

# As Introduced

**130th General Assembly  
Regular Session  
2013-2014**

**S. B. No. 367**

**Senators Kearney, Lehner**

**Cosponsors: Senators Cafaro, Schiavoni, Gentile, Turner, Smith, Brown,  
Tavares**

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## **A B I L L**

To amend sections 1.02, 121.22, 121.37, 135.801, 1  
145.012, 145.298, 149.431, 152.04, 173.25, 305.07, 2  
307.02, 313.12, 325.07, 711.23, 1751.01, 1751.14, 3  
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5747.03, 5815.28, and 5815.35 of the Revised Code	50
to replace "mental retardation" and similar terms	51
with "intellectual disability" and similar terms,	52
to specify that an intellectual disability is a	53
form of developmental disability, and to amend the	54
version of section 2101.24 of the Revised Code	55

that is scheduled to take effect March 20, 2015, 56  
to continue the provisions of this act on and 57  
after that effective date. 58

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

**Section 1.** That sections 1.02, 121.22, 121.37, 135.801, 59  
145.012, 145.298, 149.431, 152.04, 173.25, 305.07, 307.02, 313.12, 60  
325.07, 711.23, 1751.01, 1751.14, 2101.17, 2101.24, 2108.521, 61  
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5705.19, 5705.222, 5709.40, 5709.73, 5709.78, 5711.07, 5747.03, 94  
5815.28, and 5815.35 of the Revised Code be amended to read as 95  
follows: 96

**Sec. 1.02.** As used in the Revised Code, unless the context 97  
otherwise requires: 98

(A) "Whoever" includes all persons, natural and artificial; 99  
partners; principals, agents, and employees; and all officials, 100  
public or private. 101

(B) "Another," when used to designate the owner of property 102  
which is the subject of an offense, includes not only natural 103  
persons but also every other owner of property. 104

(C) "Of unsound mind" includes all forms of ~~mental~~ 105  
~~retardation or~~ derangement or intellectual disability. 106

(D) "Bond" includes an undertaking. 107

(E) "Undertaking" includes a bond. 108

(F) "And" may be read "or," and "or" may be read "and" if the 109  
sense requires it. 110

(G) "Registered mail" includes certified mail and "certified 111  
mail" includes registered mail. 112

**Sec. 121.22.** (A) This section shall be liberally construed to 113

require public officials to take official action and to conduct 114  
all deliberations upon official business only in open meetings 115  
unless the subject matter is specifically excepted by law. 116

(B) As used in this section: 117

(1) "Public body" means any of the following: 118

(a) Any board, commission, committee, council, or similar 119  
decision-making body of a state agency, institution, or authority, 120  
and any legislative authority or board, commission, committee, 121  
council, agency, authority, or similar decision-making body of any 122  
county, township, municipal corporation, school district, or other 123  
political subdivision or local public institution; 124

(b) Any committee or subcommittee of a body described in 125  
division (B)(1)(a) of this section; 126

(c) A court of jurisdiction of a sanitary district organized 127  
wholly for the purpose of providing a water supply for domestic, 128  
municipal, and public use when meeting for the purpose of the 129  
appointment, removal, or reappointment of a member of the board of 130  
directors of such a district pursuant to section 6115.10 of the 131  
Revised Code, if applicable, or for any other matter related to 132  
such a district other than litigation involving the district. As 133  
used in division (B)(1)(c) of this section, "court of 134  
jurisdiction" has the same meaning as "court" in section 6115.01 135  
of the Revised Code. 136

(2) "Meeting" means any prearranged discussion of the public 137  
business of the public body by a majority of its members. 138

(3) "Regulated individual" means either of the following: 139

(a) A student in a state or local public educational 140  
institution; 141

(b) A person who is, voluntarily or involuntarily, an inmate, 142  
patient, or resident of a state or local institution because of 143

criminal behavior, mental illness ~~or retardation~~, a developmental 144  
disability that is an intellectual disability, disease, 145  
disability, age, or other condition requiring custodial care. 146

(4) "Public office" has the same meaning as in section 147  
149.011 of the Revised Code. 148

(C) All meetings of any public body are declared to be public 149  
meetings open to the public at all times. A member of a public 150  
body shall be present in person at a meeting open to the public to 151  
be considered present or to vote at the meeting and for purposes 152  
of determining whether a quorum is present at the meeting. 153

The minutes of a regular or special meeting of any public 154  
body shall be promptly prepared, filed, and maintained and shall 155  
be open to public inspection. The minutes need only reflect the 156  
general subject matter of discussions in executive sessions 157  
authorized under division (G) or (J) of this section. 158

(D) This section does not apply to any of the following: 159

(1) A grand jury; 160

(2) An audit conference conducted by the auditor of state or 161  
independent certified public accountants with officials of the 162  
public office that is the subject of the audit; 163

(3) The adult parole authority when its hearings are 164  
conducted at a correctional institution for the sole purpose of 165  
interviewing inmates to determine parole or pardon; 166

(4) The organized crime investigations commission established 167  
under section 177.01 of the Revised Code; 168

(5) Meetings of a child fatality review board established 169  
under section 307.621 of the Revised Code and meetings conducted 170  
pursuant to sections 5153.171 to 5153.173 of the Revised Code; 171

(6) The state medical board when determining whether to 172  
suspend a certificate without a prior hearing pursuant to division 173

(G) of either section 4730.25 or 4731.22 of the Revised Code;	174
(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;	175 176 177
(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;	178 179 180
(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code;	181 182 183
(10) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code;	184 185 186 187
(11) The board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code or any committee thereof, and the board of directors of any subsidiary of that corporation or a committee thereof;	188 189 190 191
(12) An audit conference conducted by the audit staff of the department of job and family services with officials of the public office that is the subject of that audit under section 5101.37 of the Revised Code;	192 193 194 195
(13) The occupational therapy section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license or limited permit without a hearing pursuant to division (D) of section 4755.11 of the Revised Code;	196 197 198 199 200
(14) The physical therapy section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license without a hearing	201 202 203

pursuant to division (E) of section 4755.47 of the Revised Code;	204
(15) The athletic trainers section of the occupational	205
therapy, physical therapy, and athletic trainers board when	206
determining whether to suspend a license without a hearing	207
pursuant to division (D) of section 4755.64 of the Revised Code.	208
(E) The controlling board, the tax credit authority, or the	209
minority development financing advisory board, when meeting to	210
consider granting assistance pursuant to Chapter 122. or 166. of	211
the Revised Code, in order to protect the interest of the	212
applicant or the possible investment of public funds, by unanimous	213
vote of all board or authority members present, may close the	214
meeting during consideration of the following information	215
confidentially received by the authority or board from the	216
applicant:	217
(1) Marketing plans;	218
(2) Specific business strategy;	219
(3) Production techniques and trade secrets;	220
(4) Financial projections;	221
(5) Personal financial statements of the applicant or members	222
of the applicant's immediate family, including, but not limited	223
to, tax records or other similar information not open to public	224
inspection.	225
The vote by the authority or board to accept or reject the	226
application, as well as all proceedings of the authority or board	227
not subject to this division, shall be open to the public and	228
governed by this section.	229
(F) Every public body, by rule, shall establish a reasonable	230
method whereby any person may determine the time and place of all	231
regularly scheduled meetings and the time, place, and purpose of	232
all special meetings. A public body shall not hold a special	233

meeting unless it gives at least twenty-four hours' advance notice 234  
to the news media that have requested notification, except in the 235  
event of an emergency requiring immediate official action. In the 236  
event of an emergency, the member or members calling the meeting 237  
shall notify the news media that have requested notification 238  
immediately of the time, place, and purpose of the meeting. 239

The rule shall provide that any person, upon request and 240  
payment of a reasonable fee, may obtain reasonable advance 241  
notification of all meetings at which any specific type of public 242  
business is to be discussed. Provisions for advance notification 243  
may include, but are not limited to, mailing the agenda of 244  
meetings to all subscribers on a mailing list or mailing notices 245  
in self-addressed, stamped envelopes provided by the person. 246

(G) Except as provided in divisions (G)(8) and (J) of this 247  
section, the members of a public body may hold an executive 248  
session only after a majority of a quorum of the public body 249  
determines, by a roll call vote, to hold an executive session and 250  
only at a regular or special meeting for the sole purpose of the 251  
consideration of any of the following matters: 252

(1) To consider the appointment, employment, dismissal, 253  
discipline, promotion, demotion, or compensation of a public 254  
employee or official, or the investigation of charges or 255  
complaints against a public employee, official, licensee, or 256  
regulated individual, unless the public employee, official, 257  
licensee, or regulated individual requests a public hearing. 258  
Except as otherwise provided by law, no public body shall hold an 259  
executive session for the discipline of an elected official for 260  
conduct related to the performance of the elected official's 261  
official duties or for the elected official's removal from office. 262  
If a public body holds an executive session pursuant to division 263  
(G)(1) of this section, the motion and vote to hold that executive 264  
session shall state which one or more of the approved purposes 265

listed in division (G)(1) of this section are the purposes for 266  
which the executive session is to be held, but need not include 267  
the name of any person to be considered at the meeting. 268

(2) To consider the purchase of property for public purposes, 269  
or for the sale of property at competitive bidding, if premature 270  
disclosure of information would give an unfair competitive or 271  
bargaining advantage to a person whose personal, private interest 272  
is adverse to the general public interest. No member of a public 273  
body shall use division (G)(2) of this section as a subterfuge for 274  
providing covert information to prospective buyers or sellers. A 275  
purchase or sale of public property is void if the seller or buyer 276  
of the public property has received covert information from a 277  
member of a public body that has not been disclosed to the general 278  
public in sufficient time for other prospective buyers and sellers 279  
to prepare and submit offers. 280

If the minutes of the public body show that all meetings and 281  
deliberations of the public body have been conducted in compliance 282  
with this section, any instrument executed by the public body 283  
purporting to convey, lease, or otherwise dispose of any right, 284  
title, or interest in any public property shall be conclusively 285  
presumed to have been executed in compliance with this section 286  
insofar as title or other interest of any bona fide purchasers, 287  
lessees, or transferees of the property is concerned. 288

(3) Conferences with an attorney for the public body 289  
concerning disputes involving the public body that are the subject 290  
of pending or imminent court action; 291

(4) Preparing for, conducting, or reviewing negotiations or 292  
bargaining sessions with public employees concerning their 293  
compensation or other terms and conditions of their employment; 294

(5) Matters required to be kept confidential by federal law 295  
or regulations or state statutes; 296

(6) Details relative to the security arrangements and 297  
emergency response protocols for a public body or a public office, 298  
if disclosure of the matters discussed could reasonably be 299  
expected to jeopardize the security of the public body or public 300  
office; 301

(7) In the case of a county hospital operated pursuant to 302  
Chapter 339. of the Revised Code, a joint township hospital 303  
operated pursuant to Chapter 513. of the Revised Code, or a 304  
municipal hospital operated pursuant to Chapter 749. of the 305  
Revised Code, to consider trade secrets, as defined in section 306  
1333.61 of the Revised Code; 307

(8) To consider confidential information related to the 308  
marketing plans, specific business strategy, production 309  
techniques, trade secrets, or personal financial statements of an 310  
applicant for economic development assistance, or to negotiations 311  
with other political subdivisions respecting requests for economic 312  
development assistance, provided that both of the following 313  
conditions apply: 314

~~(1)~~(a) The information is directly related to a request for 315  
economic development assistance that is to be provided or 316  
administered under any provision of Chapter 715., 725., 1724., or 317  
1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 318  
5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of 319  
the Revised Code, or that involves public infrastructure 320  
improvements or the extension of utility services that are 321  
directly related to an economic development project. 322

~~(2)~~(b) A unanimous quorum of the public body determines, by a 323  
roll call vote, that the executive session is necessary to protect 324  
the interests of the applicant or the possible investment or 325  
expenditure of public funds to be made in connection with the 326  
economic development project. 327

If a public body holds an executive session to consider any 328  
of the matters listed in divisions (G)(2) to (8) of this section, 329  
the motion and vote to hold that executive session shall state 330  
which one or more of the approved matters listed in those 331  
divisions are to be considered at the executive session. 332

A public body specified in division (B)(1)(c) of this section 333  
shall not hold an executive session when meeting for the purposes 334  
specified in that division. 335

(H) A resolution, rule, or formal action of any kind is 336  
invalid unless adopted in an open meeting of the public body. A 337  
resolution, rule, or formal action adopted in an open meeting that 338  
results from deliberations in a meeting not open to the public is 339  
invalid unless the deliberations were for a purpose specifically 340  
authorized in division (G) or (J) of this section and conducted at 341  
an executive session held in compliance with this section. A 342  
resolution, rule, or formal action adopted in an open meeting is 343  
invalid if the public body that adopted the resolution, rule, or 344  
formal action violated division (F) of this section. 345

(I)(1) Any person may bring an action to enforce this 346  
section. An action under division (I)(1) of this section shall be 347  
brought within two years after the date of the alleged violation 348  
or threatened violation. Upon proof of a violation or threatened 349  
violation of this section in an action brought by any person, the 350  
court of common pleas shall issue an injunction to compel the 351  
members of the public body to comply with its provisions. 352

(2)(a) If the court of common pleas issues an injunction 353  
pursuant to division (I)(1) of this section, the court shall order 354  
the public body that it enjoins to pay a civil forfeiture of five 355  
hundred dollars to the party that sought the injunction and shall 356  
award to that party all court costs and, subject to reduction as 357  
described in division (I)(2) of this section, reasonable 358  
attorney's fees. The court, in its discretion, may reduce an award 359

of attorney's fees to the party that sought the injunction or not 360  
award attorney's fees to that party if the court determines both 361  
of the following: 362

(i) That, based on the ordinary application of statutory law 363  
and case law as it existed at the time of violation or threatened 364  
violation that was the basis of the injunction, a well-informed 365  
public body reasonably would believe that the public body was not 366  
violating or threatening to violate this section; 367

(ii) That a well-informed public body reasonably would 368  
believe that the conduct or threatened conduct that was the basis 369  
of the injunction would serve the public policy that underlies the 370  
authority that is asserted as permitting that conduct or 371  
threatened conduct. 372

(b) If the court of common pleas does not issue an injunction 373  
pursuant to division (I)(1) of this section and the court 374  
determines at that time that the bringing of the action was 375  
frivolous conduct, as defined in division (A) of section 2323.51 376  
of the Revised Code, the court shall award to the public body all 377  
court costs and reasonable attorney's fees, as determined by the 378  
court. 379

(3) Irreparable harm and prejudice to the party that sought 380  
the injunction shall be conclusively and irrebuttably presumed 381  
upon proof of a violation or threatened violation of this section. 382

(4) A member of a public body who knowingly violates an 383  
injunction issued pursuant to division (I)(1) of this section may 384  
be removed from office by an action brought in the court of common 385  
pleas for that purpose by the prosecuting attorney or the attorney 386  
general. 387

(J)(1) Pursuant to division (C) of section 5901.09 of the 388  
Revised Code, a veterans service commission shall hold an 389  
executive session for one or more of the following purposes unless 390

an applicant requests a public hearing:	391
(a) Interviewing an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code;	392 393
(b) Discussing applications, statements, and other documents described in division (B) of section 5901.09 of the Revised Code;	394 395
(c) Reviewing matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code.	396 397 398
(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance.	399 400 401 402 403 404 405 406
(3) A veterans service commission shall vote on the grant or denial of financial assistance under sections 5901.01 to 5901.15 of the Revised Code only in an open meeting of the commission. The minutes of the meeting shall indicate the name, address, and occupation of the applicant, whether the assistance was granted or denied, the amount of the assistance if assistance is granted, and the votes for and against the granting of assistance.	407 408 409 410 411 412 413
<b>Sec. 121.37.</b> (A)(1) There is hereby created the Ohio family and children first cabinet council. The council shall be composed of the superintendent of public instruction, the executive director of the opportunities for Ohioans with disabilities agency, the medicaid director, and the directors of youth services, job and family services, mental health and addiction services, health, developmental disabilities, aging,	414 415 416 417 418 419 420

rehabilitation and correction, and budget and management. The 421  
chairperson of the council shall be the governor or the governor's 422  
designee and shall establish procedures for the council's internal 423  
control and management. 424

The purpose of the cabinet council is to help families 425  
seeking government services. This section shall not be interpreted 426  
or applied to usurp the role of parents, but solely to streamline 427  
and coordinate existing government services for families seeking 428  
assistance for their children. 429

(2) In seeking to fulfill its purpose, the council may do any 430  
of the following: 431

(a) Advise and make recommendations to the governor and 432  
general assembly regarding the provision of services to children; 433

(b) Advise and assess local governments on the coordination 434  
of service delivery to children; 435

(c) Hold meetings at such times and places as may be 436  
prescribed by the council's procedures and maintain records of the 437  
meetings, except that records identifying individual children are 438  
confidential and shall be disclosed only as provided by law; 439

(d) Develop programs and projects, including pilot projects, 440  
to encourage coordinated efforts at the state and local level to 441  
improve the state's social service delivery system; 442

(e) Enter into contracts with and administer grants to county 443  
family and children first councils, as well as other county or 444  
multicounty organizations to plan and coordinate service delivery 445  
between state agencies and local service providers for families 446  
and children; 447

(f) Enter into contracts with and apply for grants from 448  
federal agencies or private organizations; 449

(g) Enter into interagency agreements to encourage 450

coordinated efforts at the state and local level to improve the 451  
state's social service delivery system. The agreements may include 452  
provisions regarding the receipt, transfer, and expenditure of 453  
funds; 454

(h) Identify public and private funding sources for services 455  
provided to alleged or adjudicated unruly children and children 456  
who are at risk of being alleged or adjudicated unruly children, 457  
including regulations governing access to and use of the services; 458

(i) Collect information provided by local communities 459  
regarding successful programs for prevention, intervention, and 460  
treatment of unruly behavior, including evaluations of the 461  
programs; 462

(j) Identify and disseminate publications regarding alleged 463  
or adjudicated unruly children and children who are at risk of 464  
being alleged or adjudicated unruly children and regarding 465  
programs serving those types of children; 466

(k) Maintain an inventory of strategic planning facilitators 467  
for use by government or nonprofit entities that serve alleged or 468  
adjudicated unruly children or children who are at risk of being 469  
alleged or adjudicated unruly children. 470

(3) The cabinet council shall provide for the following: 471

(a) Reviews of service and treatment plans for children for 472  
which such reviews are requested; 473

(b) Assistance as the council determines to be necessary to 474  
meet the needs of children referred by county family and children 475  
first councils; 476

(c) Monitoring and supervision of a statewide, comprehensive, 477  
coordinated, multi-disciplinary, interagency system for infants 478  
and toddlers with developmental disabilities or delays and their 479  
families, as established pursuant to federal grants received and 480

administered by the department of health for early intervention 481  
services under the "Individuals with Disabilities Education Act of 482  
2004," 118 Stat. 2744, 20 U.S.C.A. 1400, as amended. 483

(4) The cabinet council shall develop and implement the 484  
following: 485

(a) An interagency process to select the indicators that will 486  
be used to measure progress toward increasing child well-being in 487  
the state and to update the indicators on an annual basis. The 488  
indicators shall focus on expectant parents and newborns thriving; 489  
infants and toddlers thriving; children being ready for school; 490  
children and youth succeeding in school; youth choosing healthy 491  
behaviors; and youth successfully transitioning into adulthood. 492

(b) An interagency system to offer guidance and monitor 493  
progress toward increasing child well-being in the state and in 494  
each county; 495

(c) An annual plan that identifies state-level agency efforts 496  
taken to ensure progress towards increasing child well-being in 497  
the state. 498

On an annual basis, the cabinet council shall submit to the 499  
governor and the general assembly a report on the status of 500  
efforts to increase child well-being in the state. This report 501  
shall be made available to any other person on request. 502

(B)(1) Each board of county commissioners shall establish a 503  
county family and children first council. The board may invite any 504  
local public or private agency or group that funds, advocates, or 505  
provides services to children and families to have a 506  
representative become a permanent or temporary member of its 507  
county council. Each county council must include the following 508  
individuals: 509

(a) At least three individuals who are not employed by an 510  
agency represented on the council and whose families are or have 511

received services from an agency represented on the council or 512  
another county's council. Where possible, the number of members 513  
representing families shall be equal to twenty per cent of the 514  
council's membership. 515

(b) The director of the board of alcohol, drug addiction, and 516  
mental health services that serves the county, or, in the case of 517  
a county that has a board of alcohol and drug addiction services 518  
and a community mental health board, the directors of both boards. 519  
If a board of alcohol, drug addiction, and mental health services 520  
covers more than one county, the director may designate a person 521  
to participate on the county's council. 522

(c) The health commissioner, or the commissioner's designee, 523  
of the board of health of each city and general health district in 524  
the county. If the county has two or more health districts, the 525  
health commissioner membership may be limited to the commissioners 526  
of the two districts with the largest populations. 527

(d) The director of the county department of job and family 528  
services; 529

(e) The executive director of the public children services 530  
agency; 531

(f) The superintendent of the county board of developmental 532  
disabilities or, if the superintendent serves as superintendent of 533  
more than one county board of developmental disabilities, the 534  
superintendent's designee; 535

(g) The superintendent of the city, exempted village, or 536  
local school district with the largest number of pupils residing 537  
in the county, as determined by the department of education, which 538  
shall notify each board of county commissioners of its 539  
determination at least biennially; 540

(h) A school superintendent representing all other school 541  
districts with territory in the county, as designated at a 542

biennial meeting of the superintendents of those districts;	543
(i) A representative of the municipal corporation with the	544
largest population in the county;	545
(j) The president of the board of county commissioners or an	546
individual designated by the board;	547
(k) A representative of the regional office of the department	548
of youth services;	549
(l) A representative of the county's head start agencies, as	550
defined in section 3301.32 of the Revised Code;	551
(m) A representative of the county's early intervention	552
collaborative established pursuant to the federal early	553
intervention program operated under the "Individuals with	554
Disabilities Education Act of 2004";	555
(n) A representative of a local nonprofit entity that funds,	556
advocates, or provides services to children and families.	557
Notwithstanding any other provision of law, the public	558
members of a county council are not prohibited from serving on the	559
council and making decisions regarding the duties of the council,	560
including those involving the funding of joint projects and those	561
outlined in the county's service coordination mechanism	562
implemented pursuant to division (C) of this section.	563
The cabinet council shall establish a state appeals process	564
to resolve disputes among the members of a county council	565
concerning whether reasonable responsibilities as members are	566
being shared. The appeals process may be accessed only by a	567
majority vote of the council members who are required to serve on	568
the council. Upon appeal, the cabinet council may order that state	569
funds for services to children and families be redirected to a	570
county's board of county commissioners.	571
The county's juvenile court judge senior in service or	572

another judge of the juvenile court designated by the 573  
administrative judge or, where there is no administrative judge, 574  
by the judge senior in service shall serve as the judicial advisor 575  
to the county family and children first council. The judge may 576  
advise the county council on the court's utilization of resources, 577  
services, or programs provided by the entities represented by the 578  
members of the county council and how those resources, services, 579  
or programs assist the court in its administration of justice. 580  
Service of a judge as a judicial advisor pursuant to this section 581  
is a judicial function. 582

(2) The purpose of the county council is to streamline and 583  
coordinate existing government services for families seeking 584  
services for their children. In seeking to fulfill its purpose, a 585  
county council shall provide for the following: 586

(a) Referrals to the cabinet council of those children for 587  
whom the county council cannot provide adequate services; 588

(b) Development and implementation of a process that annually 589  
evaluates and prioritizes services, fills service gaps where 590  
possible, and invents new approaches to achieve better results for 591  
families and children; 592

(c) Participation in the development of a countywide, 593  
comprehensive, coordinated, multi-disciplinary, interagency system 594  
for infants and toddlers with developmental disabilities or delays 595  
and their families, as established pursuant to federal grants 596  
received and administered by the department of health for early 597  
intervention services under the "Individuals with Disabilities 598  
Education Act of 2004"; 599

(d) Maintenance of an accountability system to monitor the 600  
county council's progress in achieving results for families and 601  
children; 602

(e) Establishment of a mechanism to ensure ongoing input from 603

a broad representation of families who are receiving services 604  
within the county system. 605

(3) A county council shall develop and implement the 606  
following: 607

(a) An interagency process to establish local indicators and 608  
monitor the county's progress toward increasing child well-being 609  
in the county; 610

(b) An interagency process to identify local priorities to 611  
increase child well-being. The local priorities shall focus on 612  
expectant parents and newborns thriving; infants and toddlers 613  
thriving; children being ready for school; children and youth 614  
succeeding in school; youth choosing healthy behaviors; and youth 615  
successfully transitioning into adulthood and take into account 616  
the indicators established by the cabinet council under division 617  
(A)(4)(a) of this section. 618

(c) An annual plan that identifies the county's interagency 619  
efforts to increase child well-being in the county. 620

On an annual basis, the county council shall submit a report 621  
on the status of efforts by the county to increase child 622  
well-being in the county to the county's board of county 623  
commissioners and the cabinet council. This report shall be made 624  
available to any other person on request. 625

(4)(a) Except as provided in division (B)(4)(b) of this 626  
section, a county council shall comply with the policies, 627  
procedures, and activities prescribed by the rules or interagency 628  
agreements of a state department participating on the cabinet 629  
council whenever the county council performs a function subject to 630  
those rules or agreements. 631

(b) On application of a county council, the cabinet council 632  
may grant an exemption from any rules or interagency agreements of 633  
a state department participating on the council if an exemption is 634

necessary for the council to implement an alternative program or 635  
approach for service delivery to families and children. The 636  
application shall describe the proposed program or approach and 637  
specify the rules or interagency agreements from which an 638  
exemption is necessary. The cabinet council shall approve or 639  
disapprove the application in accordance with standards and 640  
procedures it shall adopt. If an application is approved, the 641  
exemption is effective only while the program or approach is being 642  
implemented, including a reasonable period during which the 643  
program or approach is being evaluated for effectiveness. 644

(5)(a) Each county council shall designate an administrative 645  
agent for the council from among the following public entities: 646  
the board of alcohol, drug addiction, and mental health services, 647  
including a board of alcohol and drug addiction or a community 648  
mental health board if the county is served by separate boards; 649  
the board of county commissioners; any board of health of the 650  
county's city and general health districts; the county department 651  
of job and family services; the county agency responsible for the 652  
administration of children services pursuant to section 5153.15 of 653  
the Revised Code; the county board of developmental disabilities; 654  
any of the county's boards of education or governing boards of 655  
educational service centers; or the county's juvenile court. Any 656  
of the foregoing public entities, other than the board of county 657  
commissioners, may decline to serve as the council's 658  
administrative agent. 659

A county council's administrative agent shall serve as the 660  
council's appointing authority for any employees of the council. 661  
The council shall file an annual budget with its administrative 662  
agent, with copies filed with the county auditor and with the 663  
board of county commissioners, unless the board is serving as the 664  
council's administrative agent. The council's administrative agent 665  
shall ensure that all expenditures are handled in accordance with 666

policies, procedures, and activities prescribed by state 667  
departments in rules or interagency agreements that are applicable 668  
to the council's functions. 669

The administrative agent of a county council shall send 670  
notice of a member's absence if a member listed in division (B)(1) 671  
of this section has been absent from either three consecutive 672  
meetings of the county council or a county council subcommittee, 673  
or from one-quarter of such meetings in a calendar year, whichever 674  
is less. The notice shall be sent to the board of county 675  
commissioners that establishes the county council and, for the 676  
members listed in divisions (B)(1)(b), (c), (e), and (l) of this 677  
section, to the governing board overseeing the respective entity; 678  
for the member listed in division (B)(1)(f) of this section, to 679  
the county board of developmental disabilities that employs the 680  
superintendent; for a member listed in division (B)(1)(g) or (h) 681  
of this section, to the school board that employs the 682  
superintendent; for the member listed in division (B)(1)(i) of 683  
this section, to the mayor of the municipal corporation; for the 684  
member listed in division (B)(1)(k) of this section, to the 685  
director of youth services; and for the member listed in division 686  
(B)(1)(n) of this section, to that member's board of trustees. 687

The administrative agent for a county council may do any of 688  
the following on behalf of the council: 689

(i) Enter into agreements or administer contracts with public 690  
or private entities to fulfill specific council business. Such 691  
agreements and contracts are exempt from the competitive bidding 692  
requirements of section 307.86 of the Revised Code if they have 693  
been approved by the county council and they are for the purchase 694  
of family and child welfare or child protection services or other 695  
social or job and family services for families and children. The 696  
approval of the county council is not required to exempt 697  
agreements or contracts entered into under section 5139.34, 698

5139.41, or 5139.43 of the Revised Code from the competitive 699  
bidding requirements of section 307.86 of the Revised Code. 700

(ii) As determined by the council, provide financial 701  
stipends, reimbursements, or both, to family representatives for 702  
expenses related to council activity; 703

(iii) Receive by gift, grant, devise, or bequest any moneys, 704  
lands, or other property for the purposes for which the council is 705  
established. The agent shall hold, apply, and dispose of the 706  
moneys, lands, or other property according to the terms of the 707  
gift, grant, devise, or bequest. Any interest or earnings shall be 708  
treated in the same manner and are subject to the same terms as 709  
the gift, grant, devise, or bequest from which it accrues. 710

(b)(i) If the county council designates the board of county 711  
commissioners as its administrative agent, the board may, by 712  
resolution, delegate any of its powers and duties as 713  
administrative agent to an executive committee the board 714  
establishes from the membership of the county council. The board 715  
shall name to the executive committee at least the individuals 716  
described in divisions (B)(1)(b) to (h) of this section and may 717  
appoint the president of the board or another individual as the 718  
chair of the executive committee. The executive committee must 719  
include at least one family county council representative who does 720  
not have a family member employed by an agency represented on the 721  
council. 722

(ii) The executive committee may, with the approval of the 723  
board, hire an executive director to assist the county council in 724  
administering its powers and duties. The executive director shall 725  
serve in the unclassified civil service at the pleasure of the 726  
executive committee. The executive director may, with the approval 727  
of the executive committee, hire other employees as necessary to 728  
properly conduct the county council's business. 729

(iii) The board may require the executive committee to submit 730  
an annual budget to the board for approval and may amend or repeal 731  
the resolution that delegated to the executive committee its 732  
authority as the county council's administrative agent. 733

(6) Two or more county councils may enter into an agreement 734  
to administer their county councils jointly by creating a regional 735  
family and children first council. A regional council possesses 736  
the same duties and authority possessed by a county council, 737  
except that the duties and authority apply regionally rather than 738  
to individual counties. Prior to entering into an agreement to 739  
create a regional council, the members of each county council to 740  
be part of the regional council shall meet to determine whether 741  
all or part of the members of each county council will serve as 742  
members of the regional council. 743

(7) A board of county commissioners may approve a resolution 744  
by a majority vote of the board's members that requires the county 745  
council to submit a statement to the board each time the council 746  
proposes to enter into an agreement, adopt a plan, or make a 747  
decision, other than a decision pursuant to section 121.38 of the 748  
Revised Code, that requires the expenditure of funds for two or 749  
more families. The statement shall describe the proposed 750  
agreement, plan, or decision. 751

Not later than fifteen days after the board receives the 752  
statement, it shall, by resolution approved by a majority of its 753  
members, approve or disapprove the agreement, plan, or decision. 754  
Failure of the board to pass a resolution during that time period 755  
shall be considered approval of the agreement, plan, or decision. 756

An agreement, plan, or decision for which a statement is 757  
required to be submitted to the board shall be implemented only if 758  
it is approved by the board. 759

(C) Each county shall develop a county service coordination 760

mechanism. The county service coordination mechanism shall serve 761  
as the guiding document for coordination of services in the 762  
county. For children who also receive services under the help me 763  
grow program, the service coordination mechanism shall be 764  
consistent with rules adopted by the department of health under 765  
section 3701.61 of the Revised Code. All family service 766  
coordination plans shall be developed in accordance with the 767  
county service coordination mechanism. The mechanism shall be 768  
developed and approved with the participation of the county 769  
entities representing child welfare; ~~mental retardation and~~ 770  
developmental disabilities; alcohol, drug addiction, and mental 771  
health services; health; juvenile judges; education; the county 772  
family and children first council; and the county early 773  
intervention collaborative established pursuant to the federal 774  
early intervention program operated under the "Individuals with 775  
Disabilities Education Act of 2004." The county shall establish an 776  
implementation schedule for the mechanism. The cabinet council may 777  
monitor the implementation and administration of each county's 778  
service coordination mechanism. 779

Each mechanism shall include all of the following: 780

(1) A procedure for an agency, including a juvenile court, or 781  
a family voluntarily seeking service coordination, to refer the 782  
child and family to the county council for service coordination in 783  
accordance with the mechanism; 784

(2) A procedure ensuring that a family and all appropriate 785  
staff from involved agencies, including a representative from the 786  
appropriate school district, are notified of and invited to 787  
participate in all family service coordination plan meetings; 788

(3) A procedure that permits a family to initiate a meeting 789  
to develop or review the family's service coordination plan and 790  
allows the family to invite a family advocate, mentor, or support 791  
person of the family's choice to participate in any such meeting; 792

(4) A procedure for ensuring that a family service 793  
coordination plan meeting is conducted for each child who receives 794  
service coordination under the mechanism and for whom an emergency 795  
out-of-home placement has been made or for whom a nonemergency 796  
out-of-home placement is being considered. The meeting shall be 797  
conducted within ten days of an emergency out-of-home placement. 798  
The meeting shall be conducted before a nonemergency out-of-home 799  
placement. The family service coordination plan shall outline how 800  
the county council members will jointly pay for services, where 801  
applicable, and provide services in the least restrictive 802  
environment. 803

(5) A procedure for monitoring the progress and tracking the 804  
outcomes of each service coordination plan requested in the county 805  
including monitoring and tracking children in out-of-home 806  
placements to assure continued progress, appropriateness of 807  
placement, and continuity of care after discharge from placement 808  
with appropriate arrangements for housing, treatment, and 809  
education; 810

(6) A procedure for protecting the confidentiality of all 811  
personal family information disclosed during service coordination 812  
meetings or contained in the comprehensive family service 813  
coordination plan; 814

(7) A procedure for assessing the needs and strengths of any 815  
child or family that has been referred to the council for service 816  
coordination, including a child whose parent or custodian is 817  
voluntarily seeking services, and for ensuring that parents and 818  
custodians are afforded the opportunity to participate; 819

(8) A procedure for development of a family service 820  
coordination plan described in division (D) of this section; 821

(9) A local dispute resolution process to serve as the 822  
process that must be used first to resolve disputes among the 823

agencies represented on the county council concerning the 824  
provision of services to children, including children who are 825  
abused, neglected, dependent, unruly, alleged unruly, or 826  
delinquent children and under the jurisdiction of the juvenile 827  
court and children whose parents or custodians are voluntarily 828  
seeking services. The local dispute resolution process shall 829  
comply with sections 121.38, 121.381, and 121.382 of the Revised 830  
Code. The local dispute resolution process shall be used to 831  
resolve disputes between a child's parents or custodians and the 832  
county council regarding service coordination. The county council 833  
shall inform the parents or custodians of their right to use the 834  
dispute resolution process. Parents or custodians shall use 835  
existing local agency grievance procedures to address disputes not 836  
involving service coordination. The dispute resolution process is 837  
in addition to and does not replace other rights or procedures 838  
that parents or custodians may have under other sections of the 839  
Revised Code. 840

The cabinet council shall adopt rules in accordance with 841  
Chapter 119. of the Revised Code establishing an administrative 842  
review process to address problems that arise concerning the 843  
operation of a local dispute resolution process. 844

Nothing in division (C)(4) of this section shall be 845  
interpreted as overriding or affecting decisions of a juvenile 846  
court regarding an out-of-home placement, long-term placement, or 847  
emergency out-of-home placement. 848

(D) Each county shall develop a family service coordination 849  
plan that does all of the following: 850

(1) Designates service responsibilities among the various 851  
state and local agencies that provide services to children and 852  
their families, including children who are abused, neglected, 853  
dependent, unruly, or delinquent children and under the 854  
jurisdiction of the juvenile court and children whose parents or 855

custodians are voluntarily seeking services; 856

(2) Designates an individual, approved by the family, to 857  
track the progress of the family service coordination plan, 858  
schedule reviews as necessary, and facilitate the family service 859  
coordination plan meeting process; 860

(3) Ensures that assistance and services to be provided are 861  
responsive to the strengths and needs of the family, as well as 862  
the family's culture, race, and ethnic group, by allowing the 863  
family to offer information and suggestions and participate in 864  
decisions. Identified assistance and services shall be provided in 865  
the least restrictive environment possible. 866

(4) Includes a process for dealing with a child who is 867  
alleged to be an unruly child. The process shall include methods 868  
to divert the child from the juvenile court system; 869

(5) Includes timelines for completion of goals specified in 870  
the plan with regular reviews scheduled to monitor progress toward 871  
those goals; 872

(6) Includes a plan for dealing with short-term crisis 873  
situations and safety concerns. 874

(E)(1) The process provided for under division (D)(4) of this 875  
section may include, but is not limited to, the following: 876

(a) Designation of the person or agency to conduct the 877  
assessment of the child and the child's family as described in 878  
division (C)(7) of this section and designation of the instrument 879  
or instruments to be used to conduct the assessment; 880

(b) An emphasis on the personal responsibilities of the child 881  
and the parental responsibilities of the parents, guardian, or 882  
custodian of the child; 883

(c) Involvement of local law enforcement agencies and 884  
officials. 885

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

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

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

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

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

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

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

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

(F) Each county may review and revise the service coordination process described in division (D) of this section

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

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

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

(1) The county board of developmental disabilities has adopted a resolution under section 5126.49 of the Revised Code.

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

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

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

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

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

Sec. 145.012. (A) "Public employee," as defined in division	946
(A) of section 145.01 of the Revised Code, does not include any	947
person:	948
(1) Who is employed by a private, temporary-help service and	949
performs services under the direction of a public employer or is	950
employed on a contractual basis as an independent contractor under	951
a personal service contract with a public employer;	952
(2) Who is an emergency employee serving on a temporary basis	953
in case of fire, snow, earthquake, flood, or other similar	954
emergency;	955
(3) Who is employed in a program established pursuant to the	956
"Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A.	957
1501;	958
(4) Who is an appointed member of either the motor vehicle	959
salvage dealers board or the motor vehicle dealer's board whose	960
rate and method of payment are determined pursuant to division (J)	961
of section 124.15 of the Revised Code;	962
(5) Who is employed as an election worker and paid less than	963
five hundred dollars per calendar year for that service;	964
(6) Who is employed as a firefighter in a position requiring	965
satisfactory completion of a firefighter training course approved	966
under former section 3303.07 or section 4765.55 of the Revised	967
Code or conducted under section 3737.33 of the Revised Code except	968
for the following:	969
(a) Any firefighter who has elected under section 145.013 of	970
the Revised Code to remain a contributing member of the public	971
employees retirement system;	972
(b) Any firefighter who was eligible to transfer from the	973
public employees retirement system to the Ohio police and fire	974
pension fund under section 742.51 or 742.515 of the Revised Code	975

and did not elect to transfer;	976
(c) Any firefighter who has elected under section 742.516 of the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system.	977 978 979
(7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;	980 981 982 983 984 985
(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;	986 987
(9) Who is a member of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code;	988 989
(10) Who is a member of the unemployment compensation advisory council;	990 991
(11) Who is an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code;	992 993 994
(12) Who is employed by the nonprofit entity established to provide advocacy services and a client assistance program for people with disabilities under Section 319.20 of Am. Sub. H.B. 153 of the 129th general assembly and whose employment begins on or after October 1, 2012.	995 996 997 998 999
(B) No inmate of a correctional institution operated by the department of rehabilitation and correction, no patient in a hospital for the mentally ill or criminally insane operated by the department of mental health and addiction services, no resident in an institution for <del>the mentally retarded</del> <u>persons with developmental disabilities that are intellectual disabilities</u>	1000 1001 1002 1003 1004 1005

operated by the department of developmental disabilities, no 1006  
resident admitted as a patient of a veterans' home operated under 1007  
Chapter 5907. of the Revised Code, and no resident of a county 1008  
home shall be considered as a public employee for the purpose of 1009  
establishing membership or calculating service credit or benefits 1010  
under this chapter. Nothing in this division shall be construed to 1011  
affect any service credit attained by any person who was a public 1012  
employee before becoming an inmate, patient, or resident at any 1013  
institution listed in this division, or the payment of any benefit 1014  
for which such a person or such a person's beneficiaries otherwise 1015  
would be eligible. 1016

**Sec. 145.298.** (A) As used in this section: 1017

(1) "State employing unit" means an employing unit described 1018  
in division (A)(2) of section 145.297 of the Revised Code, except 1019  
that it does not mean an employing unit with fifty or fewer 1020  
employees. 1021

(2) "State institution" means a state correctional facility, 1022  
a state institution for the mentally ill, or a state institution 1023  
for the care, treatment, and training of ~~the mentally retarded~~ 1024  
persons with developmental disabilities that are intellectual 1025  
disabilities. 1026

(B)(1) Prior to July 17, 2009, in the event of a proposal to 1027  
close a state institution or lay off, within a six-month period, a 1028  
number of persons employed at an institution that equals or 1029  
exceeds the lesser of fifty or ten per cent of the persons 1030  
employed at the institution, the employing unit responsible for 1031  
the institution's operation shall establish a retirement incentive 1032  
plan for persons employed at the institution. 1033

(2) On and after July 17, 2009, in the event of a proposal to 1034  
close a state institution or lay off, within a six-month period, a 1035  
number of persons employed at an institution that equals or 1036

exceeds the lesser of three hundred fifty or forty per cent of the 1037  
persons employed at the institution, the employing unit 1038  
responsible for the institution's operation shall establish a 1039  
retirement incentive plan for persons employed at the institution. 1040

(C)(1) Prior to July 17, 2009, in the event of a proposal, 1041  
other than the proposals described in division (B) of this 1042  
section, to lay off, within a six-month period, a number of 1043  
employees of a state employing unit that equals or exceeds the 1044  
lesser of fifty or ten per cent of the employing unit's employees, 1045  
the employing unit shall establish a retirement incentive plan for 1046  
employees of the employing unit. 1047

(2) On and after July 17, 2009, in the event of a proposal, 1048  
other than the proposals described in division (B) of this 1049  
section, to lay off, within a six-month period, a number of 1050  
employees of a state employing unit that equals or exceeds the 1051  
lesser of three hundred fifty or forty per cent of the employing 1052  
unit's employees, the employing unit shall establish a retirement 1053  
incentive plan for employees of the employing unit. 1054

(D)(1) A retirement incentive plan established under this 1055  
section shall be consistent with the requirements of section 1056  
145.297 of the Revised Code, except that the plan shall go into 1057  
effect at the time the layoffs or proposed closings are announced 1058  
and shall remain in effect until the date of the layoffs or 1059  
closings. 1060

(2) If the employing unit already has a retirement incentive 1061  
plan in effect, the plan shall remain in effect at least until the 1062  
date of the layoffs or closings. The employing unit may revise the 1063  
existing plan to provide greater benefits, but if it revises the 1064  
plan, it shall give written notice of the changes to all employees 1065  
who have elected to participate in the original plan, and it shall 1066  
provide the greater benefits to all employees who participate in 1067  
the plan, whether their elections to participate were made before 1068

or after the date of the revision. 1069

**Sec. 149.431.** (A) Except as provided in sections 9.833 and 1070  
2744.081 of the Revised Code, any governmental entity or agency 1071  
and any nonprofit corporation or association, except a corporation 1072  
organized pursuant to Chapter 1719. of the Revised Code prior to 1073  
January 1, 1980 or organized pursuant to Chapter 3941. of the 1074  
Revised Code, that enters into a contract or other agreement with 1075  
the federal government, a unit of state government, or a political 1076  
subdivision or taxing unit of this state for the provision of 1077  
services shall keep accurate and complete financial records of any 1078  
moneys expended in relation to the performance of the services 1079  
pursuant to such contract or agreement according to generally 1080  
accepted accounting principles. Such contract or agreement and 1081  
such financial records shall be deemed to be public records as 1082  
defined in division (A)(1) of section 149.43 of the Revised Code 1083  
and are subject to the requirements of division (B) of that 1084  
section, except that: 1085

(1) Any information directly or indirectly identifying a 1086  
present or former individual patient or client or such an 1087  
individual patient's or client's diagnosis, prognosis, or medical 1088  
treatment, treatment for a mental or emotional disorder, treatment 1089  
for ~~mental retardation~~ or a developmental disability, treatment 1090  
for drug abuse or alcoholism, or counseling for personal or social 1091  
problems is not a public record; 1092

(2) If disclosure of the contract or agreement or financial 1093  
records is requested at a time when confidential professional 1094  
services are being provided to a patient or client whose 1095  
confidentiality might be violated if disclosure were made at that 1096  
time, disclosure may be deferred if reasonable times are 1097  
established when the contract or agreement or financial records 1098  
will be disclosed. 1099

(3) Any nonprofit corporation or association that receives 1100  
both public and private funds in fulfillment of any such contract 1101  
or other agreement is not required to keep as public records the 1102  
financial records of any private funds expended in relation to the 1103  
performance of services pursuant to the contract or agreement. 1104

(B) Any nonprofit corporation or association that receives 1105  
more than fifty per cent of its gross receipts excluding moneys 1106  
received pursuant to Title XVIII of the "Social Security Act," 49 1107  
Stat. 620 (1935), 42 U.S.C. 301, as amended, in a calendar year in 1108  
fulfillment of a contract or other agreement for services with a 1109  
governmental entity shall maintain information setting forth the 1110  
compensation of any individual serving the nonprofit corporation 1111  
or association in an executive or administrative capacity. Such 1112  
information shall be deemed to be public records as defined in 1113  
division (A)(1) of section 149.43 of the Revised Code and is 1114  
subject to the requirements of division (B) of that section. 1115

Nothing in this section shall be construed to otherwise limit 1116  
the provisions of section 149.43 of the Revised Code. 1117

**Sec. 152.04.** The Ohio building authority may purchase, 1118  
construct, reconstruct, equip, furnish, improve, alter, enlarge, 1119  
maintain, repair, and operate buildings, facilities, and other 1120  
properties on one or more sites within the state for use and 1121  
occupancy by persons who meet all the following conditions: 1122

