issuing an order of disposition, the court shall 977
comply with section 2151.42 of the Revised Code. 978

(4) No court shall grant an agency more than two extensions 979
of temporary custody pursuant to division (D) of this section and 980
the court shall not order an existing temporary custody order to 981
continue beyond two years after the date on which the complaint 982
was filed or the child was first placed into shelter care, 983
whichever date is earlier, regardless of whether any extensions 984
have been previously ordered pursuant to division (D) of this 985
section. 986

(E) After the issuance of an order pursuant to division (B) 987
of this section, the court shall retain jurisdiction over the 988

child until the child attains the age of eighteen if the child is 989
not mentally retarded, developmentally disabled, or physically 990
impaired, the child attains the age of twenty-one if the child is 991
mentally retarded, developmentally disabled, or physically 992
impaired, or the child is adopted and a final decree of adoption 993
is issued, unless the court's jurisdiction over the child is 994
extended pursuant to division ~~(E)~~(F) of section 2151.353 of the 995
Revised Code. 996

(F) The court, on its own motion or the motion of the agency 997
or person with legal custody of the child, the child's guardian ad 998
litem, or any other party to the action, may conduct a hearing 999
with notice to all parties to determine whether any order issued 1000
pursuant to this section should be modified or terminated or 1001
whether any other dispositional order set forth in divisions 1002
(A)(1) to (5) of this section should be issued. After the hearing 1003
and consideration of all the evidence presented, the court, in 1004
accordance with the best interest of the child, may modify or 1005
terminate any order issued pursuant to this section or issue any 1006
dispositional order set forth in divisions (A)(1) to (5) of this 1007
section. In rendering a decision under this division, the court 1008
shall comply with section 2151.42 of the Revised Code. 1009

(G) If the court places a child in a planned permanent living 1010
arrangement with a public children services agency or a private 1011
child placing agency pursuant to this section, the agency with 1012
which the child is placed in a planned permanent living 1013
arrangement shall not remove the child from the residential 1014
placement in which the child is originally placed pursuant to the 1015
case plan for the child or in which the child is placed with court 1016
approval pursuant to this division, unless the court and the 1017
guardian ad litem are given notice of the intended removal and the 1018
court issues an order approving the removal or unless the removal 1019
is necessary to protect the child from physical or emotional harm 1020

and the agency gives the court notice of the removal and of the reasons why the removal is necessary to protect the child from physical or emotional harm immediately after the removal of the child from the prior setting.

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

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

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

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

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

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

Sec. 2151.417. (A) Any court that issues a dispositional order pursuant to section 2151.353, 2151.414, or 2151.415 of the Revised Code may review at any time the child's placement or custody arrangement, the case plan prepared for the child pursuant to section 2151.412 of the Revised Code, the actions of the public children services agency or private child placing agency in implementing that case plan, the child's permanency plan if the child's permanency plan has been approved, and any other aspects of the child's placement or custody arrangement. In conducting the review, the court shall determine the appropriateness of any

agency actions, the safety and appropriateness of continuing the 1051
child's placement or custody arrangement, and whether any changes 1052
should be made with respect to the child's permanency plan or 1053
placement or custody arrangement or with respect to the actions of 1054
the agency under the child's placement or custody arrangement. 1055
Based upon the evidence presented at a hearing held after notice 1056
to all parties and the guardian ad litem of the child, the court 1057
may require the agency, the parents, guardian, or custodian of the 1058
child, and the physical custodians of the child to take any 1059
reasonable action that the court determines is necessary and in 1060
the best interest of the child or to discontinue any action that 1061
it determines is not in the best interest of the child. 1062

(B) If a court issues a dispositional order pursuant to 1063
section 2151.353, 2151.414, or 2151.415 of the Revised Code, the 1064
court has continuing jurisdiction over the child as set forth in 1065
division ~~(E)~~(F)(1) of section 2151.353 of the Revised Code. The 1066
court may amend a dispositional order in accordance with division 1067
~~(E)~~(F)(2) of section 2151.353 of the Revised Code at any time upon 1068
its own motion or upon the motion of any interested party. The 1069
court shall comply with section 2151.42 of the Revised Code in 1070
amending any dispositional order pursuant to this division. 1071

(C) Any court that issues a dispositional order pursuant to 1072
section 2151.353, 2151.414, or 2151.415 of the Revised Code shall 1073
hold a review hearing one year after the earlier of the date on 1074
which the complaint in the case was filed or the child was first 1075
placed into shelter care to review the case plan prepared pursuant 1076
to section 2151.412 of the Revised Code and the child's placement 1077
or custody arrangement, to approve or review the permanency plan 1078
for the child, and to make changes to the case plan and placement 1079
or custody arrangement consistent with the permanency plan. The 1080
court shall schedule the review hearing at the time that it holds 1081
the dispositional hearing pursuant to section 2151.35 of the 1082

Revised Code. 1083

The court shall hold a similar review hearing no later than 1084
every twelve months after the initial review hearing until the 1085
child is adopted, returned to the parents, or the court otherwise 1086
terminates the child's placement or custody arrangement, except 1087
that the dispositional hearing held pursuant to section 2151.415 1088
of the Revised Code shall take the place of the first review 1089
hearing to be held under this section. The court shall schedule 1090
each subsequent review hearing at the conclusion of the review 1091
hearing immediately preceding the review hearing to be scheduled. 1092