(A) Are eligible to receive old age, survivors', or 1123  
disability insurance payments under Title II of the "Social 1124  
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 401, or under any 1125  
laws which may hereafter amend or supersede such chapters or 1126  
title; 1127

(B) Have been, after September 27, 1963, discharged by the 1128  
head of a hospital pursuant to section 5122.21 of the Revised Code 1129  
or by the head of an institution pursuant to section 5123.79 of 1130

the Revised Code; 1131

(C) Are determined by the authority not to need the care and 1132  
treatment provided in a hospital or other institution; 1133

(D) Are determined by the authority to be unable, as a result 1134  
of mental illness, ~~mental retardation~~, or developmental 1135  
disability, to provide complete care for themselves or obtain and 1136  
hold employment sufficient to provide the costs of living. 1137

The authority may also provide living facilities for 1138  
administrative, professional, and other personnel and their 1139  
families necessary to maintain or operate the facilities and to 1140  
carry out the purposes of the authority. 1141

**Sec. 173.25.** The office of the state long-term care ombudsman 1142  
program shall, in carrying out the provisions and purposes of 1143  
sections 173.14 to 173.26 of the Revised Code, advise, consult, 1144  
and cooperate with any agency, program, or other entity related to 1145  
the purposes of the office. Any agency, program, or other entity 1146  
related to the purposes of the office shall advise, consult, and 1147  
cooperate with the office. 1148

The office shall attempt to establish effective coordination 1149  
with government-sponsored programs that provide legal services to 1150  
the elderly and with protective and advocacy programs for 1151  
individuals with developmental disabilities, ~~mental retardation~~, 1152  
or mental illness. 1153

**Sec. 305.07.** (A) Special sessions of the board of county 1154  
commissioners may be held as often as the commissioners deem it 1155  
necessary. At a regular or special session, the board may make any 1156  
necessary order or contract in relation to the building, 1157  
furnishing, repairing, or insuring of public buildings or bridges; 1158  
the employment of janitors; the improvements or enclosure of 1159  
public grounds; the maintenance or support of ~~mentally retarded or~~ 1160

~~developmentally disabled~~ persons with developmental disabilities 1161  
or of the mentally ill; the expenditure of any fund; or the board 1162  
may provide for the reconstruction or repair of any bridge 1163  
destroyed by fire, flood, or otherwise. The board shall comply 1164  
with division (F) of section 121.22 of the Revised Code. The board 1165  
may do any other official act not, by law, restricted to a 1166  
particular regular session. 1167

(B) The board of county commissioners may provide by 1168  
resolution for the holding of special sessions of the board at a 1169  
location in the county other than the usual office of the board at 1170  
the county seat. The adoption of the resolution and the location 1171  
where the sessions will be held shall be entered on the journal of 1172  
the board. The board shall give reasonable public notice of its 1173  
action taken pursuant to this division, in accordance with 1174  
division (F) of section 121.22 of the Revised Code. 1175

**Sec. 307.02.** The board of county commissioners of any county, 1176  
in addition to its other powers, may purchase, for cash or by 1177  
installment payments, enter into lease-purchase agreements, lease 1178  
with option to purchase, lease, appropriate, construct, enlarge, 1179  
improve, rebuild, equip, and furnish a courthouse, county offices, 1180  
jail, county home, juvenile court building, detention facility, 1181  
public market houses, retail store rooms and offices, if located 1182  
in a building acquired to house county offices, for which store 1183  
rooms or offices the board of county commissioners may establish 1184  
and collect rents or enter into leases as provided in section 1185  
307.09 of the Revised Code, county children's home, community 1186  
mental health facility, community ~~mental retardation or~~ 1187  
~~developmental disability~~ disabilities facility, facilities for 1188  
senior citizens, alcohol treatment and control center, other 1189  
necessary buildings, public stadiums, public auditorium, 1190  
exhibition hall, zoological park, public library buildings, golf 1191  
courses, and off-street parking facilities determined by the board 1192

of county commissioners to be so situated as to be useful for any 1193  
of such purposes or any combination of such purposes, for the use 1194  
of which parking facilities the board of county commissioners may 1195  
establish and collect rates, charges, or rents, and sites 1196  
therefor, such real estate adjoining an existing site as is 1197  
necessary for any of such purposes, including real estate 1198  
necessary to afford light, air, protection from fire, suitable 1199  
surroundings, ingress, and egress; such copies of any public 1200  
records of such county, made or reproduced by miniature 1201  
photography or microfilm, as are necessary for the protection and 1202  
preservation of public records of such county. 1203

The board of county commissioners of any county may lease for 1204  
a period not to exceed forty years, pursuant to a contract 1205  
providing for the construction thereof under a lease-purchase 1206  
plan, those buildings, structures, and other improvements 1207  
enumerated in the first paragraph of this section, and in 1208  
conjunction therewith, may grant leases, easements, or licenses 1209  
for lands under the control of the county for a period not to 1210  
exceed forty years. Such lease-purchase plan shall provide that at 1211  
the end of the lease period such buildings, structures, and 1212  
related improvements, together with the land on which they are 1213  
situated, shall become the property of the county without cost. 1214

Whenever any building, structure or other improvement is to 1215  
be so leased by a county, the board of county commissioners shall 1216  
file in the office of the board, if the board has a full-time 1217  
clerk, or in the office of the county auditor such basic plans, 1218  
specifications, bills of materials, and estimates of cost with 1219  
sufficient detail to afford bidders all needed information, or 1220  
alternatively, shall file the following plans, details, bills of 1221  
materials, and specifications: 1222

(A) Full and accurate plans, suitable for the use of 1223

mechanics and other builders in such construction, improvement, 1224  
addition, alteration, or installation; 1225

(B) Details to scale and full sized, so drawn and represented 1226  
as to be easily understood; 1227

(C) Accurate bills showing the exact quantity of different 1228  
kinds of material necessary to the construction; 1229

(D) Definite and complete specifications of the work to be 1230  
performed, together with such directions as will enable a 1231  
competent mechanic or other builder to carry them out and afford 1232  
bidders all needed information; 1233

(E) A full and accurate estimate of each item of expense and 1234  
of the aggregate cost thereof. 1235

The board of county commissioners shall invite bids in the 1236  
manner prescribed in sections 307.86 to 307.92 of the Revised 1237  
Code. Such bids shall contain the terms upon which the builder 1238  
would propose to lease the building, structure, or other 1239  
improvement to the county. The form of the bid approved by the 1240  
board of county commissioners shall be used and a bid shall be 1241  
invalid and not considered unless such form is used without 1242  
change, alteration, or addition. 1243

Before submitting bids pursuant to this section, any builder 1244  
shall have complied with sections 153.50 to 153.52 of the Revised 1245  
Code. 1246

On the day and at the place named for receiving bids for 1247  
entering into lease agreements with the county, the board of 1248  
county commissioners shall open the bids, and shall publicly 1249  
proceed immediately to tabulate the bids. No such lease agreement 1250  
shall be entered into until the bureau of workers' compensation 1251  
has certified that the corporation, partnership, or person to be 1252  
awarded the lease agreement has complied with Chapter 4123. of the 1253  
Revised Code, and until, if the builder submitting the lowest and 1254

best bid is a foreign corporation, the secretary of state has 1255  
certified that such corporation is authorized to do business in 1256  
this state, and until, if the builder submitting the lowest and 1257  
best bid is a person or partnership nonresident of this state, 1258  
such person or partnership has filed with the secretary of state a 1259  
power of attorney designating the secretary of state as its agent 1260  
for the purpose of accepting service of summons in any action 1261  
brought under Chapter 4123. of the Revised Code, and until the 1262  
agreement is submitted to the county prosecutor and the county 1263  
prosecutor's approval certified thereon. Within thirty days after 1264  
the day on which the bids are received, the board of county 1265  
commissioners shall investigate the bids received and shall 1266  
determine that the bureau and the secretary of state have made the 1267  
certifications required by this section of the builder who has 1268  
submitted the lowest and best bid. Within ten days of the 1269  
completion of the investigation of the bids the board of county 1270  
commissioners may award the lease agreement to the builder who has 1271  
submitted the lowest and best bid and who has been certified by 1272  
the bureau and secretary of state as required by this section. If 1273  
bidding for the lease agreement has been conducted upon the basis 1274  
of basic plans, specifications, bills of materials, and estimates 1275  
of costs, upon the award to the builder, the board of county 1276  
commissioners, or the builder with the approval of the board of 1277  
county commissioners, shall appoint an architect or engineer 1278  
licensed in Ohio to prepare such further detailed plans, 1279  
specifications, and bills of materials as are required to 1280  
construct the buildings, structures, and other improvements 1281  
enumerated in the first paragraph of this section. The board of 1282  
county commissioners may reject any bid. Where there is reason to 1283  
believe there is collusion or combination among the bidders, the 1284  
bids of those concerned therein shall be rejected. 1285

**Sec. 313.12.** (A) When any person dies as a result of criminal 1286

or other violent means, by casualty, by suicide, or in any 1287  
suspicious or unusual manner, when any person, including a child 1288  
under two years of age, dies suddenly when in apparent good 1289  
health, or when any ~~mentally retarded person or developmentally~~ 1290  
~~disabled~~ person with a developmental disability dies regardless of 1291  
the circumstances, the physician called in attendance, or any 1292  
member of an ambulance service, emergency squad, or law 1293  
enforcement agency who obtains knowledge thereof arising from the 1294  
person's duties, shall immediately notify the office of the 1295  
coroner of the known facts concerning the time, place, manner, and 1296  
circumstances of the death, and any other information that is 1297  
required pursuant to sections 313.01 to 313.22 of the Revised 1298  
Code. In such cases, if a request is made for cremation, the 1299  
funeral director called in attendance shall immediately notify the 1300  
coroner. 1301

(B) As used in this section, "~~mentally retarded person~~" and 1302  
"~~developmentally disabled~~ person with a developmental disability" 1303  
~~have~~ has the same ~~meanings~~ meaning as in section 5123.01 of the 1304  
Revised Code. 1305

**Sec. 325.07.** In addition to the compensation and salary 1306  
provided by section 325.06 of the Revised Code, the board of 1307  
county commissioners shall make allowances monthly to each sheriff 1308  
for ~~his~~ the actual and necessary expenses incurred and expended by 1309  
the sheriff in pursuing within or without the state or 1310  
transporting persons accused or convicted of crimes and offenses, 1311  
for any expenses incurred in conveying and transferring persons to 1312  
or from any state hospital for the mentally ill, any institution 1313  
for ~~the mentally retarded~~ persons with developmental disabilities 1314  
that are intellectual disabilities, any institution operated by 1315  
the youth commission, children's homes, county homes, and all 1316  
similar institutions, and for all expenses of maintaining 1317  
transportation facilities necessary to the proper administration 1318

of the duties of ~~his~~ the sheriff's office. 1319

The board shall allow the sheriff ~~his~~ the actual 1320  
transportation expense and telephone tolls expended by the sheriff 1321  
in serving civil processes and subpoenaing witnesses in civil and 1322  
criminal cases and before the grand jury, and it may allow any 1323  
other necessary transportation expense for the proper 1324  
administration of the duties of ~~his~~ the sheriff's office. Each 1325  
sheriff shall file under oath a monthly report containing a full, 1326  
accurate, and itemized account of all ~~his~~ the sheriff's actual and 1327  
necessary expenses, including telephone tolls and any other 1328  
transportation expense mentioned in this section, before the 1329  
expense is allowed by the board. The statement shall show the 1330  
number of the case, the court in which the service was rendered, 1331  
and the point from which a transportation vehicle was used. 1332

For the purpose of making available to the sheriff funds 1333  
necessary in the performance of the duties required ~~of him~~ under 1334  
this section, the board may authorize, as an advancement to the 1335  
sheriff, a sum not exceeding fifty per cent of ~~his~~ the sheriff's 1336  
annual salary, from appropriations made to ~~him~~ the sheriff by the 1337  
board for pursuing prisoners within or without the state or for 1338  
transporting the prisoners to correctional institutions, or both, 1339  
and for transporting persons to the institutions enumerated in 1340  
this section, from which sum of money so advanced the necessary 1341  
expenses for the transportation or pursuance may be paid by the 1342  
sheriff. The county auditor shall draw ~~his~~ a warrant upon the 1343  
county treasurer, in favor of the sheriff, as authorized by the 1344  
board. 1345

After the itemized monthly report provided for in this 1346  
section has been filed by the sheriff and approved and allowed by 1347  
the board, the board shall restore to the fund the amount expended 1348  
and disbursed by the sheriff, as approved and allowed by the 1349  
board. 1350

Any unexpended balance of such fund remaining in the hands of 1351  
the sheriff, at the end of each succeeding fiscal year, shall be 1352  
returned and paid into the county treasury by the sheriff. 1353

**Sec. 711.23.** As used in this section, "incompetent person" 1354  
means a person who is so mentally impaired as a result of a mental 1355  
or physical illness or disability, or ~~mental retardation~~ a 1356  
developmental disability that is an intellectual disability, or as 1357  
a result of chronic substance abuse, that the person is incapable 1358  
of taking proper care of the person's self or property or fails to 1359  
provide for the person's family or other persons for whom the 1360  
person is charged by law to provide. 1361

If the court of common pleas is of the opinion that any 1362  
person owning a lot in a plat, addition, or part thereof proposed 1363  
to be vacated or altered, and not assenting to such vacation or 1364  
alteration, will sustain damage thereby, it may proceed to hear 1365  
proof in reference thereto, and may render judgment against the 1366  
petitioners for such damages as it thinks proper and just, to be 1367  
assessed ratably against the petitioners by the court, according 1368  
to the value of the property owned by the petitioners as it stands 1369  
taxed on the tax list of the county. When necessary, the court 1370  
shall appoint a guardian ad litem for all minors or incompetent 1371  
persons interested in the premises. The judgment of the court 1372  
vacating such plat, addition, or parts thereof, shall be 1373  
conditioned upon the payment of the damages thus assessed. 1374

**Sec. 1751.01.** As used in this chapter: 1375

(A)(1) "Basic health care services" means the following 1376  
services when medically necessary: 1377

(a) Physician's services, except when such services are 1378  
supplemental under division (B) of this section; 1379

(b) Inpatient hospital services; 1380

(c) Outpatient medical services;	1381
(d) Emergency health services;	1382
(e) Urgent care services;	1383
(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;	1384 1385
(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental illnesses;	1386 1387 1388
(h) Preventive health care services, including, but not limited to, voluntary family planning services, infertility services, periodic physical examinations, prenatal obstetrical care, and well-child care;	1389 1390 1391 1392
(i) Routine patient care for patients enrolled in an eligible cancer clinical trial pursuant to section 3923.80 of the Revised Code.	1393 1394 1395
"Basic health care services" does not include experimental procedures.	1396 1397
Except as provided by divisions (A)(2) and (3) of this section in connection with the offering of coverage for diagnostic and treatment services for biologically based mental illnesses, a health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage	1398 1399 1400 1401 1402 1403 1404 1405 1406 1407 1408 1409 1410

of beneficiaries under any contract covering officers or employees 1411  
of the state that has been entered into by the department of 1412  
administrative services. 1413

(2) A health insuring corporation may offer coverage for 1414  
diagnostic and treatment services for biologically based mental 1415  
illnesses without offering coverage for all other basic health 1416  
care services. A health insuring corporation may offer coverage 1417  
for diagnostic and treatment services for biologically based 1418  
mental illnesses alone or in combination with one or more 1419  
supplemental health care services. However, a health insuring 1420  
corporation that offers coverage for any other basic health care 1421  
service shall offer coverage for diagnostic and treatment services 1422  
for biologically based mental illnesses in combination with the 1423  
offer of coverage for all other listed basic health care services. 1424

(3) A health insuring corporation that offers coverage for 1425  
basic health care services is not required to offer coverage for 1426  
diagnostic and treatment services for biologically based mental 1427  
illnesses in combination with the offer of coverage for all other 1428  
listed basic health care services if all of the following apply: 1429

(a) The health insuring corporation submits documentation 1430  
certified by an independent member of the American academy of 1431  
actuaries to the superintendent of insurance showing that incurred 1432  
claims for diagnostic and treatment services for biologically 1433  
based mental illnesses for a period of at least six months 1434  
independently caused the health insuring corporation's costs for 1435  
claims and administrative expenses for the coverage of basic 1436  
health care services to increase by more than one per cent per 1437  
year. 1438

(b) The health insuring corporation submits a signed letter 1439  
from an independent member of the American academy of actuaries to 1440  
the superintendent of insurance opining that the increase in costs 1441  
described in division (A)(3)(a) of this section could reasonably 1442

justify an increase of more than one per cent in the annual 1443  
premiums or rates charged by the health insuring corporation for 1444  
the coverage of basic health care services. 1445

(c) The superintendent of insurance makes the following 1446  
determinations from the documentation and opinion submitted 1447  
pursuant to divisions (A)(3)(a) and (b) of this section: 1448

(i) Incurred claims for diagnostic and treatment services for 1449  
biologically based mental illnesses for a period of at least six 1450  
months independently caused the health insuring corporation's 1451  
costs for claims and administrative expenses for the coverage of 1452  
basic health care services to increase by more than one per cent 1453  
per year. 1454

(ii) The increase in costs reasonably justifies an increase 1455  
of more than one per cent in the annual premiums or rates charged 1456  
by the health insuring corporation for the coverage of basic 1457  
health care services. 1458

Any determination made by the superintendent under this 1459  
division is subject to Chapter 119. of the Revised Code. 1460

(B)(1) "Supplemental health care services" means any health 1461  
care services other than basic health care services that a health 1462  
insuring corporation may offer, alone or in combination with 1463  
either basic health care services or other supplemental health 1464  
care services, and includes: 1465

(a) Services of facilities for intermediate or long-term 1466  
care, or both; 1467

(b) Dental care services; 1468

(c) Vision care and optometric services including lenses and 1469  
frames; 1470

(d) Podiatric care or foot care services; 1471

(e) Mental health services, excluding diagnostic and 1472

treatment services for biologically based mental illnesses;	1473
(f) Short-term outpatient evaluative and crisis-intervention mental health services;	1474 1475
(g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;	1476 1477
(h) Home health services;	1478
(i) Prescription drug services;	1479
(j) Nursing services;	1480
(k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;	1481 1482
(l) Physical therapy services;	1483
(m) Chiropractic services;	1484
(n) Any other category of services approved by the superintendent of insurance.	1485 1486
(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.	1487 1488 1489 1490 1491
(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.	1492 1493 1494 1495 1496
(D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the	1497 1498 1499 1500 1501

diagnostic and statistical manual of mental disorders published by 1502  
the American psychiatric association. 1503

(E) "Closed panel plan" means a health care plan that 1504  
requires enrollees to use participating providers. 1505

(F) "Compensation" means remuneration for the provision of 1506  
health care services, determined on other than a fee-for-service 1507  
or discounted-fee-for-service basis. 1508

(G) "Contractual periodic prepayment" means the formula for 1509  
determining the premium rate for all subscribers of a health 1510  
insuring corporation. 1511

(H) "Corporation" means a corporation formed under Chapter 1512  
1701. or 1702. of the Revised Code or the similar laws of another 1513  
state. 1514

(I) "Emergency health services" means those health care 1515  
services that must be available on a seven-days-per-week, 1516  
twenty-four-hours-per-day basis in order to prevent jeopardy to an 1517  
enrollee's health status that would occur if such services were 1518  
not received as soon as possible, and includes, where appropriate, 1519  
provisions for transportation and indemnity payments or service 1520  
agreements for out-of-area coverage. 1521

(J) "Enrollee" means any natural person who is entitled to 1522  
receive health care benefits provided by a health insuring 1523  
corporation. 1524

(K) "Evidence of coverage" means any certificate, agreement, 1525  
policy, or contract issued to a subscriber that sets out the 1526  
coverage and other rights to which such person is entitled under a 1527  
health care plan. 1528

(L) "Health care facility" means any facility, except a 1529  
health care practitioner's office, that provides preventive, 1530  
diagnostic, therapeutic, acute convalescent, rehabilitation, 1531

mental health, ~~mental retardation~~, intellectual disability, 1532  
intermediate care, or skilled nursing services. 1533

(M) "Health care services" means basic, supplemental, and 1534  
specialty health care services. 1535

(N) "Health delivery network" means any group of providers or 1536  
health care facilities, or both, or any representative thereof, 1537  
that have entered into an agreement to offer health care services 1538  
in a panel rather than on an individual basis. 1539

(O) "Health insuring corporation" means a corporation, as 1540  
defined in division (H) of this section, that, pursuant to a 1541  
policy, contract, certificate, or agreement, pays for, reimburses, 1542  
or provides, delivers, arranges for, or otherwise makes available, 1543  
basic health care services, supplemental health care services, or 1544  
specialty health care services, or a combination of basic health 1545  
care services and either supplemental health care services or 1546  
specialty health care services, through either an open panel plan 1547  
or a closed panel plan. 1548

"Health insuring corporation" does not include a limited 1549  
liability company formed pursuant to Chapter 1705. of the Revised 1550  
Code, an insurer licensed under Title XXXIX of the Revised Code if 1551  
that insurer offers only open panel plans under which all 1552  
providers and health care facilities participating receive their 1553  
compensation directly from the insurer, a corporation formed by or 1554  
on behalf of a political subdivision or a department, office, or 1555  
institution of the state, or a public entity formed by or on 1556  
behalf of a board of county commissioners, a county board of 1557  
developmental disabilities, an alcohol and drug addiction services 1558  
board, a board of alcohol, drug addiction, and mental health 1559  
services, or a community mental health board, as those terms are 1560  
used in Chapters 340. and 5126. of the Revised Code. Except as 1561  
provided by division (D) of section 1751.02 of the Revised Code, 1562  
or as otherwise provided by law, no board, commission, agency, or 1563

other entity under the control of a political subdivision may 1564  
accept insurance risk in providing for health care services. 1565  
However, nothing in this division shall be construed as 1566  
prohibiting such entities from purchasing the services of a health 1567  
insuring corporation or a third-party administrator licensed under 1568  
Chapter 3959. of the Revised Code. 1569

(P) "Intermediary organization" means a health delivery 1570  
network or other entity that contracts with licensed health 1571  
insuring corporations or self-insured employers, or both, to 1572  
provide health care services, and that enters into contractual 1573  
arrangements with other entities for the provision of health care 1574  
services for the purpose of fulfilling the terms of its contracts 1575  
with the health insuring corporations and self-insured employers. 1576

(Q) "Intermediate care" means residential care above the 1577  
level of room and board for patients who require personal 1578  
assistance and health-related services, but who do not require 1579  
skilled nursing care. 1580

(R) "Medical record" means the personal information that 1581  
relates to an individual's physical or mental condition, medical 1582  
history, or medical treatment. 1583

(S)(1) "Open panel plan" means a health care plan that 1584  
provides incentives for enrollees to use participating providers 1585  
and that also allows enrollees to use providers that are not 1586  
participating providers. 1587

(2) No health insuring corporation may offer an open panel 1588  
plan, unless the health insuring corporation is also licensed as 1589  
an insurer under Title XXXIX of the Revised Code, the health 1590  
insuring corporation, on June 4, 1997, holds a certificate of 1591  
authority or license to operate under Chapter 1736. or 1740. of 1592  
the Revised Code, or an insurer licensed under Title XXXIX of the 1593  
Revised Code is responsible for the out-of-network risk as 1594

evidenced by both an evidence of coverage filing under section 1595  
1751.11 of the Revised Code and a policy and certificate filing 1596  
under section 3923.02 of the Revised Code. 1597

(T) "Osteopathic hospital" means a hospital registered under 1598  
section 3701.07 of the Revised Code that advocates osteopathic 1599  
principles and the practice and perpetuation of osteopathic 1600  
medicine by doing any of the following: 1601

(1) Maintaining a department or service of osteopathic 1602  
medicine or a committee on the utilization of osteopathic 1603  
principles and methods, under the supervision of an osteopathic 1604  
physician; 1605

(2) Maintaining an active medical staff, the majority of 1606  
which is comprised of osteopathic physicians; 1607

(3) Maintaining a medical staff executive committee that has 1608  
osteopathic physicians as a majority of its members. 1609

(U) "Panel" means a group of providers or health care 1610  
facilities that have joined together to deliver health care 1611  
services through a contractual arrangement with a health insuring 1612  
corporation, employer group, or other payor. 1613

(V) "Person" has the same meaning as in section 1.59 of the 1614  
Revised Code, and, unless the context otherwise requires, includes 1615  
any insurance company holding a certificate of authority under 1616  
Title XXXIX of the Revised Code, any subsidiary and affiliate of 1617  
an insurance company, and any government agency. 1618

(W) "Premium rate" means any set fee regularly paid by a 1619  
subscriber to a health insuring corporation. A "premium rate" does 1620  
not include a one-time membership fee, an annual administrative 1621  
fee, or a nominal access fee, paid to a managed health care system 1622  
under which the recipient of health care services remains solely 1623  
responsible for any charges accessed for those services by the 1624  
provider or health care facility. 1625

(X) "Primary care provider" means a provider that is 1626  
designated by a health insuring corporation to supervise, 1627  
coordinate, or provide initial care or continuing care to an 1628  
enrollee, and that may be required by the health insuring 1629  
corporation to initiate a referral for specialty care and to 1630  
maintain supervision of the health care services rendered to the 1631  
enrollee. 1632

(Y) "Provider" means any natural person or partnership of 1633  
natural persons who are licensed, certified, accredited, or 1634  
otherwise authorized in this state to furnish health care 1635  
services, or any professional association organized under Chapter 1636  
1785. of the Revised Code, provided that nothing in this chapter 1637  
or other provisions of law shall be construed to preclude a health 1638  
insuring corporation, health care practitioner, or organized 1639  
health care group associated with a health insuring corporation 1640  
from employing certified nurse practitioners, certified nurse 1641  
anesthetists, clinical nurse specialists, certified 1642  
nurse\_midwives, dietitians, physician assistants, dental 1643  
assistants, dental hygienists, optometric technicians, or other 1644  
allied health personnel who are licensed, certified, accredited, 1645  
or otherwise authorized in this state to furnish health care 1646  
services. 1647

(Z) "Provider sponsored organization" means a corporation, as 1648  
defined in division (H) of this section, that is at least eighty 1649  
per cent owned or controlled by one or more hospitals, as defined 1650  
in section 3727.01 of the Revised Code, or one or more physicians 1651  
licensed to practice medicine or surgery or osteopathic medicine 1652  
and surgery under Chapter 4731. of the Revised Code, or any 1653  
combination of such physicians and hospitals. Such control is 1654  
presumed to exist if at least eighty per cent of the voting rights 1655  
or governance rights of a provider sponsored organization are 1656  
directly or indirectly owned, controlled, or otherwise held by any 1657

combination of the physicians and hospitals described in this 1658  
division. 1659

(AA) "Solicitation document" means the written materials 1660  
provided to prospective subscribers or enrollees, or both, and 1661  
used for advertising and marketing to induce enrollment in the 1662  
health care plans of a health insuring corporation. 1663

(BB) "Subscriber" means a person who is responsible for 1664  
making payments to a health insuring corporation for participation 1665  
in a health care plan, or an enrollee whose employment or other 1666  
status is the basis of eligibility for enrollment in a health 1667  
insuring corporation. 1668

(CC) "Urgent care services" means those health care services 1669  
that are appropriately provided for an unforeseen condition of a 1670  
kind that usually requires medical attention without delay but 1671  
that does not pose a threat to the life, limb, or permanent health 1672  
of the injured or ill person, and may include such health care 1673  
services provided out of the health insuring corporation's 1674  
approved service area pursuant to indemnity payments or service 1675  
agreements. 1676

**Sec. 1751.14.** (A) Notwithstanding section 3901.71 of the 1677  
Revised Code, any policy, contract, or agreement for health care 1678  
services authorized by this chapter that is issued, delivered, or 1679  
renewed in this state and that provides that coverage of an 1680  
unmarried dependent child will terminate upon attainment of the 1681  
limiting age for dependent children specified in the policy, 1682  
contract, or agreement, shall also provide in substance both of 1683  
the following: 1684

(1) Once an unmarried child has attained the limiting age for 1685  
dependent children, as provided in the policy, contract, or 1686  
agreement, upon the request of the subscriber, the health insuring 1687  
corporation shall offer to cover the unmarried child until the 1688

child attains twenty-eight years of age if all of the following 1689  
are true: 1690

(a) The child is the natural child, stepchild, or adopted 1691  
child of the subscriber. 1692

(b) The child is a resident of this state or a full-time 1693  
student at an accredited public or private institution of higher 1694  
education. 1695

(c) The child is not employed by an employer that offers any 1696  
health benefit plan under which the child is eligible for 1697  
coverage. 1698

(d) The child is not eligible for coverage under the medicaid 1699  
program or the medicare program. 1700

(2) That attainment of the limiting age for dependent 1701  
children shall not operate to terminate the coverage of a 1702  
dependent child if the child is and continues to be both of the 1703  
following: 1704

(a) Incapable of self-sustaining employment by reason of 1705  
~~mental retardation or physical handicap~~ or a developmental 1706  
disability that is an intellectual disability; 1707

(b) Primarily dependent upon the subscriber for support and 1708  
maintenance. 1709

(B) Proof of incapacity and dependence for purposes of 1710  
division (A)(2) of this section shall be furnished to the health 1711  
insuring corporation within thirty-one days of the child's 1712  
attainment of the limiting age. Upon request, but not more 1713  
frequently than annually, the health insuring corporation may 1714  
require proof satisfactory to it of the continuance of such 1715  
incapacity and dependency. 1716

(C) Nothing in this section shall do any of the following: 1717

(1) Require that any policy, contract, or agreement offer 1718

coverage for dependent children or provide coverage for an 1719  
unmarried dependent child's children as dependents on the policy, 1720  
contract, or agreement; 1721

(2) Require an employer to pay for any part of the premium 1722  
for an unmarried dependent child that has attained the limiting 1723  
age for dependents, as provided in the policy, contract, or 1724  
agreement; 1725

(3) Require an employer to offer health insurance coverage to 1726  
the dependents of any employee. 1727

(D) This section does not apply to any health insuring 1728  
corporation policy, contract, or agreement offering only 1729  
supplemental health care services or specialty health care 1730  
services. 1731

(E) As used in this section, "health benefit plan" has the 1732  
same meaning as in section 3924.01 of the Revised Code and also 1733  
includes both of the following: 1734

(1) A public employee benefit plan; 1735

(2) A health benefit plan as regulated under the "Employee 1736  
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 1737

**Sec. 2101.17.** The fees enumerated in this section shall be 1738  
paid to the probate court from the county treasury upon the 1739  
warrant of the county auditor which shall issue upon the 1740  
certificate of the probate judge and shall be in full for all 1741  
services rendered in the respective proceedings as follows: 1742

(A) For each hearing to determine if a person is 1743  
a mentally ill individual subject to  
hospitalization when the person is committed  
to a state hospital or to relatives

.....\$ 12.00; 1744

(B) When the person is discharged 1745

.....	7.00;	1746
(C) For order of return of a mentally ill person to a state hospital or removal therefrom .....	2.00;	1748
(D) For proceedings for committing a person to an institution for <del>the mentally retarded</del> <u>persons with developmental disabilities that</u> <u>are intellectual disabilities</u> .....	10.00;	1750
(E) For habeas corpus proceedings when a person is confined under color of proceedings in a criminal case and is discharged .....	10.00;	1752
(F) When acting as a juvenile judge, for each case filed against a <del>delinquency</del> <u>delinquent</u> , dependent, unruly, or neglected child, or a juvenile traffic offender .....	5.00;	1754
(G) For proceedings to take a child from parents or other persons having control thereof .....	5.00.	1756
<b>Sec. 2101.24.</b> (A)(1) Except as otherwise provided by law, the probate court has exclusive jurisdiction:		1757 1758
(a) To take the proof of wills and to admit to record authenticated copies of wills executed, proved, and allowed in the courts of any other state, territory, or country. If the probate judge is unavoidably absent, any judge of the court of common pleas may take proof of wills and approve bonds to be given, but the record of these acts shall be preserved in the usual records of the probate court.		1759 1760 1761 1762 1763 1764 1765
(b) To grant and revoke letters testamentary and of administration;		1766 1767

(c) To direct and control the conduct and settle the accounts of executors and administrators and order the distribution of estates;	1768 1769 1770
(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;	1771 1772 1773
(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and settle their accounts;	1774 1775 1776
(f) To grant marriage licenses;	1777
(g) To make inquests respecting persons who are so mentally impaired as a result of a mental or physical illness or disability, or <del>mental retardation</del> <u>a developmental disability that is an intellectual disability</u> , or as a result of chronic substance abuse, that they are unable to manage their property and affairs effectively, subject to guardianship;	1778 1779 1780 1781 1782 1783
(h) To qualify assignees, appoint and qualify trustees and commissioners of insolvents, control their conduct, and settle their accounts;	1784 1785 1786
(i) To authorize the sale of lands, equitable estates, or interests in lands or equitable estates, and the assignments of inchoate dower in such cases of sale, on petition by executors, administrators, and guardians;	1787 1788 1789 1790
(j) To authorize the completion of real property contracts on petition of executors and administrators;	1791 1792
(k) To construe wills;	1793
(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to section 2107.084 of the Revised Code;	1794 1795 1796
(m) To direct and control the conduct of fiduciaries and	1797

settle their accounts;	1798
(n) To authorize the sale or lease of any estate created by will if the estate is held in trust, on petition by the trustee;	1799 1800
(o) To terminate a testamentary trust in any case in which a court of equity may do so;	1801 1802
(p) To hear and determine actions to contest the validity of wills;	1803 1804
(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;	1805 1806 1807
(r) To hear and determine an action commenced pursuant to section 3107.41 of the Revised Code to obtain the release of information pertaining to the birth name of the adopted person and the identity of the adopted person's biological parents and biological siblings;	1808 1809 1810 1811 1812
(s) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;	1813 1814
(t) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;	1815 1816
(u) To hear and determine actions involving informed consent for medication of persons hospitalized pursuant to section 5122.141 or 5122.15 of the Revised Code;	1817 1818 1819
(v) To hear and determine actions relating to durable powers of attorney for health care as described in division (D) of section 1337.16 of the Revised Code;	1820 1821 1822
(w) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised Code;	1823 1824 1825
(x) To hear and determine complaints that pertain to the use or continuation, or the withholding or withdrawal, of	1826 1827

life-sustaining treatment in connection with certain patients	1828
allegedly in a terminal condition or in a permanently unconscious	1829
state pursuant to division (E) of section 2133.08 of the Revised	1830
Code, in accordance with that division;	1831
(y) To hear and determine applications that pertain to the	1832
withholding or withdrawal of nutrition and hydration from certain	1833
patients allegedly in a permanently unconscious state pursuant to	1834
section 2133.09 of the Revised Code, in accordance with that	1835
section;	1836
(z) To hear and determine applications of attending	1837
physicians in accordance with division (B) of section 2133.15 of	1838
the Revised Code;	1839
(aa) To hear and determine actions relative to the use or	1840
continuation of comfort care in connection with certain principals	1841
under durable powers of attorney for health care, declarants under	1842
declarations, or patients in accordance with division (E) of	1843
either section 1337.16 or 2133.12 of the Revised Code;	1844
(bb) To hear and determine applications for an order	1845
relieving an estate from administration under section 2113.03 of	1846
the Revised Code;	1847
(cc) To hear and determine applications for an order granting	1848
a summary release from administration under section 2113.031 of	1849
the Revised Code;	1850
(dd) To hear and determine actions relating to the exercise	1851
of the right of disposition, in accordance with section 2108.90 of	1852
the Revised Code;	1853
(ee) To hear and determine actions relating to the	1854
disinterment and reinterment of human remains under section 517.23	1855
of the Revised Code;	1856
(ff) To hear and determine petitions for an order for	1857

treatment of a person suffering from alcohol and other drug abuse 1858  
filed under section 5119.93 of the Revised Code and to order 1859  
treatment of that nature in accordance with, and take other 1860  
actions afforded to the court under, sections 5119.90 to 5119.98 1861  
of the Revised Code. 1862

(2) In addition to the exclusive jurisdiction conferred upon 1863  
the probate court by division (A)(1) of this section, the probate 1864  
court shall have exclusive jurisdiction over a particular subject 1865  
matter if both of the following apply: 1866

(a) Another section of the Revised Code expressly confers 1867  
jurisdiction over that subject matter upon the probate court. 1868

(b) No section of the Revised Code expressly confers 1869  
jurisdiction over that subject matter upon any other court or 1870  
agency. 1871

(B)(1) The probate court has concurrent jurisdiction with, 1872  
and the same powers at law and in equity as, the general division 1873  
of the court of common pleas to issue writs and orders, and to 1874  
hear and determine actions as follows: 1875

(a) If jurisdiction relative to a particular subject matter 1876  
is stated to be concurrent in a section of the Revised Code or has 1877  
been construed by judicial decision to be concurrent, any action 1878  
that involves that subject matter; 1879

(b) Any action that involves an inter vivos trust; a trust 1880  
created pursuant to section 5815.28 of the Revised Code; a 1881  
charitable trust or foundation; subject to divisions (A)(1)(u) and 1882  
(z) of this section, a power of attorney, including, but not 1883  
limited to, a durable power of attorney; the medical treatment of 1884  
a competent adult; or a writ of habeas corpus; 1885

(c) Subject to section 2101.31 of the Revised Code, any 1886  
action with respect to a probate estate, guardianship, trust, or 1887  
post-death dispute that involves any of the following: 1888

(i) A designation or removal of a beneficiary of a life insurance policy, annuity contract, retirement plan, brokerage account, security account, bank account, real property, or tangible personal property;	1889 1890 1891 1892
(ii) A designation or removal of a payable-on-death beneficiary or transfer-on-death beneficiary;	1893 1894
(iii) A change in the title to any asset involving a joint and survivorship interest;	1895 1896
(iv) An alleged gift;	1897
(v) The passing of assets upon the death of an individual otherwise than by will, intestate succession, or trust.	1898 1899
(2) Any action that involves a concurrent jurisdiction subject matter and that is before the probate court may be transferred by the probate court, on its order, to the general division of the court of common pleas.	1900 1901 1902 1903
(C) The probate court has plenary power at law and in equity to dispose fully of any matter that is properly before the court, unless the power is expressly otherwise limited or denied by a section of the Revised Code.	1904 1905 1906 1907
(D) The jurisdiction acquired by a probate court over a matter or proceeding is exclusive of that of any other probate court, except when otherwise provided by law.	1908 1909 1910
<b>Sec. 2108.521.</b> (A) If a <del>mentally retarded person or a developmentally disabled person</del> <u>with a developmental disability</u> dies, if the department of developmental disabilities or a county board of developmental disabilities has a good faith reason to believe that the deceased person's death occurred under suspicious circumstances, if the coroner was apprised of the circumstances of the death, and if the coroner after being so apprised of the circumstances declines to conduct an autopsy, the department or	1911 1912 1913 1914 1915 1916 1917 1918

the board may file a petition in a court of common pleas seeking 1919  
an order authorizing an autopsy or post-mortem examination under 1920  
this section. 1921

(B) Upon the filing of a petition under division (A) of this 1922  
section, the court may conduct, but is not required to conduct, a 1923  
hearing on the petition. The court may determine whether to grant 1924  
the petition without a hearing. The department or board, and all 1925  
other interested parties, may submit information and statements to 1926  
the court that are relevant to the petition, and, if the court 1927  
conducts a hearing, may present evidence and testimony at the 1928  
hearing. The court shall order the requested autopsy or 1929  
post-mortem examination if it finds that, under the circumstances, 1930  
the department or board has demonstrated a need for the autopsy or 1931  
post-mortem examination. The court shall order an autopsy or 1932  
post-mortem examination in the circumstances specified in this 1933  
division regardless of whether any consent has been given, or has 1934  
been given and withdrawn, under section 2108.50 of the Revised 1935  
Code, and regardless of whether any information was presented to 1936  
the coroner pursuant to section 313.131 of the Revised Code or to 1937  
the court under this section regarding an autopsy being contrary 1938  
to the deceased person's religious beliefs. 1939

(C) An autopsy or post-mortem examination ordered under this 1940  
section may be performed upon the body of the deceased person by a 1941  
licensed physician or surgeon. The court may identify in the order 1942  
the person who is to perform the autopsy or post-mortem 1943  
examination. If an autopsy or post-mortem examination is ordered 1944  
under this section, the department or board that requested the 1945  
autopsy or examination shall pay the physician or surgeon who 1946  
performs the autopsy or examination for costs and expenses 1947  
incurred in performing the autopsy or examination. 1948

**Sec. 2109.01.** "Fiduciary," as used in Chapters 2101. to 2131. 1949

of the Revised Code, means any person, other than an assignee or trustee for an insolvent debtor or a guardian under sections 5905.01 to 5905.19 of the Revised Code, appointed by and accountable to the probate court and acting in a fiduciary capacity for any person, or charged with duties in relation to any property, interest, trust, or estate for the benefit of another; and includes an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code, appointed by and accountable to the probate court as guardian or trustee with respect to ~~mentally retarded or developmentally disabled~~ persons with developmental disabilities.

**Sec. 2111.01.** As used in Chapters 2101. to 2131. of the Revised Code:

(A) "Guardian," other than a guardian under sections 5905.01 to 5905.19 of the Revised Code, means any person, association, or corporation appointed by the probate court to have the care and management of the person, the estate, or both of an incompetent or minor. When applicable, "guardian" includes, but is not limited to, a limited guardian, an interim guardian, a standby guardian, and an emergency guardian appointed pursuant to division (B) of section 2111.02 of the Revised Code. "Guardian" also includes an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code when appointed by the probate court to have the care and management of the person of an incompetent.

(B) "Ward" means any person for whom a guardian is acting or for whom the probate court is acting pursuant to section 2111.50 of the Revised Code.

(C) "Resident guardian" means a guardian appointed by a

probate court to have the care and management of property in this 1981  
state that belongs to a nonresident ward. 1982

(D) "Incompetent" means any person who is so mentally 1983  
impaired as a result of a mental or physical illness or 1984  
disability, or ~~mental retardation~~ a developmental disability that 1985  
is an intellectual disability, or as a result of chronic substance 1986  
abuse, that the person is incapable of taking proper care of the 1987  
person's self or property or fails to provide for the person's 1988  
family or other persons for whom the person is charged by law to 1989  
provide, or any person confined to a correctional institution 1990  
within this state. 1991

(E) "Next of kin" means any person who would be entitled to 1992  
inherit from a ward under Chapter 2105. of the Revised Code if the 1993  
ward dies intestate. 1994

(F) "Conservator" means a conservator appointed by the 1995  
probate court in an order of conservatorship issued pursuant to 1996  
section 2111.021 of the Revised Code. 1997

(G) "Parent" means a natural parent or adoptive parent of a 1998  
minor child whose parental rights and responsibilities have not 1999  
been terminated by a juvenile court or another court. 2000

(H) "Financial harm" means impairment of an individual's 2001  
financial assets by unlawfully obtaining or exerting control over 2002  
the individual's real or personal property in any of the following 2003  
ways: 2004

(1) Without the consent of the individual or the person 2005  
authorized to give consent on the individual's behalf; 2006

(2) Beyond the scope of the express or implied consent of the 2007  
individual or the person authorized to give consent on the 2008  
individual's behalf; 2009

(3) By deception; 2010

- (4) By threat; 2011
- (5) By intimidation; 2012
- (6) By fraud; 2013
- (7) By undue influence. 2014

**Sec. 2111.10.** As used in this section, "~~mentally retarded person~~" and "~~developmentally disabled person with a developmental disability~~" ~~have~~ has the same ~~meanings~~ meaning as in section 5123.01 of the Revised Code. 2015  
2016  
2017  
2018

Any appointment of a corporation as guardian shall apply to 2019  
the estate only and not to the person, except that a nonprofit 2020  
corporation organized under the laws of this state and entitled to 2021  
tax exempt status under section 501(a) of the "Internal Revenue 2022  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, that 2023  
has a contract with the department of developmental disabilities 2024  
to provide protective services may be appointed as a guardian of 2025  
~~the person of a mentally retarded or developmentally disabled a~~ 2026  
person with a developmental disability and may serve as guardian 2027  
pursuant to sections 5123.55 to 5123.59 of the Revised Code. 2028

**Sec. 2111.49.** (A)(1) Subject to division (A)(3) of this 2029  
section, the guardian of an incompetent person shall file a 2030  
guardian's report with the court two years after the date of the 2031  
issuance of the guardian's letters of appointment and biennially 2032  
after that time, or at any other time upon the motion or a rule of 2033  
the probate court. The report shall be in a form prescribed by the 2034  
court and shall include all of the following. 2035

- (a) The present address of the place of residence of the 2036  
ward; 2037
- (b) The present address of the guardian; 2038
- (c) If the place of residence of the ward is not the ward's 2039

personal home, the name of the facility at which the ward resides 2040  
and the name of the person responsible for the ward's care; 2041

(d) The approximate number of times during the period covered 2042  
by the report that the guardian has had contact with the ward, the 2043  
nature of those contacts, and the date that the ward was last seen 2044  
by the guardian; 2045

(e) Any major changes in the physical or mental condition of 2046  
the ward observed by the guardian; 2047

(f) The opinion of the guardian as to the necessity for the 2048  
continuation of the guardianship; 2049

(g) The opinion of the guardian as to the adequacy of the 2050  
present care of the ward; 2051

(h) The date that the ward was last examined or otherwise 2052  
seen by a physician and the purpose of that visit; 2053

(i) A statement by a licensed physician, licensed clinical 2054  
psychologist, licensed independent social worker, licensed 2055  
professional clinical counselor, or ~~mental-retardation~~ 2056  
intellectual disability team that has evaluated or examined the 2057  
ward within three months prior to the date of the report as to the 2058  
need for continuing the guardianship. 2059

(2) The court shall review a report filed pursuant to 2060  
division (A)(1) of this section to determine if a continued 2061  
necessity for the guardianship exists. The court may direct a 2062  
probate court investigator to verify aspects of the report. 2063

(3) Division (A)(1) of this section applies to guardians 2064  
appointed prior to, as well as on or after, the effective date of 2065  
this section. A guardian appointed prior to that date shall file 2066  
the first report in accordance with any applicable court rule or 2067  
motion, or, in the absence of such a rule or motion, upon the next 2068  
occurring date on which a report would have been due if division 2069

(A)(1) of this section had been in effect on the date of 2070  
appointment as guardian, and shall file all subsequently due 2071  
reports biennially after that time. 2072

(B) If, upon review of any report required by division (A)(1) 2073  
of this section, the court finds that it is necessary to intervene 2074  
in a guardianship, the court shall take any action that it 2075  
determines is necessary, including, but not limited to, 2076  
terminating or modifying the guardianship. 2077

(C) Except as provided in this division, for any 2078  
guardianship, upon written request by the ward, the ward's 2079  
attorney, or any other interested party made at any time after the 2080  
expiration of one hundred twenty days from the date of the 2081  
original appointment of the guardian, a hearing shall be held in 2082  
accordance with section 2111.02 of the Revised Code to evaluate 2083  
the continued necessity of the guardianship. Upon written request, 2084  
the court shall conduct a minimum of one hearing under this 2085  
division in the calendar year in which the guardian was appointed, 2086  
and upon written request, shall conduct a minimum of one hearing 2087  
in each of the following calendar years. Upon its own motion or 2088  
upon written request, the court may, in its discretion, conduct a 2089  
hearing within the first one hundred twenty days after appointment 2090  
of the guardian or conduct more than one hearing in a calendar 2091  
year. If the ward alleges competence, the burden of proving 2092  
incompetence shall be upon the applicant for guardianship or the 2093  
guardian, by clear and convincing evidence. 2094

**Sec. 2151.011.** (A) As used in the Revised Code: 2095

(1) "Juvenile court" means whichever of the following is 2096  
applicable that has jurisdiction under this chapter and Chapter 2097  
2152. of the Revised Code: 2098

(a) The division of the court of common pleas specified in 2099  
section 2101.022 or 2301.03 of the Revised Code as having 2100

jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;

(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;

(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.