(D) If, within fourteen days after a written summary of an 1093
administrative review is filed with the court pursuant to section 1094
2151.416 of the Revised Code, the court does not approve the 1095
proposed change to the case plan filed pursuant to division (E) of 1096
section 2151.416 of the Revised Code or a party or the guardian ad 1097
litem requests a review hearing pursuant to division (E) of that 1098
section, the court shall hold a review hearing in the same manner 1099
that it holds review hearings pursuant to division (C) of this 1100
section, except that if a review hearing is required by this 1101
division and if a hearing is to be held pursuant to division (C) 1102
of this section or section 2151.415 of the Revised Code, the 1103
hearing held pursuant to division (C) of this section or section 1104
2151.415 of the Revised Code shall take the place of the review 1105
hearing required by this division. 1106

(E) If a court determines pursuant to section 2151.419 of the 1107
Revised Code that a public children services agency or private 1108
child placing agency is not required to make reasonable efforts to 1109
prevent the removal of a child from the child's home, eliminate 1110
the continued removal of a child from the child's home, and return 1111
the child to the child's home, and the court does not return the 1112
child to the child's home pursuant to division (A)(3) of section 1113
2151.419 of the Revised Code, the court shall hold a review 1114

hearing to approve the permanency plan for the child and, if 1115
appropriate, to make changes to the child's case plan and the 1116
child's placement or custody arrangement consistent with the 1117
permanency plan. The court may hold the hearing immediately 1118
following the determination under section 2151.419 of the Revised 1119
Code and shall hold it no later than thirty days after making that 1120
determination. 1121

(F) The court shall give notice of the review hearings held 1122
pursuant to this section to every interested party, including, but 1123
not limited to, the appropriate agency employees who are 1124
responsible for the child's care and planning, the child's 1125
parents, any person who had guardianship or legal custody of the 1126
child prior to the custody order, the child's guardian ad litem, 1127
and the child. The court shall summon every interested party to 1128
appear at the review hearing and give them an opportunity to 1129
testify and to present other evidence with respect to the child's 1130
custody arrangement, including, but not limited to, the following: 1131
the case plan for the child; the permanency plan, if one exists; 1132
the actions taken by the child's custodian; the need for a change 1133
in the child's custodian or caseworker; and the need for any 1134
specific action to be taken with respect to the child. The court 1135
shall require any interested party to testify or present other 1136
evidence when necessary to a proper determination of the issues 1137
presented at the review hearing. In any review hearing that 1138
pertains to a permanency plan for a child who will not be returned 1139
to the parent, the court shall consider in-state and out-of-state 1140
placement options and the court shall determine whether the 1141
in-state or the out-of-state placement continues to be appropriate 1142
and in the best interests of the child. In any review hearing that 1143
pertains to a permanency plan for a child, the court or a citizens 1144
board appointed by the court pursuant to division (H) of this 1145
section shall consult with the child, in an age-appropriate 1146
manner, regarding the proposed permanency plan for the child. 1147

(G) After the review hearing, the court shall take the 1148
following actions based upon the evidence presented: 1149

(1) If an administrative review has been conducted, determine 1150
whether the conclusions of the review are supported by a 1151
preponderance of the evidence and approve or modify the case plan 1152
based upon that evidence; 1153

(2) If the hearing was held under division (C) or (E) of this 1154
section, approve a permanency plan for the child that specifies 1155
whether and, if applicable, when the child will be safely returned 1156
home or placed for adoption, for legal custody, or in a planned 1157
permanent living arrangement. A permanency plan approved after a 1158
hearing under division (E) of this section shall not include any 1159
provision requiring the child to be returned to the child's home. 1160

(3) If the child is in temporary custody, do all of the 1161
following: 1162

(a) Determine whether the child can and should be returned 1163
home with or without an order for protective supervision; 1164

(b) If the child can and should be returned home with or 1165
without an order for protective supervision, terminate the order 1166
for temporary custody; 1167

(c) If the child cannot or should not be returned home with 1168
an order for protective supervision, determine whether the agency 1169
currently with custody of the child should retain custody or 1170
whether another public children services agency, private child 1171
placing agency, or an individual should be given custody of the 1172
child. 1173

The court shall comply with section 2151.42 of the Revised 1174
Code in taking any action under this division. 1175

(4) If the child is in permanent custody, determine what 1176
actions are required by the custodial agency and of any other 1177

organizations or persons in order to facilitate an adoption of the 1178
child and make any appropriate orders with respect to the custody 1179
arrangement or conditions of the child, including, but not limited 1180
to, a transfer of permanent custody to another public children 1181
services agency or private child placing agency; 1182

(5) Journalize the terms of the updated case plan for the 1183
child. 1184

(H) The court may appoint a referee or a citizens review 1185
board to conduct the review hearings that the court is required by 1186
this section to conduct, subject to the review and approval by the 1187
court of any determinations made by the referee or citizens review 1188
board. If the court appoints a citizens review board to conduct 1189
the review hearings, the board shall consist of one member 1190
representing the general public and four members who are trained 1191
or experienced in the care or placement of children and have 1192
training or experience in the fields of medicine, psychology, 1193
social work, education, or any related field. Of the initial 1194
appointments to the board, two shall be for a term of one year, 1195
two shall be for a term of two years, and one shall be for a term 1196
of three years, with all the terms ending one year after the date 1197
on which the appointment was made. Thereafter, all terms of the 1198
board members shall be for three years and shall end on the same 1199
day of the same month of the year as did the term that they 1200
succeed. Any member appointed to fill a vacancy occurring prior to 1201
the expiration of the term for which the member's predecessor was 1202
appointed shall hold office for the remainder of the term. 1203

(I) A copy of the court's determination following any review 1204
hearing held pursuant to this section shall be sent to the 1205
custodial agency, the guardian ad litem of the child who is the 1206
subject of the review hearing, and, if that child is not the 1207
subject of a permanent commitment hearing, the parents of the 1208
child. 1209