(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.

(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(4) "Private noncustodial agency" means any person, organization, association, or society certified by the department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this state, and that does one or more of the following:

(a) Receives and cares for children for two or more consecutive weeks;

(b) Participates in the placement of children in certified foster homes;

(c) Provides adoption services in conjunction with a public children services agency or private child placing agency.

(B) As used in this chapter:

(1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food,

clothing, and shelter to ensure the child's health and physical 2131  
safety and the provision by a child's parent or parents of 2132  
specialized services warranted by the child's physical or mental 2133  
needs. 2134

(2) "Adult" means an individual who is eighteen years of age 2135  
or older. 2136

(3) "Agreement for temporary custody" means a voluntary 2137  
agreement authorized by section 5103.15 of the Revised Code that 2138  
transfers the temporary custody of a child to a public children 2139  
services agency or a private child placing agency. 2140

(4) "Alternative response" means the public children services 2141  
agency's response to a report of child abuse or neglect that 2142  
engages the family in a comprehensive evaluation of child safety, 2143  
risk of subsequent harm, and family strengths and needs and that 2144  
does not include a determination as to whether child abuse or 2145  
neglect occurred. 2146

(5) "Certified foster home" means a foster home, as defined 2147  
in section 5103.02 of the Revised Code, certified under section 2148  
5103.03 of the Revised Code. 2149

(6) "Child" means a person who is under eighteen years of 2150  
age, except that the juvenile court has jurisdiction over any 2151  
person who is adjudicated an unruly child prior to attaining 2152  
eighteen years of age until the person attains twenty-one years of 2153  
age, and, for purposes of that jurisdiction related to that 2154  
adjudication, a person who is so adjudicated an unruly child shall 2155  
be deemed a "child" until the person attains twenty-one years of 2156  
age. 2157

(7) "Child day camp," "child care," "child day-care center," 2158  
"part-time child day-care center," "type A family day-care home," 2159  
"licensed type B family day-care home," "type B family day-care 2160  
home," "administrator of a child day-care center," "administrator 2161

of a type A family day-care home," and "in-home aide" have the same meanings as in section 5104.01 of the Revised Code.

(8) "Child care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of developmental disabilities, or the early childhood programs of the department of education.

(9) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code.

(10) "Commit" means to vest custody as ordered by the court.

(11) "Counseling" includes both of the following:

(a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.

(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.

(12) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.

(13) "Delinquent child" has the same meaning as in section

2152.02 of the Revised Code.	2192
(14) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children.	2193 2194 2195 2196
(15) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.	2197 2198
(16) "Differential response approach" means an approach that a public children services agency may use to respond to accepted reports of child abuse or neglect with either an alternative response or a traditional response.	2199 2200 2201 2202
(17) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.	2203 2204
(18) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents.	2205 2206 2207 2208 2209
(19) "Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for five or more consecutive school days, seven or more school days in one school month, or twelve or more school days in a school year.	2210 2211 2212 2213 2214
(20) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.	2215 2216
(21) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care,	2217 2218 2219 2220 2221

all subject to any residual parental rights, privileges, and 2222  
responsibilities. An individual granted legal custody shall 2223  
exercise the rights and responsibilities personally unless 2224  
otherwise authorized by any section of the Revised Code or by the 2225  
court. 2226

(22) A "legitimate excuse for absence from the public school 2227  
the child is supposed to attend" includes, but is not limited to, 2228  
any of the following: 2229

(a) The fact that the child in question has enrolled in and 2230  
is attending another public or nonpublic school in this or another 2231  
state; 2232

(b) The fact that the child in question is excused from 2233  
attendance at school for any of the reasons specified in section 2234  
3321.04 of the Revised Code; 2235

(c) The fact that the child in question has received an age 2236  
and schooling certificate in accordance with section 3331.01 of 2237  
the Revised Code. 2238

(23) "Mental illness" and "mentally ill person subject to 2239  
hospitalization by court order" have the same meanings as in 2240  
section 5122.01 of the Revised Code. 2241

(24) "Mental injury" means any behavioral, cognitive, 2242  
emotional, or mental disorder in a child caused by an act or 2243  
omission that is described in section 2919.22 of the Revised Code 2244  
and is committed by the parent or other person responsible for the 2245  
child's care. 2246

(25) ~~"Mentally retarded person" has the same meaning as in 2247  
section 5123.01 of the Revised Code. 2248~~

~~(26)~~ "Nonsecure care, supervision, or training" means care, 2249  
supervision, or training of a child in a facility that does not 2250  
confine or prevent movement of the child within the facility or 2251

from the facility.	2252
<del>(27)</del> (26) "Of compulsory school age" has the same meaning as	2253
in section 3321.01 of the Revised Code.	2254
<del>(28)</del> (27) "Organization" means any institution, public,	2255
semipublic, or private, and any private association, society, or	2256
agency located or operating in the state, incorporated or	2257
unincorporated, having among its functions the furnishing of	2258
protective services or care for children, or the placement of	2259
children in certified foster homes or elsewhere.	2260
<del>(29)</del> (28) "Out-of-home care" means detention facilities,	2261
shelter facilities, certified children's crisis care facilities,	2262
certified foster homes, placement in a prospective adoptive home	2263
prior to the issuance of a final decree of adoption,	2264
organizations, certified organizations, child day-care centers,	2265
type A family day-care homes, type B family day-care homes, child	2266
care provided by in-home aides, group home providers, group homes,	2267
institutions, state institutions, residential facilities,	2268
residential care facilities, residential camps, day camps, public	2269
schools, chartered nonpublic schools, educational service centers,	2270
hospitals, and medical clinics that are responsible for the care,	2271
physical custody, or control of children.	2272
<del>(30)</del> (29) "Out-of-home care child abuse" means any of the	2273
following when committed by a person responsible for the care of a	2274
child in out-of-home care:	2275
(a) Engaging in sexual activity with a child in the person's	2276
care;	2277
(b) Denial to a child, as a means of punishment, of proper or	2278
necessary subsistence, education, medical care, or other care	2279
necessary for a child's health;	2280
(c) Use of restraint procedures on a child that cause injury	2281
or pain;	2282

(d) Administration of prescription drugs or psychotropic medication to the child without the written approval and ongoing supervision of a licensed physician;	2283 2284 2285
(e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.	2286 2287 2288 2289 2290
<del>(31)</del> (30) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:	2291 2292 2293
(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;	2294 2295 2296
(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;	2297 2298 2299 2300
(c) Failure to develop a process for all of the following:	2301
(i) Administration of prescription drugs or psychotropic drugs for the child;	2302 2303
(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;	2304 2305
(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.	2306 2307 2308
(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;	2309 2310 2311
(e) Confinement of the child to a locked room without	2312

monitoring by staff;	2313
(f) Failure to provide ongoing security for all prescription and nonprescription medication;	2314 2315
(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.	2316 2317 2318
<del>(32)</del> <u>(31)</u> "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.	2319 2320 2321 2322 2323 2324
<del>(33)</del> <u>(32)</u> "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.	2325 2326 2327 2328 2329
<del>(34)</del> <u>(33)</u> "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.	2330 2331 2332
<del>(35)</del> <u>(34)</u> "Person responsible for a child's care in out-of-home care" means any of the following:	2333 2334
(a) Any foster caregiver, in-home aide, or provider;	2335
(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; certified children's crisis care facility; organization; certified organization; child day-care center; type A family day-care home; licensed type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential camp; day camp; school district;	2336 2337 2338 2339 2340 2341 2342

community school; chartered nonpublic school; educational service center; hospital; or medical clinic; 2343  
2344

(c) Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school; 2345  
2346  
2347

(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children. 2348  
2349

(35) "Person with an intellectual disability" has the same meaning as in section 5123.01 of the Revised Code. 2350  
2351

(36) "Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction: 2352  
2353  
2354  
2355

(a) A substantial impairment of vision, speech, or hearing; 2356

(b) A congenital orthopedic impairment; 2357

(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause. 2358  
2359  
2360

(37) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody. 2361  
2362  
2363  
2364

(38) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody. 2365  
2366  
2367  
2368

(39) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply: 2369  
2370

(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without 2371  
2372

the termination of parental rights. 2373

(b) The order permits the agency to make an appropriate 2374  
placement of the child and to enter into a written agreement with 2375  
a foster care provider or with another person or agency with whom 2376  
the child is placed. 2377

(40) "Practice of social work" and "practice of professional 2378  
counseling" have the same meanings as in section 4757.01 of the 2379  
Revised Code. 2380

(41) "Sanction, service, or condition" means a sanction, 2381  
service, or condition created by court order following an 2382  
adjudication that a child is an unruly child that is described in 2383  
division (A)(4) of section 2152.19 of the Revised Code. 2384

(42) "Protective supervision" means an order of disposition 2385  
pursuant to which the court permits an abused, neglected, 2386  
dependent, or unruly child to remain in the custody of the child's 2387  
parents, guardian, or custodian and stay in the child's home, 2388  
subject to any conditions and limitations upon the child, the 2389  
child's parents, guardian, or custodian, or any other person that 2390  
the court prescribes, including supervision as directed by the 2391  
court for the protection of the child. 2392

(43) "Psychiatrist" has the same meaning as in section 2393  
5122.01 of the Revised Code. 2394

(44) "Psychologist" has the same meaning as in section 2395  
4732.01 of the Revised Code. 2396

(45) "Residential camp" means a program in which the care, 2397  
physical custody, or control of children is accepted overnight for 2398  
recreational or recreational and educational purposes. 2399

(46) "Residential care facility" means an institution, 2400  
residence, or facility that is licensed by the department of 2401  
mental health and addiction services under section 5119.34 of the 2402

Revised Code and that provides care for a child.	2403
(47) "Residential facility" means a home or facility that is licensed by the department of developmental disabilities under section 5123.19 of the Revised Code and in which a child with a developmental disability resides.	2404 2405 2406 2407
(48) "Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including, but not necessarily limited to, the privilege of reasonable visitation, consent to adoption, the privilege to determine the child's religious affiliation, and the responsibility for support.	2408 2409 2410 2411 2412 2413 2414
(49) "School day" means the school day established by the board of education of the applicable school district pursuant to section 3313.481 of the Revised Code.	2415 2416 2417
(50) "School year" has the same meaning as in section 3313.62 of the Revised Code.	2418 2419
(51) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition.	2420 2421 2422 2423 2424
(52) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.	2425 2426
(53) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.	2427 2428 2429
(54) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.	2430 2431
(55) "Temporary custody" means legal custody of a child who	2432

is removed from the child's home, which custody may be terminated 2433  
at any time at the discretion of the court or, if the legal 2434  
custody is granted in an agreement for temporary custody, by the 2435  
person who executed the agreement. 2436

(56) "Traditional response" means a public children services 2437  
agency's response to a report of child abuse or neglect that 2438  
encourages engagement of the family in a comprehensive evaluation 2439  
of the child's current and future safety needs and a fact-finding 2440  
process to determine whether child abuse or neglect occurred and 2441  
the circumstances surrounding the alleged harm or risk of harm. 2442

(C) For the purposes of this chapter, a child shall be 2443  
presumed abandoned when the parents of the child have failed to 2444  
visit or maintain contact with the child for more than ninety 2445  
days, regardless of whether the parents resume contact with the 2446  
child after that period of ninety days. 2447

**Sec. 2151.281.** (A) The court shall appoint a guardian ad 2448  
litem, subject to rules adopted by the supreme court, to protect 2449  
the interest of a child in any proceeding concerning an alleged or 2450  
adjudicated delinquent child or unruly child when either of the 2451  
following applies: 2452

(1) The child has no parent, guardian, or legal custodian. 2453

(2) The court finds that there is a conflict of interest 2454  
between the child and the child's parent, guardian, or legal 2455  
custodian. 2456

(B)(1) The court shall appoint a guardian ad litem, subject 2457  
to rules adopted by the supreme court, to protect the interest of 2458  
a child in any proceeding concerning an alleged abused or 2459  
neglected child and in any proceeding held pursuant to section 2460  
2151.414 of the Revised Code. The guardian ad litem so appointed 2461  
shall not be the attorney responsible for presenting the evidence 2462

alleging that the child is an abused or neglected child and shall 2463  
not be an employee of any party in the proceeding. 2464

(2) The guardian ad litem appointed for an alleged or 2465  
adjudicated abused or neglected child may bring a civil action 2466  
against any person who is required by division (A)(1) or (4) of 2467  
section 2151.421 of the Revised Code to file a report of child 2468  
abuse or child neglect that is known or reasonably suspected or 2469  
believed to have occurred if that person knows, or has reasonable 2470  
cause to suspect or believe based on facts that would cause a 2471  
reasonable person in a similar position to suspect or believe, as 2472  
applicable, that the child for whom the guardian ad litem is 2473  
appointed is the subject of child abuse or child neglect and does 2474  
not file the required report and if the child suffers any injury 2475  
or harm as a result of the child abuse or child neglect that is 2476  
known or reasonably suspected or believed to have occurred or 2477  
suffers additional injury or harm after the failure to file the 2478  
report. 2479

(C) In any proceeding concerning an alleged or adjudicated 2480  
delinquent, unruly, abused, neglected, or dependent child in which 2481  
the parent appears to be mentally incompetent or is under eighteen 2482  
years of age, the court shall appoint a guardian ad litem to 2483  
protect the interest of that parent. 2484

(D) The court shall require the guardian ad litem to 2485  
faithfully discharge the guardian ad litem's duties and, upon the 2486  
guardian ad litem's failure to faithfully discharge the guardian 2487  
ad litem's duties, shall discharge the guardian ad litem and 2488  
appoint another guardian ad litem. The court may fix the 2489  
compensation for the service of the guardian ad litem, which 2490  
compensation shall be paid from the treasury of the county, 2491  
subject to rules adopted by the supreme court. 2492

(E) A parent who is eighteen years of age or older and not 2493  
mentally incompetent shall be deemed sui juris for the purpose of 2494

any proceeding relative to a child of the parent who is alleged or 2495  
adjudicated to be an abused, neglected, or dependent child. 2496

(F) In any case in which a parent of a child alleged or 2497  
adjudicated to be an abused, neglected, or dependent child is 2498  
under eighteen years of age, the parents of that parent shall be 2499  
summoned to appear at any hearing respecting the child, who is 2500  
alleged or adjudicated to be an abused, neglected, or dependent 2501  
child. 2502

(G) In any case involving an alleged or adjudicated abused or 2503  
neglected child or an agreement for the voluntary surrender of 2504  
temporary or permanent custody of a child that is made in 2505  
accordance with section 5103.15 of the Revised Code, the court 2506  
shall appoint the guardian ad litem in each case as soon as 2507  
possible after the complaint is filed, the request for an 2508  
extension of the temporary custody agreement is filed with the 2509  
court, or the request for court approval of the permanent custody 2510  
agreement is filed. In any case involving an alleged dependent 2511  
child in which the parent of the child appears to be mentally 2512  
incompetent or is under eighteen years of age, there is a conflict 2513  
of interest between the child and the child's parents, guardian, 2514  
or custodian, or the court believes that the parent of the child 2515  
is not capable of representing the best interest of the child, the 2516  
court shall appoint a guardian ad litem for the child. The 2517  
guardian ad litem or the guardian ad litem's replacement shall 2518  
continue to serve until any of the following occur: 2519

(1) The complaint is dismissed or the request for an 2520  
extension of a temporary custody agreement or for court approval 2521  
of the permanent custody agreement is withdrawn or denied; 2522

(2) All dispositional orders relative to the child have 2523  
terminated; 2524

(3) The legal custody of the child is granted to a relative 2525

of the child, or to another person; 2526

(4) The child is placed in an adoptive home or, at the 2527  
court's discretion, a final decree of adoption is issued with 2528  
respect to the child; 2529

(5) The child reaches the age of eighteen if the child ~~is~~ 2530  
does not mentally retarded, developmentally disabled, have a 2531  
developmental disability or ~~physically impaired~~ physical 2532  
impairment or the child reaches the age of twenty-one if the child 2533  
~~is mentally retarded, developmentally disabled, has a~~ 2534  
developmental disability or ~~physically impaired~~ physical 2535  
impairment; 2536

(6) The guardian ad litem resigns or is removed by the court 2537  
and a replacement is appointed by the court. 2538

If a guardian ad litem ceases to serve a child pursuant to 2539  
division (G)(4) of this section and the petition for adoption with 2540  
respect to the child is denied or withdrawn prior to the issuance 2541  
of a final decree of adoption or prior to the date an 2542  
interlocutory order of adoption becomes final, the juvenile court 2543  
shall reappoint a guardian ad litem for that child. The public 2544  
children services agency or private child placing agency with 2545  
permanent custody of the child shall notify the juvenile court if 2546  
the petition for adoption is denied or withdrawn. 2547

(H) If the guardian ad litem for an alleged or adjudicated 2548  
abused, neglected, or dependent child is an attorney admitted to 2549  
the practice of law in this state, the guardian ad litem also may 2550  
serve as counsel to the ward. Until the supreme court adopts rules 2551  
regarding service as a guardian ad litem that regulate conflicts 2552  
between a person's role as guardian ad litem and as counsel, if a 2553  
person is serving as guardian ad litem and counsel for a child and 2554  
either that person or the court finds that a conflict may exist 2555  
between the person's roles as guardian ad litem and as counsel, 2556

the court shall relieve the person of duties as guardian ad litem 2557  
and appoint someone else as guardian ad litem for the child. If 2558  
the court appoints a person who is not an attorney admitted to the 2559  
practice of law in this state to be a guardian ad litem, the court 2560  
also may appoint an attorney admitted to the practice of law in 2561  
this state to serve as counsel for the guardian ad litem. 2562

(I) The guardian ad litem for an alleged or adjudicated 2563  
abused, neglected, or dependent child shall perform whatever 2564  
functions are necessary to protect the best interest of the child, 2565  
including, but not limited to, investigation, mediation, 2566  
monitoring court proceedings, and monitoring the services provided 2567  
the child by the public children services agency or private child 2568  
placing agency that has temporary or permanent custody of the 2569  
child, and shall file any motions and other court papers that are 2570  
in the best interest of the child. 2571

The guardian ad litem shall be given notice of all hearings, 2572  
administrative reviews, and other proceedings in the same manner 2573  
as notice is given to parties to the action. 2574

(J)(1) When the court appoints a guardian ad litem pursuant 2575  
to this section, it shall appoint a qualified volunteer or court 2576  
appointed special advocate whenever one is available and the 2577  
appointment is appropriate. 2578

(2) Upon request, the department of job and family services 2579  
shall provide for the training of volunteer guardians ad litem. 2580

**Sec. 2151.353.** (A) If a child is adjudicated an abused, 2581  
neglected, or dependent child, the court may make any of the 2582  
following orders of disposition: 2583

(1) Place the child in protective supervision; 2584

(2) Commit the child to the temporary custody of a public 2585  
children services agency, a private child placing agency, either 2586

parent, a relative residing within or outside the state, or a 2587  
probation officer for placement in a certified foster home, or in 2588  
any other home approved by the court; 2589

(3) Award legal custody of the child to either parent or to 2590  
any other person who, prior to the dispositional hearing, files a 2591  
motion requesting legal custody of the child or is identified as a 2592  
proposed legal custodian in a complaint or motion filed prior to 2593  
the dispositional hearing by any party to the proceedings. A 2594  
person identified in a complaint or motion filed by a party to the 2595  
proceedings as a proposed legal custodian shall be awarded legal 2596  
custody of the child only if the person identified signs a 2597  
statement of understanding for legal custody that contains at 2598  
least the following provisions: 2599

(a) That it is the intent of the person to become the legal 2600  
custodian of the child and the person is able to assume legal 2601  
responsibility for the care and supervision of the child; 2602

(b) That the person understands that legal custody of the 2603  
child in question is intended to be permanent in nature and that 2604  
the person will be responsible as the custodian for the child 2605  
until the child reaches the age of majority. Responsibility as 2606  
custodian for the child shall continue beyond the age of majority 2607  
if, at the time the child reaches the age of majority, the child 2608  
is pursuing a diploma granted by the board of education or other 2609  
governing authority, successful completion of the curriculum of 2610  
any high school, successful completion of an individualized 2611  
education program developed for the student by any high school, or 2612  
an age and schooling certificate. Responsibility beyond the age of 2613  
majority shall terminate when the child ceases to continuously 2614  
pursue such an education, completes such an education, or is 2615  
excused from such an education under standards adopted by the 2616  
state board of education, whichever occurs first. 2617

(c) That the parents of the child have residual parental 2618

rights, privileges, and responsibilities, including, but not 2619  
limited to, the privilege of reasonable visitation, consent to 2620  
adoption, the privilege to determine the child's religious 2621  
affiliation, and the responsibility for support; 2622

(d) That the person understands that the person must be 2623  
present in court for the dispositional hearing in order to affirm 2624  
the person's intention to become legal custodian, to affirm that 2625  
the person understands the effect of the custodianship before the 2626  
court, and to answer any questions that the court or any parties 2627  
to the case may have. 2628

(4) Commit the child to the permanent custody of a public 2629  
children services agency or private child placing agency, if the 2630  
court determines in accordance with division (E) of section 2631  
2151.414 of the Revised Code that the child cannot be placed with 2632  
one of the child's parents within a reasonable time or should not 2633  
be placed with either parent and determines in accordance with 2634  
division (D)(1) of section 2151.414 of the Revised Code that the 2635  
permanent commitment is in the best interest of the child. If the 2636  
court grants permanent custody under this division, the court, 2637  
upon the request of any party, shall file a written opinion 2638  
setting forth its findings of fact and conclusions of law in 2639  
relation to the proceeding. 2640

(5) Place the child in a planned permanent living arrangement 2641  
with a public children services agency or private child placing 2642  
agency, if a public children services agency or private child 2643  
placing agency requests the court to place the child in a planned 2644  
permanent living arrangement and if the court finds, by clear and 2645  
convincing evidence, that a planned permanent living arrangement 2646  
is in the best interest of the child and that one of the following 2647  
exists: 2648

(a) The child, because of physical, mental, or psychological 2649  
problems or needs, is unable to function in a family-like setting 2650

and must remain in residential or institutional care now and for 2651  
the foreseeable future beyond the date of the dispositional 2652  
hearing held pursuant to section 2151.35 of the Revised Code. 2653

(b) The parents of the child have significant physical, 2654  
mental, or psychological problems and are unable to care for the 2655  
child because of those problems, adoption is not in the best 2656  
interest of the child, as determined in accordance with division 2657  
(D)(1) of section 2151.414 of the Revised Code, and the child 2658  
retains a significant and positive relationship with a parent or 2659  
relative. 2660

(c) The child is sixteen years of age or older, has been 2661  
counseled on the permanent placement options available to the 2662  
child, is unwilling to accept or unable to adapt to a permanent 2663  
placement, and is in an agency program preparing the child for 2664  
independent living. 2665

(6) Order the removal from the child's home until further 2666  
order of the court of the person who committed abuse as described 2667  
in section 2151.031 of the Revised Code against the child, who 2668  
caused or allowed the child to suffer neglect as described in 2669  
section 2151.03 of the Revised Code, or who is the parent, 2670  
guardian, or custodian of a child who is adjudicated a dependent 2671  
child and order any person not to have contact with the child or 2672  
the child's siblings. 2673

(B) No order for permanent custody or temporary custody of a 2674  
child or the placement of a child in a planned permanent living 2675  
arrangement shall be made pursuant to this section unless the 2676  
complaint alleging the abuse, neglect, or dependency contains a 2677  
prayer requesting permanent custody, temporary custody, or the 2678  
placement of the child in a planned permanent living arrangement 2679  
as desired, the summons served on the parents of the child 2680  
contains as is appropriate a full explanation that the granting of 2681  
an order for permanent custody permanently divests them of their 2682

parental rights, a full explanation that an adjudication that the child is an abused, neglected, or dependent child may result in an order of temporary custody that will cause the removal of the child from their legal custody until the court terminates the order of temporary custody or permanently divests the parents of their parental rights, or a full explanation that the granting of an order for a planned permanent living arrangement will result in the removal of the child from their legal custody if any of the conditions listed in divisions (A)(5)(a) to (c) of this section are found to exist, and the summons served on the parents contains a full explanation of their right to be represented by counsel and to have counsel appointed pursuant to Chapter 120. of the Revised Code if they are indigent.

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

(C) If the court issues an order for protective supervision pursuant to division (A)(1) of this section, the court may place any reasonable restrictions upon the child, the child's parents, guardian, or custodian, or any other person, including, but not limited to, any of the following:

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

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

(3) Issue an order restraining or otherwise controlling the conduct of any person which conduct would not be in the best

interest of the child. 2714

(D) As part of its dispositional order, the court shall 2715  
journalize a case plan for the child. The journalized case plan 2716  
shall not be changed except as provided in section 2151.412 of the 2717  
Revised Code. 2718

(E)(1) The court shall retain jurisdiction over any child for 2719  
whom the court issues an order of disposition pursuant to division 2720  
(A) of this section or pursuant to section 2151.414 or 2151.415 of 2721  
the Revised Code until the child attains the age of eighteen years 2722  
if the child ~~is~~ does not ~~mentally retarded, developmentally~~ 2723  
~~disabled,~~ have a developmental disability or ~~physically impaired~~ 2724  
physical impairment, the child attains the age of twenty-one years 2725  
if the child ~~is mentally retarded, developmentally disabled,~~ has a 2726  
developmental disability or ~~physically impaired~~ physical 2727  
impairment, or the child is adopted and a final decree of adoption 2728  
is issued, except that the court may retain jurisdiction over the 2729  
child and continue any order of disposition under division (A) of 2730  
this section or under section 2151.414 or 2151.415 of the Revised 2731  
Code for a specified period of time to enable the child to 2732  
graduate from high school or vocational school. The court shall 2733  
make an entry continuing its jurisdiction under this division in 2734  
the journal. 2735

(2) Any public children services agency, any private child 2736  
placing agency, the department of job and family services, or any 2737  
party, other than any parent whose parental rights with respect to 2738  
the child have been terminated pursuant to an order issued under 2739  
division (A)(4) of this section, by filing a motion with the 2740  
court, may at any time request the court to modify or terminate 2741  
any order of disposition issued pursuant to division (A) of this 2742  
section or section 2151.414 or 2151.415 of the Revised Code. The 2743  
court shall hold a hearing upon the motion as if the hearing were 2744  
the original dispositional hearing and shall give all parties to 2745

the action and the guardian ad litem notice of the hearing 2746  
pursuant to the Juvenile Rules. If applicable, the court shall 2747  
comply with section 2151.42 of the Revised Code. 2748

(F) Any temporary custody order issued pursuant to division 2749  
(A) of this section shall terminate one year after the earlier of 2750  
the date on which the complaint in the case was filed or the child 2751  
was first placed into shelter care, except that, upon the filing 2752  
of a motion pursuant to section 2151.415 of the Revised Code, the 2753  
temporary custody order shall continue and not terminate until the 2754  
court issues a dispositional order under that section. In 2755  
resolving the motion, the court shall not order an existing 2756  
temporary custody order to continue beyond two years after the 2757  
date on which the complaint was filed or the child was first 2758  
placed into shelter care, whichever date is earlier, regardless of 2759  
whether any extensions have been previously ordered pursuant to 2760  
division (D) of section 2151.415 of the Revised Code. 2761

(G)(1) No later than one year after the earlier of the date 2762  
the complaint in the case was filed or the child was first placed 2763  
in shelter care, a party may ask the court to extend an order for 2764  
protective supervision for six months or to terminate the order. A 2765  
party requesting extension or termination of the order shall file 2766  
a written request for the extension or termination with the court 2767  
and give notice of the proposed extension or termination in 2768  
writing before the end of the day after the day of filing it to 2769  
all parties and the child's guardian ad litem. If a public 2770  
children services agency or private child placing agency requests 2771  
termination of the order, the agency shall file a written status 2772  
report setting out the facts supporting termination of the order 2773  
at the time it files the request with the court. If no party 2774  
requests extension or termination of the order, the court shall 2775  
notify the parties that the court will extend the order for six 2776  
months or terminate it and that it may do so without a hearing 2777

unless one of the parties requests a hearing. All parties and the guardian ad litem shall have seven days from the date a notice is sent pursuant to this division to object to and request a hearing on the proposed extension or termination.

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

(b) If it does not receive a timely request for a hearing, the court may extend the order for six months or terminate it without a hearing and shall journalize the order of extension or termination not later than fourteen days after receiving the request for extension or termination or after the date the court notifies the parties that it will extend or terminate the order. If the court does not extend or terminate the order, it shall schedule a hearing to be held no later than thirty days after the expiration of the applicable fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the child's guardian ad litem. At the hearing, the court shall determine whether extension or termination of the order is in the child's best interest. If termination is in the child's best interest, the court shall terminate the order. If extension is in the child's best interest, the court shall issue an order extending the order for protective supervision six months.

(2) If the court grants an extension of the order for

protective supervision pursuant to division (G)(1) of this 2810  
section, a party may, prior to termination of the extension, file 2811  
with the court a request for an additional extension of six months 2812  
or for termination of the order. The court and the parties shall 2813  
comply with division (G)(1) of this section with respect to 2814  
extending or terminating the order. 2815

(3) If a court grants an extension pursuant to division 2816  
(G)(2) of this section, the court shall terminate the order for 2817  
protective supervision at the end of the extension. 2818

(H) The court shall not issue a dispositional order pursuant 2819  
to division (A) of this section that removes a child from the 2820  
child's home unless the court complies with section 2151.419 of 2821  
the Revised Code and includes in the dispositional order the 2822  
findings of fact required by that section. 2823

(I) If a motion or application for an order described in 2824  
division (A)(6) of this section is made, the court shall not issue 2825  
the order unless, prior to the issuance of the order, it provides 2826  
to the person all of the following: 2827

(1) Notice and a copy of the motion or application; 2828

(2) The grounds for the motion or application; 2829

(3) An opportunity to present evidence and witnesses at a 2830  
hearing regarding the motion or application; 2831

(4) An opportunity to be represented by counsel at the 2832  
hearing. 2833

(J) The jurisdiction of the court shall terminate one year 2834  
after the date of the award or, if the court takes any further 2835  
action in the matter subsequent to the award, the date of the 2836  
latest further action subsequent to the award, if the court awards 2837  
legal custody of a child to either of the following: 2838

(1) A legal custodian who, at the time of the award of legal 2839

custody, resides in a county of this state other than the county 2840  
in which the court is located; 2841

(2) A legal custodian who resides in the county in which the 2842  
court is located at the time of the award of legal custody, but 2843  
moves to a different county of this state prior to one year after 2844  
the date of the award or, if the court takes any further action in 2845  
the matter subsequent to the award, one year after the date of the 2846  
latest further action subsequent to the award. 2847

The court in the county in which the legal custodian resides 2848  
then shall have jurisdiction in the matter. 2849

**Sec. 2151.414.** (A)(1) Upon the filing of a motion pursuant to 2850  
section 2151.413 of the Revised Code for permanent custody of a 2851  
child, the court shall schedule a hearing and give notice of the 2852  
filing of the motion and of the hearing, in accordance with 2853  
section 2151.29 of the Revised Code, to all parties to the action 2854  
and to the child's guardian ad litem. The notice also shall 2855  
contain a full explanation that the granting of permanent custody 2856  
permanently divests the parents of their parental rights, a full 2857  
explanation of their right to be represented by counsel and to 2858  
have counsel appointed pursuant to Chapter 120. of the Revised 2859  
Code if they are indigent, and the name and telephone number of 2860  
the court employee designated by the court pursuant to section 2861  
2151.314 of the Revised Code to arrange for the prompt appointment 2862  
of counsel for indigent persons. 2863

The court shall conduct a hearing in accordance with section 2864  
2151.35 of the Revised Code to determine if it is in the best 2865  
interest of the child to permanently terminate parental rights and 2866  
grant permanent custody to the agency that filed the motion. The 2867  
adjudication that the child is an abused, neglected, or dependent 2868  
child and any dispositional order that has been issued in the case 2869  
under section 2151.353 of the Revised Code pursuant to the 2870

adjudication shall not be readjudicated at the hearing and shall 2871  
not be affected by a denial of the motion for permanent custody. 2872

(2) The court shall hold the hearing scheduled pursuant to 2873  
division (A)(1) of this section not later than one hundred twenty 2874  
days after the agency files the motion for permanent custody, 2875  
except that, for good cause shown, the court may continue the 2876  
hearing for a reasonable period of time beyond the 2877  
one-hundred-twenty-day deadline. The court shall issue an order 2878  
that grants, denies, or otherwise disposes of the motion for 2879  
permanent custody, and journalize the order, not later than two 2880  
hundred days after the agency files the motion. 2881

If a motion is made under division (D)(2) of section 2151.413 2882  
of the Revised Code and no dispositional hearing has been held in 2883  
the case, the court may hear the motion in the dispositional 2884  
hearing required by division (B) of section 2151.35 of the Revised 2885  
Code. If the court issues an order pursuant to section 2151.353 of 2886  
the Revised Code granting permanent custody of the child to the 2887  
agency, the court shall immediately dismiss the motion made under 2888  
division (D)(2) of section 2151.413 of the Revised Code. 2889

The failure of the court to comply with the time periods set 2890  
forth in division (A)(2) of this section does not affect the 2891  
authority of the court to issue any order under this chapter and 2892  
does not provide any basis for attacking the jurisdiction of the 2893  
court or the validity of any order of the court. 2894

(B)(1) Except as provided in division (B)(2) of this section, 2895  
the court may grant permanent custody of a child to a movant if 2896  
the court determines at the hearing held pursuant to division (A) 2897  
of this section, by clear and convincing evidence, that it is in 2898  
the best interest of the child to grant permanent custody of the 2899  
child to the agency that filed the motion for permanent custody 2900  
and that any of the following apply: 2901

(a) The child is not abandoned or orphaned, has not 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 has not 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 if, 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, and the child cannot be placed with either of the child's parents within a reasonable time or should not be placed with the child's parents.

(b) The child is abandoned.

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

(d) 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.

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

(2) With respect to a motion made pursuant to division (D)(2)

of section 2151.413 of the Revised Code, the court shall grant 2933  
permanent custody of the child to the movant if the court 2934  
determines in accordance with division (E) of this section that 2935  
the child cannot be placed with one of the child's parents within 2936  
a reasonable time or should not be placed with either parent and 2937  
determines in accordance with division (D) of this section that 2938  
permanent custody is in the child's best interest. 2939

(C) In making the determinations required by this section or 2940  
division (A)(4) of section 2151.353 of the Revised Code, a court 2941  
shall not consider the effect the granting of permanent custody to 2942  
the agency would have upon any parent of the child. A written 2943  
report of the guardian ad litem of the child shall be submitted to 2944  
the court prior to or at the time of the hearing held pursuant to 2945  
division (A) of this section or section 2151.35 of the Revised 2946  
Code but shall not be submitted under oath. 2947

If the court grants permanent custody of a child to a movant 2948  
under this division, the court, upon the request of any party, 2949  
shall file a written opinion setting forth its findings of fact 2950  
and conclusions of law in relation to the proceeding. The court 2951  
shall not deny an agency's motion for permanent custody solely 2952  
because the agency failed to implement any particular aspect of 2953  
the child's case plan. 2954

(D)(1) In determining the best interest of a child at a 2955  
hearing held pursuant to division (A) of this section or for the 2956  
purposes of division (A)(4) or (5) of section 2151.353 or division 2957  
(C) of section 2151.415 of the Revised Code, the court shall 2958  
consider all relevant factors, including, but not limited to, the 2959  
following: 2960

(a) The interaction and interrelationship of the child with 2961  
the child's parents, siblings, relatives, foster caregivers and 2962  
out-of-home providers, and any other person who may significantly 2963  
affect the child; 2964

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

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

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

either parent. 2996

(b) The child has been in an agency's custody for two years 2997  
or longer, and no longer qualifies for temporary custody pursuant 2998  
to division (D) of section 2151.415 of the Revised Code. 2999

(c) The child does not meet the requirements for a planned 3000  
permanent living arrangement pursuant to division (A)(5) of 3001  
section 2151.353 of the Revised Code. 3002

(d) Prior to the dispositional hearing, no relative or other 3003  
interested person has filed, or has been identified in, a motion 3004  
for legal custody of the child. 3005

(E) In determining at a hearing held pursuant to division (A) 3006  
of this section or for the purposes of division (A)(4) of section 3007  
2151.353 of the Revised Code whether a child cannot be placed with 3008  
either parent within a reasonable period of time or should not be 3009  
placed with the parents, the court shall consider all relevant 3010  
evidence. If the court determines, by clear and convincing 3011  
evidence, at a hearing held pursuant to division (A) of this 3012  
section or for the purposes of division (A)(4) of section 2151.353 3013  
of the Revised Code that one or more of the following exist as to 3014  
each of the child's parents, the court shall enter a finding that 3015  
the child cannot be placed with either parent within a reasonable 3016  
time or should not be placed with either parent: 3017

(1) Following the placement of the child outside the child's 3018  
home and notwithstanding reasonable case planning and diligent 3019  
efforts by the agency to assist the parents to remedy the problems 3020  
that initially caused the child to be placed outside the home, the 3021  
parent has failed continuously and repeatedly to substantially 3022  
remedy the conditions causing the child to be placed outside the 3023  
child's home. In determining whether the parents have 3024  
substantially remedied those conditions, the court shall consider 3025  
parental utilization of medical, psychiatric, psychological, and 3026

other social and rehabilitative services and material resources 3027  
that were made available to the parents for the purpose of 3028  
changing parental conduct to allow them to resume and maintain 3029  
parental duties. 3030

(2) Chronic mental illness, chronic emotional illness, ~~mental~~ 3031  
~~retardation~~ developmental disability that is an intellectual 3032  
disability, physical disability, or chemical dependency of the 3033  
parent that is so severe that it makes the parent unable to 3034  
provide an adequate permanent home for the child at the present 3035  
time and, as anticipated, within one year after the court holds 3036  
the hearing pursuant to division (A) of this section or for the 3037  
purposes of division (A)(4) of section 2151.353 of the Revised 3038  
Code; 3039

(3) The parent committed any abuse as described in section 3040  
2151.031 of the Revised Code against the child, caused the child 3041  
to suffer any neglect as described in section 2151.03 of the 3042  
Revised Code, or allowed the child to suffer any neglect as 3043  
described in section 2151.03 of the Revised Code between the date 3044  
that the original complaint alleging abuse or neglect was filed 3045  
and the date of the filing of the motion for permanent custody; 3046

(4) The parent has demonstrated a lack of commitment toward 3047  
the child by failing to regularly support, visit, or communicate 3048  
with the child when able to do so, or by other actions showing an 3049  
unwillingness to provide an adequate permanent home for the child; 3050

(5) The parent is incarcerated for an offense committed 3051  
against the child or a sibling of the child; 3052

(6) The parent has been convicted of or pleaded guilty to an 3053  
offense under division (A) or (C) of section 2919.22 or under 3054  
section 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.03, 3055  
2905.04, 2905.05, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 3056  
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 3057

2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.24, 3058  
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, or 3716.11 of the 3059  
Revised Code and the child or a sibling of the child was a victim 3060  
of the offense or the parent has been convicted of or pleaded 3061  
guilty to an offense under section 2903.04 of the Revised Code, a 3062  
sibling of the child was the victim of the offense, and the parent 3063  
who committed the offense poses an ongoing danger to the child or 3064  
a sibling of the child. 3065

(7) The parent has been convicted of or pleaded guilty to one 3066  
of the following: 3067

(a) An offense under section 2903.01, 2903.02, or 2903.03 of 3068  
the Revised Code or under an existing or former law of this state, 3069  
any other state, or the United States that is substantially 3070  
equivalent to an offense described in those sections and the 3071  
victim of the offense was a sibling of the child or the victim was 3072  
another child who lived in the parent's household at the time of 3073  
the offense; 3074

(b) An offense under section 2903.11, 2903.12, or 2903.13 of 3075  
the Revised Code or under an existing or former law of this state, 3076  
any other state, or the United States that is substantially 3077  
equivalent to an offense described in those sections and the 3078  
victim of the offense is the child, a sibling of the child, or 3079  
another child who lived in the parent's household at the time of 3080  
the offense; 3081

(c) An offense under division (B)(2) of section 2919.22 of 3082  
the Revised Code or under an existing or former law of this state, 3083  
any other state, or the United States that is substantially 3084  
equivalent to the offense described in that section and the child, 3085  
a sibling of the child, or another child who lived in the parent's 3086  
household at the time of the offense is the victim of the offense; 3087

(d) An offense under section 2907.02, 2907.03, 2907.04, 3088

2907.05, or 2907.06 of the Revised Code or under an existing or 3089  
former law of this state, any other state, or the United States 3090  
that is substantially equivalent to an offense described in those 3091  
sections and the victim of the offense is the child, a sibling of 3092  
the child, or another child who lived in the parent's household at 3093  
the time of the offense; 3094

(e) A conspiracy or attempt to commit, or complicity in 3095  
committing, an offense described in division (E)(7)(a) or (d) of 3096  
this section. 3097

(8) The parent has repeatedly withheld medical treatment or 3098  
food from the child when the parent has the means to provide the 3099  
treatment or food, and, in the case of withheld medical treatment, 3100  
the parent withheld it for a purpose other than to treat the 3101  
physical or mental illness or defect of the child by spiritual 3102  
means through prayer alone in accordance with the tenets of a 3103  
recognized religious body. 3104

(9) The parent has placed the child at substantial risk of 3105  
harm two or more times due to alcohol or drug abuse and has 3106  
rejected treatment two or more times or refused to participate in 3107  
further treatment two or more times after a case plan issued 3108  
pursuant to section 2151.412 of the Revised Code requiring 3109  
treatment of the parent was journalized as part of a dispositional 3110  
order issued with respect to the child or an order was issued by 3111  
any other court requiring treatment of the parent. 3112

(10) The parent has abandoned the child. 3113

(11) The parent has had parental rights involuntarily 3114  
terminated with respect to a sibling of the child pursuant to this 3115  
section or section 2151.353 or 2151.415 of the Revised Code, or 3116  
under an existing or former law of this state, any other state, or 3117  
the United States that is substantially equivalent to those 3118  
sections, and the parent has failed to provide clear and 3119

convincing evidence to prove that, notwithstanding the prior 3120  
termination, the parent can provide a legally secure permanent 3121  
placement and adequate care for the health, welfare, and safety of 3122  
the child. 3123

(12) The parent is incarcerated at the time of the filing of 3124  
the motion for permanent custody or the dispositional hearing of 3125  
the child and will not be available to care for the child for at 3126  
least eighteen months after the filing of the motion for permanent 3127  
custody or the dispositional hearing. 3128

(13) The parent is repeatedly incarcerated, and the repeated 3129  
incarceration prevents the parent from providing care for the 3130  
child. 3131

(14) The parent for any reason is unwilling to provide food, 3132  
clothing, shelter, and other basic necessities for the child or to 3133  
prevent the child from suffering physical, emotional, or sexual 3134  
abuse or physical, emotional, or mental neglect. 3135

(15) The parent has committed abuse as described in section 3136  
2151.031 of the Revised Code against the child or caused or 3137  
allowed the child to suffer neglect as described in section 3138  
2151.03 of the Revised Code, and the court determines that the 3139  
seriousness, nature, or likelihood of recurrence of the abuse or 3140  
neglect makes the child's placement with the child's parent a 3141  
threat to the child's safety. 3142

(16) Any other factor the court considers relevant. 3143

(F) The parents of a child for whom the court has issued an 3144  
order granting permanent custody pursuant to this section, upon 3145  
the issuance of the order, cease to be parties to the action. This 3146  
division is not intended to eliminate or restrict any right of the 3147  
parents to appeal the granting of permanent custody of their child 3148  
to a movant pursuant to this section. 3149

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

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

(2) An order for protective supervision;

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

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

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

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

(B) Upon the filing of a motion pursuant to division (A) of this section, the court shall hold a dispositional hearing on the date set at the dispositional hearing held pursuant to section 2151.35 of the Revised Code, with notice to all parties to the action in accordance with the Juvenile Rules. After the

dispositional hearing or at a date after the dispositional hearing 3180  
that is not later than one year after the earlier of the date on 3181  
which the complaint in the case was filed or the child was first 3182  
placed into shelter care, the court, in accordance with the best 3183  
interest of the child as supported by the evidence presented at 3184  
the dispositional hearing, shall issue an order of disposition as 3185  
set forth in division (A) of this section, except that all orders 3186  
for permanent custody shall be made in accordance with sections 3187  
2151.413 and 2151.414 of the Revised Code. In issuing an order of 3188  
disposition under this section, the court shall comply with 3189  
section 2151.42 of the Revised Code. 3190

(C)(1) If an agency pursuant to division (A) of this section 3191  
requests the court to place a child into a planned permanent 3192  
living arrangement, the agency shall present evidence to indicate 3193  
why a planned permanent living arrangement is appropriate for the 3194  
child, including, but not limited to, evidence that the agency has 3195  
tried or considered all other possible dispositions for the child. 3196  
A court shall not place a child in a planned permanent living 3197  
arrangement, unless it finds, by clear and convincing evidence, 3198  
that a planned permanent living arrangement is in the best 3199  
interest of the child and that one of the following exists: 3200

(a) The child, because of physical, mental, or psychological 3201  
problems or needs, is unable to function in a family-like setting 3202  
and must remain in residential or institutional care. 3203

(b) The parents of the child have significant physical, 3204  
mental, or psychological problems and are unable to care for the 3205  
child because of those problems, adoption is not in the best 3206  
interest of the child, as determined in accordance with division 3207  
(D)(1) of section 2151.414 of the Revised Code, and the child 3208  
retains a significant and positive relationship with a parent or 3209  
relative; 3210

(c) The child is sixteen years of age or older, has been 3211

counseled on the permanent placement options available, is 3212  
unwilling to accept or unable to adapt to a permanent placement, 3213  
and is in an agency program preparing for independent living. 3214

(2) If the court issues an order placing a child in a planned 3215  
permanent living arrangement, both of the following apply: 3216

(a) The court shall issue a finding of fact setting forth the 3217  
reasons for its finding; 3218

(b) The agency may make any appropriate placement for the 3219  
child and shall develop a case plan for the child that is designed 3220  
to assist the child in finding a permanent home outside of the 3221  
home of the parents. 3222

(D)(1) If an agency pursuant to division (A) of this section 3223  
requests the court to grant an extension of temporary custody for 3224  
a period of up to six months, the agency shall include in the 3225  
motion an explanation of the progress on the case plan of the 3226  
child and of its expectations of reunifying the child with the 3227  
child's family, or placing the child in a permanent placement, 3228  
within the extension period. The court shall schedule a hearing on 3229  
the motion, give notice of its date, time, and location to all 3230  
parties and the guardian ad litem of the child, and at the hearing 3231  
consider the evidence presented by the parties and the guardian ad 3232  
litem. The court may extend the temporary custody order of the 3233  
child for a period of up to six months, if it determines at the 3234  
hearing, by clear and convincing evidence, that the extension is 3235  
in the best interest of the child, there has been significant 3236  
progress on the case plan of the child, and there is reasonable 3237  
cause to believe that the child will be reunified with one of the 3238  
parents or otherwise permanently placed within the period of 3239  
extension. In determining whether to extend the temporary custody 3240  
of the child pursuant to this division, the court shall comply 3241  
with section 2151.42 of the Revised Code. If the court extends the 3242  
temporary custody of the child pursuant to this division, upon 3243

request it shall issue findings of fact. 3244

(2) Prior to the end of the extension granted pursuant to 3245  
division (D)(1) of this section, the agency that received the 3246  
extension shall file a motion with the court requesting the 3247  
issuance of one of the orders of disposition set forth in 3248  
divisions (A)(1) to (5) of this section or requesting the court to 3249  
extend the temporary custody order of the child for an additional 3250  
period of up to six months. If the agency requests the issuance of 3251  
an order of disposition under divisions (A)(1) to (5) of this 3252  
section or does not file any motion prior to the expiration of the 3253  
extension period, the court shall conduct a hearing in accordance 3254  
with division (B) of this section and issue an appropriate order 3255  
of disposition. In issuing an order of disposition, the court 3256  
shall comply with section 2151.42 of the Revised Code. 3257

If the agency requests an additional extension of up to six 3258  
months of the temporary custody order of the child, the court 3259  
shall schedule and conduct a hearing in the manner set forth in 3260  
division (D)(1) of this section. The court may extend the 3261  
temporary custody order of the child for an additional period of 3262  
up to six months if it determines at the hearing, by clear and 3263  
convincing evidence, that the additional extension is in the best 3264  
interest of the child, there has been substantial additional 3265  
progress since the original extension of temporary custody in the 3266  
case plan of the child, there has been substantial additional 3267  
progress since the original extension of temporary custody toward 3268  
reunifying the child with one of the parents or otherwise 3269  
permanently placing the child, and there is reasonable cause to 3270  
believe that the child will be reunified with one of the parents 3271  
or otherwise placed in a permanent setting before the expiration 3272  
of the additional extension period. In determining whether to 3273  
grant an additional extension, the court shall comply with section 3274  
2151.42 of the Revised Code. If the court extends the temporary 3275

custody of the child for an additional period pursuant to this 3276  
division, upon request it shall issue findings of fact. 3277

(3) Prior to the end of the extension of a temporary custody 3278  
order granted pursuant to division (D)(2) of this section, the 3279  
agency that received the extension shall file a motion with the 3280  
court requesting the issuance of one of the orders of disposition 3281  
set forth in divisions (A)(1) to (5) of this section. Upon the 3282  
filing of the motion by the agency or, if the agency does not file 3283  
the motion prior to the expiration of the extension period, upon 3284  
its own motion, the court, prior to the expiration of the 3285  
extension period, shall conduct a hearing in accordance with 3286  
division (B) of this section and issue an appropriate order of 3287  
disposition. In issuing an order of disposition, the court shall 3288  
comply with section 2151.42 of the Revised Code. 3289

(4) No court shall grant an agency more than two extensions 3290  
of temporary custody pursuant to division (D) of this section and 3291  
the court shall not order an existing temporary custody order to 3292  
continue beyond two years after the date on which the complaint 3293  
was filed or the child was first placed into shelter care, 3294  
whichever date is earlier, regardless of whether any extensions 3295  
have been previously ordered pursuant to division (D) of this 3296  
section. 3297

(E) After the issuance of an order pursuant to division (B) 3298  
of this section, the court shall retain jurisdiction over the 3299  
child until the child attains the age of eighteen if the child ~~is~~ 3300  
does not mentally retarded, developmentally disabled, have a 3301  
developmental disability or physically impaired physical 3302  
impairment, the child attains the age of twenty-one if the child 3303  
~~is mentally retarded, developmentally disabled, has a~~ 3304  
developmental disability or physically impaired physical 3305  
impairment, or the child is adopted and a final decree of adoption 3306  
is issued, unless the court's jurisdiction over the child is 3307

extended pursuant to division (E) of section 2151.353 of the Revised Code.