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

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

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

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

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

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

(2) The permanency plan developed by the agency must specify whether and, if applicable, when the child will be safely returned home or placed for adoption or legal custody. If the agency determines that there is a compelling reason why returning the child home or placing the child for adoption or legal custody is not in the best interest of the child, the plan shall provide that the child will be placed in a planned permanent living arrangement. A permanency plan developed as a result of a determination made under division (A)(2) of section 2151.419 of

the Revised Code may not include any provision requiring the child 1241
to be returned home. 1242

Sec. 2151.421. (A)(1)(a) No person described in division 1243
(A)(1)(b) of this section who is acting in an official or 1244
professional capacity and knows, or has reasonable cause to 1245
suspect based on facts that would cause a reasonable person in a 1246
similar position to suspect, that a child under eighteen years of 1247
age or a mentally retarded, developmentally disabled, or 1248
physically impaired child under twenty-one years of age has 1249
suffered or faces a threat of suffering any physical or mental 1250
wound, injury, disability, or condition of a nature that 1251
reasonably indicates abuse or neglect of the child shall fail to 1252
immediately report that knowledge or reasonable cause to suspect 1253
to the entity or persons specified in this division. Except as 1254
provided in section 5120.173 of the Revised Code, the person 1255
making the report shall make it to the public children services 1256
agency or a municipal or county peace officer in the county in 1257
which the child resides or in which the abuse or neglect is 1258
occurring or has occurred. In the circumstances described in 1259
section 5120.173 of the Revised Code, the person making the report 1260
shall make it to the entity specified in that section. 1261

(b) Division (A)(1)(a) of this section applies to any person 1262
who is an attorney; physician, including a hospital intern or 1263
resident; dentist; podiatrist; practitioner of a limited branch of 1264
medicine as specified in section 4731.15 of the Revised Code; 1265
registered nurse; licensed practical nurse; visiting nurse; other 1266
health care professional; licensed psychologist; licensed school 1267
psychologist; independent marriage and family therapist or 1268
marriage and family therapist; speech pathologist or audiologist; 1269
coroner; administrator or employee of a child day-care center; 1270
administrator or employee of a residential camp or child day camp; 1271
administrator or employee of a certified child care agency or 1272

other public or private children services agency; school teacher; 1273
school employee; school authority; person engaged in social work 1274
or the practice of professional counseling; agent of a county 1275
humane society; person, other than a cleric, rendering spiritual 1276
treatment through prayer in accordance with the tenets of a 1277
well-recognized religion; employee of a county department of job 1278
and family services who is a professional and who works with 1279
children and families; superintendent, board member, or employee 1280
of a county board of developmental disabilities; investigative 1281
agent contracted with by a county board of developmental 1282
disabilities; employee of the department of developmental 1283
disabilities; employee of a facility or home that provides respite 1284
care in accordance with section 5123.171 of the Revised Code; 1285
employee of a home health agency; employee of an entity that 1286
provides homemaker services; a person performing the duties of an 1287
assessor pursuant to Chapter 3107. or 5103. of the Revised Code; 1288
~~or~~ third party employed by a public children services agency to 1289
assist in providing child or family related services; court 1290
appointed special advocate; or guardian ad litem. 1291

(2) Except as provided in division (A)(3) of this section, an 1292
attorney or a physician is not required to make a report pursuant 1293
to division (A)(1) of this section concerning any communication 1294
the attorney or physician receives from a client or patient in an 1295
attorney-client or physician-patient relationship, if, in 1296
accordance with division (A) or (B) of section 2317.02 of the 1297
Revised Code, the attorney or physician could not testify with 1298
respect to that communication in a civil or criminal proceeding. 1299

(3) The client or patient in an attorney-client or 1300
physician-patient relationship described in division (A)(2) of 1301
this section is deemed to have waived any testimonial privilege 1302
under division (A) or (B) of section 2317.02 of the Revised Code 1303
with respect to any communication the attorney or physician 1304

receives from the client or patient in that attorney-client or 1305
physician-patient relationship, and the attorney or physician 1306
shall make a report pursuant to division (A)(1) of this section 1307
with respect to that communication, if all of the following apply: 1308

(a) The client or patient, at the time of the communication, 1309
is either a child under eighteen years of age or a mentally 1310
retarded, developmentally disabled, or physically impaired person 1311
under twenty-one years of age. 1312

(b) The attorney or physician knows, or has reasonable cause 1313
to suspect based on facts that would cause a reasonable person in 1314
similar position to suspect, as a result of the communication or 1315
any observations made during that communication, that the client 1316
or patient has suffered or faces a threat of suffering any 1317
physical or mental wound, injury, disability, or condition of a 1318
nature that reasonably indicates abuse or neglect of the client or 1319
patient. 1320

(c) The abuse or neglect does not arise out of the client's 1321
or patient's attempt to have an abortion without the notification 1322
of her parents, guardian, or custodian in accordance with section 1323
2151.85 of the Revised Code. 1324

(4)(a) No cleric and no person, other than a volunteer, 1325
designated by any church, religious society, or faith acting as a 1326
leader, official, or delegate on behalf of the church, religious 1327
society, or faith who is acting in an official or professional 1328
capacity, who knows, or has reasonable cause to believe based on 1329
facts that would cause a reasonable person in a similar position 1330
to believe, that a child under eighteen years of age or a mentally 1331
retarded, developmentally disabled, or physically impaired child 1332
under twenty-one years of age has suffered or faces a threat of 1333
suffering any physical or mental wound, injury, disability, or 1334
condition of a nature that reasonably indicates abuse or neglect 1335
of the child, and who knows, or has reasonable cause to believe 1336

based on facts that would cause a reasonable person in a similar 1337
position to believe, that another cleric or another person, other 1338
than a volunteer, designated by a church, religious society, or 1339
faith acting as a leader, official, or delegate on behalf of the 1340
church, religious society, or faith caused, or poses the threat of 1341
causing, the wound, injury, disability, or condition that 1342
reasonably indicates abuse or neglect shall fail to immediately 1343
report that knowledge or reasonable cause to believe to the entity 1344
or persons specified in this division. Except as provided in 1345
section 5120.173 of the Revised Code, the person making the report 1346
shall make it to the public children services agency or a 1347
municipal or county peace officer in the county in which the child 1348
resides or in which the abuse or neglect is occurring or has 1349
occurred. In the circumstances described in section 5120.173 of 1350
the Revised Code, the person making the report shall make it to 1351
the entity specified in that section. 1352