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

(G) If the court places a child in a planned permanent living arrangement with a public children services agency or a private child placing agency pursuant to this section, the agency with which the child is placed in a planned permanent living arrangement shall not remove the child from the residential placement in which the child is originally placed pursuant to the case plan for the child or in which the child is placed with court approval pursuant to this division, unless the court and the guardian ad litem are given notice of the intended removal and the court issues an order approving the removal or unless the removal is necessary to protect the child from physical or emotional harm 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 3340  
held under this section shall do all of the following in addition 3341  
to any other requirements of this section: 3342

(1) Determine the continued necessity for and the 3343  
appropriateness of the child's placement; 3344

(2) Determine the extent of compliance with the child's case 3345  
plan; 3346

(3) Determine the extent of progress that has been made 3347  
toward alleviating or mitigating the causes necessitating the 3348  
child's placement in foster care; 3349

(4) Project a likely date by which the child may be returned 3350  
to the child's home or placed for adoption or legal guardianship; 3351

(5) Approve the permanency plan for the child consistent with 3352  
section 2151.417 of the Revised Code. 3353

**Sec. 2151.421.** (A)(1)(a) No person described in division 3354  
(A)(1)(b) of this section who is acting in an official or 3355  
professional capacity and knows, or has reasonable cause to 3356  
suspect based on facts that would cause a reasonable person in a 3357  
similar position to suspect, that a child under eighteen years of 3358  
age or a ~~mentally retarded, developmentally disabled, or~~ 3359  
~~physically impaired child~~ person with a developmental disability 3360  
or physical impairment under twenty-one years of age has suffered 3361  
or faces a threat of suffering any physical or mental wound, 3362  
injury, disability, or condition of a nature that reasonably 3363  
indicates abuse or neglect of the child shall fail to immediately 3364  
report that knowledge or reasonable cause to suspect to the entity 3365  
or persons specified in this division. Except as provided in 3366  
section 5120.173 of the Revised Code, the person making the report 3367  
shall make it to the public children services agency or a 3368  
municipal or county peace officer in the county in which the child 3369

resides or in which the abuse or neglect is occurring or has 3370  
occurred. In the circumstances described in section 5120.173 of 3371  
the Revised Code, the person making the report shall make it to 3372  
the entity specified in that section. 3373

(b) Division (A)(1)(a) of this section applies to any person 3374  
who is an attorney; physician, including a hospital intern or 3375  
resident; dentist; podiatrist; practitioner of a limited branch of 3376  
medicine as specified in section 4731.15 of the Revised Code; 3377  
registered nurse; licensed practical nurse; visiting nurse; other 3378  
health care professional; licensed psychologist; licensed school 3379  
psychologist; independent marriage and family therapist or 3380  
marriage and family therapist; speech pathologist or audiologist; 3381  
coroner; administrator or employee of a child day-care center; 3382  
administrator or employee of a residential camp or child day camp; 3383  
administrator or employee of a certified child care agency or 3384  
other public or private children services agency; school teacher; 3385  
school employee; school authority; person engaged in social work 3386  
or the practice of professional counseling; agent of a county 3387  
humane society; person, other than a cleric, rendering spiritual 3388  
treatment through prayer in accordance with the tenets of a 3389  
well-recognized religion; employee of a county department of job 3390  
and family services who is a professional and who works with 3391  
children and families; superintendent or regional administrator 3392  
employed by the department of youth services; superintendent, 3393  
board member, or employee of a county board of developmental 3394  
disabilities; investigative agent contracted with by a county 3395  
board of developmental disabilities; employee of the department of 3396  
developmental disabilities; employee of a facility or home that 3397  
provides respite care in accordance with section 5123.171 of the 3398  
Revised Code; employee of a home health agency; employee of an 3399  
entity that provides homemaker services; a person performing the 3400  
duties of an assessor pursuant to Chapter 3107. or 5103. of the 3401  
Revised Code; third party employed by a public children services 3402

agency to assist in providing child or family related services; 3403  
court appointed special advocate; or guardian ad litem. 3404

(2) Except as provided in division (A)(3) of this section, an 3405  
attorney or a physician is not required to make a report pursuant 3406  
to division (A)(1) of this section concerning any communication 3407  
the attorney or physician receives from a client or patient in an 3408  
attorney-client or physician-patient relationship, if, in 3409  
accordance with division (A) or (B) of section 2317.02 of the 3410  
Revised Code, the attorney or physician could not testify with 3411  
respect to that communication in a civil or criminal proceeding. 3412

(3) The client or patient in an attorney-client or 3413  
physician-patient relationship described in division (A)(2) of 3414  
this section is deemed to have waived any testimonial privilege 3415  
under division (A) or (B) of section 2317.02 of the Revised Code 3416  
with respect to any communication the attorney or physician 3417  
receives from the client or patient in that attorney-client or 3418  
physician-patient relationship, and the attorney or physician 3419  
shall make a report pursuant to division (A)(1) of this section 3420  
with respect to that communication, if all of the following apply: 3421

(a) The client or patient, at the time of the communication, 3422  
is either a child under eighteen years of age or a ~~mentally~~ 3423  
~~retarded, developmentally disabled, or physically impaired~~ person 3424  
with a developmental disability or physical impairment under 3425  
twenty-one years of age. 3426

(b) The attorney or physician knows, or has reasonable cause 3427  
to suspect based on facts that would cause a reasonable person in 3428  
similar position to suspect, as a result of the communication or 3429  
any observations made during that communication, that the client 3430  
or patient has suffered or faces a threat of suffering any 3431  
physical or mental wound, injury, disability, or condition of a 3432  
nature that reasonably indicates abuse or neglect of the client or 3433  
patient. 3434

(c) The abuse or neglect does not arise out of the client's 3435  
or patient's attempt to have an abortion without the notification 3436  
of her parents, guardian, or custodian in accordance with section 3437  
2151.85 of the Revised Code. 3438

(4)(a) No cleric and no person, other than a volunteer, 3439  
designated by any church, religious society, or faith acting as a 3440  
leader, official, or delegate on behalf of the church, religious 3441  
society, or faith who is acting in an official or professional 3442  
capacity, who knows, or has reasonable cause to believe based on 3443  
facts that would cause a reasonable person in a similar position 3444  
to believe, that a child under eighteen years of age or a ~~mentally~~ 3445  
~~retarded, developmentally disabled, or physically impaired child~~ 3446  
person with a developmental disability or physical impairment 3447  
under twenty-one years of age has suffered or faces a threat of 3448  
suffering any physical or mental wound, injury, disability, or 3449  
condition of a nature that reasonably indicates abuse or neglect 3450  
of the child, and who knows, or has reasonable cause to believe 3451  
based on facts that would cause a reasonable person in a similar 3452  
position to believe, that another cleric or another person, other 3453  
than a volunteer, designated by a church, religious society, or 3454  
faith acting as a leader, official, or delegate on behalf of the 3455  
church, religious society, or faith caused, or poses the threat of 3456  
causing, the wound, injury, disability, or condition that 3457  
reasonably indicates abuse or neglect shall fail to immediately 3458  
report that knowledge or reasonable cause to believe to the entity 3459  
or persons specified in this division. Except as provided in 3460  
section 5120.173 of the Revised Code, the person making the report 3461  
shall make it to the public children services agency or a 3462  
municipal or county peace officer in the county in which the child 3463  
resides or in which the abuse or neglect is occurring or has 3464  
occurred. In the circumstances described in section 5120.173 of 3465  
the Revised Code, the person making the report shall make it to 3466  
the entity specified in that section. 3467

(b) Except as provided in division (A)(4)(c) of this section, 3468  
a cleric is not required to make a report pursuant to division 3469  
(A)(4)(a) of this section concerning any communication the cleric 3470  
receives from a penitent in a cleric-penitent relationship, if, in 3471  
accordance with division (C) of section 2317.02 of the Revised 3472  
Code, the cleric could not testify with respect to that 3473  
communication in a civil or criminal proceeding. 3474

(c) The penitent in a cleric-penitent relationship described 3475  
in division (A)(4)(b) of this section is deemed to have waived any 3476  
testimonial privilege under division (C) of section 2317.02 of the 3477  
Revised Code with respect to any communication the cleric receives 3478  
from the penitent in that cleric-penitent relationship, and the 3479  
cleric shall make a report pursuant to division (A)(4)(a) of this 3480  
section with respect to that communication, if all of the 3481  
following apply: 3482

(i) The penitent, at the time of the communication, is either 3483  
a child under eighteen years of age or a ~~mentally retarded,~~ 3484  
~~developmentally disabled, or physically impaired~~ person with a 3485  
developmental disability or physical impairment under twenty-one 3486  
years of age. 3487

(ii) The cleric knows, or has reasonable cause to believe 3488  
based on facts that would cause a reasonable person in a similar 3489  
position to believe, as a result of the communication or any 3490  
observations made during that communication, the penitent has 3491  
suffered or faces a threat of suffering any physical or mental 3492  
wound, injury, disability, or condition of a nature that 3493  
reasonably indicates abuse or neglect of the penitent. 3494

(iii) The abuse or neglect does not arise out of the 3495  
penitent's attempt to have an abortion performed upon a child 3496  
under eighteen years of age or upon a ~~mentally retarded,~~ 3497  
~~developmentally disabled, or physically impaired~~ person with a 3498  
developmental disability or physical impairment under twenty-one 3499

years of age without the notification of her parents, guardian, or 3500  
custodian in accordance with section 2151.85 of the Revised Code. 3501

(d) Divisions (A)(4)(a) and (c) of this section do not apply 3502  
in a cleric-penitent relationship when the disclosure of any 3503  
communication the cleric receives from the penitent is in 3504  
violation of the sacred trust. 3505

(e) As used in divisions (A)(1) and (4) of this section, 3506  
"cleric" and "sacred trust" have the same meanings as in section 3507  
2317.02 of the Revised Code. 3508

(B) Anyone who knows, or has reasonable cause to suspect 3509  
based on facts that would cause a reasonable person in similar 3510  
circumstances to suspect, that a child under eighteen years of age 3511  
or a ~~mentally retarded, developmentally disabled, or physically~~ 3512  
~~impaired~~ person with a developmental disability or physical 3513  
impairment under twenty-one years of age has suffered or faces a 3514  
threat of suffering any physical or mental wound, injury, 3515  
disability, or other condition of a nature that reasonably 3516  
indicates abuse or neglect of the child may report or cause 3517  
reports to be made of that knowledge or reasonable cause to 3518  
suspect to the entity or persons specified in this division. 3519  
Except as provided in section 5120.173 of the Revised Code, a 3520  
person making a report or causing a report to be made under this 3521  
division shall make it or cause it to be made to the public 3522  
children services agency or to a municipal or county peace 3523  
officer. In the circumstances described in section 5120.173 of the 3524  
Revised Code, a person making a report or causing a report to be 3525  
made under this division shall make it or cause it to be made to 3526  
the entity specified in that section. 3527

(C) Any report made pursuant to division (A) or (B) of this 3528  
section shall be made forthwith either by telephone or in person 3529  
and shall be followed by a written report, if requested by the 3530  
receiving agency or officer. The written report shall contain: 3531

(1) The names and addresses of the child and the child's 3532  
parents or the person or persons having custody of the child, if 3533  
known; 3534

(2) The child's age and the nature and extent of the child's 3535  
injuries, abuse, or neglect that is known or reasonably suspected 3536  
or believed, as applicable, to have occurred or of the threat of 3537  
injury, abuse, or neglect that is known or reasonably suspected or 3538  
believed, as applicable, to exist, including any evidence of 3539  
previous injuries, abuse, or neglect; 3540

(3) Any other information that might be helpful in 3541  
establishing the cause of the injury, abuse, or neglect that is 3542  
known or reasonably suspected or believed, as applicable, to have 3543  
occurred or of the threat of injury, abuse, or neglect that is 3544  
known or reasonably suspected or believed, as applicable, to 3545  
exist. 3546

Any person, who is required by division (A) of this section 3547  
to report child abuse or child neglect that is known or reasonably 3548  
suspected or believed to have occurred, may take or cause to be 3549  
taken color photographs of areas of trauma visible on a child and, 3550  
if medically indicated, cause to be performed radiological 3551  
examinations of the child. 3552

(D) As used in this division, "children's advocacy center" 3553  
and "sexual abuse of a child" have the same meanings as in section 3554  
2151.425 of the Revised Code. 3555

(1) When a municipal or county peace officer receives a 3556  
report concerning the possible abuse or neglect of a child or the 3557  
possible threat of abuse or neglect of a child, upon receipt of 3558  
the report, the municipal or county peace officer who receives the 3559  
report shall refer the report to the appropriate public children 3560  
services agency. 3561

(2) When a public children services agency receives a report 3562

pursuant to this division or division (A) or (B) of this section, 3563  
upon receipt of the report, the public children services agency 3564  
shall do both of the following: 3565

(a) Comply with section 2151.422 of the Revised Code; 3566

(b) If the county served by the agency is also served by a 3567  
children's advocacy center and the report alleges sexual abuse of 3568  
a child or another type of abuse of a child that is specified in 3569  
the memorandum of understanding that creates the center as being 3570  
within the center's jurisdiction, comply regarding the report with 3571  
the protocol and procedures for referrals and investigations, with 3572  
the coordinating activities, and with the authority or 3573  
responsibility for performing or providing functions, activities, 3574  
and services stipulated in the interagency agreement entered into 3575  
under section 2151.428 of the Revised Code relative to that 3576  
center. 3577

(E) No township, municipal, or county peace officer shall 3578  
remove a child about whom a report is made pursuant to this 3579  
section from the child's parents, stepparents, or guardian or any 3580  
other persons having custody of the child without consultation 3581  
with the public children services agency, unless, in the judgment 3582  
of the officer, and, if the report was made by physician, the 3583  
physician, immediate removal is considered essential to protect 3584  
the child from further abuse or neglect. The agency that must be 3585  
consulted shall be the agency conducting the investigation of the 3586  
report as determined pursuant to section 2151.422 of the Revised 3587  
Code. 3588

(F)(1) Except as provided in section 2151.422 of the Revised 3589  
Code or in an interagency agreement entered into under section 3590  
2151.428 of the Revised Code that applies to the particular 3591  
report, the public children services agency shall investigate, 3592  
within twenty-four hours, each report of child abuse or child 3593  
neglect that is known or reasonably suspected or believed to have 3594

occurred and of a threat of child abuse or child neglect that is 3595  
known or reasonably suspected or believed to exist that is 3596  
referred to it under this section to determine the circumstances 3597  
surrounding the injuries, abuse, or neglect or the threat of 3598  
injury, abuse, or neglect, the cause of the injuries, abuse, 3599  
neglect, or threat, and the person or persons responsible. The 3600  
investigation shall be made in cooperation with the law 3601  
enforcement agency and in accordance with the memorandum of 3602  
understanding prepared under division (J) of this section. A 3603  
representative of the public children services agency shall, at 3604  
the time of initial contact with the person subject to the 3605  
investigation, inform the person of the specific complaints or 3606  
allegations made against the person. The information shall be 3607  
given in a manner that is consistent with division (H)(1) of this 3608  
section and protects the rights of the person making the report 3609  
under this section. 3610

A failure to make the investigation in accordance with the 3611  
memorandum is not grounds for, and shall not result in, the 3612  
dismissal of any charges or complaint arising from the report or 3613  
the suppression of any evidence obtained as a result of the report 3614  
and does not give, and shall not be construed as giving, any 3615  
rights or any grounds for appeal or post-conviction relief to any 3616  
person. The public children services agency shall report each case 3617  
to the uniform statewide automated child welfare information 3618  
system that the department of job and family services shall 3619  
maintain in accordance with section 5101.13 of the Revised Code. 3620  
The public children services agency shall submit a report of its 3621  
investigation, in writing, to the law enforcement agency. 3622

(2) The public children services agency shall make any 3623  
recommendations to the county prosecuting attorney or city 3624  
director of law that it considers necessary to protect any 3625  
children that are brought to its attention. 3626

(G)(1)(a) Except as provided in division (H)(3) of this 3627  
section, anyone or any hospital, institution, school, health 3628  
department, or agency participating in the making of reports under 3629  
division (A) of this section, anyone or any hospital, institution, 3630  
school, health department, or agency participating in good faith 3631  
in the making of reports under division (B) of this section, and 3632  
anyone participating in good faith in a judicial proceeding 3633  
resulting from the reports, shall be immune from any civil or 3634  
criminal liability for injury, death, or loss to person or 3635  
property that otherwise might be incurred or imposed as a result 3636  
of the making of the reports or the participation in the judicial 3637  
proceeding. 3638

(b) Notwithstanding section 4731.22 of the Revised Code, the 3639  
physician-patient privilege shall not be a ground for excluding 3640  
evidence regarding a child's injuries, abuse, or neglect, or the 3641  
cause of the injuries, abuse, or neglect in any judicial 3642  
proceeding resulting from a report submitted pursuant to this 3643  
section. 3644

(2) In any civil or criminal action or proceeding in which it 3645  
is alleged and proved that participation in the making of a report 3646  
under this section was not in good faith or participation in a 3647  
judicial proceeding resulting from a report made under this 3648  
section was not in good faith, the court shall award the 3649  
prevailing party reasonable attorney's fees and costs and, if a 3650  
civil action or proceeding is voluntarily dismissed, may award 3651  
reasonable attorney's fees and costs to the party against whom the 3652  
civil action or proceeding is brought. 3653

(H)(1) Except as provided in divisions (H)(4) and (N) of this 3654  
section, a report made under this section is confidential. The 3655  
information provided in a report made pursuant to this section and 3656  
the name of the person who made the report shall not be released 3657  
for use, and shall not be used, as evidence in any civil action or 3658

proceeding brought against the person who made the report. Nothing 3659  
in this division shall preclude the use of reports of other 3660  
incidents of known or suspected abuse or neglect in a civil action 3661  
or proceeding brought pursuant to division (M) of this section 3662  
against a person who is alleged to have violated division (A)(1) 3663  
of this section, provided that any information in a report that 3664  
would identify the child who is the subject of the report or the 3665  
maker of the report, if the maker of the report is not the 3666  
defendant or an agent or employee of the defendant, has been 3667  
redacted. In a criminal proceeding, the report is admissible in 3668  
evidence in accordance with the Rules of Evidence and is subject 3669  
to discovery in accordance with the Rules of Criminal Procedure. 3670

(2) No person shall permit or encourage the unauthorized 3671  
dissemination of the contents of any report made under this 3672  
section. 3673

(3) A person who knowingly makes or causes another person to 3674  
make a false report under division (B) of this section that 3675  
alleges that any person has committed an act or omission that 3676  
resulted in a child being an abused child or a neglected child is 3677  
guilty of a violation of section 2921.14 of the Revised Code. 3678

(4) If a report is made pursuant to division (A) or (B) of 3679  
this section and the child who is the subject of the report dies 3680  
for any reason at any time after the report is made, but before 3681  
the child attains eighteen years of age, the public children 3682  
services agency or municipal or county peace officer to which the 3683  
report was made or referred, on the request of the child fatality 3684  
review board, shall submit a summary sheet of information 3685  
providing a summary of the report to the review board of the 3686  
county in which the deceased child resided at the time of death. 3687  
On the request of the review board, the agency or peace officer 3688  
may, at its discretion, make the report available to the review 3689  
board. If the county served by the public children services agency 3690

is also served by a children's advocacy center and the report of 3691  
alleged sexual abuse of a child or another type of abuse of a 3692  
child is specified in the memorandum of understanding that creates 3693  
the center as being within the center's jurisdiction, the agency 3694  
or center shall perform the duties and functions specified in this 3695  
division in accordance with the interagency agreement entered into 3696  
under section 2151.428 of the Revised Code relative to that 3697  
advocacy center. 3698

(5) A public children services agency shall advise a person 3699  
alleged to have inflicted abuse or neglect on a child who is the 3700  
subject of a report made pursuant to this section, including a 3701  
report alleging sexual abuse of a child or another type of abuse 3702  
of a child referred to a children's advocacy center pursuant to an 3703  
interagency agreement entered into under section 2151.428 of the 3704  
Revised Code, in writing of the disposition of the investigation. 3705  
The agency shall not provide to the person any information that 3706  
identifies the person who made the report, statements of 3707  
witnesses, or police or other investigative reports. 3708

(I) Any report that is required by this section, other than a 3709  
report that is made to the state highway patrol as described in 3710  
section 5120.173 of the Revised Code, shall result in protective 3711  
services and emergency supportive services being made available by 3712  
the public children services agency on behalf of the children 3713  
about whom the report is made, in an effort to prevent further 3714  
neglect or abuse, to enhance their welfare, and, whenever 3715  
possible, to preserve the family unit intact. The agency required 3716  
to provide the services shall be the agency conducting the 3717  
investigation of the report pursuant to section 2151.422 of the 3718  
Revised Code. 3719

(J)(1) Each public children services agency shall prepare a 3720  
memorandum of understanding that is signed by all of the 3721  
following: 3722

(a) If there is only one juvenile judge in the county, the juvenile judge of the county or the juvenile judge's representative;	3723 3724 3725
(b) If there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative;	3726 3727 3728 3729 3730
(c) The county peace officer;	3731
(d) All chief municipal peace officers within the county;	3732
(e) Other law enforcement officers handling child abuse and neglect cases in the county;	3733 3734
(f) The prosecuting attorney of the county;	3735
(g) If the public children services agency is not the county department of job and family services, the county department of job and family services;	3736 3737 3738
(h) The county humane society;	3739
(i) If the public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center established by the memorandum.	3740 3741 3742 3743 3744
(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or	3745 3746 3747 3748 3749 3750 3751 3752

(B) of this section and, when feasible, providing for only one 3753  
interview of a child who is the subject of any report made 3754  
pursuant to division (A) or (B) of this section. A failure to 3755  
follow the procedure set forth in the memorandum by the concerned 3756  
officials is not grounds for, and shall not result in, the 3757  
dismissal of any charges or complaint arising from any reported 3758  
case of abuse or neglect or the suppression of any evidence 3759  
obtained as a result of any reported child abuse or child neglect 3760  
and does not give, and shall not be construed as giving, any 3761  
rights or any grounds for appeal or post-conviction relief to any 3762  
person. 3763

(3) A memorandum of understanding shall include all of the 3764  
following: 3765

(a) The roles and responsibilities for handling emergency and 3766  
nonemergency cases of abuse and neglect; 3767

(b) Standards and procedures to be used in handling and 3768  
coordinating investigations of reported cases of child abuse and 3769  
reported cases of child neglect, methods to be used in 3770  
interviewing the child who is the subject of the report and who 3771  
allegedly was abused or neglected, and standards and procedures 3772  
addressing the categories of persons who may interview the child 3773  
who is the subject of the report and who allegedly was abused or 3774  
neglected. 3775

(4) If a public children services agency participated in the 3776  
execution of a memorandum of understanding under section 2151.426 3777  
of the Revised Code establishing a children's advocacy center, the 3778  
agency shall incorporate the contents of that memorandum in the 3779  
memorandum prepared pursuant to this section. 3780

(5) The clerk of the court of common pleas in the county may 3781  
sign the memorandum of understanding prepared under division 3782  
(J)(1) of this section. If the clerk signs the memorandum of 3783

understanding, the clerk shall execute all relevant 3784  
responsibilities as required of officials specified in the 3785  
memorandum. 3786

(K)(1) Except as provided in division (K)(4) of this section, 3787  
a person who is required to make a report pursuant to division (A) 3788  
of this section may make a reasonable number of requests of the 3789  
public children services agency that receives or is referred the 3790  
report, or of the children's advocacy center that is referred the 3791  
report if the report is referred to a children's advocacy center 3792  
pursuant to an interagency agreement entered into under section 3793  
2151.428 of the Revised Code, to be provided with the following 3794  
information: 3795

(a) Whether the agency or center has initiated an 3796  
investigation of the report; 3797

(b) Whether the agency or center is continuing to investigate 3798  
the report; 3799

(c) Whether the agency or center is otherwise involved with 3800  
the child who is the subject of the report; 3801

(d) The general status of the health and safety of the child 3802  
who is the subject of the report; 3803

(e) Whether the report has resulted in the filing of a 3804  
complaint in juvenile court or of criminal charges in another 3805  
court. 3806

(2) A person may request the information specified in 3807  
division (K)(1) of this section only if, at the time the report is 3808  
made, the person's name, address, and telephone number are 3809  
provided to the person who receives the report. 3810

When a municipal or county peace officer or employee of a 3811  
public children services agency receives a report pursuant to 3812  
division (A) or (B) of this section the recipient of the report 3813

shall inform the person of the right to request the information 3814  
described in division (K)(1) of this section. The recipient of the 3815  
report shall include in the initial child abuse or child neglect 3816  
report that the person making the report was so informed and, if 3817  
provided at the time of the making of the report, shall include 3818  
the person's name, address, and telephone number in the report. 3819

Each request is subject to verification of the identity of 3820  
the person making the report. If that person's identity is 3821  
verified, the agency shall provide the person with the information 3822  
described in division (K)(1) of this section a reasonable number 3823  
of times, except that the agency shall not disclose any 3824  
confidential information regarding the child who is the subject of 3825  
the report other than the information described in those 3826  
divisions. 3827

(3) A request made pursuant to division (K)(1) of this 3828  
section is not a substitute for any report required to be made 3829  
pursuant to division (A) of this section. 3830

(4) If an agency other than the agency that received or was 3831  
referred the report is conducting the investigation of the report 3832  
pursuant to section 2151.422 of the Revised Code, the agency 3833  
conducting the investigation shall comply with the requirements of 3834  
division (K) of this section. 3835

(L) The director of job and family services shall adopt rules 3836  
in accordance with Chapter 119. of the Revised Code to implement 3837  
this section. The department of job and family services may enter 3838  
into a plan of cooperation with any other governmental entity to 3839  
aid in ensuring that children are protected from abuse and 3840  
neglect. The department shall make recommendations to the attorney 3841  
general that the department determines are necessary to protect 3842  
children from child abuse and child neglect. 3843

(M) Whoever violates division (A) of this section is liable 3844

for compensatory and exemplary damages to the child who would have 3845  
been the subject of the report that was not made. A person who 3846  
brings a civil action or proceeding pursuant to this division 3847  
against a person who is alleged to have violated division (A)(1) 3848  
of this section may use in the action or proceeding reports of 3849  
other incidents of known or suspected abuse or neglect, provided 3850  
that any information in a report that would identify the child who 3851  
is the subject of the report or the maker of the report, if the 3852  
maker is not the defendant or an agent or employee of the 3853  
defendant, has been redacted. 3854

(N)(1) As used in this division: 3855

(a) "Out-of-home care" includes a nonchartered nonpublic 3856  
school if the alleged child abuse or child neglect, or alleged 3857  
threat of child abuse or child neglect, described in a report 3858  
received by a public children services agency allegedly occurred 3859  
in or involved the nonchartered nonpublic school and the alleged 3860  
perpetrator named in the report holds a certificate, permit, or 3861  
license issued by the state board of education under section 3862  
3301.071 or Chapter 3319. of the Revised Code. 3863

(b) "Administrator, director, or other chief administrative 3864  
officer" means the superintendent of the school district if the 3865  
out-of-home care entity subject to a report made pursuant to this 3866  
section is a school operated by the district. 3867

(2) No later than the end of the day following the day on 3868  
which a public children services agency receives a report of 3869  
alleged child abuse or child neglect, or a report of an alleged 3870  
threat of child abuse or child neglect, that allegedly occurred in 3871  
or involved an out-of-home care entity, the agency shall provide 3872  
written notice of the allegations contained in and the person 3873  
named as the alleged perpetrator in the report to the 3874  
administrator, director, or other chief administrative officer of 3875  
the out-of-home care entity that is the subject of the report 3876

unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The agency shall not provide witness statements or police or other investigative reports.

(3) No later than three days after the day on which a public children services agency that conducted the investigation as determined pursuant to section 2151.422 of the Revised Code makes a disposition of an investigation involving a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall send written notice of the disposition of the investigation to the administrator, director, or other chief administrative officer and the owner or governing board of the out-of-home care entity. The agency shall not provide witness statements or police or other investigative reports.

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

**Sec. 2151.425.** As used in sections 2151.426 to 2151.428 of the Revised Code:

(A) "Children's advocacy center" means a center operated by participating entities within a county or two or more contiguous

counties to perform functions and activities and provide services, 3908  
in accordance with the interagency agreement entered into under 3909  
section 2151.428 of the Revised Code, regarding reports received 3910  
under section 2151.421 of the Revised Code of alleged sexual abuse 3911  
of a child or another type of abuse of a child that is specified 3912  
in the memorandum of understanding that creates the center as 3913  
being within the center's jurisdiction and regarding the children 3914  
who are the subjects of the report. 3915

(B) "Sexual abuse of a child" means unlawful sexual conduct 3916  
or sexual contact, as those terms are defined in section 2907.01 3917  
of the Revised Code, with a person under eighteen years of age or 3918  
a ~~mentally retarded, developmentally disabled, or physically~~ 3919  
~~impaired~~ person under twenty-one years of age with a developmental 3920  
disability or physical impairment. 3921

**Sec. 2151.651.** The board of county commissioners of a county 3922  
which, either separately or as part of a district, is planning to 3923  
establish a school, forestry camp, or other facility under section 3924  
2151.65 of the Revised Code, to be used exclusively for the 3925  
rehabilitation of children between the ages of twelve to eighteen 3926  
years, other than psychotic children or ~~mentally retarded~~ children 3927  
with developmental disabilities that are intellectual 3928  
disabilities, who are designated delinquent children, as defined 3929  
in section 2152.02 of the Revised Code, or unruly children, as 3930  
defined in section 2151.022 of the Revised Code, by order of a 3931  
juvenile court, may make application to the department of youth 3932  
services, created under section 5139.01 of the Revised Code, for 3933  
financial assistance in defraying the county's share of the cost 3934  
of acquisition or construction of such school, camp, or other 3935  
facility, as provided in section 5139.27 of the Revised Code. Such 3936  
application shall be made on forms prescribed and furnished by the 3937  
department. 3938

Sec. 2152.02. As used in this chapter:	3939
(A) "Act charged" means the act that is identified in a complaint, indictment, or information alleging that a child is a delinquent child.	3940 3941 3942
(B) "Admitted to a department of youth services facility" includes admission to a facility operated, or contracted for, by the department and admission to a comparable facility outside this state by another state or the United States.	3943 3944 3945 3946
(C)(1) "Child" means a person who is under eighteen years of age, except as otherwise provided in divisions (C)(2) to (8) of this section.	3947 3948 3949
(2) Subject to division (C)(3) of this section, any person who violates a federal or state law or a municipal ordinance prior to attaining eighteen years of age shall be deemed a "child" irrespective of that person's age at the time the complaint with respect to that violation is filed or the hearing on the complaint is held.	3950 3951 3952 3953 3954 3955
(3) Any person who, while under eighteen years of age, commits an act that would be a felony if committed by an adult and who is not taken into custody or apprehended for that act until after the person attains twenty-one years of age is not a child in relation to that act.	3956 3957 3958 3959 3960
(4) Except as otherwise provided in divisions (C)(5) and (7) of this section, any person whose case is transferred for criminal prosecution pursuant to section 2152.12 of the Revised Code shall be deemed after the transfer not to be a child in the transferred case.	3961 3962 3963 3964 3965
(5) Any person whose case is transferred for criminal prosecution pursuant to section 2152.12 of the Revised Code and who subsequently is convicted of or pleads guilty to a felony in	3966 3967 3968

that case, unless a serious youthful offender dispositional 3969  
sentence is imposed on the child for that offense under division 3970  
(B)(2) or (3) of section 2152.121 of the Revised Code and the 3971  
adult portion of that sentence is not invoked pursuant to section 3972  
2152.14 of the Revised Code, and any person who is adjudicated a 3973  
delinquent child for the commission of an act, who has a serious 3974  
youthful offender dispositional sentence imposed for the act 3975  
pursuant to section 2152.13 of the Revised Code, and whose adult 3976  
portion of the dispositional sentence is invoked pursuant to 3977  
section 2152.14 of the Revised Code, shall be deemed after the 3978  
conviction, plea, or invocation not to be a child in any case in 3979  
which a complaint is filed against the person. 3980

(6) The juvenile court has jurisdiction over a person who is 3981  
adjudicated a delinquent child or juvenile traffic offender prior 3982  
to attaining eighteen years of age until the person attains 3983  
twenty-one years of age, and, for purposes of that jurisdiction 3984  
related to that adjudication, except as otherwise provided in this 3985  
division, a person who is so adjudicated a delinquent child or 3986  
juvenile traffic offender shall be deemed a "child" until the 3987  
person attains twenty-one years of age. If a person is so 3988  
adjudicated a delinquent child or juvenile traffic offender and 3989  
the court makes a disposition of the person under this chapter, at 3990  
any time after the person attains twenty-one years of age, the 3991  
places at which the person may be held under that disposition are 3992  
not limited to places authorized under this chapter solely for 3993  
confinement of children, and the person may be confined under that 3994  
disposition, in accordance with division (F)(2) of section 2152.26 3995  
of the Revised Code, in places other than those authorized under 3996  
this chapter solely for confinement of children. 3997

(7) The juvenile court has jurisdiction over any person whose 3998  
case is transferred for criminal prosecution solely for the 3999  
purpose of detaining the person as authorized in division (F)(1) 4000

or (4) of section 2152.26 of the Revised Code unless the person is convicted of or pleads guilty to a felony in the adult court.

(8) Any person who, while eighteen years of age, violates division (A)(1) or (2) of section 2919.27 of the Revised Code by violating a protection order issued or consent agreement approved under section 2151.34 or 3113.31 of the Revised Code shall be considered a child for the purposes of that violation of section 2919.27 of the Revised Code.

(D) "Chronic truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for seven or more consecutive school days, ten or more school days in one school month, or fifteen or more school days in a school year.

(E) "Community corrections facility," "public safety beds," "release authority," and "supervised release" have the same meanings as in section 5139.01 of the Revised Code.

(F) "Delinquent child" includes any of the following:

(1) Any child, except a juvenile traffic offender, who violates any law of this state or the United States, or any ordinance of a political subdivision of the state, that would be an offense if committed by an adult;

(2) Any child who violates any lawful order of the court made under this chapter or under Chapter 2151. of the Revised Code other than an order issued under section 2151.87 of the Revised Code;

(3) Any child who violates division (C) of section 2907.39, division (A) of section 2923.211, or division (C)(1) or (D) of section 2925.55 of the Revised Code;

(4) Any child who is a habitual truant and who previously has been adjudicated an unruly child for being a habitual truant;

(5) Any child who is a chronic truant. 4031

(G) "Discretionary serious youthful offender" means a person 4032  
who is eligible for a discretionary SYO and who is not transferred 4033  
to adult court under a mandatory or discretionary transfer. 4034

(H) "Discretionary SYO" means a case in which the juvenile 4035  
court, in the juvenile court's discretion, may impose a serious 4036  
youthful offender disposition under section 2152.13 of the Revised 4037  
Code. 4038

(I) "Discretionary transfer" means that the juvenile court 4039  
has discretion to transfer a case for criminal prosecution under 4040  
division (B) of section 2152.12 of the Revised Code. 4041

(J) "Drug abuse offense," "felony drug abuse offense," and 4042  
"minor drug possession offense" have the same meanings as in 4043  
section 2925.01 of the Revised Code. 4044

(K) "Electronic monitoring" and "electronic monitoring 4045  
device" have the same meanings as in section 2929.01 of the 4046  
Revised Code. 4047

(L) "Economic loss" means any economic detriment suffered by 4048  
a victim of a delinquent act or juvenile traffic offense as a 4049  
direct and proximate result of the delinquent act or juvenile 4050  
traffic offense and includes any loss of income due to lost time 4051  
at work because of any injury caused to the victim and any 4052  
property loss, medical cost, or funeral expense incurred as a 4053  
result of the delinquent act or juvenile traffic offense. 4054  
"Economic loss" does not include non-economic loss or any punitive 4055  
or exemplary damages. 4056

(M) "Firearm" has the same meaning as in section 2923.11 of 4057  
the Revised Code. 4058

(N) "Juvenile traffic offender" means any child who violates 4059  
any traffic law, traffic ordinance, or traffic regulation of this 4060

state, the United States, or any political subdivision of this 4061  
state, other than a resolution, ordinance, or regulation of a 4062  
political subdivision of this state the violation of which is 4063  
required to be handled by a parking violations bureau or a joint 4064  
parking violations bureau pursuant to Chapter 4521. of the Revised 4065  
Code. 4066

(O) A "legitimate excuse for absence from the public school 4067  
the child is supposed to attend" has the same meaning as in 4068  
section 2151.011 of the Revised Code. 4069

(P) "Mandatory serious youthful offender" means a person who 4070  
is eligible for a mandatory SYO and who is not transferred to 4071  
adult court under a mandatory or discretionary transfer and also 4072  
includes, for purposes of imposition of a mandatory serious 4073  
youthful dispositional sentence under section 2152.13 of the 4074  
Revised Code, a person upon whom a juvenile court is required to 4075  
impose such a sentence under division (B)(3) of section 2152.121 4076  
of the Revised Code. 4077

(Q) "Mandatory SYO" means a case in which the juvenile court 4078  
is required to impose a mandatory serious youthful offender 4079  
disposition under section 2152.13 of the Revised Code. 4080

(R) "Mandatory transfer" means that a case is required to be 4081  
transferred for criminal prosecution under division (A) of section 4082  
2152.12 of the Revised Code. 4083

(S) "Mental illness" has the same meaning as in section 4084  
5122.01 of the Revised Code. 4085

~~(T) "Mentally retarded person" has the same meaning as in 4086  
section 5123.01 of the Revised Code. 4087~~

~~(U)~~ "Monitored time" and "repeat violent offender" have the 4088  
same meanings as in section 2929.01 of the Revised Code. 4089

~~(V)~~(U) "Of compulsory school age" has the same meaning as in 4090

section 3321.01 of the Revised Code. 4091

(V) "Person with an intellectual disability" has the same 4092  
meaning as in section 5123.01 of the Revised Code. 4093

(W) "Public record" has the same meaning as in section 149.43 4094  
of the Revised Code. 4095

(X) "Serious youthful offender" means a person who is 4096  
eligible for a mandatory SYO or discretionary SYO but who is not 4097  
transferred to adult court under a mandatory or discretionary 4098  
transfer and also includes, for purposes of imposition of a 4099  
mandatory serious youthful dispositional sentence under section 4100  
2152.13 of the Revised Code, a person upon whom a juvenile court 4101  
is required to impose such a sentence under division (B)(3) of 4102  
section 2152.121 of the Revised Code. 4103

(Y) "Sexually oriented offense," "juvenile offender 4104  
registrant," "child-victim oriented offense," "tier I sex 4105  
offender/child-victim offender," "tier II sex 4106  
offender/child-victim offender," "tier III sex 4107  
offender/child-victim offender," and "public registry-qualified 4108  
juvenile offender registrant" have the same meanings as in section 4109  
2950.01 of the Revised Code. 4110

(Z) "Traditional juvenile" means a case that is not 4111  
transferred to adult court under a mandatory or discretionary 4112  
transfer, that is eligible for a disposition under sections 4113  
2152.16, 2152.17, 2152.19, and 2152.20 of the Revised Code, and 4114  
that is not eligible for a disposition under section 2152.13 of 4115  
the Revised Code. 4116

(AA) "Transfer" means the transfer for criminal prosecution 4117  
of a case involving the alleged commission by a child of an act 4118  
that would be an offense if committed by an adult from the 4119  
juvenile court to the appropriate court that has jurisdiction of 4120  
the offense. 4121

(BB) "Category one offense" means any of the following:	4122
(1) A violation of section 2903.01 or 2903.02 of the Revised Code;	4123 4124
(2) A violation of section 2923.02 of the Revised Code involving an attempt to commit aggravated murder or murder.	4125 4126
(CC) "Category two offense" means any of the following:	4127
(1) A violation of section 2903.03, 2905.01, 2907.02, 2909.02, 2911.01, or 2911.11 of the Revised Code;	4128 4129
(2) A violation of section 2903.04 of the Revised Code that is a felony of the first degree;	4130 4131
(3) A violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.	4132 4133
(DD) "Non-economic loss" means nonpecuniary harm suffered by a victim of a delinquent act or juvenile traffic offense as a result of or related to the delinquent act or juvenile traffic offense, including, but not limited to, pain and suffering; loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education; mental anguish; and any other intangible loss.	4134 4135 4136 4137 4138 4139 4140 4141
<b>Sec. 2152.12.</b> (A)(1)(a) After a complaint has been filed alleging that a child is a delinquent child for committing an act that would be aggravated murder, murder, attempted aggravated murder, or attempted murder if committed by an adult, the juvenile court at a hearing shall transfer the case if either of the following applies:	4142 4143 4144 4145 4146 4147
(i) The child was sixteen or seventeen years of age at the time of the act charged and there is probable cause to believe that the child committed the act charged.	4148 4149 4150

(ii) The child was fourteen or fifteen years of age at the 4151  
time of the act charged, section 2152.10 of the Revised Code 4152  
provides that the child is eligible for mandatory transfer, and 4153  
there is probable cause to believe that the child committed the 4154  
act charged. 4155

(b) After a complaint has been filed alleging that a child is 4156  
a delinquent child by reason of committing a category two offense, 4157  
the juvenile court at a hearing shall transfer the case if the 4158  
child was sixteen or seventeen years of age at the time of the act 4159  
charged and either of the following applies: 4160

(i) Division (A)(2)(a) of section 2152.10 of the Revised Code 4161  
requires the mandatory transfer of the case, and there is probable 4162  
cause to believe that the child committed the act charged. 4163

(ii) Division (A)(2)(b) of section 2152.10 of the Revised 4164  
Code requires the mandatory transfer of the case, and there is 4165  
probable cause to believe that the child committed the act 4166  
charged. 4167

(2) The juvenile court also shall transfer a case in the 4168  
circumstances described in division (C)(5) of section 2152.02 of 4169  
the Revised Code or if either of the following applies: 4170

(a) A complaint is filed against a child who is eligible for 4171  
a discretionary transfer under section 2152.10 of the Revised Code 4172  
and who previously was convicted of or pleaded guilty to a felony 4173  
in a case that was transferred to a criminal court. 4174

(b) A complaint is filed against a child who is domiciled in 4175  
another state alleging that the child is a delinquent child for 4176  
committing an act that would be a felony if committed by an adult, 4177  
and, if the act charged had been committed in that other state, 4178  
the child would be subject to criminal prosecution as an adult 4179  
under the law of that other state without the need for a transfer 4180  
of jurisdiction from a juvenile, family, or similar noncriminal 4181

court to a criminal court. 4182

(3) If a complaint is filed against a child alleging that the 4183  
child is a delinquent child and the case is transferred pursuant 4184  
to division (A)(1)(a)(i) or (A)(1)(b)(ii) of this section and if 4185  
the child subsequently is convicted of or pleads guilty to an 4186  
offense in that case, the sentence to be imposed or disposition to 4187  
be made of the child shall be determined in accordance with 4188  
section 2152.121 of the Revised Code. 4189

(B) Except as provided in division (A) of this section, after 4190  
a complaint has been filed alleging that a child is a delinquent 4191  
child for committing an act that would be a felony if committed by 4192  
an adult, the juvenile court at a hearing may transfer the case if 4193  
the court finds all of the following: 4194

(1) The child was fourteen years of age or older at the time 4195  
of the act charged. 4196

(2) There is probable cause to believe that the child 4197  
committed the act charged. 4198

(3) The child is not amenable to care or rehabilitation 4199  
within the juvenile system, and the safety of the community may 4200  
require that the child be subject to adult sanctions. In making 4201  
its decision under this division, the court shall consider whether 4202  
the applicable factors under division (D) of this section 4203  
indicating that the case should be transferred outweigh the 4204  
applicable factors under division (E) of this section indicating 4205  
that the case should not be transferred. The record shall indicate 4206  
the specific factors that were applicable and that the court 4207  
weighed. 4208

(C) Before considering a transfer under division (B) of this 4209  
section, the juvenile court shall order an investigation into the 4210  
child's social history, education, family situation, and any other 4211  
factor bearing on whether the child is amenable to juvenile 4212

rehabilitation, including a mental examination of the child by a 4213  
public or private agency or a person qualified to make the 4214  
examination. The investigation shall be completed and a report on 4215  
the investigation shall be submitted to the court as soon as 4216  
possible but not more than forty-five calendar days after the 4217  
court orders the investigation. The court may grant one or more 4218  
extensions for a reasonable length of time. The child may waive 4219  
the examination required by this division if the court finds that 4220  
the waiver is competently and intelligently made. Refusal to 4221  
submit to a mental examination by the child constitutes a waiver 4222  
of the examination. 4223

(D) In considering whether to transfer a child under division 4224  
(B) of this section, the juvenile court shall consider the 4225  
following relevant factors, and any other relevant factors, in 4226  
favor of a transfer under that division: 4227

(1) The victim of the act charged suffered physical or 4228  
psychological harm, or serious economic harm, as a result of the 4229  
alleged act. 4230

(2) The physical or psychological harm suffered by the victim 4231  
due to the alleged act of the child was exacerbated because of the 4232  
physical or psychological vulnerability or the age of the victim. 4233

(3) The child's relationship with the victim facilitated the 4234  
act charged. 4235

(4) The child allegedly committed the act charged for hire or 4236  
as a part of a gang or other organized criminal activity. 4237

(5) The child had a firearm on or about the child's person or 4238  
under the child's control at the time of the act charged, the act 4239  
charged is not a violation of section 2923.12 of the Revised Code, 4240  
and the child, during the commission of the act charged, allegedly 4241  
used or displayed the firearm, brandished the firearm, or 4242  
indicated that the child possessed a firearm. 4243

(6) At the time of the act charged, the child was awaiting adjudication or disposition as a delinquent child, was under a community control sanction, or was on parole for a prior delinquent child adjudication or conviction.

(7) The results of any previous juvenile sanctions and programs indicate that rehabilitation of the child will not occur in the juvenile system.

(8) The child is emotionally, physically, or psychologically mature enough for the transfer.

(9) There is not sufficient time to rehabilitate the child within the juvenile system.

(E) In considering whether to transfer a child under division (B) of this section, the juvenile court shall consider the following relevant factors, and any other relevant factors, against a transfer under that division:

(1) The victim induced or facilitated the act charged.

(2) The child acted under provocation in allegedly committing the act charged.

(3) The child was not the principal actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person.

(4) The child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, in allegedly committing the act charged.

(5) The child previously has not been adjudicated a delinquent child.

(6) The child is not emotionally, physically, or psychologically mature enough for the transfer.

(7) The child has a mental illness or is a ~~mentally retarded~~ person with a developmental disability that is an intellectual

disability. 4274

(8) There is sufficient time to rehabilitate the child within 4275  
the juvenile system and the level of security available in the 4276  
juvenile system provides a reasonable assurance of public safety. 4277

(F) If one or more complaints are filed alleging that a child 4278  
is a delinquent child for committing two or more acts that would 4279  
be offenses if committed by an adult, if a motion is made alleging 4280  
that division (A) of this section applies and requires that the 4281  
case or cases involving one or more of the acts charged be 4282  
transferred ~~for~~, and if a motion also is made requesting that the 4283  
case or cases involving one or more of the acts charged be 4284  
transferred pursuant to division (B) of this section, the juvenile 4285  
court, in deciding the motions, shall proceed in the following 4286  
manner: 4287

(1) Initially, the court shall decide the motion alleging 4288  
that division (A) of this section applies and requires that the 4289  
case or cases involving one or more of the acts charged be 4290  
transferred. 4291

(2) If the court determines that division (A) of this section 4292  
applies and requires that the case or cases involving one or more 4293  
of the acts charged be transferred, the court shall transfer the 4294  
case or cases in accordance with that division. After the transfer 4295  
pursuant to division (A) of this section, the court shall decide, 4296  
in accordance with division (B) of this section, whether to grant 4297  
the motion requesting that the case or cases involving one or more 4298  
of the acts charged be transferred pursuant to that division. 4299  
Notwithstanding division (B) of this section, prior to 4300  
transferring a case pursuant to division (A) of this section, the 4301  
court is not required to consider any factor specified in division 4302  
(D) or (E) of this section or to conduct an investigation under 4303  
division (C) of this section. 4304

(3) If the court determines that division (A) of this section does not require that the case or cases involving one or more of the acts charged be transferred, the court shall decide in accordance with division (B) of this section whether to grant the motion requesting that the case or cases involving one or more of the acts charged be transferred pursuant to that division.

(4) No report on an investigation conducted pursuant to division (C) of this section shall include details of the alleged offense as reported by the child.

(G) The court shall give notice in writing of the time, place, and purpose of any hearing held pursuant to division (A) or (B) of this section to the child's parents, guardian, or other custodian and to the child's counsel at least three days prior to the hearing.

(H) No person, either before or after reaching eighteen years of age, shall be prosecuted as an adult for an offense committed prior to becoming eighteen years of age, unless the person has been transferred as provided in division (A) or (B) of this section or unless division (J) of this section applies. Any prosecution that is had in a criminal court on the mistaken belief that the person who is the subject of the case was eighteen years of age or older at the time of the commission of the offense shall be deemed a nullity, and the person shall not be considered to have been in jeopardy on the offense.

(I) Upon the transfer of a case under division (A) or (B) of this section, the juvenile court shall state the reasons for the transfer on the record, and shall order the child to enter into a recognizance with good and sufficient surety for the child's appearance before the appropriate court for any disposition that the court is authorized to make for a similar act committed by an adult. The transfer abates the jurisdiction of the juvenile court with respect to the delinquent acts alleged in the complaint, and,

upon the transfer, all further proceedings pertaining to the act 4337  
charged shall be discontinued in the juvenile court, and the case 4338  
then shall be within the jurisdiction of the court to which it is 4339  
transferred as described in division (H) of section 2151.23 of the 4340  
Revised Code. 4341

(J) If a person under eighteen years of age allegedly commits 4342  
an act that would be a felony if committed by an adult and if the 4343  
person is not taken into custody or apprehended for that act until 4344  
after the person attains twenty-one years of age, the juvenile 4345  
court does not have jurisdiction to hear or determine any portion 4346  
of the case charging the person with committing that act. In those 4347  
circumstances, divisions (A) and (B) of this section do not apply 4348  
regarding the act, and the case charging the person with 4349  
committing the act shall be a criminal prosecution commenced and 4350  
heard in the appropriate court having jurisdiction of the offense 4351  
as if the person had been eighteen years of age or older when the 4352  
person committed the act. All proceedings pertaining to the act 4353  
shall be within the jurisdiction of the court having jurisdiction 4354  
of the offense, and that court has all the authority and duties in 4355  
the case as it has in other criminal cases in that court. 4356

**Sec. 2152.14.** (A)(1) The director of youth services may 4357  
request the prosecuting attorney of the county in which is located 4358  
the juvenile court that imposed a serious youthful offender 4359  
dispositional sentence upon a person under section 2152.121 or 4360  
2152.13 of the Revised Code to file a motion with that juvenile 4361  
court to invoke the adult portion of the dispositional sentence if 4362  
all of the following apply to the person: 4363

(a) The person is at least fourteen years of age. 4364

(b) The person is in the institutional custody, or an escapee 4365  
from the custody, of the department of youth services. 4366

(c) The person is serving the juvenile portion of the serious 4367

youthful offender dispositional sentence. 4368

(2) The motion shall state that there is reasonable cause to 4369  
believe that either of the following misconduct has occurred and 4370  
shall state that at least one incident of misconduct of that 4371  
nature occurred after the person reached fourteen years of age: 4372

(a) The person committed an act that is a violation of the 4373  
rules of the institution and that could be charged as any felony 4374  
or as a first degree misdemeanor offense of violence if committed 4375  
by an adult. 4376

(b) The person has engaged in conduct that creates a 4377  
substantial risk to the safety or security of the institution, the 4378  
community, or the victim. 4379

(B) If a person is at least fourteen years of age, is serving 4380  
the juvenile portion of a serious youthful offender dispositional 4381  
sentence imposed under section 2152.121 or 2152.13 of the Revised 4382  
Code, and is on parole or aftercare from a department of youth 4383  
services facility, or on community control, the director of youth 4384  
services, the juvenile court that imposed the serious youthful 4385  
offender dispositional sentence on the person, or the probation 4386  
department supervising the person may request the prosecuting 4387  
attorney of the county in which is located the juvenile court to 4388  
file a motion with the juvenile court to invoke the adult portion 4389  
of the dispositional sentence. The prosecuting attorney may file a 4390  
motion to invoke the adult portion of the dispositional sentence 4391  
even if no request is made. The motion shall state that there is 4392  
reasonable cause to believe that either of the following occurred 4393  
and shall state that at least one incident of misconduct of that 4394  
nature occurred after the person reached fourteen years of age: 4395

(1) The person committed an act that is a violation of the 4396  
conditions of supervision and that could be charged as any felony 4397  
or as a first degree misdemeanor offense of violence if committed 4398

by an adult. 4399

(2) The person has engaged in conduct that creates a 4400  
substantial risk to the safety or security of the community or of 4401  
the victim. 4402

(C) If the prosecuting attorney declines a request to file a 4403  
motion that was made by the department of youth services or the 4404  
supervising probation department under division (A) or (B) of this 4405  
section or fails to act on a request made under either division by 4406  
the department within a reasonable time, the department of youth 4407  
services or the supervising probation department may file a motion 4408  
of the type described in division (A) or (B) of this section with 4409  
the juvenile court to invoke the adult portion of the serious 4410  
youthful offender dispositional sentence. If the prosecuting 4411  
attorney declines a request to file a motion that was made by the 4412  
juvenile court under division (B) of this section or fails to act 4413  
on a request from the court under that division within a 4414  
reasonable time, the juvenile court may hold the hearing described 4415  
in division (D) of this section on its own motion. 4416

(D) Upon the filing of a motion described in division (A), 4417  
(B), or (C) of this section, the juvenile court may hold a hearing 4418  
to determine whether to invoke the adult portion of a person's 4419  
serious juvenile offender dispositional sentence. The juvenile 4420  
court shall not invoke the adult portion of the dispositional 4421  
sentence without a hearing. At the hearing the person who is the 4422  
subject of the serious youthful offender disposition has the right 4423  
to be present, to receive notice of the grounds upon which the 4424  
adult sentence portion is sought to be invoked, to be represented 4425  
by counsel including counsel appointed under Juvenile Rule 4(A), 4426  
to be advised on the procedures and protections set forth in the 4427  
Juvenile Rules, and to present evidence on the person's own 4428  
behalf, including evidence that the person has a mental illness or 4429  
is a ~~mentally retarded~~ person with a developmental disability that 4430

is an intellectual disability. The person may not waive the right 4431  
to counsel. The hearing shall be open to the public. If the person 4432  
presents evidence that the person has a mental illness or is a 4433  
~~mentally retarded~~ person with a developmental disability that is 4434  
an intellectual disability, the juvenile court shall consider that 4435  
evidence in determining whether to invoke the adult portion of the 4436  
serious youthful offender dispositional sentence. 4437

(E)(1) The juvenile court may invoke the adult portion of a 4438  
person's serious youthful offender dispositional sentence if the 4439  
juvenile court finds all of the following on the record by clear 4440  
and convincing evidence: 4441

(a) The person is serving the juvenile portion of a serious 4442  
youthful offender dispositional sentence. 4443

(b) The person is at least fourteen years of age and has been 4444  
admitted to a department of youth services facility, or criminal 4445  
charges are pending against the person. 4446

(c) The person engaged in the conduct or acts charged under 4447  
division (A), (B), or (C) of this section, and the person's 4448  
conduct demonstrates that the person is unlikely to be 4449  
rehabilitated during the remaining period of juvenile 4450  
jurisdiction. 4451

(2) The court may modify the adult sentence the court invokes 4452  
to consist of any lesser prison term that could be imposed for the 4453  
offense and, in addition to the prison term or in lieu of the 4454  
prison term if the prison term was not mandatory, any community 4455  
control sanction that the offender was eligible to receive at 4456  
sentencing. 4457

(F) If a juvenile court issues an order invoking the adult 4458  
portion of a serious youthful offender dispositional sentence 4459  
under division (E) of this section, the juvenile portion of the 4460  
dispositional sentence shall terminate, and the department of 4461

youth services shall transfer the person to the department of 4462  
rehabilitation and correction or place the person under another 4463  
sanction imposed as part of the sentence. The juvenile court shall 4464  
state in its order the total number of days that the person has 4465  
been held in detention or in a facility operated by, or under 4466  
contract with, the department of youth services under the juvenile 4467  
portion of the dispositional sentence. The time the person must 4468  
serve on a prison term imposed under the adult portion of the 4469  
dispositional sentence shall be reduced by the total number of 4470  
days specified in the order plus any additional days the person is 4471  
held in a juvenile facility or in detention after the order is 4472  
issued and before the person is transferred to the custody of the 4473  
department of rehabilitation and correction. In no case shall the 4474  
total prison term as calculated under this division exceed the 4475  
maximum prison term available for an adult who is convicted of 4476  
violating the same sections of the Revised Code. 4477

Any community control imposed as part of the adult sentence 4478  
or as a condition of a judicial release from prison shall be under 4479  
the supervision of the entity that provides adult probation 4480  
services in the county. Any post-release control imposed after the 4481  
offender otherwise is released from prison shall be supervised by 4482  
the adult parole authority. 4483

**Sec. 2152.811.** (A) As used in this section: 4484

(1) "~~Mentally retarded person~~" and "~~developmentally disabled~~ 4485  
~~person~~ Person with a developmental disability" ~~have~~ has the same 4486  
~~meanings~~ meaning as in section 5123.01 of the Revised Code. 4487

(2) "~~Mentally retarded or developmentally disabled victim~~ 4488  
Victim with a developmental disability" includes any of the 4489  
following persons: 4490

(a) A ~~mentally retarded person or developmentally disabled~~ 4491  
person with a developmental disability who was a victim of a 4492

violation identified in division (B)(1) of this section or an act 4493  
that would be an offense of violence if committed by an adult; 4494

(b) A ~~mentally retarded person or developmentally disabled~~ 4495  
person with a developmental disability against whom was directed 4496  
any conduct that constitutes, or that is an element of, a 4497  
violation identified in division (B)(1) of this section or an act 4498  
that would be an offense of violence if committed by an adult. 4499

(B)(1) In any proceeding in juvenile court involving a 4500  
complaint, indictment, or information in which a child is charged 4501  
with a violation of section 2903.16, 2903.34, 2903.341, 2907.02, 4502  
2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 4503  
2907.322, or 2907.323 of the Revised Code or an act that would be 4504  
an offense of violence if committed by an adult and in which an 4505  
alleged victim of the violation or act was a ~~mentally retarded~~ 4506  
~~person or developmentally disabled~~ person with a developmental 4507  
disability, the juvenile judge, upon motion of the prosecution, 4508  
shall order that the testimony of the ~~mentally retarded or~~ 4509  
~~developmentally disabled~~ victim with a developmental disability be 4510  
taken by deposition. The prosecution also may request that the 4511  
deposition be videotaped in accordance with division (B)(2) of 4512  
this section. The judge shall notify the ~~mentally retarded or~~ 4513  
~~developmentally disabled~~ victim with a developmental disability 4514  
whose deposition is to be taken, the prosecution, and the attorney 4515  
for the child who is charged with the violation or act of the 4516  
date, time, and place for taking the deposition. The notice shall 4517  
identify the ~~mentally retarded or developmentally disabled~~ victim 4518  
with a developmental disability who is to be examined and shall 4519  
indicate whether a request that the deposition be videotaped has 4520  
been made. The child who is charged with the violation or act 4521  
shall have the right to attend the deposition and the right to be 4522  
represented by counsel. Depositions shall be taken in the manner 4523  
provided in civil cases, except that the judge in the proceeding 4524

shall preside at the taking of the deposition and shall rule at 4525  
that time on any objections of the prosecution or the attorney for 4526  
the child charged with the violation or act. The prosecution and 4527  
the attorney for the child charged with the violation or act shall 4528  
have the right, as at an adjudication hearing, to full examination 4529  
and cross-examination of the ~~mentally retarded or developmentally~~ 4530  
~~disabled~~ victim with a developmental disability whose deposition 4531  
is to be taken. 4532

If a deposition taken under this division is intended to be 4533  
offered as evidence in the proceeding, it shall be filed in the 4534  
juvenile court in which the action is pending and is admissible in 4535  
the manner described in division (C) of this section. If a 4536  
deposition of a ~~mentally retarded or developmentally disabled~~ 4537  
victim with a developmental disability taken under this division 4538  
is admitted as evidence at the proceeding under division (C) of 4539  
this section, the ~~mentally retarded or developmentally disabled~~ 4540  
victim with a developmental disability shall not be required to 4541  
testify in person at the proceeding. 4542

At any time before the conclusion of the proceeding, the 4543  
attorney for the child charged with the violation or act may file 4544  
a motion with the judge requesting that another deposition of the 4545  
~~mentally retarded or developmentally disabled~~ victim with a 4546  
developmental disability be taken because new evidence material to 4547  
the defense of the child charged has been discovered that the 4548  
attorney for the child charged could not with reasonable diligence 4549  
have discovered prior to the taking of the admitted deposition. 4550  
Any motion requesting another deposition shall be accompanied by 4551  
supporting affidavits. Upon the filing of the motion and 4552  
affidavits, the court may order that additional testimony of the 4553  
~~mentally retarded or developmentally disabled~~ victim with a 4554  
developmental disability relative to the new evidence be taken by 4555  
another deposition. If the court orders the taking of another 4556

deposition under this provision, the deposition shall be taken in 4557  
accordance with this division. If the admitted deposition was a 4558  
videotaped deposition taken in accordance with division (B)(2) of 4559  
this section, the new deposition also shall be videotaped in 4560  
accordance with that division. In other cases, the new deposition 4561  
may be videotaped in accordance with that division. 4562

(2) If the prosecution requests that a deposition to be taken 4563  
under division (B)(1) of this section be videotaped, the juvenile 4564  
judge shall order that the deposition be videotaped in accordance 4565  
with this division. If a juvenile judge issues an order to video 4566  
tape the deposition, the judge shall exclude from the room in 4567  
which the deposition is to be taken every person except the 4568  
~~mentally retarded or developmentally disabled~~ victim with a 4569  
developmental disability giving the testimony, the judge, one or 4570  
more interpreters if needed, the attorneys for the prosecution and 4571  
the child who is charged with the violation or act, any person 4572  
needed to operate the equipment to be used, one person chosen by 4573  
the ~~mentally retarded or developmentally disabled~~ victim with a 4574  
developmental disability giving the deposition, and any person 4575  
whose presence the judge determines would contribute to the 4576  
welfare and well-being of the ~~mentally retarded or developmentally~~ 4577  
~~disabled~~ victim with a developmental disability giving the 4578  
deposition. The person chosen by the ~~mentally retarded or~~ 4579  
~~developmentally disabled~~ victim with a developmental disability 4580  
shall not be a witness in the proceeding and, both before and 4581  
during the deposition, shall not discuss the testimony of the 4582  
victim with any other witness in the proceeding. To the extent 4583  
feasible, any person operating the recording equipment shall be 4584  
restricted to a room adjacent to the room in which the deposition 4585  
is being taken, or to a location in the room in which the 4586  
deposition is being taken that is behind a screen or mirror so 4587  
that the person operating the recording equipment can see and 4588  
hear, but cannot be seen or heard by, the ~~mentally retarded or~~ 4589

~~developmentally disabled~~ victim with a developmental disability 4590  
giving the deposition during the deposition. 4591

The child who is charged with the violation or act shall be 4592  
permitted to observe and hear the testimony of the ~~mentally~~ 4593  
~~retarded or developmentally disabled~~ victim with a developmental 4594  
disability giving the deposition on a monitor, shall be provided 4595  
with an electronic means of immediate communication with the 4596  
attorney of the child who is charged with the violation or act 4597  
during the testimony, and shall be restricted to a location from 4598  
which the child who is charged with the violation or act cannot be 4599  
seen or heard by the ~~mentally retarded or developmentally disabled~~ 4600  
victim with a developmental disability giving the deposition, 4601  
except on a monitor provided for that purpose. The ~~mentally~~ 4602  
~~retarded or developmentally disabled~~ victim with a developmental 4603  
disability giving the deposition shall be provided with a monitor 4604  
on which the ~~mentally retarded or developmentally disabled~~ victim 4605  
with a developmental disability can observe, while giving 4606  
testimony, the child who is charged with the violation or act. The 4607  
judge, at the judge's discretion, may preside at the deposition by 4608  
electronic means from outside the room in which the deposition is 4609  
to be taken; if the judge presides by electronic means, the judge 4610  
shall be provided with monitors on which the judge can see each 4611  
person in the room in which the deposition is to be taken and with 4612  
an electronic means of communication with each person in that 4613  
room, and each person in the room shall be provided with a monitor 4614  
on which that person can see the judge and with an electronic 4615  
means of communication with the judge. A deposition that is 4616  
videotaped under this division shall be taken and filed in the 4617  
manner described in division (B)(1) of this section and is 4618  
admissible in the manner described in this division and division 4619  
(C) of this section. If a deposition that is videotaped under this 4620  
division is admitted as evidence at the proceeding, the ~~mentally~~ 4621  
~~retarded or developmentally disabled~~ victim with a developmental 4622

disability shall not be required to testify in person at the 4623  
proceeding. No deposition videotaped under this division shall be 4624  
admitted as evidence at any proceeding unless division (C) of this 4625  
section is satisfied relative to the deposition and all of the 4626  
following apply relative to the recording: 4627

(a) The recording is both aural and visual and is recorded on 4628  
film or videotape, or by other electronic means. 4629

(b) The recording is authenticated under the Rules of 4630  
Evidence and the Rules of Criminal Procedure as a fair and 4631  
accurate representation of what occurred, and the recording is not 4632  
altered other than at the direction and under the supervision of 4633  
the judge in the proceeding. 4634

(c) Each voice on the recording that is material to the 4635  
testimony on the recording or the making of the recording, as 4636  
determined by the judge, is identified. 4637

(d) Both the prosecution and the child who is charged with 4638  
the violation or act are afforded an opportunity to view the 4639  
recording before it is shown in the proceeding. 4640

(C)(1) At any proceeding in relation to which a deposition 4641  
was taken under division (B) of this section, the deposition or a 4642  
part of it is admissible in evidence upon motion of the 4643  
prosecution if the testimony in the deposition or the part to be 4644  
admitted is not excluded by the hearsay rule and if the deposition 4645  
or the part to be admitted otherwise is admissible under the Rules 4646  
of Evidence. For purposes of this division, testimony is not 4647  
excluded by the hearsay rule if the testimony is not hearsay under 4648  
Evidence Rule 801; the testimony is within an exception to the 4649  
hearsay rule set forth in Evidence Rule 803; the ~~mentally retarded~~ 4650  
~~or developmentally disabled~~ victim with a developmental disability 4651  
who gave the testimony is unavailable as a witness, as defined in 4652  
Evidence Rule 804, and the testimony is admissible under that 4653

rule; or both of the following apply: 4654

(a) The child who is charged with the violation or act had an 4655  
opportunity and similar motive at the time of the taking of the 4656  
deposition to develop the testimony by direct, cross, or redirect 4657  
examination. 4658

(b) The judge determines that there is reasonable cause to 4659  
believe that, if the ~~mentally retarded or developmentally disabled~~ 4660  
victim with a developmental disability who gave the testimony in 4661  
the deposition were to testify in person at the proceeding, the 4662  
~~mentally retarded or developmentally disabled~~ victim with a 4663  
developmental disability would experience serious emotional trauma 4664  
as a result of the ~~mentally retarded or developmentally disabled~~ 4665  
~~victim's~~ participation of the victim with a developmental 4666  
disability at the proceeding. 4667

(2) Objections to receiving in evidence a deposition or a 4668  
part of it under division (C) of this section shall be made as 4669  
provided in civil actions. 4670

(3) The provisions of divisions (B) and (C) of this section 4671  
are in addition to any other provisions of the Revised Code, the 4672  
Rules of Juvenile Procedure, the Rules of Criminal Procedure, or 4673  
the Rules of Evidence that pertain to the taking or admission of 4674  
depositions in a juvenile court proceeding and do not limit the 4675  
admissibility under any of those other provisions of any 4676  
deposition taken under division (B) of this section or otherwise 4677  
taken. 4678

(D) In any proceeding in juvenile court involving a 4679  
complaint, indictment, or information in which a child is charged 4680  
with a violation listed in division (B)(1) of this section or an 4681  
act that would be an offense of violence if committed by an adult 4682  
and in which an alleged victim of the violation or offense was a 4683  
~~mentally retarded or developmentally disabled~~ person with a 4684

developmental disability, the prosecution may file a motion with 4685  
the juvenile judge requesting the judge to order the testimony of 4686  
the ~~mentally retarded or developmentally disabled~~ victim with a 4687  
developmental disability to be taken in a room other than the room 4688  
in which the proceeding is being conducted and be televised, by 4689  
closed circuit equipment, into the room in which the proceeding is 4690  
being conducted to be viewed by the child who is charged with the 4691  
violation or act and any other persons who are not permitted in 4692  
the room in which the testimony is to be taken but who would have 4693  
been present during the testimony of the ~~mentally retarded or~~ 4694  
~~developmentally disabled~~ victim with a developmental disability 4695  
had it been given in the room in which the proceeding is being 4696  
conducted. Except for good cause shown, the prosecution shall file 4697  
a motion under this division at least seven days before the date 4698  
of the proceeding. The juvenile judge may issue the order upon the 4699  
motion of the prosecution filed under this division, if the judge 4700  
determines that the ~~mentally retarded or developmentally disabled~~ 4701  
victim with a developmental disability is unavailable to testify 4702  
in the room in which the proceeding is being conducted in the 4703  
physical presence of the child charged with the violation or act 4704  
for one or more of the reasons set forth in division (F) of this 4705  
section. If a juvenile judge issues an order of that nature, the 4706  
judge shall exclude from the room in which the testimony is to be 4707  
taken every person except a person described in division (B)(2) of 4708  
this section. The judge, at the judge's discretion, may preside 4709  
during the giving of the testimony by electronic means from 4710  
outside the room in which it is being given, subject to the 4711  
limitations set forth in division (B)(2) of this section. To the 4712  
extent feasible, any person operating the televising equipment 4713  
shall be hidden from the sight and hearing of the ~~mentally~~ 4714  
~~retarded or developmentally disabled~~ victim with a developmental 4715  
disability giving the testimony, in a manner similar to that 4716  
described in division (B)(2) of this section. The child who is 4717

charged with the violation or act shall be permitted to observe 4718  
and hear the testimony of the ~~mentally retarded or developmentally~~ 4719  
~~disabled~~ victim with a developmental disability giving the 4720  
testimony on a monitor, shall be provided with an electronic means 4721  
of immediate communication with the attorney of the child who is 4722  
charged with the violation or act during the testimony, and shall 4723  
be restricted to a location from which the child who is charged 4724  
with the violation or act cannot be seen or heard by the ~~mentally~~ 4725  
~~retarded or developmentally disabled~~ victim with a developmental 4726  
disability giving the testimony, except on a monitor provided for 4727  
that purpose. The ~~mentally retarded or developmentally disabled~~ 4728  
victim with a developmental disability giving the testimony shall 4729  
be provided with a monitor on which the ~~mentally retarded or~~ 4730  
~~developmentally disabled~~ victim with a developmental disability 4731  
can observe, while giving testimony, the child who is charged with 4732  
the violation or act. 4733

(E) In any proceeding in juvenile court involving a 4734  
complaint, indictment, or information in which a child is charged 4735  
with a violation listed in division (B)(1) of this section or an 4736  
act that would be an offense of violence if committed by an adult 4737  
and in which an alleged victim of the violation or offense was a 4738  
~~mentally retarded or developmentally disabled~~ person with a 4739  
developmental disability, the prosecution may file a motion with 4740  
the juvenile judge requesting the judge to order the testimony of 4741  
the ~~mentally retarded or developmentally disabled~~ victim with a 4742  
developmental disability to be taken outside of the room in which 4743  
the proceeding is being conducted and be recorded for showing in 4744  
the room in which the proceeding is being conducted before the 4745  
judge, the child who is charged with the violation or act, and any 4746  
other persons who would have been present during the testimony of 4747  
the ~~mentally retarded or developmentally disabled~~ victim with a 4748  
developmental disability had it been given in the room in which 4749  
the proceeding is being conducted. Except for good cause shown, 4750

the prosecution shall file a motion under this division at least 4751  
seven days before the date of the proceeding. The juvenile judge 4752  
may issue the order upon the motion of the prosecution filed under 4753  
this division, if the judge determines that the ~~mentally retarded~~ 4754  
~~or developmentally disabled~~ victim with a developmental disability 4755  
is unavailable to testify in the room in which the proceeding is 4756  
being conducted in the physical presence of the child charged with 4757  
the violation or act, due to one or more of the reasons set forth 4758  
in division (F) of this section. If a juvenile judge issues an 4759  
order of that nature, the judge shall exclude from the room in 4760  
which the testimony is to be taken every person except a person 4761  
described in division (B)(2) of this section. To the extent 4762  
feasible, any person operating the recording equipment shall be 4763  
hidden from the sight and hearing of the ~~mentally retarded or~~ 4764  
~~developmentally disabled~~ victim with a developmental disability 4765  
giving the testimony, in a manner similar to that described in 4766  
division (B)(2) of this section. The child who is charged with the 4767  
violation or act shall be permitted to observe and hear the 4768  
testimony of the ~~mentally retarded or developmentally disabled~~ 4769  
victim with a developmental disability giving the testimony on a 4770  
monitor, shall be provided with an electronic means of immediate 4771  
communication with the attorney of the child who is charged with 4772  
the violation or act during the testimony, and shall be restricted 4773  
to a location from which the child who is charged with the 4774  
violation or act cannot be seen or heard by the ~~mentally retarded~~ 4775  
~~or developmentally disabled~~ victim with a developmental disability 4776  
giving the testimony, except on a monitor provided for that 4777  
purpose. The ~~mentally retarded or developmentally disabled~~ victim 4778  
with a developmental disability giving the testimony shall be 4779  
provided with a monitor on which the ~~mentally retarded or~~ 4780  
~~developmentally disabled~~ victim with a developmental disability 4781  
can observe, while giving testimony, the child who is charged with 4782  
the violation or act. No order for the taking of testimony by 4783

recording shall be issued under this division unless the 4784  
provisions set forth in divisions (B)(2)(a), (b), (c), and (d) of 4785  
this section apply to the recording of the testimony. 4786

(F) For purposes of divisions (D) and (E) of this section, a 4787  
juvenile judge may order the testimony of a ~~mentally retarded or~~ 4788  
~~developmentally disabled~~ victim with a developmental disability to 4789  
be taken outside of the room in which a proceeding is being 4790  
conducted if the judge determines that the ~~mentally retarded or~~ 4791  
~~developmentally disabled~~ victim with a developmental disability is 4792  
unavailable to testify in the room in the physical presence of the 4793  
child charged with the violation or act due to one or more of the 4794  
following circumstances: 4795

(1) The persistent refusal of the ~~mentally retarded or~~ 4796  
~~developmentally disabled~~ victim with a developmental disability to 4797  
testify despite judicial requests to do so; 4798

(2) The inability of the ~~mentally retarded or developmentally~~ 4799  
~~disabled~~ victim with a developmental disability to communicate 4800  
about the alleged violation or offense because of extreme fear, 4801  
failure of memory, or another similar reason; 4802

(3) The substantial likelihood that the ~~mentally retarded or~~ 4803  
~~developmentally disabled~~ victim with a developmental disability 4804  
will suffer serious emotional trauma from so testifying. 4805

(G)(1) If a juvenile judge issues an order pursuant to 4806  
division (D) or (E) of this section that requires the testimony of 4807  
a ~~mentally retarded or developmentally disabled~~ victim with a 4808  
developmental disability in a juvenile court proceeding to be 4809  
taken outside of the room in which the proceeding is being 4810  
conducted, the order shall specifically identify the ~~mentally~~ 4811  
~~retarded or developmentally disabled~~ victim with a developmental 4812  
disability to whose testimony it applies, the order applies only 4813  
during the testimony of the specified ~~mentally retarded or~~ 4814

~~developmentally disabled~~ victim with a developmental disability, 4815  
and the ~~mentally retarded or developmentally disabled~~ victim with 4816  
a developmental disability giving the testimony shall not be 4817  
required to testify at the proceeding other than in accordance 4818  
with the order. The authority of a judge to close the taking of a 4819  
deposition under division (B)(2) of this section or a proceeding 4820  
under division (D) or (E) of this section is in addition to the 4821  
authority of a judge to close a hearing pursuant to section 4822  
2151.35 of the Revised Code. 4823

(2) A juvenile judge who makes any determination regarding 4824  
the admissibility of a deposition under divisions (B) and (C) of 4825  
this section, the videotaping of a deposition under division 4826  
(B)(2) of this section, or the taking of testimony outside of the 4827  
room in which a proceeding is being conducted under division (D) 4828  
or (E) of this section shall enter the determination and findings 4829  
on the record in the proceeding. 4830

**Sec. 2305.111.** (A) As used in this section: 4831

(1) "Childhood sexual abuse" means any conduct that 4832  
constitutes any of the violations identified in division (A)(1)(a) 4833  
or (b) of this section and would constitute a criminal offense 4834  
under the specified section or division of the Revised Code, if 4835  
the victim of the violation is at the time of the violation a 4836  
child under eighteen years of age or a ~~mentally retarded,~~ 4837  
~~developmentally disabled, or physically impaired~~ child with a 4838  
developmental disability or physical impairment under twenty-one 4839  
years of age. The court need not find that any person has been 4840  
convicted of or pleaded guilty to the offense under the specified 4841  
section or division of the Revised Code in order for the conduct 4842  
that is the violation constituting the offense to be childhood 4843  
sexual abuse for purposes of this division. This division applies 4844  
to any of the following violations committed in the following 4845

specified circumstances: 4846

(a) A violation of section 2907.02 or of division (A)(1), 4847  
(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03 of 4848  
the Revised Code; 4849

(b) A violation of section 2907.05 or 2907.06 of the Revised 4850  
Code if, at the time of the violation, any of the following apply: 4851

(i) The actor is the victim's natural parent, adoptive 4852  
parent, or stepparent or the guardian, custodian, or person in 4853  
loco parentis of the victim. 4854

(ii) The victim is in custody of law or a patient in a 4855  
hospital or other institution, and the actor has supervisory or 4856  
disciplinary authority over the victim. 4857

(iii) The actor is a teacher, administrator, coach, or other 4858  
person in authority employed by or serving in a school for which 4859  
the state board of education prescribes minimum standards pursuant 4860  
to division (D) of section 3301.07 of the Revised Code, the victim 4861  
is enrolled in or attends that school, and the actor is not 4862  
enrolled in and does not attend that school. 4863

(iv) The actor is a teacher, administrator, coach, or other 4864  
person in authority employed by or serving in an institution of 4865  
higher education, and the victim is enrolled in or attends that 4866  
institution. 4867

(v) The actor is the victim's athletic or other type of 4868  
coach, is the victim's instructor, is the leader of a scouting 4869  
troop of which the victim is a member, or is a person with 4870  
temporary or occasional disciplinary control over the victim. 4871

(vi) The actor is a mental health professional, the victim is 4872  
a mental health client or patient of the actor, and the actor 4873  
induces the victim to submit by falsely representing to the victim 4874  
that the sexual contact involved in the violation is necessary for 4875

mental health treatment purposes. 4876

(vii) The victim is confined in a detention facility, and the actor is an employee of that detention facility. 4877  
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(viii) The actor is a cleric, and the victim is a member of, or attends, the church or congregation served by the cleric. 4879  
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(2) "Cleric" has the same meaning as in section 2317.02 of the Revised Code. 4881  
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(3) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code. 4883  
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(4) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code. 4885  
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(5) "Sexual contact" has the same meaning as in section 2907.01 of the Revised Code. 4887  
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(6) "Victim" means, except as provided in division (B) of this section, a victim of childhood sexual abuse. 4889  
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(B) Except as provided in section 2305.115 of the Revised Code and subject to division (C) of this section, an action for assault or battery shall be brought within one year after the cause of the action accrues. For purposes of this section, a cause of action for assault or battery accrues upon the later of the following: 4891  
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(1) The date on which the alleged assault or battery occurred; 4897  
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(2) If the plaintiff did not know the identity of the person who allegedly committed the assault or battery on the date on which it allegedly occurred, the earlier of the following dates: 4899  
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(a) The date on which the plaintiff learns the identity of that person; 4902  
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(b) The date on which, by the exercise of reasonable 4904

diligence, the plaintiff should have learned the identity of that person. 4905  
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(C) An action for assault or battery brought by a victim of childhood sexual abuse based on childhood sexual abuse, or an action brought by a victim of childhood sexual abuse asserting any claim resulting from childhood sexual abuse, shall be brought within twelve years after the cause of action accrues. For purposes of this section, a cause of action for assault or battery based on childhood sexual abuse, or a cause of action for a claim resulting from childhood sexual abuse, accrues upon the date on which the victim reaches the age of majority. If the defendant in an action brought by a victim of childhood sexual abuse asserting a claim resulting from childhood sexual abuse that occurs on or after ~~the effective date of this act~~ August 3, 2006, has fraudulently concealed from the plaintiff facts that form the basis of the claim, the running of the limitations period with regard to that claim is tolled until the time when the plaintiff discovers or in the exercise of due diligence should have discovered those facts. 4907  
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**Sec. 2311.14.** (A)(1) Whenever because of a hearing, speech, or other impairment a party to or witness in a legal proceeding cannot readily understand or communicate, the court shall appoint a qualified interpreter to assist such person. 4924  
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(2) This section is not limited to a person who speaks a language other than English. It also applies to the language and descriptions of any ~~mentally retarded person or developmentally disabled~~ person with a developmental disability who cannot be reasonably understood, or who cannot understand questioning, without the aid of an interpreter. The interpreter may aid the parties in formulating methods of questioning the person with ~~mental retardation or~~ a developmental disability and in 4928  
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interpreting the answers of the person. 4936

(B) Before entering upon official duties, the interpreter 4937  
shall take an oath that the interpreter will make a true 4938  
interpretation of the proceedings to the party or witness, and 4939  
that the interpreter will truly repeat the statements made by such 4940  
party or witness to the court, to the best of the interpreter's 4941  
ability. If the interpreter is appointed to assist a ~~mentally~~ 4942  
~~retarded person or developmentally disabled person~~ with a 4943  
developmental disability as described in division (A)(2) of this 4944  
section, the oath also shall include an oath that the interpreter 4945  
will not prompt, lead, suggest, or otherwise improperly influence 4946  
the testimony of the witness or party. 4947

(C) The court shall determine a reasonable fee for all such 4948  
interpreter service which shall be paid out of the same funds as 4949  
witness fees. If the party taxed with costs is indigent, the court 4950  
shall not tax the interpreter's fees as costs, and the county or, 4951  
if the court is a municipal court that is not a county-operated 4952  
municipal court, the municipal corporation in which the court is 4953  
located shall pay the interpreter's fees. 4954

(D) As used in this section, "~~mentally retarded person~~" and 4955  
"~~developmentally disabled person~~ with a developmental disability" 4956  
~~have~~ has the same ~~meanings~~ meaning as in section 5123.01 of the 4957  
Revised Code. 4958

**Sec. 2317.021.** (A) As used in division (A) of section 2317.02 4959  
of the Revised Code: 4960

"Client" means a person, firm, partnership, corporation, or 4961  
other association that, directly or through any representative, 4962  
consults an attorney for the purpose of retaining the attorney or 4963  
securing legal service or advice from the attorney in the 4964  
attorney's professional capacity, or consults an attorney employee 4965  
for legal service or advice, and who communicates, either directly 4966

or through an agent, employee, or other representative, with such attorney; and includes an incompetent person whose guardian so consults the attorney in behalf of the incompetent person.