(b) Except as provided in division (A)(4)(c) of this section, 1353
a cleric is not required to make a report pursuant to division 1354
(A)(4)(a) of this section concerning any communication the cleric 1355
receives from a penitent in a cleric-penitent relationship, if, in 1356
accordance with division (C) of section 2317.02 of the Revised 1357
Code, the cleric could not testify with respect to that 1358
communication in a civil or criminal proceeding. 1359

(c) The penitent in a cleric-penitent relationship described 1360
in division (A)(4)(b) of this section is deemed to have waived any 1361
testimonial privilege under division (C) of section 2317.02 of the 1362
Revised Code with respect to any communication the cleric receives 1363
from the penitent in that cleric-penitent relationship, and the 1364
cleric shall make a report pursuant to division (A)(4)(a) of this 1365
section with respect to that communication, if all of the 1366
following apply: 1367

(i) The penitent, at the time of the communication, is either 1368

a child under eighteen years of age or a mentally retarded, 1369
developmentally disabled, or physically impaired person under 1370
twenty-one years of age. 1371

(ii) The cleric knows, or has reasonable cause to believe 1372
based on facts that would cause a reasonable person in a similar 1373
position to believe, as a result of the communication or any 1374
observations made during that communication, the penitent has 1375
suffered or faces a threat of suffering any physical or mental 1376
wound, injury, disability, or condition of a nature that 1377
reasonably indicates abuse or neglect of the penitent. 1378

(iii) The abuse or neglect does not arise out of the 1379
penitent's attempt to have an abortion performed upon a child 1380
under eighteen years of age or upon a mentally retarded, 1381
developmentally disabled, or physically impaired person under 1382
twenty-one years of age without the notification of her parents, 1383
guardian, or custodian in accordance with section 2151.85 of the 1384
Revised Code. 1385

(d) Divisions (A)(4)(a) and (c) of this section do not apply 1386
in a cleric-penitent relationship when the disclosure of any 1387
communication the cleric receives from the penitent is in 1388
violation of the sacred trust. 1389

(e) As used in divisions (A)(1) and (4) of this section, 1390
"cleric" and "sacred trust" have the same meanings as in section 1391
2317.02 of the Revised Code. 1392

(B) Anyone who knows, or has reasonable cause to suspect 1393
based on facts that would cause a reasonable person in similar 1394
circumstances to suspect, that a child under eighteen years of age 1395
or a mentally retarded, developmentally disabled, or physically 1396
impaired person under twenty-one years of age has suffered or 1397
faces a threat of suffering any physical or mental wound, injury, 1398
disability, or other condition of a nature that reasonably 1399

indicates abuse or neglect of the child may report or cause 1400
reports to be made of that knowledge or reasonable cause to 1401
suspect to the entity or persons specified in this division. 1402
Except as provided in section 5120.173 of the Revised Code, a 1403
person making a report or causing a report to be made under this 1404
division shall make it or cause it to be made to the public 1405
children services agency or to a municipal or county peace 1406
officer. In the circumstances described in section 5120.173 of the 1407
Revised Code, a person making a report or causing a report to be 1408
made under this division shall make it or cause it to be made to 1409
the entity specified in that section. 1410

(C) Any report made pursuant to division (A) or (B) of this 1411
section shall be made forthwith either by telephone or in person 1412
and shall be followed by a written report, if requested by the 1413
receiving agency or officer. The written report shall contain: 1414

(1) The names and addresses of the child and the child's 1415
parents or the person or persons having custody of the child, if 1416
known; 1417

(2) The child's age and the nature and extent of the child's 1418
injuries, abuse, or neglect that is known or reasonably suspected 1419
or believed, as applicable, to have occurred or of the threat of 1420
injury, abuse, or neglect that is known or reasonably suspected or 1421
believed, as applicable, to exist, including any evidence of 1422
previous injuries, abuse, or neglect; 1423

(3) Any other information that might be helpful in 1424
establishing the cause of the injury, abuse, or neglect that is 1425
known or reasonably suspected or believed, as applicable, to have 1426
occurred or of the threat of injury, abuse, or neglect that is 1427
known or reasonably suspected or believed, as applicable, to 1428
exist. 1429

Any person, who is required by division (A) of this section 1430

to report child abuse or child neglect that is known or reasonably 1431
suspected or believed to have occurred, may take or cause to be 1432
taken color photographs of areas of trauma visible on a child and, 1433
if medically indicated, cause to be performed radiological 1434
examinations of the child. 1435

(D) As used in this division, "children's advocacy center" 1436
and "sexual abuse of a child" have the same meanings as in section 1437
2151.425 of the Revised Code. 1438

(1) When a municipal or county peace officer receives a 1439
report concerning the possible abuse or neglect of a child or the 1440
possible threat of abuse or neglect of a child, upon receipt of 1441
the report, the municipal or county peace officer who receives the 1442
report shall refer the report to the appropriate public children 1443
services agency. 1444

(2) When a public children services agency receives a report 1445
pursuant to this division or division (A) or (B) of this section, 1446
upon receipt of the report, the public children services agency 1447
shall do both of the following: 1448

(a) Comply with section 2151.422 of the Revised Code; 1449

(b) If the county served by the agency is also served by a 1450
children's advocacy center and the report alleges sexual abuse of 1451
a child or another type of abuse of a child that is specified in 1452
the memorandum of understanding that creates the center as being 1453
within the center's jurisdiction, comply regarding the report with 1454
the protocol and procedures for referrals and investigations, with 1455
the coordinating activities, and with the authority or 1456
responsibility for performing or providing functions, activities, 1457
and services stipulated in the interagency agreement entered into 1458
under section 2151.428 of the Revised Code relative to that 1459
center. 1460

(E) No township, municipal, or county peace officer shall 1461

remove a child about whom a report is made pursuant to this 1462
section from the child's parents, stepparents, or guardian or any 1463
other persons having custody of the child without consultation 1464
with the public children services agency, unless, in the judgment 1465
of the officer, and, if the report was made by physician, the 1466
physician, immediate removal is considered essential to protect 1467
the child from further abuse or neglect. The agency that must be 1468
consulted shall be the agency conducting the investigation of the 1469
report as determined pursuant to section 2151.422 of the Revised 1470
Code. 1471

(F)(1) Except as provided in section 2151.422 of the Revised 1472
Code or in an interagency agreement entered into under section 1473
2151.428 of the Revised Code that applies to the particular 1474
report, the public children services agency shall investigate, 1475
within twenty-four hours, each report of child abuse or child 1476
neglect that is known or reasonably suspected or believed to have 1477
occurred and of a threat of child abuse or child neglect that is 1478
known or reasonably suspected or believed to exist that is 1479
referred to it under this section to determine the circumstances 1480
surrounding the injuries, abuse, or neglect or the threat of 1481
injury, abuse, or neglect, the cause of the injuries, abuse, 1482
neglect, or threat, and the person or persons responsible. The 1483
investigation shall be made in cooperation with the law 1484
enforcement agency and in accordance with the memorandum of 1485
understanding prepared under division (J) of this section. A 1486
representative of the public children services agency shall, at 1487
the time of initial contact with the person subject to the 1488
investigation, inform the person of the specific complaints or 1489
allegations made against the person. The information shall be 1490
given in a manner that is consistent with division (H)(1) of this 1491
section and protects the rights of the person making the report 1492
under this section. 1493

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 to the uniform statewide automated child welfare information system that the department of job and family services shall maintain in accordance with section 5101.13 of the Revised Code. The public children services agency shall submit a report of its investigation, in writing, to the law enforcement agency.

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

(G)(1)(a) Except as provided in division (H)(3) of this section, anyone or any hospital, institution, school, health department, or agency participating in the making of reports under division (A) of this section, anyone or any hospital, institution, school, health department, or agency participating in good faith in the making of reports under division (B) of this section, and anyone participating in good faith in a judicial proceeding resulting from the reports, shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of the making of the reports or the participation in the judicial proceeding.

(b) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding a child's injuries, abuse, or neglect, or the cause of the injuries, abuse, or neglect in any judicial

proceeding resulting from a report submitted pursuant to this 1526
section. 1527

(2) In any civil or criminal action or proceeding in which it 1528
is alleged and proved that participation in the making of a report 1529
under this section was not in good faith or participation in a 1530
judicial proceeding resulting from a report made under this 1531
section was not in good faith, the court shall award the 1532
prevailing party reasonable attorney's fees and costs and, if a 1533
civil action or proceeding is voluntarily dismissed, may award 1534
reasonable attorney's fees and costs to the party against whom the 1535
civil action or proceeding is brought. 1536

(H)(1) Except as provided in divisions (H)(4) and (N) of this 1537
section, a report made under this section is confidential. The 1538
information provided in a report made pursuant to this section and 1539
the name of the person who made the report shall not be released 1540
for use, and shall not be used, as evidence in any civil action or 1541
proceeding brought against the person who made the report. Nothing 1542
in this division shall preclude the use of reports of other 1543
incidents of known or suspected abuse or neglect in a civil action 1544
or proceeding brought pursuant to division (M) of this section 1545
against a person who is alleged to have violated division (A)(1) 1546
of this section, provided that any information in a report that 1547
would identify the child who is the subject of the report or the 1548
maker of the report, if the maker of the report is not the 1549
defendant or an agent or employee of the defendant, has been 1550
redacted. In a criminal proceeding, the report is admissible in 1551
evidence in accordance with the Rules of Evidence and is subject 1552
to discovery in accordance with the Rules of Criminal Procedure. 1553

(2) No person shall permit or encourage the unauthorized 1554
dissemination of the contents of any report made under this 1555
section. 1556

(3) A person who knowingly makes or causes another person to 1557

make a false report under division (B) of this section that 1558
alleges that any person has committed an act or omission that 1559
resulted in a child being an abused child or a neglected child is 1560
guilty of a violation of section 2921.14 of the Revised Code. 1561

(4) If a report is made pursuant to division (A) or (B) of 1562
this section and the child who is the subject of the report dies 1563
for any reason at any time after the report is made, but before 1564
the child attains eighteen years of age, the public children 1565
services agency or municipal or county peace officer to which the 1566
report was made or referred, on the request of the child fatality 1567
review board, shall submit a summary sheet of information 1568
providing a summary of the report to the review board of the 1569
county in which the deceased child resided at the time of death. 1570
On the request of the review board, the agency or peace officer 1571
may, at its discretion, make the report available to the review 1572
board. If the county served by the public children services agency 1573
is also served by a children's advocacy center and the report of 1574
alleged sexual abuse of a child or another type of abuse of a 1575
child is specified in the memorandum of understanding that creates 1576
the center as being within the center's jurisdiction, the agency 1577
or center shall perform the duties and functions specified in this 1578
division in accordance with the interagency agreement entered into 1579
under section 2151.428 of the Revised Code relative to that 1580
advocacy center. 1581