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

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

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

**Sec. 2503.37.** Cases commenced in or taken to the supreme court shall be entered on the docket in the order in which they are commenced, received, or filed. They shall be disposed of in the same order, except that the court may dispose of the following classes of cases in advance of their order on the docket:

(A) Proceedings in quo warranto, mandamus, procedendo, prohibition, or habeas corpus;

(B) Cases in which the person seeking relief has been convicted of felony;

(C) Cases involving the validity of a tax levy or assessment;

(D) Cases involving the construction or constitutionality of

a statute, or a question of practice, in which the questions 4997  
arising are of general public interest; 4998

(E) Cases of general interest to the public, if two or more 4999  
of the courts of appeals have held the law directly opposite upon 5000  
like facts; 5001

(F) Cases in which the relief sought is damages for personal 5002  
injury, or for death caused by negligence, and in which the person 5003  
injured makes affidavit that the person's livelihood is dependent 5004  
upon daily labor, or, in case of death, in which the surviving 5005  
spouse or any of the next of kin of the deceased makes an 5006  
affidavit that the surviving spouse or next of kin was dependent 5007  
for livelihood upon the person's or the decedent's daily labor; 5008

(G) Cases in which a trust fund for the care, support, or 5009  
education of a minor, or care or support of a ~~mentally retarded~~ 5010  
person with a developmental disability that is an intellectual 5011  
disability, is in question; 5012

(H) Cases involving controversies or questions arising in the 5013  
administration of the estate of a deceased person under the laws 5014  
of this state; 5015

(I) Cases involving the construction of a statute for the 5016  
annexation of territory to a municipal corporation. 5017

**Sec. 2721.05.** As used in this section, "incompetent person" 5018  
means a person who is so mentally impaired as a result of a mental 5019  
or physical illness or disability, or ~~mental retardation~~ a 5020  
developmental disability that is an intellectual disability, or as 5021  
a result of chronic substance abuse, that the person is incapable 5022  
of taking proper care of the person's self or property or fails to 5023  
provide for the person's family or other persons for whom the 5024  
person is charged by law to provide. 5025

Any person interested as or through an executor, 5026

administrator, trustee, guardian, or other fiduciary, creditor, 5027  
devisee, legatee, heir, next of kin, or cestui que trust, in the 5028  
administration of a trust, or of the estate of a decedent, an 5029  
infant, an incompetent person, or an insolvent person, may have a 5030  
declaration of rights or legal relations in respect thereto in any 5031  
of the following cases: 5032

(A) To ascertain any class of creditors, devisees, legatees, 5033  
heirs, next of kin, or others; 5034

(B) To direct the executors, administrators, trustees, or 5035  
other fiduciaries to do or abstain from doing any particular act 5036  
in their fiduciary capacity; 5037

(C) To determine any question arising in the administration 5038  
of the estate or trust, including questions of construction of 5039  
wills and other writings. 5040

**Sec. 2744.01.** As used in this chapter: 5041

(A) "Emergency call" means a call to duty, including, but not 5042  
limited to, communications from citizens, police dispatches, and 5043  
personal observations by peace officers of inherently dangerous 5044  
situations that demand an immediate response on the part of a 5045  
peace officer. 5046

(B) "Employee" means an officer, agent, employee, or servant, 5047  
whether or not compensated or full-time or part-time, who is 5048  
authorized to act and is acting within the scope of the officer's, 5049  
agent's, employee's, or servant's employment for a political 5050  
subdivision. "Employee" does not include an independent contractor 5051  
and does not include any individual engaged by a school district 5052  
pursuant to section 3319.301 of the Revised Code. "Employee" 5053  
includes any elected or appointed official of a political 5054  
subdivision. "Employee" also includes a person who has been 5055  
convicted of or pleaded guilty to a criminal offense and who has 5056

been sentenced to perform community service work in a political 5057  
subdivision whether pursuant to section 2951.02 of the Revised 5058  
Code or otherwise, and a child who is found to be a delinquent 5059  
child and who is ordered by a juvenile court pursuant to section 5060  
2152.19 or 2152.20 of the Revised Code to perform community 5061  
service or community work in a political subdivision. 5062

(C)(1) "Governmental function" means a function of a 5063  
political subdivision that is specified in division (C)(2) of this 5064  
section or that satisfies any of the following: 5065

(a) A function that is imposed upon the state as an 5066  
obligation of sovereignty and that is performed by a political 5067  
subdivision voluntarily or pursuant to legislative requirement; 5068

(b) A function that is for the common good of all citizens of 5069  
the state; 5070

(c) A function that promotes or preserves the public peace, 5071  
health, safety, or welfare; that involves activities that are not 5072  
engaged in or not customarily engaged in by nongovernmental 5073  
persons; and that is not specified in division (G)(2) of this 5074  
section as a proprietary function. 5075

(2) A "governmental function" includes, but is not limited 5076  
to, the following: 5077

(a) The provision or nonprovision of police, fire, emergency 5078  
medical, ambulance, and rescue services or protection; 5079

(b) The power to preserve the peace; to prevent and suppress 5080  
riots, disturbances, and disorderly assemblages; to prevent, 5081  
mitigate, and clean up releases of oil and hazardous and extremely 5082  
hazardous substances as defined in section 3750.01 of the Revised 5083  
Code; and to protect persons and property; 5084

(c) The provision of a system of public education; 5085

(d) The provision of a free public library system; 5086

(e) The regulation of the use of, and the maintenance and	5087
repair of, roads, highways, streets, avenues, alleys, sidewalks,	5088
bridges, aqueducts, viaducts, and public grounds;	5089
(f) Judicial, quasi-judicial, prosecutorial, legislative, and	5090
quasi-legislative functions;	5091
(g) The construction, reconstruction, repair, renovation,	5092
maintenance, and operation of buildings that are used in	5093
connection with the performance of a governmental function,	5094
including, but not limited to, office buildings and courthouses;	5095
(h) The design, construction, reconstruction, renovation,	5096
repair, maintenance, and operation of jails, places of juvenile	5097
detention, workhouses, or any other detention facility, as defined	5098
in section 2921.01 of the Revised Code;	5099
(i) The enforcement or nonperformance of any law;	5100
(j) The regulation of traffic, and the erection or	5101
nonerection of traffic signs, signals, or control devices;	5102
(k) The collection and disposal of solid wastes, as defined	5103
in section 3734.01 of the Revised Code, including, but not limited	5104
to, the operation of solid waste disposal facilities, as	5105
"facilities" is defined in that section, and the collection and	5106
management of hazardous waste generated by households. As used in	5107
division (C)(2)(k) of this section, "hazardous waste generated by	5108
households" means solid waste originally generated by individual	5109
households that is listed specifically as hazardous waste in or	5110
exhibits one or more characteristics of hazardous waste as defined	5111
by rules adopted under section 3734.12 of the Revised Code, but	5112
that is excluded from regulation as a hazardous waste by those	5113
rules.	5114
(l) The provision or nonprovision, planning or design,	5115
construction, or reconstruction of a public improvement,	5116
including, but not limited to, a sewer system;	5117

(m) The operation of a job and family services department or agency, including, but not limited to, the provision of assistance to aged and infirm persons and to persons who are indigent;	5118 5119 5120
(n) The operation of a health board, department, or agency, including, but not limited to, any statutorily required or permissive program for the provision of immunizations or other inoculations to all or some members of the public, provided that a "governmental function" does not include the supply, manufacture, distribution, or development of any drug or vaccine employed in any such immunization or inoculation program by any supplier, manufacturer, distributor, or developer of the drug or vaccine;	5121 5122 5123 5124 5125 5126 5127 5128
(o) The operation of mental health facilities, <del>mental retardation or</del> developmental disabilities facilities, alcohol treatment and control centers, and children's homes or agencies;	5129 5130 5131
(p) The provision or nonprovision of inspection services of all types, including, but not limited to, inspections in connection with building, zoning, sanitation, fire, plumbing, and electrical codes, and the taking of actions in connection with those types of codes, including, but not limited to, the approval of plans for the construction of buildings or structures and the issuance or revocation of building permits or stop work orders in connection with buildings or structures;	5132 5133 5134 5135 5136 5137 5138 5139
(q) Urban renewal projects and the elimination of slum conditions, including the performance of any activity that a county land reutilization corporation is authorized to perform under Chapter 1724. or 5722. of the Revised Code;	5140 5141 5142 5143
(r) Flood control measures;	5144
(s) The design, construction, reconstruction, renovation, operation, care, repair, and maintenance of a township cemetery;	5145 5146
(t) The issuance of revenue obligations under section 140.06 of the Revised Code;	5147 5148

(u) The design, construction, reconstruction, renovation,	5149
repair, maintenance, and operation of any school athletic	5150
facility, school auditorium, or gymnasium or any recreational area	5151
or facility, including, but not limited to, any of the following:	5152
(i) A park, playground, or playfield;	5153
(ii) An indoor recreational facility;	5154
(iii) A zoo or zoological park;	5155
(iv) A bath, swimming pool, pond, water park, wading pool,	5156
wave pool, water slide, or other type of aquatic facility;	5157
(v) A golf course;	5158
(vi) A bicycle motocross facility or other type of	5159
recreational area or facility in which bicycling, skating, skate	5160
boarding, or scooter riding is engaged;	5161
(vii) A rope course or climbing walls;	5162
(viii) An all-purpose vehicle facility in which all-purpose	5163
vehicles, as defined in section 4519.01 of the Revised Code, are	5164
contained, maintained, or operated for recreational activities.	5165
(v) The provision of public defender services by a county or	5166
joint county public defender's office pursuant to Chapter 120. of	5167
the Revised Code;	5168
(w)(i) At any time before regulations prescribed pursuant to	5169
49 U.S.C.A 20153 become effective, the designation, establishment,	5170
design, construction, implementation, operation, repair, or	5171
maintenance of a public road rail crossing in a zone within a	5172
municipal corporation in which, by ordinance, the legislative	5173
authority of the municipal corporation regulates the sounding of	5174
locomotive horns, whistles, or bells;	5175
(ii) On and after the effective date of regulations	5176
prescribed pursuant to 49 U.S.C.A. 20153, the designation,	5177
establishment, design, construction, implementation, operation,	5178

repair, or maintenance of a public road rail crossing in such a zone or of a supplementary safety measure, as defined in 49 U.S.C.A 20153, at or for a public road rail crossing, if and to the extent that the public road rail crossing is excepted, pursuant to subsection (c) of that section, from the requirement of the regulations prescribed under subsection (b) of that section.

(x) A function that the general assembly mandates a political subdivision to perform.

(D) "Law" means any provision of the constitution, statutes, or rules of the United States or of this state; provisions of charters, ordinances, resolutions, and rules of political subdivisions; and written policies adopted by boards of education. When used in connection with the "common law," this definition does not apply.

(E) "Motor vehicle" has the same meaning as in section 4511.01 of the Revised Code.

(F) "Political subdivision" or "subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state. "Political subdivision" includes, but is not limited to, a county hospital commission appointed under section 339.14 of the Revised Code, board of hospital commissioners appointed for a municipal hospital under section 749.04 of the Revised Code, board of hospital trustees appointed for a municipal hospital under section 749.22 of the Revised Code, regional planning commission created pursuant to section 713.21 of the Revised Code, county planning commission created pursuant to section 713.22 of the Revised Code, joint planning council created pursuant to section 713.231 of the Revised Code, interstate regional planning commission created pursuant to section 713.30 of the Revised Code, port authority

created pursuant to section 4582.02 or 4582.26 of the Revised Code 5211  
or in existence on December 16, 1964, regional council established 5212  
by political subdivisions pursuant to Chapter 167. of the Revised 5213  
Code, emergency planning district and joint emergency planning 5214  
district designated under section 3750.03 of the Revised Code, 5215  
joint emergency medical services district created pursuant to 5216  
section 307.052 of the Revised Code, fire and ambulance district 5217  
created pursuant to section 505.375 of the Revised Code, joint 5218  
interstate emergency planning district established by an agreement 5219  
entered into under that section, county solid waste management 5220  
district and joint solid waste management district established 5221  
under section 343.01 or 343.012 of the Revised Code, community 5222  
school established under Chapter 3314. of the Revised Code, county 5223  
land reutilization corporation organized under Chapter 1724. of 5224  
the Revised Code, the county or counties served by a 5225  
community-based correctional facility and program or district 5226  
community-based correctional facility and program established and 5227  
operated under sections 2301.51 to 2301.58 of the Revised Code, a 5228  
community-based correctional facility and program or district 5229  
community-based correctional facility and program that is so 5230  
established and operated, and the facility governing board of a 5231  
community-based correctional facility and program or district 5232  
community-based correctional facility and program that is so 5233  
established and operated. 5234

(G)(1) "Proprietary function" means a function of a political 5235  
subdivision that is specified in division (G)(2) of this section 5236  
or that satisfies both of the following: 5237

(a) The function is not one described in division (C)(1)(a) 5238  
or (b) of this section and is not one specified in division (C)(2) 5239  
of this section; 5240

(b) The function is one that promotes or preserves the public 5241  
peace, health, safety, or welfare and that involves activities 5242

that are customarily engaged in by nongovernmental persons. 5243

(2) A "proprietary function" includes, but is not limited to, 5244  
the following: 5245

(a) The operation of a hospital by one or more political 5246  
subdivisions; 5247

(b) The design, construction, reconstruction, renovation, 5248  
repair, maintenance, and operation of a public cemetery other than 5249  
a township cemetery; 5250

(c) The establishment, maintenance, and operation of a 5251  
utility, including, but not limited to, a light, gas, power, or 5252  
heat plant, a railroad, a busline or other transit company, an 5253  
airport, and a municipal corporation water supply system; 5254

(d) The maintenance, destruction, operation, and upkeep of a 5255  
sewer system; 5256

(e) The operation and control of a public stadium, 5257  
auditorium, civic or social center, exhibition hall, arts and 5258  
crafts center, band or orchestra, or off-street parking facility. 5259

(H) "Public roads" means public roads, highways, streets, 5260  
avenues, alleys, and bridges within a political subdivision. 5261  
"Public roads" does not include berms, shoulders, rights-of-way, 5262  
or traffic control devices unless the traffic control devices are 5263  
mandated by the Ohio manual of uniform traffic control devices. 5264

(I) "State" means the state of Ohio, including, but not 5265  
limited to, the general assembly, the supreme court, the offices 5266  
of all elected state officers, and all departments, boards, 5267  
offices, commissions, agencies, colleges and universities, 5268  
institutions, and other instrumentalities of the state of Ohio. 5269  
"State" does not include political subdivisions. 5270

**Sec. 2901.13.** (A)(1) Except as provided in division (A)(2) or 5271  
(3) of this section or as otherwise provided in this section, a 5272

prosecution shall be barred unless it is commenced within the 5273  
following periods after an offense is committed: 5274

(a) For a felony, six years; 5275

(b) For a misdemeanor other than a minor misdemeanor, two 5276  
years; 5277

(c) For a minor misdemeanor, six months. 5278

(2) There is no period of limitation for the prosecution of a 5279  
violation of section 2903.01 or 2903.02 of the Revised Code. 5280

(3) Except as otherwise provided in divisions (B) to (H) of 5281  
this section, a prosecution of any of the following offenses shall 5282  
be barred unless it is commenced within twenty years after the 5283  
offense is committed: 5284

(a) A violation of section 2903.03, 2903.04, 2905.01, 5285  
2905.32, 2907.02, 2907.03, 2907.04, 2907.05, 2907.21, 2909.02, 5286  
2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 5287  
2911.01, 2911.02, 2911.11, 2911.12, or 2917.02 of the Revised 5288  
Code, a violation of section 2903.11 or 2903.12 of the Revised 5289  
Code if the victim is a peace officer, a violation of section 5290  
2903.13 of the Revised Code that is a felony, or a violation of 5291  
former section 2907.12 of the Revised Code; 5292

(b) A conspiracy to commit, attempt to commit, or complicity 5293  
in committing a violation set forth in division (A)(3)(a) of this 5294  
section. 5295

(B)(1) Except as otherwise provided in division (B)(2) of 5296  
this section, if the period of limitation provided in division 5297  
(A)(1) or (3) of this section has expired, prosecution shall be 5298  
commenced for an offense of which an element is fraud or breach of 5299  
a fiduciary duty, within one year after discovery of the offense 5300  
either by an aggrieved person, or by the aggrieved person's legal 5301  
representative who is not a party to the offense. 5302

(2) If the period of limitation provided in division (A)(1) 5303  
or (3) of this section has expired, prosecution for a violation of 5304  
section 2913.49 of the Revised Code shall be commenced within five 5305  
years after discovery of the offense either by an aggrieved person 5306  
or the aggrieved person's legal representative who is not a party 5307  
to the offense. 5308

(C)(1) If the period of limitation provided in division 5309  
(A)(1) or (3) of this section has expired, prosecution shall be 5310  
commenced for the following offenses during the following 5311  
specified periods of time: 5312

(a) For an offense involving misconduct in office by a public 5313  
servant, at any time while the accused remains a public servant, 5314  
or within two years thereafter; 5315

(b) For an offense by a person who is not a public servant 5316  
but whose offense is directly related to the misconduct in office 5317  
of a public servant, at any time while that public servant remains 5318  
a public servant, or within two years thereafter. 5319

(2) As used in this division: 5320

(a) An "offense is directly related to the misconduct in 5321  
office of a public servant" includes, but is not limited to, a 5322  
violation of section 101.71, 101.91, 121.61 or 2921.13, division 5323  
(F) or (H) of section 102.03, division (A) of section 2921.02, 5324  
division (A) or (B) of section 2921.43, or division (F) or (G) of 5325  
section 3517.13 of the Revised Code, that is directly related to 5326  
an offense involving misconduct in office of a public servant. 5327

(b) "Public servant" has the same meaning as in section 5328  
2921.01 of the Revised Code. 5329

(D) An offense is committed when every element of the offense 5330  
occurs. In the case of an offense of which an element is a 5331  
continuing course of conduct, the period of limitation does not 5332  
begin to run until such course of conduct or the accused's 5333

accountability for it terminates, whichever occurs first. 5334

(E) A prosecution is commenced on the date an indictment is 5335  
returned or an information filed, or on the date a lawful arrest 5336  
without a warrant is made, or on the date a warrant, summons, 5337  
citation, or other process is issued, whichever occurs first. A 5338  
prosecution is not commenced by the return of an indictment or the 5339  
filing of an information unless reasonable diligence is exercised 5340  
to issue and execute process on the same. A prosecution is not 5341  
commenced upon issuance of a warrant, summons, citation, or other 5342  
process, unless reasonable diligence is exercised to execute the 5343  
same. 5344

(F) The period of limitation shall not run during any time 5345  
when the corpus delicti remains undiscovered. 5346

(G) The period of limitation shall not run during any time 5347  
when the accused purposely avoids prosecution. Proof that the 5348  
accused departed this state or concealed the accused's identity or 5349  
whereabouts is prima-facie evidence of the accused's purpose to 5350  
avoid prosecution. 5351

(H) The period of limitation shall not run during any time a 5352  
prosecution against the accused based on the same conduct is 5353  
pending in this state, even though the indictment, information, or 5354  
process that commenced the prosecution is quashed or the 5355  
proceedings on the indictment, information, or process are set 5356  
aside or reversed on appeal. 5357

(I) The period of limitation for a violation of any provision 5358  
of Title XXIX of the Revised Code that involves a physical or 5359  
mental wound, injury, disability, or condition of a nature that 5360  
reasonably indicates abuse or neglect of a child under eighteen 5361  
years of age or of a ~~mentally retarded, developmentally disabled,~~ 5362  
~~or physically impaired~~ child with a developmental disability or 5363  
physical impairment under twenty-one years of age shall not begin 5364

to run until either of the following occurs: 5365

(1) The victim of the offense reaches the age of majority. 5366

(2) A public children services agency, or a municipal or 5367  
county peace officer that is not the parent or guardian of the 5368  
child, in the county in which the child resides or in which the 5369  
abuse or neglect is occurring or has occurred has been notified 5370  
that abuse or neglect is known, suspected, or believed to have 5371  
occurred. 5372

(J) As used in this section, "peace officer" has the same 5373  
meaning as in section 2935.01 of the Revised Code. 5374

**Sec. 2903.341.** (A) As used in this section: 5375

(1) "~~MR/DD~~ Developmental disabilities caretaker" means any 5376  
~~MR/DD~~ developmental disabilities employee or any person who 5377  
assumes the duty to provide for the care and protection of a 5378  
~~mentally retarded person or a developmentally disabled person with~~ 5379  
a developmental disability on a voluntary basis, by contract, 5380  
through receipt of payment for care and protection, as a result of 5381  
a family relationship, or by order of a court of competent 5382  
jurisdiction. "~~MR/DD~~ Developmental disabilities caretaker" 5383  
includes a person who is an employee of a care facility and a 5384  
person who is an employee of an entity under contract with a 5385  
provider. "~~MR/DD~~ Developmental disabilities caretaker" does not 5386  
include a person who owns, operates, or administers a care 5387  
facility or who is an agent of a care facility unless that person 5388  
also personally provides care to persons with ~~mental retardation~~ 5389  
~~or~~ a developmental disability. 5390

(2) "~~Mentally retarded person~~" and "~~developmentally disabled~~ 5391  
~~person~~ Person with a developmental disability" ~~have~~ has the same 5392  
~~meanings~~ meaning as in section 5123.01 of the Revised Code. 5393

(3) "~~MR/DD~~ Developmental disabilities employee" has the same 5394

meaning as in section 5123.50 of the Revised Code. 5395

(B) No ~~MR/DD~~ developmental disabilities caretaker shall 5396  
create a substantial risk to the health or safety of a ~~mentally~~ 5397  
~~retarded person or a developmentally disabled person~~ with a 5398  
developmental disability. ~~An MR/DD~~ A developmental disabilities 5399  
caretaker does not create a substantial risk to the health or 5400  
safety of a ~~mentally retarded person or a developmentally disabled~~ 5401  
~~person~~ with a developmental disability under this division when 5402  
the ~~MR/DD~~ developmental disabilities caretaker treats a physical 5403  
or mental illness or defect of the ~~mentally retarded person or~~ 5404  
~~developmentally disabled~~ person with a developmental disability by 5405  
spiritual means through prayer alone, in accordance with the 5406  
tenets of a recognized religious body. 5407

(C) No person who owns, operates, or administers a care 5408  
facility or who is an agent of a care facility shall condone, or 5409  
knowingly permit, any conduct by ~~an MR/DD~~ a developmental 5410  
disabilities caretaker who is employed by or under the control of 5411  
the owner, operator, administrator, or agent that is in violation 5412  
of division (B) of this section and that involves a ~~mentally~~ 5413  
~~retarded person or a developmentally disabled person~~ with a 5414  
developmental disability who is under the care of the owner, 5415  
operator, administrator, or agent. A person who relies upon 5416  
treatment by spiritual means through prayer alone, in accordance 5417  
with the tenets of a recognized religious denomination, shall not 5418  
be considered endangered under this division for that reason 5419  
alone. 5420

(D)(1) It is an affirmative defense to a charge of a 5421  
violation of division (B) or (C) of this section that the actor's 5422  
conduct was committed in good faith solely because the actor was 5423  
ordered to commit the conduct by a person to whom one of the 5424  
following applies: 5425

(a) The person has supervisory authority over the actor. 5426

(b) The person has authority over the actor's conduct 5427  
pursuant to a contract for the provision of services. 5428

(2) It is an affirmative defense to a charge of a violation 5429  
of division (C) of this section that the person who owns, 5430  
operates, or administers a care facility or who is an agent of a 5431  
care facility and who is charged with the violation is following 5432  
the individual service plan for the involved ~~mentally retarded~~ 5433  
~~person or a developmentally disabled~~ person with a developmental 5434  
disability or that the admission, discharge, and transfer rule set 5435  
forth in the Administrative Code is being followed. 5436

(3) It is an affirmative defense to a charge of a violation 5437  
of division (C) of this section that the actor did not have 5438  
readily available a means to prevent either the harm to the person 5439  
with ~~mental retardation or~~ a developmental disability or the death 5440  
of such a person and the actor took reasonable steps to summon 5441  
aid. 5442

(E)(1) Except as provided in division (E)(2) or (E)(3) of 5443  
this section, whoever violates division (B) or (C) of this section 5444  
is guilty of patient endangerment, a misdemeanor of the first 5445  
degree. 5446

(2) If the offender previously has been convicted of, or 5447  
pleaded guilty to, a violation of this section, patient 5448  
endangerment is a felony of the fourth degree. 5449

(3) If the violation results in serious physical harm to the 5450  
person with ~~mental retardation or~~ a developmental disability, 5451  
patient endangerment is a felony of the third degree. 5452

**Sec. 2919.23.** (A) No person, knowing the person is without 5453  
privilege to do so or being reckless in that regard, shall entice, 5454  
take, keep, or harbor a person identified in division (A)(1), (2), 5455  
or (3) of this section from the parent, guardian, or custodian of 5456

the person identified in division (A)(1), (2), or (3) of this section: 5457  
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(1) A child under the age of eighteen, or a mentally or physically handicapped child under the age of twenty-one; 5459  
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(2) A person committed by law to an institution for delinquent, unruly, neglected, abused, or dependent children; 5461  
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(3) A person committed by law to an institution for the mentally ill or ~~mentally retarded~~ an institution for persons with developmental disabilities that are intellectual disabilities. 5463  
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(B) No person shall aid, abet, induce, cause, or encourage a child or a ward of the juvenile court who has been committed to the custody of any person, department, or public or private institution to leave the custody of that person, department, or institution without legal consent. 5466  
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(C) It is an affirmative defense to a charge of enticing or taking under division (A)(1) of this section, that the actor reasonably believed that the actor's conduct was necessary to preserve the child's health or safety. It is an affirmative defense to a charge of keeping or harboring under division (A) of this section, that the actor in good faith gave notice to law enforcement or judicial authorities within a reasonable time after the child or committed person came under the actor's shelter, protection, or influence. 5471  
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(D)(1) Whoever violates this section is guilty of interference with custody. 5480  
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(2) Except as otherwise provided in this division, a violation of division (A)(1) of this section is a misdemeanor of the first degree. If the child who is the subject of a violation of division (A)(1) of this section is removed from the state or if the offender previously has been convicted of an offense under this section, a violation of division (A)(1) of this section is a 5482  
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felony of the fifth degree. If the child who is the subject of a 5488  
violation of division (A)(1) of this section suffers physical harm 5489  
as a result of the violation, a violation of division (A)(1) of 5490  
this section is a felony of the fourth degree. 5491

(3) A violation of division (A)(2) or (3) of this section is 5492  
a misdemeanor of the third degree. 5493

(4) A violation of division (B) of this section is a 5494  
misdemeanor of the first degree. Each day of violation of division 5495  
(B) of this section is a separate offense. 5496

**Sec. 2929.04.** (A) Imposition of the death penalty for 5497  
aggravated murder is precluded unless one or more of the following 5498  
is specified in the indictment or count in the indictment pursuant 5499  
to section 2941.14 of the Revised Code and proved beyond a 5500  
reasonable doubt: 5501

(1) The offense was the assassination of the president of the 5502  
United States or a person in line of succession to the presidency, 5503  
the governor or lieutenant governor of this state, the 5504  
president-elect or vice president-elect of the United States, the 5505  
governor-elect or lieutenant governor-elect of this state, or a 5506  
candidate for any of the offices described in this division. For 5507  
purposes of this division, a person is a candidate if the person 5508  
has been nominated for election according to law, if the person 5509  
has filed a petition or petitions according to law to have the 5510  
person's name placed on the ballot in a primary or general 5511  
election, or if the person campaigns as a write-in candidate in a 5512  
primary or general election. 5513

(2) The offense was committed for hire. 5514

(3) The offense was committed for the purpose of escaping 5515  
detection, apprehension, trial, or punishment for another offense 5516  
committed by the offender. 5517

(4) The offense was committed while the offender was under 5518  
detention or while the offender was at large after having broken 5519  
detention. As used in division (A)(4) of this section, "detention" 5520  
has the same meaning as in section 2921.01 of the Revised Code, 5521  
except that detention does not include hospitalization, 5522  
institutionalization, or confinement in a mental health facility 5523  
or ~~mental retardation and developmentally disabled~~ developmental 5524  
disabilities facility unless at the time of the commission of the 5525  
offense either of the following circumstances apply: 5526

(a) The offender was in the facility as a result of being 5527  
charged with a violation of a section of the Revised Code. 5528

(b) The offender was under detention as a result of being 5529  
convicted of or pleading guilty to a violation of a section of the 5530  
Revised Code. 5531

(5) Prior to the offense at bar, the offender was convicted 5532  
of an offense an essential element of which was the purposeful 5533  
killing of or attempt to kill another, or the offense at bar was 5534  
part of a course of conduct involving the purposeful killing of or 5535  
attempt to kill two or more persons by the offender. 5536

(6) The victim of the offense was a law enforcement officer, 5537  
as defined in section 2911.01 of the Revised Code, whom the 5538  
offender had reasonable cause to know or knew to be a law 5539  
enforcement officer as so defined, and either the victim, at the 5540  
time of the commission of the offense, was engaged in the victim's 5541  
duties, or it was the offender's specific purpose to kill a law 5542  
enforcement officer as so defined. 5543

(7) The offense was committed while the offender was 5544  
committing, attempting to commit, or fleeing immediately after 5545  
committing or attempting to commit kidnapping, rape, aggravated 5546  
arson, aggravated robbery, or aggravated burglary, and either the 5547  
offender was the principal offender in the commission of the 5548

aggravated murder or, if not the principal offender, committed the 5549  
aggravated murder with prior calculation and design. 5550

(8) The victim of the aggravated murder was a witness to an 5551  
offense who was purposely killed to prevent the victim's testimony 5552  
in any criminal proceeding and the aggravated murder was not 5553  
committed during the commission, attempted commission, or flight 5554  
immediately after the commission or attempted commission of the 5555  
offense to which the victim was a witness, or the victim of the 5556  
aggravated murder was a witness to an offense and was purposely 5557  
killed in retaliation for the victim's testimony in any criminal 5558  
proceeding. 5559

(9) The offender, in the commission of the offense, 5560  
purposefully caused the death of another who was under thirteen 5561  
years of age at the time of the commission of the offense, and 5562  
either the offender was the principal offender in the commission 5563  
of the offense or, if not the principal offender, committed the 5564  
offense with prior calculation and design. 5565

(10) The offense was committed while the offender was 5566  
committing, attempting to commit, or fleeing immediately after 5567  
committing or attempting to commit terrorism. 5568

(B) If one or more of the aggravating circumstances listed in 5569  
division (A) of this section is specified in the indictment or 5570  
count in the indictment and proved beyond a reasonable doubt, and 5571  
if the offender did not raise the matter of age pursuant to 5572  
section 2929.023 of the Revised Code or if the offender, after 5573  
raising the matter of age, was found at trial to have been 5574  
eighteen years of age or older at the time of the commission of 5575  
the offense, the court, trial jury, or panel of three judges shall 5576  
consider, and weigh against the aggravating circumstances proved 5577  
beyond a reasonable doubt, the nature and circumstances of the 5578  
offense, the history, character, and background of the offender, 5579  
and all of the following factors: 5580

(1) Whether the victim of the offense induced or facilitated it;	5581 5582
(2) Whether it is unlikely that the offense would have been committed, but for the fact that the offender was under duress, coercion, or strong provocation;	5583 5584 5585
(3) Whether, at the time of committing the offense, the offender, because of a mental disease or defect, lacked substantial capacity to appreciate the criminality of the offender's conduct or to conform the offender's conduct to the requirements of the law;	5586 5587 5588 5589 5590
(4) The youth of the offender;	5591
(5) The offender's lack of a significant history of prior criminal convictions and delinquency adjudications;	5592 5593
(6) If the offender was a participant in the offense but not the principal offender, the degree of the offender's participation in the offense and the degree of the offender's participation in the acts that led to the death of the victim;	5594 5595 5596 5597
(7) Any other factors that are relevant to the issue of whether the offender should be sentenced to death.	5598 5599
(C) The defendant shall be given great latitude in the presentation of evidence of the factors listed in division (B) of this section and of any other factors in mitigation of the imposition of the sentence of death.	5600 5601 5602 5603
The existence of any of the mitigating factors listed in division (B) of this section does not preclude the imposition of a sentence of death on the offender but shall be weighed pursuant to divisions (D)(2) and (3) of section 2929.03 of the Revised Code by the trial court, trial jury, or the panel of three judges against the aggravating circumstances the offender was found guilty of committing.	5604 5605 5606 5607 5608 5609 5610

**Sec. 2929.06.** (A) If a sentence of death imposed upon an 5611  
offender is set aside, nullified, or vacated because the court of 5612  
appeals, in a case in which a sentence of death was imposed for an 5613  
offense committed before January 1, 1995, or the supreme court, in 5614  
cases in which the supreme court reviews the sentence upon appeal, 5615  
could not affirm the sentence of death under the standards imposed 5616  
by section 2929.05 of the Revised Code, is set aside, nullified, 5617  
or vacated for the sole reason that the statutory procedure for 5618  
imposing the sentence of death that is set forth in sections 5619  
2929.03 and 2929.04 of the Revised Code is unconstitutional, is 5620  
set aside, nullified, or vacated pursuant to division (C) of 5621  
section 2929.05 of the Revised Code, or is set aside, nullified, 5622  
or vacated because a court has determined that the offender is 5623  
~~mentally retarded~~ a person with a developmental disability that is 5624  
an intellectual disability under standards set forth in decisions 5625  
of the supreme court of this state or the United States supreme 5626  
court, the trial court that sentenced the offender shall conduct a 5627  
hearing to resentence the offender. At the resentencing hearing, 5628  
the court shall impose upon the offender a sentence of life 5629  
imprisonment or an indefinite term consisting of a minimum term of 5630  
thirty years and a maximum term of life imprisonment that is 5631  
determined as specified in this division. If division (D) of 5632  
section 2929.03 of the Revised Code, at the time the offender 5633  
committed the aggravated murder for which the sentence of death 5634  
was imposed, required the imposition when a sentence of death was 5635  
not imposed of a sentence of life imprisonment without parole or a 5636  
sentence of an indefinite term consisting of a minimum term of 5637  
thirty years and a maximum term of life imprisonment to be imposed 5638  
pursuant to division (A) or (B)(3) of section 2971.03 of the 5639  
Revised Code and served pursuant to that section, the court shall 5640  
impose the sentence so required. In all other cases, the sentences 5641  
of life imprisonment that are available at the hearing, and from 5642

which the court shall impose sentence, shall be the same sentences 5643  
of life imprisonment that were available under division (D) of 5644  
section 2929.03 or under section 2909.24 of the Revised Code at 5645  
the time the offender committed the offense for which the sentence 5646  
of death was imposed. Nothing in this division regarding the 5647  
resentencing of an offender shall affect the operation of section 5648  
2971.03 of the Revised Code. 5649

(B) Whenever any court of this state or any federal court 5650  
sets aside, nullifies, or vacates a sentence of death imposed upon 5651  
an offender because of error that occurred in the sentencing phase 5652  
of the trial and if division (A) of this section does not apply, 5653  
the trial court that sentenced the offender shall conduct a new 5654  
hearing to resentence the offender. If the offender was tried by a 5655  
jury, the trial court shall impanel a new jury for the hearing. If 5656  
the offender was tried by a panel of three judges, that panel or, 5657  
if necessary, a new panel of three judges shall conduct the 5658  
hearing. At the hearing, the court or panel shall follow the 5659  
procedure set forth in division (D) of section 2929.03 of the 5660  
Revised Code in determining whether to impose upon the offender a 5661  
sentence of death, a sentence of life imprisonment, or an 5662  
indefinite term consisting of a minimum term of thirty years and a 5663  
maximum term of life imprisonment. If, pursuant to that procedure, 5664  
the court or panel determines that it will impose a sentence other 5665  
than a sentence of death, the court or panel shall impose upon the 5666  
offender one of the sentences of life imprisonment that could have 5667  
been imposed at the time the offender committed the offense for 5668  
which the sentence of death was imposed, determined as specified 5669  
in this division, or an indefinite term consisting of a minimum 5670  
term of thirty years and a maximum term of life imprisonment that 5671  
is determined as specified in this division. If division (D) of 5672  
section 2929.03 of the Revised Code, at the time the offender 5673  
committed the aggravated murder for which the sentence of death 5674  
was imposed, required the imposition when a sentence of death was 5675

not imposed of a sentence of life imprisonment without parole or a 5676  
sentence of an indefinite term consisting of a minimum term of 5677  
thirty years and a maximum term of life imprisonment to be imposed 5678  
pursuant to division (A) or (B)(3) of section 2971.03 of the 5679  
Revised Code and served pursuant to that section, the court or 5680  
panel shall impose the sentence so required. In all other cases, 5681  
the sentences of life imprisonment that are available at the 5682  
hearing, and from which the court or panel shall impose sentence, 5683  
shall be the same sentences of life imprisonment that were 5684  
available under division (D) of section 2929.03 or under section 5685  
2909.24 of the Revised Code at the time the offender committed the 5686  
offense for which the sentence of death was imposed. 5687

(C) If a sentence of life imprisonment without parole imposed 5688  
upon an offender pursuant to section 2929.021 or 2929.03 of the 5689  
Revised Code is set aside, nullified, or vacated for the sole 5690  
reason that the statutory procedure for imposing the sentence of 5691  
life imprisonment without parole that is set forth in sections 5692  
2929.03 and 2929.04 of the Revised Code is unconstitutional, the 5693  
trial court that sentenced the offender shall conduct a hearing to 5694  
resentence the offender to life imprisonment with parole 5695  
eligibility after serving twenty-five full years of imprisonment 5696  
or to life imprisonment with parole eligibility after serving 5697  
thirty full years of imprisonment. 5698

(D) Nothing in this section limits or restricts the rights of 5699  
the state to appeal any order setting aside, nullifying, or 5700  
vacating a conviction or sentence of death, when an appeal of that 5701  
nature otherwise would be available. 5702

(E) This section, as amended by H.B. 184 of the 125th general 5703  
assembly, shall apply to all offenders who have been sentenced to 5704  
death for an aggravated murder that was committed on or after 5705  
October 19, 1981, or for terrorism that was committed on or after 5706  
May 15, 2002. This section, as amended by H.B. 184 of the 125th 5707

general assembly, shall apply equally to all such offenders 5708  
sentenced to death prior to, on, or after March 23, 2005, 5709  
including offenders who, on March 23, 2005, are challenging their 5710  
sentence of death and offenders whose sentence of death has been 5711  
set aside, nullified, or vacated by any court of this state or any 5712  
federal court but who, as of March 23, 2005, have not yet been 5713  
resentenced. 5714

**Sec. 2930.061.** (A) If a person is charged in a complaint, 5715  
indictment, or information with any crime or specified delinquent 5716  
act or with any other violation of law, and if the case involves a 5717  
victim that the prosecutor in the case knows is a ~~mentally~~ 5718  
~~retarded person or a developmentally disabled person~~ with a 5719  
developmental disability, in addition to any other notices 5720  
required under this chapter or under any other provision of law, 5721  
the prosecutor in the case shall send written notice of the 5722  
charges to the department of developmental disabilities. The 5723  
written notice shall specifically identify the person so charged. 5724

(B) As used in this section, "~~mentally retarded person~~" and 5725  
"~~developmentally disabled person with a developmental disability~~" 5726  
~~have~~ has the same ~~meanings~~ meaning as in section 5123.01 of the 5727  
Revised Code. 5728

**Sec. 2930.16.** (A) If a defendant is incarcerated, a victim in 5729  
a case who has requested to receive notice under this section 5730  
shall be given notice of the incarceration of the defendant. If an 5731  
alleged juvenile offender is committed to the temporary custody of 5732  
a school, camp, institution, or other facility operated for the 5733  
care of delinquent children or to the legal custody of the 5734  
department of youth services, a victim in a case who has requested 5735  
to receive notice under this section shall be given notice of the 5736  
commitment. Promptly after sentence is imposed upon the defendant 5737  
or the commitment of the alleged juvenile offender is ordered, the 5738

prosecutor in the case shall notify the victim of the date on 5739  
which the defendant will be released from confinement or the 5740  
prosecutor's reasonable estimate of that date or the date on which 5741  
the alleged juvenile offender will have served the minimum period 5742  
of commitment or the prosecutor's reasonable estimate of that 5743  
date. The prosecutor also shall notify the victim of the name of 5744  
the custodial agency of the defendant or alleged juvenile offender 5745  
and tell the victim how to contact that custodial agency. If the 5746  
custodial agency is the department of rehabilitation and 5747  
correction, the prosecutor shall notify the victim of the services 5748  
offered by the office of victims' services pursuant to section 5749  
5120.60 of the Revised Code. If the custodial agency is the 5750  
department of youth services, the prosecutor shall notify the 5751  
victim of the services provided by the office of victims' services 5752  
within the release authority of the department pursuant to section 5753  
5139.55 of the Revised Code and the victim's right pursuant to 5754  
section 5139.56 of the Revised Code to submit a written request to 5755  
the release authority to be notified of actions the release 5756  
authority takes with respect to the alleged juvenile offender. The 5757  
victim shall keep the custodial agency informed of the victim's 5758  
current address and telephone number. 5759

(B)(1) Upon the victim's request or in accordance with 5760  
division (D) of this section, the prosecutor promptly shall notify 5761  
the victim of any hearing for judicial release of the defendant 5762  
pursuant to section 2929.20 of the Revised Code, of any hearing 5763  
for release of the defendant pursuant to section 2967.19 of the 5764  
Revised Code, or of any hearing for judicial release or early 5765  
release of the alleged juvenile offender pursuant to section 5766  
2151.38 of the Revised Code and of the victim's right to make a 5767  
statement under those sections. The court shall notify the victim 5768  
of its ruling in each of those hearings and on each of those 5769  
applications. 5770

(2) If an offender is sentenced to a prison term pursuant to 5771  
division (A)(3) or (B) of section 2971.03 of the Revised Code, 5772  
upon the request of the victim of the crime or in accordance with 5773  
division (D) of this section, the prosecutor promptly shall notify 5774  
the victim of any hearing to be conducted pursuant to section 5775  
2971.05 of the Revised Code to determine whether to modify the 5776  
requirement that the offender serve the entire prison term in a 5777  
state correctional facility in accordance with division (C) of 5778  
that section, whether to continue, revise, or revoke any existing 5779  
modification of that requirement, or whether to terminate the 5780  
prison term in accordance with division (D) of that section. The 5781  
court shall notify the victim of any order issued at the 5782  
conclusion of the hearing. 5783

(C) Upon the victim's request made at any time before the 5784  
particular notice would be due or in accordance with division (D) 5785  
of this section, the custodial agency of a defendant or alleged 5786  
juvenile offender shall give the victim any of the following 5787  
notices that is applicable: 5788

(1) At least sixty days before the adult parole authority 5789  
recommends a pardon or commutation of sentence for the defendant 5790  
or at least sixty days prior to a hearing before the adult parole 5791  
authority regarding a grant of parole to the defendant, notice of 5792  
the victim's right to submit a statement regarding the impact of 5793  
the defendant's release in accordance with section 2967.12 of the 5794  
Revised Code and, if applicable, of the victim's right to appear 5795  
at a full board hearing of the parole board to give testimony as 5796  
authorized by section 5149.101 of the Revised Code; 5797

(2) At least sixty days before the defendant is transferred 5798  
to transitional control under section 2967.26 of the Revised Code, 5799  
notice of the pendency of the transfer and of the victim's right 5800  
under that section to submit a statement regarding the impact of 5801  
the transfer; 5802

(3) At least sixty days before the release authority of the department of youth services holds a release review, release hearing, or discharge review for the alleged juvenile offender, notice of the pendency of the review or hearing, of the victim's right to make an oral or written statement regarding the impact of the crime upon the victim or regarding the possible release or discharge, and, if the notice pertains to a hearing, of the victim's right to attend and make statements or comments at the hearing as authorized by section 5139.56 of the Revised Code;

(4) Prompt notice of the defendant's or alleged juvenile offender's escape from a facility of the custodial agency in which the defendant was incarcerated or in which the alleged juvenile offender was placed after commitment, of the defendant's or alleged juvenile offender's absence without leave from a mental health or ~~mental retardation~~ and developmental disabilities facility or from other custody, and of the capture of the defendant or alleged juvenile offender after an escape or absence;

(5) Notice of the defendant's or alleged juvenile offender's death while in confinement or custody;

(6) Notice of the filing of a petition by the director of rehabilitation and correction pursuant to section 2967.19 of the Revised Code requesting the early release under that section of the defendant;

(7) Notice of the defendant's or alleged juvenile offender's release from confinement or custody and the terms and conditions of the release.