(5) A public children services agency shall advise a person 1582
alleged to have inflicted abuse or neglect on a child who is the 1583
subject of a report made pursuant to this section, including a 1584
report alleging sexual abuse of a child or another type of abuse 1585
of a child referred to a children's advocacy center pursuant to an 1586
interagency agreement entered into under section 2151.428 of the 1587
Revised Code, in writing of the disposition of the investigation. 1588
The agency shall not provide to the person any information that 1589

identifies the person who made the report, statements of 1590
witnesses, or police or other investigative reports. 1591

(I) Any report that is required by this section, other than a 1592
report that is made to the state highway patrol as described in 1593
section 5120.173 of the Revised Code, shall result in protective 1594
services and emergency supportive services being made available by 1595
the public children services agency on behalf of the children 1596
about whom the report is made, in an effort to prevent further 1597
neglect or abuse, to enhance their welfare, and, whenever 1598
possible, to preserve the family unit intact. The agency required 1599
to provide the services shall be the agency conducting the 1600
investigation of the report pursuant to section 2151.422 of the 1601
Revised Code. 1602

(J)(1) Each public children services agency shall prepare a 1603
memorandum of understanding that is signed by all of the 1604
following: 1605

(a) If there is only one juvenile judge in the county, the 1606
juvenile judge of the county or the juvenile judge's 1607
representative; 1608

(b) If there is more than one juvenile judge in the county, a 1609
juvenile judge or the juvenile judges' representative selected by 1610
the juvenile judges or, if they are unable to do so for any 1611
reason, the juvenile judge who is senior in point of service or 1612
the senior juvenile judge's representative; 1613

(c) The county peace officer; 1614

(d) All chief municipal peace officers within the county; 1615

(e) Other law enforcement officers handling child abuse and 1616
neglect cases in the county; 1617

(f) The prosecuting attorney of the county; 1618

(g) If the public children services agency is not the county 1619

department of job and family services, the county department of 1620
job and family services; 1621

(h) The county humane society; 1622

(i) If the public children services agency participated in 1623
the execution of a memorandum of understanding under section 1624
2151.426 of the Revised Code establishing a children's advocacy 1625
center, each participating member of the children's advocacy 1626
center established by the memorandum. 1627

(2) A memorandum of understanding shall set forth the normal 1628
operating procedure to be employed by all concerned officials in 1629
the execution of their respective responsibilities under this 1630
section and division (C) of section 2919.21, division (B)(1) of 1631
section 2919.22, division (B) of section 2919.23, and section 1632
2919.24 of the Revised Code and shall have as two of its primary 1633
goals the elimination of all unnecessary interviews of children 1634
who are the subject of reports made pursuant to division (A) or 1635
(B) of this section and, when feasible, providing for only one 1636
interview of a child who is the subject of any report made 1637
pursuant to division (A) or (B) of this section. A failure to 1638
follow the procedure set forth in the memorandum by the concerned 1639
officials is not grounds for, and shall not result in, the 1640
dismissal of any charges or complaint arising from any reported 1641
case of abuse or neglect or the suppression of any evidence 1642
obtained as a result of any reported child abuse or child neglect 1643
and does not give, and shall not be construed as giving, any 1644
rights or any grounds for appeal or post-conviction relief to any 1645
person. 1646

(3) A memorandum of understanding shall include all of the 1647
following: 1648

(a) The roles and responsibilities for handling emergency and 1649
nonemergency cases of abuse and neglect; 1650

(b) Standards and procedures to be used in handling and 1651
coordinating investigations of reported cases of child abuse and 1652
reported cases of child neglect, methods to be used in 1653
interviewing the child who is the subject of the report and who 1654
allegedly was abused or neglected, and standards and procedures 1655
addressing the categories of persons who may interview the child 1656
who is the subject of the report and who allegedly was abused or 1657
neglected. 1658

(4) If a public children services agency participated in the 1659
execution of a memorandum of understanding under section 2151.426 1660
of the Revised Code establishing a children's advocacy center, the 1661
agency shall incorporate the contents of that memorandum in the 1662
memorandum prepared pursuant to this section. 1663

(5) The clerk of the court of common pleas in the county may 1664
sign the memorandum of understanding prepared under division 1665
(J)(1) of this section. If the clerk signs the memorandum of 1666
understanding, the clerk shall execute all relevant 1667
responsibilities as required of officials specified in the 1668
memorandum. 1669

(K)(1) Except as provided in division (K)(4) of this section, 1670
a person who is required to make a report pursuant to division (A) 1671
of this section may make a reasonable number of requests of the 1672
public children services agency that receives or is referred the 1673
report, or of the children's advocacy center that is referred the 1674
report if the report is referred to a children's advocacy center 1675
pursuant to an interagency agreement entered into under section 1676
2151.428 of the Revised Code, to be provided with the following 1677
information: 1678

(a) Whether the agency or center has initiated an 1679
investigation of the report; 1680

(b) Whether the agency or center is continuing to investigate 1681

the report; 1682

(c) Whether the agency or center is otherwise involved with 1683
the child who is the subject of the report; 1684

(d) The general status of the health and safety of the child 1685
who is the subject of the report; 1686

(e) Whether the report has resulted in the filing of a 1687
complaint in juvenile court or of criminal charges in another 1688
court. 1689

(2) A person may request the information specified in 1690
division (K)(1) of this section only if, at the time the report is 1691
made, the person's name, address, and telephone number are 1692
provided to the person who receives the report. 1693