(D)(1) If a defendant is incarcerated for the commission of aggravated murder, murder, or an offense of violence that is a felony of the first, second, or third degree or is under a sentence of life imprisonment or if an alleged juvenile offender has been charged with the commission of an act that would be

aggravated murder, murder, or an offense of violence that is a 5834  
felony of the first, second, or third degree or be subject to a 5835  
sentence of life imprisonment if committed by an adult, except as 5836  
otherwise provided in this division, the notices described in 5837  
divisions (B) and (C) of this section shall be given regardless of 5838  
whether the victim has requested the notification. The notices 5839  
described in divisions (B) and (C) of this section shall not be 5840  
given under this division to a victim if the victim has requested 5841  
pursuant to division (B)(2) of section 2930.03 of the Revised Code 5842  
that the victim not be provided the notice. Regardless of whether 5843  
the victim has requested that the notices described in division 5844  
(C) of this section be provided or not be provided, the custodial 5845  
agency shall give notice similar to those notices to the 5846  
prosecutor in the case, to the sentencing court, to the law 5847  
enforcement agency that arrested the defendant or alleged juvenile 5848  
offender if any officer of that agency was a victim of the 5849  
offense, and to any member of the victim's immediate family who 5850  
requests notification. If the notice given under this division to 5851  
the victim is based on an offense committed prior to ~~the effective~~ 5852  
~~date of this amendment~~ March 22, 2013, and if the prosecutor or 5853  
custodial agency has not previously successfully provided any 5854  
notice to the victim under this division or division (B) or (C) of 5855  
this section with respect to that offense and the offender who 5856  
committed it, the notice also shall inform the victim that the 5857  
victim may request that the victim not be provided any further 5858  
notices with respect to that offense and the offender who 5859  
committed it and shall describe the procedure for making that 5860  
request. If the notice given under this division to the victim 5861  
pertains to a hearing regarding a grant of a parole to the 5862  
defendant, the notice also shall inform the victim that the 5863  
victim, a member of the victim's immediate family, or the victim's 5864  
representative may request a victim conference, as described in 5865  
division (E) of this section, and shall provide an explanation of 5866

a victim conference. 5867

The prosecutor or custodial agency may give the notices to 5868  
which this division applies by any reasonable means, including 5869  
regular mail, telephone, and electronic mail. If the prosecutor or 5870  
custodial agency attempts to provide notice to a victim under this 5871  
division but the attempt is unsuccessful because the prosecutor or 5872  
custodial agency is unable to locate the victim, is unable to 5873  
provide the notice by its chosen method because it cannot 5874  
determine the mailing address, telephone number, or electronic 5875  
mail address at which to provide the notice, or, if the notice is 5876  
sent by mail, the notice is returned, the prosecutor or custodial 5877  
agency shall make another attempt to provide the notice to the 5878  
victim. If the second attempt is unsuccessful, the prosecutor or 5879  
custodial agency shall make at least one more attempt to provide 5880  
the notice. If the notice is based on an offense committed prior 5881  
to ~~the effective date of this amendment~~ March 22, 2013, in each 5882  
attempt to provide the notice to the victim, the notice shall 5883  
include the opt-out information described in the preceding 5884  
paragraph. The prosecutor or custodial agency, in accordance with 5885  
division (D)(2) of this section, shall keep a record of all 5886  
attempts to provide the notice, and of all notices provided, under 5887  
this division. 5888

Division (D)(1) of this section, and the notice-related 5889  
provisions of divisions (E)(2) and (K) of section 2929.20, 5890  
division (H) of section 2967.12, division (E)(1)(b) of section 5891  
2967.19, division (A)(3)(b) of section 2967.26, division (D)(1) of 5892  
section 2967.28, and division (A)(2) of section 5149.101 of the 5893  
Revised Code enacted in the act in which division (D)(1) of this 5894  
section was enacted, shall be known as "Roberta's Law." 5895

(2) Each prosecutor and custodial agency that attempts to 5896  
give any notice to which division (D)(1) of this section applies 5897  
shall keep a record of all attempts to give the notice. The record 5898

shall indicate the person who was to be the recipient of the 5899  
notice, the date on which the attempt was made, the manner in 5900  
which the attempt was made, and the person who made the attempt. 5901  
If the attempt is successful and the notice is given, the record 5902  
shall indicate that fact. The record shall be kept in a manner 5903  
that allows public inspection of attempts and notices given to 5904  
persons other than victims without revealing the names, addresses, 5905  
or other identifying information relating to victims. The record 5906  
of attempts and notices given to victims is not a public record, 5907  
but the prosecutor or custodial agency shall provide upon request 5908  
a copy of that record to a prosecuting attorney, judge, law 5909  
enforcement agency, or member of the general assembly. The record 5910  
of attempts and notices given to persons other than victims is a 5911  
public record. A record kept under this division may be indexed by 5912  
offender name, or in any other manner determined by the prosecutor 5913  
or the custodial agency. Each prosecutor or custodial agency that 5914  
is required to keep a record under this division shall determine 5915  
the procedures for keeping the record and the manner in which it 5916  
is to be kept, subject to the requirements of this division. 5917

(E) The adult parole authority shall adopt rules under 5918  
Chapter 119. of the Revised Code providing for a victim 5919  
conference, upon request of the victim, a member of the victim's 5920  
immediate family, or the victim's representative, prior to a 5921  
parole hearing in the case of a prisoner who is incarcerated for 5922  
the commission of aggravated murder, murder, or an offense of 5923  
violence that is a felony of the first, second, or third degree or 5924  
is under a sentence of life imprisonment. The rules shall provide 5925  
for, but not be limited to, all of the following: 5926

(1) Subject to division (E)(3) of this section, attendance by 5927  
the victim, members of the victim's immediate family, the victim's 5928  
representative, and, if practicable, other individuals; 5929

(2) Allotment of up to one hour for the conference; 5930

(3) A specification of the number of persons specified in 5931  
division (E)(1) of this section who may be present at any single 5932  
victim conference, if limited by the department pursuant to 5933  
division (F) of this section. 5934

(F) The department may limit the number of persons specified 5935  
in division (E)(1) of this section who may be present at any 5936  
single victim conference, provided that the department shall not 5937  
limit the number of persons who may be present at any single 5938  
conference to fewer than three. If the department limits the 5939  
number of persons who may be present at any single victim 5940  
conference, the department shall permit and schedule, upon request 5941  
of the victim, a member of the victim's immediate family, or the 5942  
victim's representative, multiple victim conferences for the 5943  
persons specified in division (E)(1) of this section. 5944

(G) As used in this section, "victim's immediate family" has 5945  
the same meaning as in section 2967.12 of the Revised Code. 5946

**Sec. 2945.37.** (A) As used in sections 2945.37 to 2945.402 of 5947  
the Revised Code: 5948

(1) "Prosecutor" means a prosecuting attorney or a city 5949  
director of law, village solicitor, or similar chief legal officer 5950  
of a municipal corporation who has authority to prosecute a 5951  
criminal case that is before the court or the criminal case in 5952  
which a defendant in a criminal case has been found incompetent to 5953  
stand trial or not guilty by reason of insanity. 5954

(2) "Examiner" means either of the following: 5955

(a) A psychiatrist or a licensed clinical psychologist who 5956  
satisfies the criteria of division (I) of section 5122.01 of the 5957  
Revised Code or is employed by a certified forensic center 5958  
designated by the department of mental health and addiction 5959  
services to conduct examinations or evaluations. 5960

(b) For purposes of a separate ~~mental retardation~~ 5961  
intellectual disability evaluation that is ordered by a court 5962  
pursuant to division (H) of section 2945.371 of the Revised Code, 5963  
a psychologist designated by the director of developmental 5964  
disabilities pursuant to that section to conduct that separate 5965  
~~mental retardation~~ intellectual disability evaluation. 5966

(3) "Nonsecured status" means any unsupervised, off-grounds 5967  
movement or trial visit from a hospital or institution, or any 5968  
conditional release, that is granted to a person who is found 5969  
incompetent to stand trial and is committed pursuant to section 5970  
2945.39 of the Revised Code or to a person who is found not guilty 5971  
by reason of insanity and is committed pursuant to section 2945.40 5972  
of the Revised Code. 5973

(4) "Unsupervised, off-grounds movement" includes only 5974  
off-grounds privileges that are unsupervised and that have an 5975  
expectation of return to the hospital or institution on a daily 5976  
basis. 5977

(5) "Trial visit" means a patient privilege of a longer 5978  
stated duration of unsupervised community contact with an 5979  
expectation of return to the hospital or institution at designated 5980  
times. 5981

(6) "Conditional release" means a commitment status under 5982  
which the trial court at any time may revoke a person's 5983  
conditional release and order the rehospitalization or 5984  
reinstitutionalization of the person as described in division (A) 5985  
of section 2945.402 of the Revised Code and pursuant to which a 5986  
person who is found incompetent to stand trial or a person who is 5987  
found not guilty by reason of insanity lives and receives 5988  
treatment in the community for a period of time that does not 5989  
exceed the maximum prison term or term of imprisonment that the 5990  
person could have received for the offense in question had the 5991  
person been convicted of the offense instead of being found 5992

incompetent to stand trial on the charge of the offense or being 5993  
found not guilty by reason of insanity relative to the offense. 5994

(7) "Licensed clinical psychologist," "mentally ill person 5995  
subject to hospitalization by court order," and "psychiatrist" 5996  
have the same meanings as in section 5122.01 of the Revised Code. 5997

(8) "~~Mentally retarded person~~ Person with an intellectual 5998  
disability subject to institutionalization by court order" has the 5999  
same meaning as in section 5123.01 of the Revised Code. 6000

(B) In a criminal action in a court of common pleas, a county 6001  
court, or a municipal court, the court, prosecutor, or defense may 6002  
raise the issue of the defendant's competence to stand trial. If 6003  
the issue is raised before the trial has commenced, the court 6004  
shall hold a hearing on the issue as provided in this section. If 6005  
the issue is raised after the trial has commenced, the court shall 6006  
hold a hearing on the issue only for good cause shown or on the 6007  
court's own motion. 6008

(C) The court shall conduct the hearing required or 6009  
authorized under division (B) of this section within thirty days 6010  
after the issue is raised, unless the defendant has been referred 6011  
for evaluation in which case the court shall conduct the hearing 6012  
within ten days after the filing of the report of the evaluation 6013  
or, in the case of a defendant who is ordered by the court 6014  
pursuant to division (H) of section 2945.371 of the Revised Code 6015  
to undergo a separate ~~mental retardation~~ intellectual disability 6016  
evaluation conducted by a psychologist designated by the director 6017  
of developmental disabilities, within ten days after the filing of 6018  
the report of the separate ~~mental retardation~~ intellectual 6019  
disability evaluation under that division. A hearing may be 6020  
continued for good cause. 6021

(D) The defendant shall be represented by counsel at the 6022  
hearing conducted under division (C) of this section. If the 6023

defendant is unable to obtain counsel, the court shall appoint 6024  
counsel under Chapter 120. of the Revised Code or under the 6025  
authority recognized in division (C) of section 120.06, division 6026  
(E) of section 120.16, division (E) of section 120.26, or section 6027  
2941.51 of the Revised Code before proceeding with the hearing. 6028

(E) The prosecutor and defense counsel may submit evidence on 6029  
the issue of the defendant's competence to stand trial. A written 6030  
report of the evaluation of the defendant may be admitted into 6031  
evidence at the hearing by stipulation, but, if either the 6032  
prosecution or defense objects to its admission, the report may be 6033  
admitted under sections 2317.36 to 2317.38 of the Revised Code or 6034  
any other applicable statute or rule. 6035

(F) The court shall not find a defendant incompetent to stand 6036  
trial solely because the defendant is receiving or has received 6037  
treatment as a voluntary or involuntary mentally ill patient under 6038  
Chapter 5122. or a voluntary or involuntary ~~mentally retarded~~ 6039  
resident with a developmental disability that is an intellectual 6040  
disability under Chapter 5123. of the Revised Code or because the 6041  
defendant is receiving or has received psychotropic drugs or other 6042  
medication, even if the defendant might become incompetent to 6043  
stand trial without the drugs or medication. 6044

(G) A defendant is presumed to be competent to stand trial. 6045  
If, after a hearing, the court finds by a preponderance of the 6046  
evidence that, because of the defendant's present mental 6047  
condition, the defendant is incapable of understanding the nature 6048  
and objective of the proceedings against the defendant or of 6049  
assisting in the defendant's defense, the court shall find the 6050  
defendant incompetent to stand trial and shall enter an order 6051  
authorized by section 2945.38 of the Revised Code. 6052

(H) Municipal courts shall follow the procedures set forth in 6053  
sections 2945.37 to 2945.402 of the Revised Code. Except as 6054  
provided in section 2945.371 of the Revised Code, a municipal 6055

court shall not order an evaluation of the defendant's competence 6056  
to stand trial or the defendant's mental condition at the time of 6057  
the commission of the offense to be conducted at any hospital 6058  
operated by the department of mental health and addiction 6059  
services. Those evaluations shall be performed through community 6060  
resources including, but not limited to, certified forensic 6061  
centers, court probation departments, and community mental health 6062  
services providers. All expenses of the evaluations shall be borne 6063  
by the legislative authority of the municipal court, as defined in 6064  
section 1901.03 of the Revised Code, and shall be taxed as costs 6065  
in the case. If a defendant is found incompetent to stand trial or 6066  
not guilty by reason of insanity, a municipal court may commit the 6067  
defendant as provided in sections 2945.38 to 2945.402 of the 6068  
Revised Code. 6069

**Sec. 2945.371.** (A) If the issue of a defendant's competence 6070  
to stand trial is raised or if a defendant enters a plea of not 6071  
guilty by reason of insanity, the court may order one or more 6072  
evaluations of the defendant's present mental condition or, in the 6073  
case of a plea of not guilty by reason of insanity, of the 6074  
defendant's mental condition at the time of the offense charged. 6075  
An examiner shall conduct the evaluation. 6076

(B) If the court orders more than one evaluation under 6077  
division (A) of this section, the prosecutor and the defendant may 6078  
recommend to the court an examiner whom each prefers to perform 6079  
one of the evaluations. If a defendant enters a plea of not guilty 6080  
by reason of insanity and if the court does not designate an 6081  
examiner recommended by the defendant, the court shall inform the 6082  
defendant that the defendant may have independent expert 6083  
evaluation and that, if the defendant is unable to obtain 6084  
independent expert evaluation, it will be obtained for the 6085  
defendant at public expense if the defendant is indigent. 6086

(C) If the court orders an evaluation under division (A) of 6087  
this section, the defendant shall be available at the times and 6088  
places established by the examiners who are to conduct the 6089  
evaluation. The court may order a defendant who has been released 6090  
on bail or recognizance to submit to an evaluation under this 6091  
section. If a defendant who has been released on bail or 6092  
recognizance refuses to submit to a complete evaluation, the court 6093  
may amend the conditions of bail or recognizance and order the 6094  
sheriff to take the defendant into custody and deliver the 6095  
defendant to a center, program, or facility operated or certified 6096  
by the department of mental health and addiction services or the 6097  
department of developmental disabilities where the defendant may 6098  
be held for evaluation for a reasonable period of time not to 6099  
exceed twenty days. 6100

(D) A defendant who has not been released on bail or 6101  
recognizance may be evaluated at the defendant's place of 6102  
detention. Upon the request of the examiner, the court may order 6103  
the sheriff to transport the defendant to a program or facility 6104  
operated or certified by the department of mental health and 6105  
addiction services or the department of developmental 6106  
disabilities, where the defendant may be held for evaluation for a 6107  
reasonable period of time not to exceed twenty days, and to return 6108  
the defendant to the place of detention after the evaluation. A 6109  
municipal court may make an order under this division only upon 6110  
the request of a certified forensic center examiner. 6111

(E) If a court orders the evaluation to determine a 6112  
defendant's mental condition at the time of the offense charged, 6113  
the court shall inform the examiner of the offense with which the 6114  
defendant is charged. 6115

(F) In conducting an evaluation of a defendant's mental 6116  
condition at the time of the offense charged, the examiner shall 6117  
consider all relevant evidence. If the offense charged involves 6118

the use of force against another person, the relevant evidence to 6119  
be considered includes, but is not limited to, any evidence that 6120  
the defendant suffered, at the time of the commission of the 6121  
offense, from the "battered woman syndrome." 6122

(G) The examiner shall file a written report with the court 6123  
within thirty days after entry of a court order for evaluation, 6124  
and the court shall provide copies of the report to the prosecutor 6125  
and defense counsel. The report shall include all of the 6126  
following: 6127

(1) The examiner's findings; 6128

(2) The facts in reasonable detail on which the findings are 6129  
based; 6130

(3) If the evaluation was ordered to determine the 6131  
defendant's competence to stand trial, all of the following 6132  
findings or recommendations that are applicable: 6133

(a) Whether the defendant is capable of understanding the 6134  
nature and objective of the proceedings against the defendant or 6135  
of assisting in the defendant's defense; 6136

(b) If the examiner's opinion is that the defendant is 6137  
incapable of understanding the nature and objective of the 6138  
proceedings against the defendant or of assisting in the 6139  
defendant's defense, whether the defendant presently is mentally 6140  
ill or ~~mentally retarded~~ has a developmental disability that is an 6141  
intellectual disability and, if the examiner's opinion is that the 6142  
defendant presently ~~is mentally retarded~~ has a developmental 6143  
disability that is an intellectual disability, whether the 6144  
defendant appears to be a ~~mentally retarded~~ person with an 6145  
intellectual disability subject to institutionalization by court 6146  
order; 6147

(c) If the examiner's opinion is that the defendant is 6148  
incapable of understanding the nature and objective of the 6149

proceedings against the defendant or of assisting in the 6150  
defendant's defense, the examiner's opinion as to the likelihood 6151  
of the defendant becoming capable of understanding the nature and 6152  
objective of the proceedings against the defendant and of 6153  
assisting in the defendant's defense within one year if the 6154  
defendant is provided with a course of treatment; 6155

(d) If the examiner's opinion is that the defendant is 6156  
incapable of understanding the nature and objective of the 6157  
proceedings against the defendant or of assisting in the 6158  
defendant's defense and that the defendant presently is mentally 6159  
ill or ~~mentally retarded~~ has a developmental disability that is an 6160  
intellectual disability, the examiner's recommendation as to the 6161  
least restrictive placement or commitment alternative, consistent 6162  
with the defendant's treatment needs for restoration to competency 6163  
and with the safety of the community. 6164

(4) If the evaluation was ordered to determine the 6165  
defendant's mental condition at the time of the offense charged, 6166  
the examiner's findings as to whether the defendant, at the time 6167  
of the offense charged, did not know, as a result of a severe 6168  
mental disease or defect, the wrongfulness of the defendant's acts 6169  
charged. 6170

(H) If the examiner's report filed under division (G) of this 6171  
section indicates that in the examiner's opinion the defendant is 6172  
incapable of understanding the nature and objective of the 6173  
proceedings against the defendant or of assisting in the 6174  
defendant's defense and that in the examiner's opinion the 6175  
defendant appears to be a ~~mentally retarded~~ person with an 6176  
intellectual disability subject to institutionalization by court 6177  
order, the court shall order the defendant to undergo a separate 6178  
~~mental retardation~~ intellectual disability evaluation conducted by 6179  
a psychologist designated by the director of developmental 6180  
disabilities. Divisions (C) to (F) of this section apply in 6181

relation to a separate ~~mental retardation~~ intellectual disability 6182  
evaluation conducted under this division. The psychologist 6183  
appointed under this division to conduct the separate ~~mental~~ 6184  
~~retardation~~ intellectual disability evaluation shall file a 6185  
written report with the court within thirty days after the entry 6186  
of the court order requiring the separate ~~mental retardation~~ 6187  
intellectual disability evaluation, and the court shall provide 6188  
copies of the report to the prosecutor and defense counsel. The 6189  
report shall include all of the information described in divisions 6190  
(G)(1) to (4) of this section. If the court orders a separate 6191  
~~mental retardation~~ intellectual disability evaluation of a 6192  
defendant under this division, the court shall not conduct a 6193  
hearing under divisions (B) to (H) of section 2945.37 of the 6194  
Revised Code regarding that defendant until a report of the 6195  
separate ~~mental retardation~~ intellectual disability evaluation 6196  
conducted under this division has been filed. Upon the filing of 6197  
that report, the court shall conduct the hearing within the period 6198  
of time specified in division (C) of section 2945.37 of the 6199  
Revised Code. 6200

(I) An examiner appointed under divisions (A) and (B) of this 6201  
section or under division (H) of this section to evaluate a 6202  
defendant to determine the defendant's competence to stand trial 6203  
also may be appointed to evaluate a defendant who has entered a 6204  
plea of not guilty by reason of insanity, but an examiner of that 6205  
nature shall prepare separate reports on the issue of competence 6206  
to stand trial and the defense of not guilty by reason of 6207  
insanity. 6208

(J) No statement that a defendant makes in an evaluation or 6209  
hearing under divisions (A) to (H) of this section relating to the 6210  
defendant's competence to stand trial or to the defendant's mental 6211  
condition at the time of the offense charged shall be used against 6212  
the defendant on the issue of guilt in any criminal action or 6213

proceeding, but, in a criminal action or proceeding, the 6214  
prosecutor or defense counsel may call as a witness any person who 6215  
evaluated the defendant or prepared a report pursuant to a 6216  
referral under this section. Neither the appointment nor the 6217  
testimony of an examiner appointed under this section precludes 6218  
the prosecutor or defense counsel from calling other witnesses or 6219  
presenting other evidence on competency or insanity issues. 6220

(K) Persons appointed as examiners under divisions (A) and 6221  
(B) of this section or under division (H) of this section shall be 6222  
paid a reasonable amount for their services and expenses, as 6223  
certified by the court. The certified amount shall be paid by the 6224  
county in the case of county courts and courts of common pleas and 6225  
by the legislative authority, as defined in section 1901.03 of the 6226  
Revised Code, in the case of municipal courts. 6227

**Sec. 2945.38.** (A) If the issue of a defendant's competence to 6228  
stand trial is raised and if the court, upon conducting the 6229  
hearing provided for in section 2945.37 of the Revised Code, finds 6230  
that the defendant is competent to stand trial, the defendant 6231  
shall be proceeded against as provided by law. If the court finds 6232  
the defendant competent to stand trial and the defendant is 6233  
receiving psychotropic drugs or other medication, the court may 6234  
authorize the continued administration of the drugs or medication 6235  
or other appropriate treatment in order to maintain the 6236  
defendant's competence to stand trial, unless the defendant's 6237  
attending physician advises the court against continuation of the 6238  
drugs, other medication, or treatment. 6239

(B)(1)(a) If, after taking into consideration all relevant 6240  
reports, information, and other evidence, the court finds that the 6241  
defendant is incompetent to stand trial and that there is a 6242  
substantial probability that the defendant will become competent 6243  
to stand trial within one year if the defendant is provided with a 6244

course of treatment, the court shall order the defendant to 6245  
undergo treatment. If the defendant has been charged with a felony 6246  
offense and if, after taking into consideration all relevant 6247  
reports, information, and other evidence, the court finds that the 6248  
defendant is incompetent to stand trial, but the court is unable 6249  
at that time to determine whether there is a substantial 6250  
probability that the defendant will become competent to stand 6251  
trial within one year if the defendant is provided with a course 6252  
of treatment, the court shall order continuing evaluation and 6253  
treatment of the defendant for a period not to exceed four months 6254  
to determine whether there is a substantial probability that the 6255  
defendant will become competent to stand trial within one year if 6256  
the defendant is provided with a course of treatment. 6257

(b) The court order for the defendant to undergo treatment or 6258  
continuing evaluation and treatment under division (B)(1)(a) of 6259  
this section shall specify that the defendant, if determined to 6260  
require mental health treatment or continuing evaluation and 6261  
treatment, either shall be committed to the department of mental 6262  
health and addiction services for treatment or continuing 6263  
evaluation and treatment at a hospital, facility, or agency, as 6264  
determined to be clinically appropriate by the department of 6265  
mental health and addiction services or shall be committed to a 6266  
facility certified by the department of mental health and 6267  
addiction services as being qualified to treat mental illness, to 6268  
a public or community mental health facility, or to a psychiatrist 6269  
or another mental health professional for treatment or continuing 6270  
evaluation and treatment. Prior to placing the defendant, the 6271  
department of mental health and addiction services shall obtain 6272  
court approval for that placement following a hearing. The court 6273  
order for the defendant to undergo treatment or continuing 6274  
evaluation and treatment under division (B)(1)(a) of this section 6275  
shall specify that the defendant, if determined to require 6276  
treatment or continuing evaluation and treatment for ~~mental~~ 6277

~~retardation~~ an intellectual disability, shall receive treatment or 6278  
continuing evaluation and treatment at an institution or facility 6279  
operated by the department of developmental disabilities, at a 6280  
facility certified by the department of developmental disabilities 6281  
as being qualified to treat ~~mental retardation~~ intellectual 6282  
disabilities, at a public or private ~~mental retardation~~ 6283  
developmental disabilities facility, or by a psychiatrist or 6284  
another ~~mental retardation~~ intellectual disabilities professional. 6285  
In any case, the order may restrict the defendant's freedom of 6286  
movement as the court considers necessary. The prosecutor in the 6287  
defendant's case shall send to the chief clinical officer of the 6288  
hospital, facility, or agency where the defendant is placed by the 6289  
department of mental health and addiction services, or to the 6290  
managing officer of the institution, the director of the program 6291  
or facility, or the person to which the defendant is committed, 6292  
copies of relevant police reports and other background information 6293  
that pertains to the defendant and is available to the prosecutor 6294  
unless the prosecutor determines that the release of any of the 6295  
information in the police reports or any of the other background 6296  
information to unauthorized persons would interfere with the 6297  
effective prosecution of any person or would create a substantial 6298  
risk of harm to any person. 6299

In determining the place of commitment, the court shall 6300  
consider the extent to which the person is a danger to the person 6301  
and to others, the need for security, and the type of crime 6302  
involved and shall order the least restrictive alternative 6303  
available that is consistent with public safety and treatment 6304  
goals. In weighing these factors, the court shall give preference 6305  
to protecting public safety. 6306

(c) If the defendant is found incompetent to stand trial, if 6307  
the chief clinical officer of the hospital, facility, or agency 6308  
where the defendant is placed, or the managing officer of the 6309

institution, the director of the program or facility, or the 6310  
person to which the defendant is committed for treatment or 6311  
continuing evaluation and treatment under division (B)(1)(b) of 6312  
this section determines that medication is necessary to restore 6313  
the defendant's competency to stand trial, and if the defendant 6314  
lacks the capacity to give informed consent or refuses medication, 6315  
the chief clinical officer of the hospital, facility, or agency 6316  
where the defendant is placed, or the managing officer of the 6317  
institution, the director of the program or facility, or the 6318  
person to which the defendant is committed for treatment or 6319  
continuing evaluation and treatment may petition the court for 6320  
authorization for the involuntary administration of medication. 6321  
The court shall hold a hearing on the petition within five days of 6322  
the filing of the petition if the petition was filed in a 6323  
municipal court or a county court regarding an incompetent 6324  
defendant charged with a misdemeanor or within ten days of the 6325  
filing of the petition if the petition was filed in a court of 6326  
common pleas regarding an incompetent defendant charged with a 6327  
felony offense. Following the hearing, the court may authorize the 6328  
involuntary administration of medication or may dismiss the 6329  
petition. 6330

(2) If the court finds that the defendant is incompetent to 6331  
stand trial and that, even if the defendant is provided with a 6332  
course of treatment, there is not a substantial probability that 6333  
the defendant will become competent to stand trial within one 6334  
year, the court shall order the discharge of the defendant, unless 6335  
upon motion of the prosecutor or on its own motion, the court 6336  
either seeks to retain jurisdiction over the defendant pursuant to 6337  
section 2945.39 of the Revised Code or files an affidavit in the 6338  
probate court for the civil commitment of the defendant pursuant 6339  
to Chapter 5122. or 5123. of the Revised Code alleging that the 6340  
defendant is a mentally ill person subject to hospitalization by 6341  
court order or a ~~mentally retarded~~ person with an intellectual 6342

disability subject to institutionalization by court order. If an 6343  
affidavit is filed in the probate court, the trial court shall 6344  
send to the probate court copies of all written reports of the 6345  
defendant's mental condition that were prepared pursuant to 6346  
section 2945.371 of the Revised Code. 6347

The trial court may issue the temporary order of detention 6348  
that a probate court may issue under section 5122.11 or 5123.71 of 6349  
the Revised Code, to remain in effect until the probable cause or 6350  
initial hearing in the probate court. Further proceedings in the 6351  
probate court are civil proceedings governed by Chapter 5122. or 6352  
5123. of the Revised Code. 6353

(C) No defendant shall be required to undergo treatment, 6354  
including any continuing evaluation and treatment, under division 6355  
(B)(1) of this section for longer than whichever of the following 6356  
periods is applicable: 6357

(1) One year, if the most serious offense with which the 6358  
defendant is charged is one of the following offenses: 6359

(a) Aggravated murder, murder, or an offense of violence for 6360  
which a sentence of death or life imprisonment may be imposed; 6361

(b) An offense of violence that is a felony of the first or 6362  
second degree; 6363

(c) A conspiracy to commit, an attempt to commit, or 6364  
complicity in the commission of an offense described in division 6365  
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 6366  
complicity is a felony of the first or second degree. 6367

(2) Six months, if the most serious offense with which the 6368  
defendant is charged is a felony other than a felony described in 6369  
division (C)(1) of this section; 6370

(3) Sixty days, if the most serious offense with which the 6371  
defendant is charged is a misdemeanor of the first or second 6372

degree; 6373

(4) Thirty days, if the most serious offense with which the 6374  
defendant is charged is a misdemeanor of the third or fourth 6375  
degree, a minor misdemeanor, or an unclassified misdemeanor. 6376

(D) Any defendant who is committed pursuant to this section 6377  
shall not voluntarily admit the defendant or be voluntarily 6378  
admitted to a hospital or institution pursuant to section 5122.02, 6379  
5122.15, 5123.69, or 5123.76 of the Revised Code. 6380

(E) Except as otherwise provided in this division, a 6381  
defendant who is charged with an offense and is committed by the 6382  
court under this section to the department of mental health and 6383  
addiction services or is committed to an institution or facility 6384  
for the treatment of ~~mental retardation~~ an intellectual disability 6385  
shall not be granted unsupervised on-grounds movement, supervised 6386  
off-grounds movement, or nonsecured status except in accordance 6387  
with the court order. The court may grant a defendant supervised 6388  
off-grounds movement to obtain medical treatment or specialized 6389  
habilitation treatment services if the person who supervises the 6390  
treatment or the continuing evaluation and treatment of the 6391  
defendant ordered under division (B)(1)(a) of this section informs 6392  
the court that the treatment or continuing evaluation and 6393  
treatment cannot be provided at the hospital or facility where the 6394  
defendant is placed by the department of mental health and 6395  
addiction services or the institution or facility to which the 6396  
defendant is committed. The chief clinical officer of the hospital 6397  
or facility where the defendant is placed by the department of 6398  
mental health and addiction services or the managing officer of 6399  
the institution or director of the facility to which the defendant 6400  
is committed, or a designee of any of those persons, may grant a 6401  
defendant movement to a medical facility for an emergency medical 6402  
situation with appropriate supervision to ensure the safety of the 6403  
defendant, staff, and community during that emergency medical 6404

situation. The chief clinical officer of the hospital or facility 6405  
where the defendant is placed by the department of mental health 6406  
and addiction services or the managing officer of the institution 6407  
or director of the facility to which the defendant is committed 6408  
shall notify the court within twenty-four hours of the defendant's 6409  
movement to the medical facility for an emergency medical 6410  
situation under this division. 6411

(F) The person who supervises the treatment or continuing 6412  
evaluation and treatment of a defendant ordered to undergo 6413  
treatment or continuing evaluation and treatment under division 6414  
(B)(1)(a) of this section shall file a written report with the 6415  
court at the following times: 6416

(1) Whenever the person believes the defendant is capable of 6417  
understanding the nature and objective of the proceedings against 6418  
the defendant and of assisting in the defendant's defense; 6419

(2) For a felony offense, fourteen days before expiration of 6420  
the maximum time for treatment as specified in division (C) of 6421  
this section and fourteen days before the expiration of the 6422  
maximum time for continuing evaluation and treatment as specified 6423  
in division (B)(1)(a) of this section, and, for a misdemeanor 6424  
offense, ten days before the expiration of the maximum time for 6425  
treatment, as specified in division (C) of this section; 6426

(3) At a minimum, after each six months of treatment; 6427

(4) Whenever the person who supervises the treatment or 6428  
continuing evaluation and treatment of a defendant ordered under 6429  
division (B)(1)(a) of this section believes that there is not a 6430  
substantial probability that the defendant will become capable of 6431  
understanding the nature and objective of the proceedings against 6432  
the defendant or of assisting in the defendant's defense even if 6433  
the defendant is provided with a course of treatment. 6434

(G) A report under division (F) of this section shall contain 6435

the examiner's findings, the facts in reasonable detail on which 6436  
the findings are based, and the examiner's opinion as to the 6437  
defendant's capability of understanding the nature and objective 6438  
of the proceedings against the defendant and of assisting in the 6439  
defendant's defense. If, in the examiner's opinion, the defendant 6440  
remains incapable of understanding the nature and objective of the 6441  
proceedings against the defendant and of assisting in the 6442  
defendant's defense and there is a substantial probability that 6443  
the defendant will become capable of understanding the nature and 6444  
objective of the proceedings against the defendant and of 6445  
assisting in the defendant's defense if the defendant is provided 6446  
with a course of treatment, if in the examiner's opinion the 6447  
defendant remains mentally ill or ~~mentally retarded~~ continues to 6448  
have a developmental disability that is an intellectual 6449  
disability, and if the maximum time for treatment as specified in 6450  
division (C) of this section has not expired, the report also 6451  
shall contain the examiner's recommendation as to the least 6452  
restrictive placement or commitment alternative that is consistent 6453  
with the defendant's treatment needs for restoration to competency 6454  
and with the safety of the community. The court shall provide 6455  
copies of the report to the prosecutor and defense counsel. 6456

(H) If a defendant is committed pursuant to division (B)(1) 6457  
of this section, within ten days after the treating physician of 6458  
the defendant or the examiner of the defendant who is employed or 6459  
retained by the treating facility advises that there is not a 6460  
substantial probability that the defendant will become capable of 6461  
understanding the nature and objective of the proceedings against 6462  
the defendant or of assisting in the defendant's defense even if 6463  
the defendant is provided with a course of treatment, within ten 6464  
days after the expiration of the maximum time for treatment as 6465  
specified in division (C) of this section, within ten days after 6466  
the expiration of the maximum time for continuing evaluation and 6467  
treatment as specified in division (B)(1)(a) of this section, 6468

within thirty days after a defendant's request for a hearing that 6469  
is made after six months of treatment, or within thirty days after 6470  
being advised by the treating physician or examiner that the 6471  
defendant is competent to stand trial, whichever is the earliest, 6472  
the court shall conduct another hearing to determine if the 6473  
defendant is competent to stand trial and shall do whichever of 6474  
the following is applicable: 6475

(1) If the court finds that the defendant is competent to 6476  
stand trial, the defendant shall be proceeded against as provided 6477  
by law. 6478

(2) If the court finds that the defendant is incompetent to 6479  
stand trial, but that there is a substantial probability that the 6480  
defendant will become competent to stand trial if the defendant is 6481  
provided with a course of treatment, and the maximum time for 6482  
treatment as specified in division (C) of this section has not 6483  
expired, the court, after consideration of the examiner's 6484  
recommendation, shall order that treatment be continued, may 6485  
change the facility or program at which the treatment is to be 6486  
continued, and shall specify whether the treatment is to be 6487  
continued at the same or a different facility or program. 6488

(3) If the court finds that the defendant is incompetent to 6489  
stand trial, if the defendant is charged with an offense listed in 6490  
division (C)(1) of this section, and if the court finds that there 6491  
is not a substantial probability that the defendant will become 6492  
competent to stand trial even if the defendant is provided with a 6493  
course of treatment, or if the maximum time for treatment relative 6494  
to that offense as specified in division (C) of this section has 6495  
expired, further proceedings shall be as provided in sections 6496  
2945.39, 2945.401, and 2945.402 of the Revised Code. 6497

(4) If the court finds that the defendant is incompetent to 6498  
stand trial, if the most serious offense with which the defendant 6499  
is charged is a misdemeanor or a felony other than a felony listed 6500

in division (C)(1) of this section, and if the court finds that 6501  
there is not a substantial probability that the defendant will 6502  
become competent to stand trial even if the defendant is provided 6503  
with a course of treatment, or if the maximum time for treatment 6504  
relative to that offense as specified in division (C) of this 6505  
section has expired, the court shall dismiss the indictment, 6506  
information, or complaint against the defendant. A dismissal under 6507  
this division is not a bar to further prosecution based on the 6508  
same conduct. The court shall discharge the defendant unless the 6509  
court or prosecutor files an affidavit in probate court for civil 6510  
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 6511  
If an affidavit for civil commitment is filed, the court may 6512  
detain the defendant for ten days pending civil commitment. All of 6513  
the following provisions apply to persons charged with a 6514  
misdemeanor or a felony other than a felony listed in division 6515  
(C)(1) of this section who are committed by the probate court 6516  
subsequent to the court's or prosecutor's filing of an affidavit 6517  
for civil commitment under authority of this division: 6518

(a) The chief clinical officer of the entity, hospital, or 6519  
facility, the managing officer of the institution, the director of 6520  
the program, or the person to which the defendant is committed or 6521  
admitted shall do all of the following: 6522

(i) Notify the prosecutor, in writing, of the discharge of 6523  
the defendant, send the notice at least ten days prior to the 6524  
discharge unless the discharge is by the probate court, and state 6525  
in the notice the date on which the defendant will be discharged; 6526

(ii) Notify the prosecutor, in writing, when the defendant is 6527  
absent without leave or is granted unsupervised, off-grounds 6528  
movement, and send this notice promptly after the discovery of the 6529  
absence without leave or prior to the granting of the 6530  
unsupervised, off-grounds movement, whichever is applicable; 6531

(iii) Notify the prosecutor, in writing, of the change of the 6532

defendant's commitment or admission to voluntary status, send the 6533  
notice promptly upon learning of the change to voluntary status, 6534  
and state in the notice the date on which the defendant was 6535  
committed or admitted on a voluntary status. 6536

(b) Upon receiving notice that the defendant will be granted 6537  
unsupervised, off-grounds movement, the prosecutor either shall 6538  
re-indict the defendant or promptly notify the court that the 6539  
prosecutor does not intend to prosecute the charges against the 6540  
defendant. 6541

(I) If a defendant is convicted of a crime and sentenced to a 6542  
jail or workhouse, the defendant's sentence shall be reduced by 6543  
the total number of days the defendant is confined for evaluation 6544  
to determine the defendant's competence to stand trial or 6545  
treatment under this section and sections 2945.37 and 2945.371 of 6546  
the Revised Code or by the total number of days the defendant is 6547  
confined for evaluation to determine the defendant's mental 6548  
condition at the time of the offense charged. 6549

**Sec. 2945.39.** (A) If a defendant who is charged with an 6550  
offense described in division (C)(1) of section 2945.38 of the 6551  
Revised Code is found incompetent to stand trial, after the 6552  
expiration of the maximum time for treatment as specified in 6553  
division (C) of that section or after the court finds that there 6554  
is not a substantial probability that the defendant will become 6555  
competent to stand trial even if the defendant is provided with a 6556  
course of treatment, one of the following applies: 6557

(1) The court or the prosecutor may file an affidavit in 6558  
probate court for civil commitment of the defendant in the manner 6559  
provided in Chapter 5122. or 5123. of the Revised Code. If the 6560  
court or prosecutor files an affidavit for civil commitment, the 6561  
court may detain the defendant for ten days pending civil 6562  
commitment. If the probate court commits the defendant subsequent 6563

to the court's or prosecutor's filing of an affidavit for civil 6564  
commitment, the chief clinical officer of the entity, hospital, or 6565  
facility, the managing officer of the institution, the director of 6566  
the program, or the person to which the defendant is committed or 6567  
admitted shall send to the prosecutor the notices described in 6568  
divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised 6569  
Code within the periods of time and under the circumstances 6570  
specified in those divisions. 6571

(2) On the motion of the prosecutor or on its own motion, the 6572  
court may retain jurisdiction over the defendant if, at a hearing, 6573  
the court finds both of the following by clear and convincing 6574  
evidence: 6575

(a) The defendant committed the offense with which the 6576  
defendant is charged. 6577

(b) The defendant is a mentally ill person subject to 6578  
hospitalization by court order or a ~~mentally retarded~~ person with 6579  
an intellectual disability subject to institutionalization by 6580  
court order. 6581

(B) In making its determination under division (A)(2) of this 6582  
section as to whether to retain jurisdiction over the defendant, 6583  
the court may consider all relevant evidence, including, but not 6584  
limited to, any relevant psychiatric, psychological, or medical 6585  
testimony or reports, the acts constituting the offense charged, 6586  
and any history of the defendant that is relevant to the 6587  
defendant's ability to conform to the law. 6588

(C) If the court conducts a hearing as described in division 6589  
(A)(2) of this section and if the court does not make both 6590  
findings described in divisions (A)(2)(a) and (b) of this section 6591  
by clear and convincing evidence, the court shall dismiss the 6592  
indictment, information, or complaint against the defendant. Upon 6593  
the dismissal, the court shall discharge the defendant unless the 6594

court or prosecutor files an affidavit in probate court for civil 6595  
commitment of the defendant pursuant to Chapter 5122. or 5123. of 6596  
the Revised Code. If the court or prosecutor files an affidavit 6597  
for civil commitment, the court may order that the defendant be 6598  
detained for up to ten days pending the civil commitment. If the 6599  
probate court commits the defendant subsequent to the court's or 6600  
prosecutor's filing of an affidavit for civil commitment, the 6601  
chief clinical officer of the entity, hospital, or facility, the 6602  
managing officer of the institution, the director of the program, 6603  
or the person to which the defendant is committed or admitted 6604  
shall send to the prosecutor the notices described in divisions 6605  
(H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code 6606  
within the periods of time and under the circumstances specified 6607  
in those divisions. A dismissal of charges under this division is 6608  
not a bar to further criminal proceedings based on the same 6609  
conduct. 6610

(D)(1) If the court conducts a hearing as described in 6611  
division (A)(2) of this section and if the court makes the 6612  
findings described in divisions (A)(2)(a) and (b) of this section 6613  
by clear and convincing evidence, the court shall commit the 6614  
defendant, if determined to require mental health treatment, 6615  
either to the department of mental health and addiction services 6616  
for treatment at a hospital, facility, or agency as determined 6617  
clinically appropriate by the department of mental health and 6618  
addiction services or to another medical or psychiatric facility, 6619  
as appropriate. Prior to placing the defendant, the department of 6620  
mental health and addiction services shall obtain court approval 6621  
for that placement. If the court conducts such a hearing and if it 6622  
makes those findings by clear and convincing evidence, the court 6623  
shall commit the defendant, if determined to require treatment for 6624  
~~mental retardation~~ an intellectual disability, to a facility 6625  
operated by the department of developmental disabilities, or 6626  
another facility, as appropriate. In determining the place of 6627

commitment, the court shall consider the extent to which the 6628  
person is a danger to the person and to others, the need for 6629  
security, and the type of crime involved and shall order the least 6630  
restrictive alternative available that is consistent with public 6631  
safety and the welfare of the defendant. In weighing these 6632  
factors, the court shall give preference to protecting public 6633  
safety. 6634

(2) If a court makes a commitment of a defendant under 6635  
division (D)(1) of this section, the prosecutor shall send to the 6636  
hospital, facility, or agency where the defendant is placed by the 6637  
department of mental health and addiction services or to the 6638  
defendant's place of commitment all reports of the defendant's 6639  
current mental condition and, except as otherwise provided in this 6640  
division, any other relevant information, including, but not 6641  
limited to, a transcript of the hearing held pursuant to division 6642  
(A)(2) of this section, copies of relevant police reports, and 6643  
copies of any prior arrest and conviction records that pertain to 6644  
the defendant and that the prosecutor possesses. The prosecutor 6645  
shall send the reports of the defendant's current mental condition 6646  
in every case of commitment, and, unless the prosecutor determines 6647  
that the release of any of the other relevant information to 6648  
unauthorized persons would interfere with the effective 6649  
prosecution of any person or would create a substantial risk of 6650  
harm to any person, the prosecutor also shall send the other 6651  
relevant information. Upon admission of a defendant committed 6652  
under division (D)(1) of this section, the place of commitment 6653  
shall send to the board of alcohol, drug addiction, and mental 6654  
health services or the community mental health board serving the 6655  
county in which the charges against the defendant were filed a 6656  
copy of all reports of the defendant's current mental condition 6657  
and a copy of the other relevant information provided by the 6658  
prosecutor under this division, including, if provided, a 6659  
transcript of the hearing held pursuant to division (A)(2) of this 6660

section, the relevant police reports, and the prior arrest and 6661  
conviction records that pertain to the defendant and that the 6662  
prosecutor possesses. 6663

(3) If a court makes a commitment under division (D)(1) of 6664  
this section, all further proceedings shall be in accordance with 6665  
sections 2945.401 and 2945.402 of the Revised Code. 6666

**Sec. 2945.40.** (A) If a person is found not guilty by reason 6667  
of insanity, the verdict shall state that finding, and the trial 6668  
court shall conduct a full hearing to determine whether the person 6669  
is a mentally ill person subject to hospitalization by court order 6670  
or a ~~mentally-retarded~~ person with an intellectual disability 6671  
subject to institutionalization by court order. Prior to the 6672  
hearing, if the trial judge believes that there is probable cause 6673  
that the person found not guilty by reason of insanity is a 6674  
mentally ill person subject to hospitalization by court order or 6675  
~~mentally-retarded~~ a person with an intellectual disability subject 6676  
to institutionalization by court order, the trial judge may issue 6677  
a temporary order of detention for that person to remain in effect 6678  
for ten court days or until the hearing, whichever occurs first. 6679

Any person detained pursuant to a temporary order of 6680  
detention issued under this division shall be held in a suitable 6681  
facility, taking into consideration the place and type of 6682  
confinement prior to and during trial. 6683

(B) The court shall hold the hearing under division (A) of 6684  
this section to determine whether the person found not guilty by 6685  
reason of insanity is a mentally ill person subject to 6686  
hospitalization by court order or a ~~mentally-retarded~~ person with 6687  
an intellectual disability subject to institutionalization by 6688  
court order within ten court days after the finding of not guilty 6689  
by reason of insanity. Failure to conduct the hearing within the 6690  
ten-day period shall cause the immediate discharge of the 6691

respondent, unless the judge grants a continuance for not longer 6692  
than ten court days for good cause shown or for any period of time 6693  
upon motion of the respondent. 6694

(C) If a person is found not guilty by reason of insanity, 6695  
the person has the right to attend all hearings conducted pursuant 6696  
to sections 2945.37 to 2945.402 of the Revised Code. At any 6697  
hearing conducted pursuant to one of those sections, the court 6698  
shall inform the person that the person has all of the following 6699  
rights: 6700

(1) The right to be represented by counsel and to have that 6701  
counsel provided at public expense if the person is indigent, with 6702  
the counsel to be appointed by the court under Chapter 120. of the 6703  
Revised Code or under the authority recognized in division (C) of 6704  
section 120.06, division (E) of section 120.16, division (E) of 6705  
section 120.26, or section 2941.51 of the Revised Code; 6706

(2) The right to have independent expert evaluation and to 6707  
have that independent expert evaluation provided at public expense 6708  
if the person is indigent; 6709

(3) The right to subpoena witnesses and documents, to present 6710  
evidence on the person's behalf, and to cross-examine witnesses 6711  
against the person; 6712

(4) The right to testify in the person's own behalf and to 6713  
not be compelled to testify; 6714

(5) The right to have copies of any relevant medical or 6715  
mental health document in the custody of the state or of any place 6716  
of commitment other than a document for which the court finds that 6717  
the release to the person of information contained in the document 6718  
would create a substantial risk of harm to any person. 6719

(D) The hearing under division (A) of this section shall be 6720  
open to the public, and the court shall conduct the hearing in 6721  
accordance with the Rules of Civil Procedure. The court shall make 6722

and maintain a full transcript and record of the hearing 6723  
proceedings. The court may consider all relevant evidence, 6724  
including, but not limited to, any relevant psychiatric, 6725  
psychological, or medical testimony or reports, the acts 6726  
constituting the offense in relation to which the person was found 6727  
not guilty by reason of insanity, and any history of the person 6728  
that is relevant to the person's ability to conform to the law. 6729

(E) Upon completion of the hearing under division (A) of this 6730  
section, if the court finds there is not clear and convincing 6731  
evidence that the person is a mentally ill person subject to 6732  
hospitalization by court order or a ~~mentally-retarded~~ person with 6733  
an intellectual disability subject to institutionalization by 6734  
court order, the court shall discharge the person, unless a 6735  
detainer has been placed upon the person by the department of 6736  
rehabilitation and correction, in which case the person shall be 6737  
returned to that department. 6738

(F) If, at the hearing under division (A) of this section, 6739  
the court finds by clear and convincing evidence that the person 6740  
is a mentally ill person subject to hospitalization by court 6741  
order, the court shall commit the person either to the department 6742  
of mental health and addiction services for treatment in a 6743  
hospital, facility, or agency as determined clinically appropriate 6744  
by the department of mental health and addiction services or to 6745  
another medical or psychiatric facility, as appropriate. Prior to 6746  
placing the defendant, the department of mental health and 6747  
addiction services shall obtain court approval for that placement. 6748  
If, at the hearing under division (A) of this section, the court 6749  
determines by clear and convincing evidence that the person 6750  
requires treatment for ~~mental-retardation~~ an intellectual 6751  
disability, it shall commit the person to a facility operated by 6752  
the department of developmental disabilities or another facility, 6753  
as appropriate. Further proceedings shall be in accordance with 6754

sections 2945.401 and 2945.402 of the Revised Code. In determining 6755  
the place of commitment, the court shall consider the extent to 6756  
which the person is a danger to the person and to others, the need 6757  
for security, and the type of crime involved and shall order the 6758  
least restrictive alternative available that is consistent with 6759  
public safety and the welfare of the person. In weighing these 6760  
factors, the court shall give preference to protecting public 6761  
safety. 6762