When a municipal or county peace officer or employee of a 1694
public children services agency receives a report pursuant to 1695
division (A) or (B) of this section the recipient of the report 1696
shall inform the person of the right to request the information 1697
described in division (K)(1) of this section. The recipient of the 1698
report shall include in the initial child abuse or child neglect 1699
report that the person making the report was so informed and, if 1700
provided at the time of the making of the report, shall include 1701
the person's name, address, and telephone number in the report. 1702

Each request is subject to verification of the identity of 1703
the person making the report. If that person's identity is 1704
verified, the agency shall provide the person with the information 1705
described in division (K)(1) of this section a reasonable number 1706
of times, except that the agency shall not disclose any 1707
confidential information regarding the child who is the subject of 1708
the report other than the information described in those 1709
divisions. 1710

(3) A request made pursuant to division (K)(1) of this 1711
section is not a substitute for any report required to be made 1712

pursuant to division (A) of this section. 1713

(4) If an agency other than the agency that received or was 1714
referred the report is conducting the investigation of the report 1715
pursuant to section 2151.422 of the Revised Code, the agency 1716
conducting the investigation shall comply with the requirements of 1717
division (K) of this section. 1718

(L) The director of job and family services shall adopt rules 1719
in accordance with Chapter 119. of the Revised Code to implement 1720
this section. The department of job and family services may enter 1721
into a plan of cooperation with any other governmental entity to 1722
aid in ensuring that children are protected from abuse and 1723
neglect. The department shall make recommendations to the attorney 1724
general that the department determines are necessary to protect 1725
children from child abuse and child neglect. 1726

(M) Whoever violates division (A) of this section is liable 1727
for compensatory and exemplary damages to the child who would have 1728
been the subject of the report that was not made. A person who 1729
brings a civil action or proceeding pursuant to this division 1730
against a person who is alleged to have violated division (A)(1) 1731
of this section may use in the action or proceeding reports of 1732
other incidents of known or suspected abuse or neglect, provided 1733
that any information in a report that would identify the child who 1734
is the subject of the report or the maker of the report, if the 1735
maker is not the defendant or an agent or employee of the 1736
defendant, has been redacted. 1737

(N)(1) As used in this division: 1738

(a) "Out-of-home care" includes a nonchartered nonpublic 1739
school if the alleged child abuse or child neglect, or alleged 1740
threat of child abuse or child neglect, described in a report 1741
received by a public children services agency allegedly occurred 1742
in or involved the nonchartered nonpublic school and the alleged 1743

perpetrator named in the report holds a certificate, permit, or 1744
license issued by the state board of education under section 1745
3301.071 or Chapter 3319. of the Revised Code. 1746

(b) "Administrator, director, or other chief administrative 1747
officer" means the superintendent of the school district if the 1748
out-of-home care entity subject to a report made pursuant to this 1749
section is a school operated by the district. 1750

(2) No later than the end of the day following the day on 1751
which a public children services agency receives a report of 1752
alleged child abuse or child neglect, or a report of an alleged 1753
threat of child abuse or child neglect, that allegedly occurred in 1754
or involved an out-of-home care entity, the agency shall provide 1755
written notice of the allegations contained in and the person 1756
named as the alleged perpetrator in the report to the 1757
administrator, director, or other chief administrative officer of 1758
the out-of-home care entity that is the subject of the report 1759
unless the administrator, director, or other chief administrative 1760
officer is named as an alleged perpetrator in the report. If the 1761
administrator, director, or other chief administrative officer of 1762
an out-of-home care entity is named as an alleged perpetrator in a 1763
report of alleged child abuse or child neglect, or a report of an 1764
alleged threat of child abuse or child neglect, that allegedly 1765
occurred in or involved the out-of-home care entity, the agency 1766
shall provide the written notice to the owner or governing board 1767
of the out-of-home care entity that is the subject of the report. 1768
The agency shall not provide witness statements or police or other 1769
investigative reports. 1770

(3) No later than three days after the day on which a public 1771
children services agency that conducted the investigation as 1772
determined pursuant to section 2151.422 of the Revised Code makes 1773
a disposition of an investigation involving a report of alleged 1774
child abuse or child neglect, or a report of an alleged threat of 1775

child abuse or child neglect, that allegedly occurred in or 1776
involved an out-of-home care entity, the agency shall send written 1777
notice of the disposition of the investigation to the 1778
administrator, director, or other chief administrative officer and 1779
the owner or governing board of the out-of-home care entity. The 1780
agency shall not provide witness statements or police or other 1781
investigative reports. 1782

(O) As used in this section, "investigation" means the public 1783
children services agency's response to an accepted report of child 1784
abuse or neglect through either an alternative response or a 1785
traditional response. 1786

Sec. 5101.802. (A) As used in this section: 1787

(1) "Custodian," "guardian," and "minor child" have the same 1788
meanings as in section 5107.02 of the Revised Code. 1789

(2) "Federal poverty guidelines" has the same meaning as in 1790
section 5101.46 of the Revised Code. 1791

(3) "Kinship caregiver" has the same meaning as in section 1792
5101.85 of the Revised Code. 1793

(B) Subject to division (E) of section 5101.801 of the 1794
Revised Code, there is hereby created the kinship permanency 1795
incentive program to promote permanency for a minor child in the 1796
legal and physical custody of a kinship caregiver. The program 1797
shall provide an initial one-time incentive payment to the kinship 1798
caregiver to defray the costs of initial placement of the minor 1799
child in the kinship caregiver's home. The program may provide 1800
additional permanency incentive payments for the minor child at 1801
six month intervals for a total period not to exceed ~~thirty-six~~ 1802
forty-eight months, based on the availability of funds. 1803

(C) A kinship caregiver may participate in the program if all 1804
of the following requirements are met: 1805

(1) The kinship caregiver applies to a public children services agency in accordance with the application process established in rules authorized by division (E) of this section;	1806 1807 1808
(2) Not earlier than July 1, 2005, a juvenile court issues an order granting legal custody to the kinship caregiver, or a probate court grants guardianship to the kinship caregiver, except that a temporary court order is not sufficient to meet this requirement;	1809 1810 1811 1812 1813
(3) The kinship caregiver is either the minor child's custodian or guardian;	1814 1815
(4) The minor child resides with the kinship caregiver pursuant to a placement approval process established in rules authorized by division (E) of this section;	1816 1817 1818
(5) Excluding any income excluded under rules adopted under division (E) of this section, the gross income of the kinship caregiver's family, including the minor child, does not exceed three hundred per cent of the federal poverty guidelines.	1819 1820 1821 1822
(D) Public children services agencies shall make initial and ongoing eligibility determinations for the kinship permanency incentive program in accordance with rules authorized by division (E) of this section. The director of job and family services shall supervise public children services agencies' duties under this section.	1823 1824 1825 1826 1827 1828
(E) The director of job and family services shall adopt rules under division (C) of section 5101.801 of the Revised Code as necessary to implement the kinship permanency incentive program. The rules shall establish all of the following:	1829 1830 1831 1832
(1) The application process for the program;	1833
(2) The placement approval process through which a minor child is placed with a kinship caregiver for the kinship caregiver	1834 1835

to be eligible for the program;	1836
(3) The initial and ongoing eligibility determination process for the program, including the computation of income eligibility;	1837 1838
(4) The amount of the incentive payments provided under the program;	1839 1840
(5) The method by which the incentive payments are provided to a kinship caregiver.	1841 1842
(F) The amendments made to this section by Am. Sub. H.B. 119 of the 127th general assembly shall not affect the eligibility of any kinship caregiver whose eligibility was established before the effective date of the amendments <u>June 30, 2007</u> .	1843 1844 1845 1846
Sec. 5103.035. A public children services agency, private child placing agency, or private noncustodial agency acting as a recommending agency for a foster caregiver shall develop and implement a written needs assessment and continuing training plan for the foster caregiver. Each needs assessment and continuing training plan shall satisfy all of the following requirements:	1847 1848 1849 1850 1851 1852
(A) Be effective for the two-year period the foster caregiver's certificate is in effect;	1853 1854
(B) Be appropriate for the type of foster home the foster caregiver operates, <u>and include training for the caregiver that relates to providing independent living services, as defined in section 2151.81 of the Revised Code, to a child placed as provided in division (B)(2) of section 2151.353 of the Revised Code;</u>	1855 1856 1857 1858 1859
(C) Require the foster caregiver to successfully complete the training required by the department in rules adopted pursuant to section 5103.0316 of the Revised Code and any other courses the agency considers appropriate;	1860 1861 1862 1863
(D) Include criteria the agency is to use to determine whether the foster caregiver has successfully completed the	1864 1865

courses; 1866

(E) Guarantee that the courses the foster caregiver is 1867
required to complete are available to the foster caregiver at 1868
reasonable times and places; 1869

(F) Specify the number of hours of continuing training, if 1870
any, the foster caregiver may complete by teaching one or more 1871
training classes to other foster caregivers or by providing 1872
mentoring services to other foster caregivers pursuant to division 1873
(B) of section 5103.032 of the Revised Code; 1874

(G) Specify the number of hours of continuing training, if 1875
any, the agency will waive pursuant to division (C) of section 1876
5103.032 of the Revised Code. 1877

Sec. 5103.162. (A) Except as provided in division (B) of this 1878
section, a foster caregiver shall be immune from liability in a 1879
civil action to recover damages for injury, death, or loss to 1880
person or property allegedly caused by an act or omission in 1881
connection with a power, duty, responsibility, or authorization 1882
under this chapter or under rules adopted under authority of this 1883
chapter. 1884

(B) The immunity described in division (A) of this section 1885
does not apply to a foster caregiver if, in relation to the act or 1886
omission in question, any of the following applies: 1887

(1) The act or omission was manifestly outside the scope of 1888
the foster caregiver's power, duty, responsibility, or 1889
authorization. 1890

(2) The act or omission was with malicious purpose, in bad 1891
faith, or in a wanton or reckless manner. 1892

(3) Liability for the act or omission is expressly imposed by 1893
a section of the Revised Code. 1894

(C)(1) A foster caregiver shall use a reasonable and prudent 1895

parent standard when considering whether to authorize a foster child who resides in the foster home to participate in extracurricular, enrichment, and social activities. 1896
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(2) A public children services agency, private child placing agency, or private noncustodial agency that serves as the child's custodian or as the supervising agency for the foster caregiver shall be immune from liability in a civil action to recover damages for injury, death, or loss to person or property that result from a foster caregiver's or agency's decisions using a reasonable and prudent parent standard in accordance with division (C)(1) of this section. 1899
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(3) Nothing in this section shall affect, limit, abridge, or otherwise modify the immunities and defenses available to a public children services agency as a political subdivision under Chapter 2744. of the Revised Code. 1907
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(4) As used in this section, "reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests while at the same time encouraging the child's emotional and developmental growth, that a caregiver or agency shall use when determining whether to allow a child in the care of a foster caregiver to participate in extracurricular, enrichment, and social activities. 1911
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Section 2. That existing sections 2151.281, 2151.353, 2151.414, 2151.415, 2151.417, 2151.421, 5101.802, 5103.035, and 5103.162 of the Revised Code are hereby repealed. 1919
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Section 3. Section 2151.281 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 17 and Am. Sub. S.B. 238 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be 1922
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harmonized if reasonably capable of simultaneous operation, finds	1927
that the composite is the resulting version of the section in	1928
effect prior to the effective date of the section as presented in	1929
this act.	1930