(G) If a court makes a commitment of a person under division 6763  
(F) of this section, the prosecutor shall send to the hospital, 6764  
facility, or agency where the person is placed by the department 6765  
of mental health and addiction services or to the defendant's 6766  
place of commitment all reports of the person's current mental 6767  
condition, and, except as otherwise provided in this division, any 6768  
other relevant information, including, but not limited to, a 6769  
transcript of the hearing held pursuant to division (A) of this 6770  
section, copies of relevant police reports, and copies of any 6771  
prior arrest and conviction records that pertain to the person and 6772  
that the prosecutor possesses. The prosecutor shall send the 6773  
reports of the person's current mental condition in every case of 6774  
commitment, and, unless the prosecutor determines that the release 6775  
of any of the other relevant information to unauthorized persons 6776  
would interfere with the effective prosecution of any person or 6777  
would create a substantial risk of harm to any person, the 6778  
prosecutor also shall send the other relevant information. Upon 6779  
admission of a person committed under division (F) of this 6780  
section, the place of commitment shall send to the board of 6781  
alcohol, drug addiction, and mental health services or the 6782  
community mental health board serving the county in which the 6783  
charges against the person were filed a copy of all reports of the 6784  
person's current mental condition and a copy of the other relevant 6785  
information provided by the prosecutor under this division, 6786  
including, if provided, a transcript of the hearing held pursuant 6787

to division (A) of this section, the relevant police reports, and 6788  
the prior arrest and conviction records that pertain to the person 6789  
and that the prosecutor possesses. 6790

(H) A person who is committed pursuant to this section shall 6791  
not voluntarily admit the person or be voluntarily admitted to a 6792  
hospital or institution pursuant to section 5122.02, 5122.15, 6793  
5123.69, or 5123.76 of the Revised Code. 6794

**Sec. 2945.401.** (A) A defendant found incompetent to stand 6795  
trial and committed pursuant to section 2945.39 of the Revised 6796  
Code or a person found not guilty by reason of insanity and 6797  
committed pursuant to section 2945.40 of the Revised Code shall 6798  
remain subject to the jurisdiction of the trial court pursuant to 6799  
that commitment, and to the provisions of this section, until the 6800  
final termination of the commitment as described in division 6801  
(J)(1) of this section. If the jurisdiction is terminated under 6802  
this division because of the final termination of the commitment 6803  
resulting from the expiration of the maximum prison term or term 6804  
of imprisonment described in division (J)(1)(b) of this section, 6805  
the court or prosecutor may file an affidavit for the civil 6806  
commitment of the defendant or person pursuant to Chapter 5122. or 6807  
5123. of the Revised Code. 6808

(B) A hearing conducted under any provision of sections 6809  
2945.37 to 2945.402 of the Revised Code shall not be conducted in 6810  
accordance with Chapters 5122. and 5123. of the Revised Code. Any 6811  
person who is committed pursuant to section 2945.39 or 2945.40 of 6812  
the Revised Code shall not voluntarily admit the person or be 6813  
voluntarily admitted to a hospital or institution pursuant to 6814  
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 6815  
All other provisions of Chapters 5122. and 5123. of the Revised 6816  
Code regarding hospitalization or institutionalization shall apply 6817  
to the extent they are not in conflict with this chapter. A 6818

commitment under section 2945.39 or 2945.40 of the Revised Code 6819  
shall not be terminated and the conditions of the commitment shall 6820  
not be changed except as otherwise provided in division (D)(2) of 6821  
this section with respect to a ~~mentally retarded~~ person with an 6822  
intellectual disability subject to institutionalization by court 6823  
order or except by order of the trial court. 6824

(C) The department of mental health and addiction services or 6825  
the institution, facility, or program to which a defendant or 6826  
person has been committed under section 2945.39 or 2945.40 of the 6827  
Revised Code shall report in writing to the trial court, at the 6828  
times specified in this division, as to whether the defendant or 6829  
person remains a mentally ill person subject to hospitalization by 6830  
court order or a ~~mentally retarded~~ person with an intellectual 6831  
disability subject to institutionalization by court order and, in 6832  
the case of a defendant committed under section 2945.39 of the 6833  
Revised Code, as to whether the defendant remains incompetent to 6834  
stand trial. The department, institution, facility, or program 6835  
shall make the reports after the initial six months of treatment 6836  
and every two years after the initial report is made. The trial 6837  
court shall provide copies of the reports to the prosecutor and to 6838  
the counsel for the defendant or person. Within thirty days after 6839  
its receipt pursuant to this division of a report from the 6840  
department, institution, facility, or program, the trial court 6841  
shall hold a hearing on the continued commitment of the defendant 6842  
or person or on any changes in the conditions of the commitment of 6843  
the defendant or person. The defendant or person may request a 6844  
change in the conditions of confinement, and the trial court shall 6845  
conduct a hearing on that request if six months or more have 6846  
elapsed since the most recent hearing was conducted under this 6847  
section. 6848

(D)(1) Except as otherwise provided in division (D)(2) of 6849  
this section, when a defendant or person has been committed under 6850

section 2945.39 or 2945.40 of the Revised Code, at any time after 6851  
evaluating the risks to public safety and the welfare of the 6852  
defendant or person, the designee of the department of mental 6853  
health and addiction services or the managing officer of the 6854  
institution or director of the facility or program to which the 6855  
defendant or person is committed may recommend a termination of 6856  
the defendant's or person's commitment or a change in the 6857  
conditions of the defendant's or person's commitment. 6858

Except as otherwise provided in division (D)(2) of this 6859  
section, if the designee of the department of mental health and 6860  
addiction services recommends on-grounds unsupervised movement, 6861  
off-grounds supervised movement, or nonsecured status for the 6862  
defendant or person or termination of the defendant's or person's 6863  
commitment, the following provisions apply: 6864

(a) If the department's designee recommends on-grounds 6865  
unsupervised movement or off-grounds supervised movement, the 6866  
department's designee shall file with the trial court an 6867  
application for approval of the movement and shall send a copy of 6868  
the application to the prosecutor. Within fifteen days after 6869  
receiving the application, the prosecutor may request a hearing on 6870  
the application and, if a hearing is requested, shall so inform 6871  
the department's designee. If the prosecutor does not request a 6872  
hearing within the fifteen-day period, the trial court shall 6873  
approve the application by entering its order approving the 6874  
requested movement or, within five days after the expiration of 6875  
the fifteen-day period, shall set a date for a hearing on the 6876  
application. If the prosecutor requests a hearing on the 6877  
application within the fifteen-day period, the trial court shall 6878  
hold a hearing on the application within thirty days after the 6879  
hearing is requested. If the trial court, within five days after 6880  
the expiration of the fifteen-day period, sets a date for a 6881  
hearing on the application, the trial court shall hold the hearing 6882

within thirty days after setting the hearing date. At least 6883  
fifteen days before any hearing is held under this division, the 6884  
trial court shall give the prosecutor written notice of the date, 6885  
time, and place of the hearing. At the conclusion of each hearing 6886  
conducted under this division, the trial court either shall 6887  
approve or disapprove the application and shall enter its order 6888  
accordingly. 6889

(b) If the department's designee recommends termination of 6890  
the defendant's or person's commitment at any time or if the 6891  
department's designee recommends the first of any nonsecured 6892  
status for the defendant or person, the department's designee 6893  
shall send written notice of this recommendation to the trial 6894  
court and to the local forensic center. The local forensic center 6895  
shall evaluate the committed defendant or person and, within 6896  
thirty days after its receipt of the written notice, shall submit 6897  
to the trial court and the department's designee a written report 6898  
of the evaluation. The trial court shall provide a copy of the 6899  
department's designee's written notice and of the local forensic 6900  
center's written report to the prosecutor and to the counsel for 6901  
the defendant or person. Upon the local forensic center's 6902  
submission of the report to the trial court and the department's 6903  
designee, all of the following apply: 6904

(i) If the forensic center disagrees with the recommendation 6905  
of the department's designee, it shall inform the department's 6906  
designee and the trial court of its decision and the reasons for 6907  
the decision. The department's designee, after consideration of 6908  
the forensic center's decision, shall either withdraw, proceed 6909  
with, or modify and proceed with the recommendation. If the 6910  
department's designee proceeds with, or modifies and proceeds 6911  
with, the recommendation, the department's designee shall proceed 6912  
in accordance with division (D)(1)(b)(iii) of this section. 6913

(ii) If the forensic center agrees with the recommendation of 6914

the department's designee, it shall inform the department's 6915  
designee and the trial court of its decision and the reasons for 6916  
the decision, and the department's designee shall proceed in 6917  
accordance with division (D)(1)(b)(iii) of this section. 6918

(iii) If the forensic center disagrees with the 6919  
recommendation of the department's designee and the department's 6920  
designee proceeds with, or modifies and proceeds with, the 6921  
recommendation or if the forensic center agrees with the 6922  
recommendation of the department's designee, the department's 6923  
designee shall work with community mental health services 6924  
providers, programs, facilities, or boards of alcohol, drug 6925  
addiction, and mental health services or community mental health 6926  
boards to develop a plan to implement the recommendation. If the 6927  
defendant or person is on medication, the plan shall include, but 6928  
shall not be limited to, a system to monitor the defendant's or 6929  
person's compliance with the prescribed medication treatment plan. 6930  
The system shall include a schedule that clearly states when the 6931  
defendant or person shall report for a medication compliance 6932  
check. The medication compliance checks shall be based upon the 6933  
effective duration of the prescribed medication, taking into 6934  
account the route by which it is taken, and shall be scheduled at 6935  
intervals sufficiently close together to detect a potential 6936  
increase in mental illness symptoms that the medication is 6937  
intended to prevent. 6938

The department's designee, after consultation with the board 6939  
of alcohol, drug addiction, and mental health services or the 6940  
community mental health board serving the area, shall send the 6941  
recommendation and plan developed under division (D)(1)(b)(iii) of 6942  
this section, in writing, to the trial court, the prosecutor, and 6943  
the counsel for the committed defendant or person. The trial court 6944  
shall conduct a hearing on the recommendation and plan developed 6945  
under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) 6946

and (d) and (E) to (J) of this section apply regarding the 6947  
hearing. 6948

(c) If the department's designee's recommendation is for 6949  
nonsecured status or termination of commitment, the prosecutor may 6950  
obtain an independent expert evaluation of the defendant's or 6951  
person's mental condition, and the trial court may continue the 6952  
hearing on the recommendation for a period of not more than thirty 6953  
days to permit time for the evaluation. 6954

The prosecutor may introduce the evaluation report or present 6955  
other evidence at the hearing in accordance with the Rules of 6956  
Evidence. 6957

(d) The trial court shall schedule the hearing on a 6958  
department's designee's recommendation for nonsecured status or 6959  
termination of commitment and shall give reasonable notice to the 6960  
prosecutor and the counsel for the defendant or person. Unless 6961  
continued for independent evaluation at the prosecutor's request 6962  
or for other good cause, the hearing shall be held within thirty 6963  
days after the trial court's receipt of the recommendation and 6964  
plan. 6965

(2)(a) Division (D)(1) of this section does not apply to 6966  
on-grounds unsupervised movement of a defendant or person who has 6967  
been committed under section 2945.39 or 2945.40 of the Revised 6968  
Code, who is a ~~mentally retarded~~ person with an intellectual 6969  
disability subject to institutionalization by court order, and who 6970  
is being provided residential habilitation, care, and treatment in 6971  
a facility operated by the department of developmental 6972  
disabilities. 6973

(b) If, pursuant to section 2945.39 of the Revised Code, the 6974  
trial court commits a defendant who is found incompetent to stand 6975  
trial and who is a ~~mentally retarded~~ person with an intellectual 6976  
disability subject to institutionalization by court order, if the 6977

defendant is being provided residential habilitation, care, and 6978  
treatment in a facility operated by the department of 6979  
developmental disabilities, if an individual who is conducting a 6980  
survey for the department of health to determine the facility's 6981  
compliance with the certification requirements of the medicaid 6982  
program cites the defendant's receipt of the residential 6983  
habilitation, care, and treatment in the facility as being 6984  
inappropriate under the certification requirements, if the 6985  
defendant's receipt of the residential habilitation, care, and 6986  
treatment in the facility potentially jeopardizes the facility's 6987  
continued receipt of federal medicaid moneys, and if as a result 6988  
of the citation the chief clinical officer of the facility 6989  
determines that the conditions of the defendant's commitment 6990  
should be changed, the department of developmental disabilities 6991  
may cause the defendant to be removed from the particular facility 6992  
and, after evaluating the risks to public safety and the welfare 6993  
of the defendant and after determining whether another type of 6994  
placement is consistent with the certification requirements, may 6995  
place the defendant in another facility that the department 6996  
selects as an appropriate facility for the defendant's continued 6997  
receipt of residential habilitation, care, and treatment and that 6998  
is a no less secure setting than the facility in which the 6999  
defendant had been placed at the time of the citation. Within 7000  
three days after the defendant's removal and alternative placement 7001  
under the circumstances described in division (D)(2)(b) of this 7002  
section, the department of developmental disabilities shall notify 7003  
the trial court and the prosecutor in writing of the removal and 7004  
alternative placement. 7005

The trial court shall set a date for a hearing on the removal 7006  
and alternative placement, and the hearing shall be held within 7007  
twenty-one days after the trial court's receipt of the notice from 7008  
the department of developmental disabilities. At least ten days 7009  
before the hearing is held, the trial court shall give the 7010

prosecutor, the department of developmental disabilities, and the 7011  
counsel for the defendant written notice of the date, time, and 7012  
place of the hearing. At the hearing, the trial court shall 7013  
consider the citation issued by the individual who conducted the 7014  
survey for the department of health to be prima-facie evidence of 7015  
the fact that the defendant's commitment to the particular 7016  
facility was inappropriate under the certification requirements of 7017  
the medicaid program and potentially jeopardizes the particular 7018  
facility's continued receipt of federal medicaid moneys. At the 7019  
conclusion of the hearing, the trial court may approve or 7020  
disapprove the defendant's removal and alternative placement. If 7021  
the trial court approves the defendant's removal and alternative 7022  
placement, the department of developmental disabilities may 7023  
continue the defendant's alternative placement. If the trial court 7024  
disapproves the defendant's removal and alternative placement, it 7025  
shall enter an order modifying the defendant's removal and 7026  
alternative placement, but that order shall not require the 7027  
department of developmental disabilities to replace the defendant 7028  
for purposes of continued residential habilitation, care, and 7029  
treatment in the facility associated with the citation issued by 7030  
the individual who conducted the survey for the department of 7031  
health. 7032

(E) In making a determination under this section regarding 7033  
nonsecured status or termination of commitment, the trial court 7034  
shall consider all relevant factors, including, but not limited 7035  
to, all of the following: 7036

(1) Whether, in the trial court's view, the defendant or 7037  
person currently represents a substantial risk of physical harm to 7038  
the defendant or person or others; 7039

(2) Psychiatric and medical testimony as to the current 7040  
mental and physical condition of the defendant or person; 7041

(3) Whether the defendant or person has insight into the 7042

defendant's or person's condition so that the defendant or person 7043  
will continue treatment as prescribed or seek professional 7044  
assistance as needed; 7045

(4) The grounds upon which the state relies for the proposed 7046  
commitment; 7047

(5) Any past history that is relevant to establish the 7048  
defendant's or person's degree of conformity to the laws, rules, 7049  
regulations, and values of society; 7050

(6) If there is evidence that the defendant's or person's 7051  
mental illness is in a state of remission, the medically suggested 7052  
cause and degree of the remission and the probability that the 7053  
defendant or person will continue treatment to maintain the 7054  
remissive state of the defendant's or person's illness should the 7055  
defendant's or person's commitment conditions be altered. 7056

(F) At any hearing held pursuant to division (C) or (D)(1) or 7057  
(2) of this section, the defendant or the person shall have all 7058  
the rights of a defendant or person at a commitment hearing as 7059  
described in section 2945.40 of the Revised Code. 7060

(G) In a hearing held pursuant to division (C) or (D)(1) of 7061  
this section, the prosecutor has the burden of proof as follows: 7062

(1) For a recommendation of termination of commitment, to 7063  
show by clear and convincing evidence that the defendant or person 7064  
remains a mentally ill person subject to hospitalization by court 7065  
order or a ~~mentally retarded~~ person with an intellectual 7066  
disability subject to institutionalization by court order; 7067

(2) For a recommendation for a change in the conditions of 7068  
the commitment to a less restrictive status, to show by clear and 7069  
convincing evidence that the proposed change represents a threat 7070  
to public safety or a threat to the safety of any person. 7071

(H) In a hearing held pursuant to division (C) or (D)(1) or 7072

(2) of this section, the prosecutor shall represent the state or the public interest. 7073  
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(I) At the conclusion of a hearing conducted under division (D)(1) of this section regarding a recommendation from the designee of the department of mental health and addiction services, managing officer of the institution, or director of a facility or program, the trial court may approve, disapprove, or modify the recommendation and shall enter an order accordingly. 7075  
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(J)(1) A defendant or person who has been committed pursuant to section 2945.39 or 2945.40 of the Revised Code continues to be under the jurisdiction of the trial court until the final termination of the commitment. For purposes of division (J) of this section, the final termination of a commitment occurs upon the earlier of one of the following: 7081  
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(a) The defendant or person no longer is a mentally ill person subject to hospitalization by court order or a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order, as determined by the trial court; 7087  
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(b) The expiration of the maximum prison term or term of imprisonment that the defendant or person could have received if the defendant or person had been convicted of the most serious offense with which the defendant or person is charged or in relation to which the defendant or person was found not guilty by reason of insanity; 7092  
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(c) The trial court enters an order terminating the commitment under the circumstances described in division (J)(2)(a)(ii) of this section. 7098  
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(2)(a) If a defendant is found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code, if neither of the circumstances described in divisions (J)(1)(a) and 7101  
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(b) of this section applies to that defendant, and if a report 7104  
filed with the trial court pursuant to division (C) of this 7105  
section indicates that the defendant presently is competent to 7106  
stand trial or if, at any other time during the period of the 7107  
defendant's commitment, the prosecutor, the counsel for the 7108  
defendant, or the designee of the department of mental health and 7109  
addiction services or the managing officer of the institution or 7110  
director of the facility or program to which the defendant is 7111  
committed files an application with the trial court alleging that 7112  
the defendant presently is competent to stand trial and requesting 7113  
a hearing on the competency issue or the trial court otherwise has 7114  
reasonable cause to believe that the defendant presently is 7115  
competent to stand trial and determines on its own motion to hold 7116  
a hearing on the competency issue, the trial court shall schedule 7117  
a hearing on the competency of the defendant to stand trial, shall 7118  
give the prosecutor, the counsel for the defendant, and the 7119  
department's designee or the managing officer of the institution 7120  
or the director of the facility to which the defendant is 7121  
committed notice of the date, time, and place of the hearing at 7122  
least fifteen days before the hearing, and shall conduct the 7123  
hearing within thirty days of the filing of the application or of 7124  
its own motion. If, at the conclusion of the hearing, the trial 7125  
court determines that the defendant presently is capable of 7126  
understanding the nature and objective of the proceedings against 7127  
the defendant and of assisting in the defendant's defense, the 7128  
trial court shall order that the defendant is competent to stand 7129  
trial and shall be proceeded against as provided by law with 7130  
respect to the applicable offenses described in division (C)(1) of 7131  
section 2945.38 of the Revised Code and shall enter whichever of 7132  
the following additional orders is appropriate: 7133

(i) If the trial court determines that the defendant remains 7134  
a mentally ill person subject to hospitalization by court order or 7135  
a ~~mentally retarded~~ person with an intellectual disability subject 7136

to institutionalization by court order, the trial court shall 7137  
order that the defendant's commitment to the department of mental 7138  
health and addiction services or to an institution, facility, or 7139  
program for the treatment of ~~mental retardation~~ an intellectual 7140  
disability be continued during the pendency of the trial on the 7141  
applicable offenses described in division (C)(1) of section 7142  
2945.38 of the Revised Code. 7143

(ii) If the trial court determines that the defendant no 7144  
longer is a mentally ill person subject to hospitalization by 7145  
court order or a ~~mentally retarded~~ person with an intellectual 7146  
disability subject to institutionalization by court order, the 7147  
trial court shall order that the defendant's commitment to the 7148  
department of mental health and addiction services or to an 7149  
institution, facility, or program for the treatment of ~~mental~~ 7150  
~~retardation~~ an intellectual disability shall not be continued 7151  
during the pendency of the trial on the applicable offenses 7152  
described in division (C)(1) of section 2945.38 of the Revised 7153  
Code. This order shall be a final termination of the commitment 7154  
for purposes of division (J)(1)(c) of this section. 7155

(b) If, at the conclusion of the hearing described in 7156  
division (J)(2)(a) of this section, the trial court determines 7157  
that the defendant remains incapable of understanding the nature 7158  
and objective of the proceedings against the defendant or of 7159  
assisting in the defendant's defense, the trial court shall order 7160  
that the defendant continues to be incompetent to stand trial, 7161  
that the defendant's commitment to the department of mental health 7162  
and addiction services or to an institution, facility, or program 7163  
for the treatment of ~~mental retardation~~ an intellectual disability 7164  
shall be continued, and that the defendant remains subject to the 7165  
jurisdiction of the trial court pursuant to that commitment, and 7166  
to the provisions of this section, until the final termination of 7167  
the commitment as described in division (J)(1) of this section. 7168

Sec. 2945.482. (A) As used in this section: 7169

(1) "~~Mentally retarded person~~" and "~~developmentally disabled person~~ Person with a developmental disability" ~~have~~ has the same ~~meanings~~ meaning as in section 5123.01 of the Revised Code. 7170  
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(2) "~~Mentally retarded or developmentally disabled victim~~ Victim with a developmental disability" includes a ~~mentally retarded or developmentally disabled~~ person with a developmental disability who was a victim of a violation identified in division (B)(1) of this section or an offense of violence or against whom was directed any conduct that constitutes, or that is an element of, a violation identified in division (B)(1) of this section or an offense of violence. 7173  
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(B)(1) In any proceeding in the prosecution of a charge of a violation of section 2903.16, 2903.34, 2903.341, 2905.03, 2907.02, 2907.03, 2907.05, 2907.06, 2907.09, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised Code or an offense of violence and in which an alleged victim of the violation or offense was a ~~mentally retarded or developmentally disabled~~ person with a developmental disability, the judge of the court in which the prosecution is being conducted, upon motion of an attorney for the prosecution, shall order that the testimony of the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability be taken by deposition. The prosecution also may request that the deposition be videotaped in accordance with division (B)(2) of this section. The judge shall notify the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability whose deposition is to be taken, the prosecution, and the defense of the date, time, and place for taking the deposition. The notice shall identify the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability who is to be examined and shall indicate whether a 7181  
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request that the deposition be videotaped has been made. The 7200  
defendant shall have the right to attend the deposition and the 7201  
right to be represented by counsel. Depositions shall be taken in 7202  
the manner provided in civil cases, except that the judge shall 7203  
preside at the taking of the deposition and shall rule at the time 7204  
on any objections of the prosecution or the attorney for the 7205  
defense. The prosecution and the attorney for the defense shall 7206  
have the right, as at trial, to full examination and 7207  
cross-examination of the ~~mentally retarded or developmentally~~ 7208  
~~disabled~~ victim with a developmental disability whose deposition 7209  
is to be taken. If a deposition taken under this division is 7210  
intended to be offered as evidence in the proceeding, it shall be 7211  
filed in the court in which the action is pending and is 7212  
admissible in the manner described in division (C) of this 7213  
section. 7214

If a deposition of a ~~mentally retarded or developmentally~~ 7215  
~~disabled~~ victim with a developmental disability taken under this 7216  
division is admitted as evidence at the proceeding under division 7217  
(C) of this section, the ~~mentally retarded or developmentally~~ 7218  
~~disabled~~ victim with a developmental disability shall not be 7219  
required to testify in person at the proceeding. 7220

At any time before the conclusion of the proceeding, the 7221  
attorney for the defense may file a motion with the judge 7222  
requesting that another deposition of the ~~mentally retarded or~~ 7223  
~~developmentally disabled~~ victim with a developmental disability be 7224  
taken because new evidence material to the defense has been 7225  
discovered that the attorney for the defense could not with 7226  
reasonable diligence have discovered prior to the taking of the 7227  
admitted deposition. If the court orders the taking of another 7228  
deposition under this provision, the deposition shall be taken in 7229  
accordance with this division. If the admitted deposition was a 7230  
videotaped deposition taken in accordance with division (B)(2) of 7231

this section, the new deposition shall be videotaped in accordance 7232  
with that division. In other cases, the new deposition may be 7233  
videotaped in accordance with that division. 7234

(2) If the prosecution requests that a deposition to be taken 7235  
under division (B)(2) of this section be videotaped, the judge 7236  
shall order that the deposition be videotaped in accordance with 7237  
this division. If a judge issues an order that the deposition be 7238  
videotaped, the judge shall exclude from the room in which the 7239  
deposition is to be taken every person except the ~~mentally~~ 7240  
~~retarded or developmentally disabled~~ victim with a developmental 7241  
disability giving the testimony, the judge, one or more 7242  
interpreters if needed, the attorneys for the prosecution and the 7243  
defense, any person needed to operate the equipment to be used, 7244  
one person chosen by the ~~mentally retarded or developmentally~~ 7245  
~~disabled~~ victim with a developmental disability giving the 7246  
deposition, and any person whose presence the judge determines 7247  
would contribute to the welfare and well-being of the ~~mentally~~ 7248  
~~retarded or developmentally disabled~~ victim with a developmental 7249  
disability giving the deposition. The person chosen by the 7250  
~~mentally retarded or developmentally disabled~~ victim with a 7251  
developmental disability shall not be a witness in the proceeding 7252  
and, both before and during the deposition, shall not discuss the 7253  
testimony of the ~~mentally retarded or developmentally disabled~~ 7254  
victim with a developmental disability with any other witness in 7255  
the proceeding. To the extent feasible, any person operating the 7256  
recording equipment shall be restricted to a room adjacent to the 7257  
room in which the deposition is being taken, or to a location in 7258  
the room in which the deposition is being taken that is behind a 7259  
screen or mirror, so that the person operating the recording 7260  
equipment can see and hear, but cannot be seen or heard by, the 7261  
~~mentally retarded or developmentally disabled~~ victim with a 7262  
developmental disability giving the deposition during the 7263  
deposition. 7264

The defendant shall be permitted to observe and hear the testimony of the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability giving the deposition on a monitor, shall be provided with an electronic means of immediate communication with the defendant's attorney during the testimony, and shall be restricted to a location from which the defendant cannot be seen or heard by the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability giving the deposition, except on a monitor provided for that purpose. The ~~mentally retarded or developmentally disabled~~ victim with a developmental disability giving the deposition shall be provided with a monitor on which the victim can observe, during the testimony, the defendant. The judge, at the judge's discretion, may preside at the deposition by electronic means from outside the room in which the deposition is to be taken. If the judge presides by electronic means, the judge shall be provided with monitors on which the judge can see each person in the room in which the deposition is to be taken and with an electronic means of communication with each person, and each person in the room shall be provided with a monitor on which that person can see the judge and with an electronic means of communication with the judge. A deposition that is videotaped under this division shall be taken and filed in the manner described in division (B)(1) of this section and is admissible in the manner described in this division and division (C) of this section, and, if a deposition that is videotaped under this division is admitted as evidence at the proceeding, the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability shall not be required to testify in person at the proceeding. No deposition videotaped under this division shall be admitted as evidence at any proceeding unless division (C) of this section is satisfied relative to the deposition and all of the following apply relative to the recording:

(a) The recording is both aural and visual and is recorded on 7298  
film or videotape, or by other electronic means. 7299

(b) The recording is authenticated under the Rules of 7300  
Evidence and the Rules of Criminal Procedure as a fair and 7301  
accurate representation of what occurred, and the recording is not 7302  
altered other than at the direction and under the supervision of 7303  
the judge in the proceeding. 7304

(c) Each voice on the recording that is material to the 7305  
testimony on the recording or the making of the recording, as 7306  
determined by the judge, is identified. 7307

(d) Both the prosecution and the defendant are afforded an 7308  
opportunity to view the recording before it is shown in the 7309  
proceeding. 7310

(C)(1) At any proceeding in a prosecution in relation to 7311  
which a deposition was taken under division (B) of this section, 7312  
the deposition or a part of it is admissible in evidence upon 7313  
motion of the prosecution if the testimony in the deposition or 7314  
the part to be admitted is not excluded by the hearsay rule and if 7315  
the deposition or the part to be admitted otherwise is admissible 7316  
under the Rules of Evidence. For purposes of this division, 7317  
testimony is not excluded by the hearsay rule if the testimony is 7318  
not hearsay under Evidence Rule 801; the testimony is within an 7319  
exception to the hearsay rule set forth in Evidence Rule 803; the 7320  
~~mentally retarded or developmentally disabled~~ victim with a 7321  
developmental disability who gave the testimony is unavailable as 7322  
a witness, as defined in Evidence Rule 804, and the testimony is 7323  
admissible under that rule; or both of the following apply: 7324

(a) The defendant had an opportunity and similar motive at 7325  
the time of the taking of the deposition to develop the testimony 7326  
by direct, cross, or redirect examination. 7327

(b) The judge determines that there is reasonable cause to 7328

believe that, if the ~~mentally retarded or developmentally disabled~~ 7329  
victim with a developmental disability who gave the testimony in 7330  
the deposition were to testify in person at the proceeding, the 7331  
~~mentally retarded or developmentally disabled~~ victim with a 7332  
developmental disability would experience serious emotional trauma 7333  
as a result of the ~~mentally retarded or developmentally disabled~~ 7334  
~~victim's~~ participation of the victim with a developmental 7335  
disability at the proceeding. 7336

(2) Objections to receiving in evidence a deposition or a 7337  
part of it under division (C) of this section shall be made as 7338  
provided in civil actions. 7339

(3) The provisions of divisions (B) and (C) of this section 7340  
are in addition to any other provisions of the Revised Code, the 7341  
Rules of Criminal Procedure, or the Rules of Evidence that pertain 7342  
to the taking or admission of depositions in a criminal proceeding 7343  
and do not limit the admissibility under any of those other 7344  
provisions of any deposition taken under division (B) of this 7345  
section or otherwise taken. 7346

(D) In any proceeding in the prosecution of any charge of a 7347  
violation listed in division (B)(1) of this section or an offense 7348  
of violence and in which an alleged victim of the violation or 7349  
offense was a ~~mentally retarded or developmentally disabled~~ person 7350  
with a developmental disability, the prosecution may file a motion 7351  
with the judge requesting the judge to order the testimony of the 7352  
~~mentally retarded or developmentally disabled~~ victim with a 7353  
developmental disability to be taken in a room other than the room 7354  
in which the proceeding is being conducted and be televised, by 7355  
closed circuit equipment, into the room in which the proceeding is 7356  
being conducted to be viewed by the jury, if applicable, the 7357  
defendant, and any other persons who are not permitted in the room 7358  
in which the testimony is to be taken but who would have been 7359  
present during the testimony of the ~~mentally retarded or~~ 7360

~~developmentally disabled~~ victim with a developmental disability 7361  
had it been given in the room in which the proceeding is being 7362  
conducted. Except for good cause shown, the prosecution shall file 7363  
a motion under this division at least seven days before the date 7364  
of the proceeding. The judge may issue the order upon the motion 7365  
of the prosecution filed under this section, if the judge 7366  
determines that the ~~mentally retarded or developmentally disabled~~ 7367  
victim with a developmental disability is unavailable to testify 7368  
in the room in which the proceeding is being conducted in the 7369  
physical presence of the defendant for one or more of the reasons 7370  
set forth in division (F) of this section. If a judge issues an 7371  
order of that nature, the judge shall exclude from the room in 7372  
which the testimony is to be taken every person except a person 7373  
described in division (B)(2) of this section. The judge, at the 7374  
judge's discretion, may preside during the giving of the testimony 7375  
by electronic means from outside the room in which it is being 7376  
given, subject to the limitations set forth in division (B)(2) of 7377  
this section. To the extent feasible, any person operating the 7378  
televising equipment shall be hidden from the sight and hearing of 7379  
the ~~mentally retarded or developmentally disabled~~ victim with a 7380  
developmental disability giving the testimony, in a manner similar 7381  
to that described in division (B)(2) of this section. The 7382  
defendant shall be permitted to observe and hear the testimony of 7383  
the ~~mentally retarded or developmentally disabled~~ victim with a 7384  
developmental disability giving the testimony on a monitor, shall 7385  
be provided with an electronic means of immediate communication 7386  
with the defendant's attorney during the testimony, and shall be 7387  
restricted to a location from which the defendant cannot be seen 7388  
or heard by the ~~mentally retarded or developmentally disabled~~ 7389  
victim with a developmental disability giving the testimony, 7390  
except on a monitor provided for that purpose. The ~~mentally~~ 7391  
~~retarded or developmentally disabled~~ victim with a developmental 7392  
disability giving the testimony shall be provided with a monitor 7393

on which the ~~mentally retarded or developmentally disabled~~ victim 7394  
with a developmental disability can observe, during the testimony, 7395  
the defendant. 7396

(E) In any proceeding in the prosecution of any charge of a 7397  
violation listed in division (B)(1) of this section or an offense 7398  
of violence and in which an alleged victim of the violation or 7399  
offense was a ~~mentally retarded or developmentally disabled~~ victim 7400  
with a developmental disability, the prosecution may file a motion 7401  
with the judge requesting the judge to order the testimony of the 7402  
~~mentally retarded or developmentally disabled~~ victim with a 7403  
developmental disability to be taken outside of the room in which 7404  
the proceeding is being conducted and be recorded for showing in 7405  
the room in which the proceeding is being conducted before the 7406  
judge, the jury, if applicable, the defendant, and any other 7407  
persons who would have been present during the testimony of the 7408  
~~mentally retarded or developmentally disabled~~ victim with a 7409  
developmental disability had it been given in the room in which 7410  
the proceeding is being conducted. Except for good cause shown, 7411  
the prosecution shall file a motion under this division at least 7412  
seven days before the date of the proceeding. The judge may issue 7413  
the order upon the motion of the prosecution filed under this 7414  
division, if the judge determines that the ~~mentally retarded or~~ 7415  
~~developmentally disabled~~ victim with a developmental disability is 7416  
unavailable to testify in the room in which the proceeding is 7417  
being conducted in the physical presence of the defendant, for one 7418  
or more of the reasons set forth in division (F) of this section. 7419  
If a judge issues an order of that nature, the judge shall exclude 7420  
from the room in which the testimony is to be taken every person 7421  
except a person described in division (B)(2) of this section. To 7422  
the extent feasible, any person operating the recording equipment 7423  
shall be hidden from the sight and hearing of the ~~mentally~~ 7424  
~~retarded or developmentally disabled~~ victim with a developmental 7425  
disability giving the testimony, in a manner similar to that 7426

described in division (B)(2) of this section. The defendant shall 7427  
be permitted to observe and hear the testimony of the ~~mentally~~ 7428  
~~retarded or developmentally disabled~~ victim with a developmental 7429  
disability who is giving the testimony on a monitor, shall be 7430  
provided with an electronic means of immediate communication with 7431  
the defendant's attorney during the testimony, and shall be 7432  
restricted to a location from which the defendant cannot be seen 7433  
or heard by the ~~mentally retarded or developmentally disabled~~ 7434  
victim with a developmental disability giving the testimony, 7435  
except on a monitor provided for that purpose. The ~~mentally~~ 7436  
~~retarded or developmentally disabled~~ victim with a developmental 7437  
disability giving the testimony shall be provided with a monitor 7438  
on which the victim can observe, during the testimony, the 7439  
defendant. No order for the taking of testimony by recording shall 7440  
be issued under this division unless the provisions set forth in 7441  
divisions (B)(2)(a), (b), (c), and (d) of this section apply to 7442  
the recording of the testimony. 7443

(F) For purposes of divisions (D) and (E) of this section, a 7444  
judge may order the testimony of a ~~mentally retarded or~~ 7445  
~~developmentally disabled~~ victim with a developmental disability to 7446  
be taken outside the room in which the proceeding is being 7447  
conducted if the judge determines that the ~~mentally retarded or~~ 7448  
~~developmentally disabled~~ victim with a developmental disability is 7449  
unavailable to testify in the room in the physical presence of the 7450  
defendant due to one or more of the following: 7451

(1) The persistent refusal of the ~~mentally retarded or~~ 7452  
~~developmentally disabled~~ victim with a developmental disability to 7453  
testify despite judicial requests to do so; 7454

(2) The inability of the ~~mentally retarded or developmentally~~ 7455  
~~disabled~~ victim with a developmental disability to communicate 7456  
about the alleged violation or offense because of extreme fear, 7457  
failure of memory, or another similar reason; 7458

(3) The substantial likelihood that the ~~mentally retarded or~~ 7459  
~~developmentally disabled~~ victim with a developmental disability 7460  
will suffer serious emotional trauma from so testifying. 7461

(G)(1) If a judge issues an order pursuant to division (D) or 7462  
(E) of this section that requires the testimony of a ~~mentally~~ 7463  
~~retarded or developmentally disabled~~ victim with a developmental 7464  
disability in a criminal proceeding to be taken outside of the 7465  
room in which the proceeding is being conducted, the order shall 7466  
specifically identify the ~~mentally retarded or developmentally~~ 7467  
~~disabled~~ victim with a developmental disability to whose testimony 7468  
it applies, the order applies only during the testimony of the 7469  
specified ~~mentally retarded or developmentally disabled~~ victim 7470  
with a developmental disability, and the ~~mentally retarded or~~ 7471  
~~developmentally disabled~~ victim with a developmental disability 7472  
giving the testimony shall not be required to testify at the 7473  
proceeding other than in accordance with the order. 7474

(2) A judge who makes any determination regarding the 7475  
admissibility of a deposition under divisions (B) and (C) of this 7476  
section, the videotaping of a deposition under division (B)(2) of 7477  
this section, or the taking of testimony outside of the room in 7478  
which a proceeding is being conducted under division (D) or (E) of 7479  
this section shall enter the determination and findings on the 7480  
record in the proceeding. 7481

**Sec. 2945.491.** (A) As used in this section: 7482

(1) "~~Mentally retarded person~~" and "~~developmentally disabled~~ 7483  
~~person~~ Person with a developmental disability" ~~have~~ has the same 7484  
meanings meaning as in section 5123.01 of the Revised Code. 7485

(2) "~~Mentally retarded or developmentally disabled victim~~ 7486  
Victim with a developmental disability" includes a ~~mentally~~ 7487  
~~retarded or developmentally disabled~~ person with a developmental 7488  
disability who was a victim of a felony violation identified in 7489

division (B)(1) of this section or a felony offense of violence or 7490  
against whom was directed any conduct that constitutes, or that is 7491  
an element of, a felony violation identified in division (B)(1) of 7492  
this section or a felony offense of violence. 7493

(B)(1) At a trial on a charge of a felony violation of 7494  
section 2903.16, 2903.34, 2903.341, 2907.02, 2907.03, 2907.05, 7495  
2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 7496  
2907.323 of the Revised Code or an offense of violence and in 7497  
which an alleged victim of the violation or offense was a ~~mentally~~ 7498  
~~retarded or developmentally disabled~~ person with a developmental 7499  
disability, the court, upon motion of the prosecutor in the case, 7500  
may admit videotaped preliminary hearing testimony of the ~~mentally~~ 7501  
~~retarded or developmentally disabled~~ victim with a developmental 7502  
disability as evidence at the trial, in lieu of the ~~mentally~~ 7503  
~~retarded or developmentally disabled~~ victim with a developmental 7504  
disability appearing as a witness and testifying at trial, if all 7505  
of the following apply: 7506

(a) The videotape of the testimony was made at the 7507  
preliminary hearing at which probable cause of the violation 7508  
charged was found. 7509

(b) The videotape of the testimony was made in accordance 7510  
with division (C) of section 2937.11 of the Revised Code. 7511

(c) The testimony in the videotape is not excluded by the 7512  
hearsay rule and otherwise is admissible under the Rules of 7513  
Evidence. For purposes of this division, testimony is not excluded 7514  
by the hearsay rule if the testimony is not hearsay under Evidence 7515  
Rule 801, the testimony is within an exception to the hearsay rule 7516  
set forth in Evidence Rule 803, the ~~mentally retarded or~~ 7517  
~~developmentally disabled~~ victim with a developmental disability 7518  
who gave the testimony is unavailable as a witness, as defined in 7519  
Evidence Rule 804, and the testimony is admissible under that 7520  
rule, or both of the following apply: 7521

(i) The accused had an opportunity and similar motive at the preliminary hearing to develop the testimony of the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability by direct, cross, or redirect examination.

(ii) The court determines that there is reasonable cause to believe that if the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability who gave the testimony at the preliminary hearing were to testify in person at the trial, the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability would experience serious emotional trauma as a result of the victim's participation at the trial.

(2) If a ~~mentally retarded or developmentally disabled~~ victim with a developmental disability of an alleged felony violation of section 2903.16, 2903.34, 2903.341, 2907.02, 2907.03, 2907.05, 2907.21, 2907.23, 2907.24, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised Code or an alleged felony offense of violence testifies at the preliminary hearing in the case, if the testimony of the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability at the preliminary hearing was videotaped pursuant to division (C) of section 2937.11 of the Revised Code, and if the defendant in the case files a written objection to the use, pursuant to division (B)(1) of this section, of the videotaped testimony at the trial, the court, immediately after the filing of the objection, shall hold a hearing to determine whether the videotaped testimony of the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability should be admissible at trial under division (B)(1) of this section and, if it is admissible, whether the ~~mentally retarded or developmentally disabled~~ victim with a developmental disability should be required to provide limited additional testimony of the type described in this division. At the hearing held pursuant to this division, the defendant and the prosecutor

in the case may present any evidence that is relevant to the 7554  
issues to be determined at the hearing, but the ~~mentally retarded~~ 7555  
~~or developmentally disabled~~ victim with a developmental disability 7556  
shall not be required to testify at the hearing. 7557

After the hearing, the court shall not require the ~~mentally~~ 7558  
~~retarded or developmentally disabled~~ victim with a developmental 7559  
disability to testify at the trial, unless it determines that both 7560  
of the following apply: 7561

(a) That the testimony of the ~~mentally retarded or~~ 7562  
~~developmentally disabled~~ victim with a developmental disability at 7563  
trial is necessary for one or more of the following reasons: 7564

(i) Evidence that was not available at the time of the 7565  
testimony of the ~~mentally retarded or developmentally disabled~~ 7566  
victim with a developmental disability at the preliminary hearing 7567  
has been discovered. 7568

(ii) The circumstances surrounding the case have changed 7569  
sufficiently to necessitate that the ~~mentally retarded or~~ 7570  
~~developmentally disabled~~ victim with a developmental disability 7571  
testify at the trial. 7572

(b) That the testimony of the ~~mentally retarded or~~ 7573  
~~developmentally disabled~~ victim with a developmental disability at 7574  
the trial is necessary to protect the right of the defendant to a 7575  
fair trial. 7576

The court shall enter its finding and the reasons for it in 7577  
the journal. If the court requires the ~~mentally retarded or~~ 7578  
~~developmentally disabled~~ victim with a developmental disability to 7579  
testify at the trial, the testimony of the victim shall be limited 7580  
to the new evidence and changed circumstances, and the ~~mentally~~ 7581  
~~retarded or developmentally disabled~~ victim with a developmental 7582  
disability shall not otherwise be required to testify at the 7583  
trial. The required testimony of the ~~mentally retarded or~~ 7584

~~developmentally disabled~~ victim with a developmental disability 7585  
may be given in person or, upon motion of the prosecution, may be 7586  
taken by deposition in accordance with division (B) of section 7587  
2945.482 of the Revised Code provided the deposition is admitted 7588  
as evidence under division (C) of that section, may be taken 7589  
outside of the courtroom and televised into the courtroom in 7590  
accordance with division (D) of that section, or may be taken 7591  
outside of the courtroom and recorded for showing in the courtroom 7592  
in accordance with division (E) of that section. 7593

(3) If videotaped testimony of a ~~mentally retarded or~~ 7594  
~~developmentally disabled~~ victim with a developmental disability is 7595  
admitted at trial in accordance with division (B)(1) of this 7596  
section, the ~~mentally retarded or developmentally disabled~~ victim 7597  
with a developmental disability shall not be compelled in any way 7598  
to appear as a witness at the trial, except as provided in 7599  
division (B)(2) of this section. 7600

(C) An order issued pursuant to division (B) of this section 7601  
shall specifically identify the ~~mentally retarded or~~ 7602  
~~developmentally disabled~~ victim with a developmental disability 7603  
concerning whose testimony it pertains. The order shall apply only 7604  
during the testimony of the ~~mentally retarded or developmentally~~ 7605  
~~disabled~~ victim with a developmental disability it specifically 7606  
identifies. 7607

**Sec. 2949.29.** (A) The prosecuting attorney, the convict, and 7608  
the convict's counsel shall attend an inquiry commenced as 7609  
provided in section 2949.28 of the Revised Code. The prosecuting 7610  
attorney and the convict or the convict's counsel may produce, 7611  
examine, and cross-examine witnesses, and all findings shall be in 7612  
writing signed by the judge. If it is found that the convict is 7613  
not insane, the sentence shall be executed at the time previously 7614  
appointed, unless that time has passed pending completion of the 7615

inquiry, in which case the judge conducting the inquiry, if 7616  
authorized by the supreme court, shall appoint a time for 7617  
execution of the sentence to be effective fifteen days from the 7618  
date of the entry of the judge's findings in the inquiry. 7619

(B) If it is found that the convict is insane and if 7620  
authorized by the supreme court, the judge shall continue any stay 7621  
of execution of the sentence previously issued, order the convict 7622  
to be confined in the area at which other convicts sentenced to 7623  
death are confined or in a maximum security medical or psychiatric 7624  
facility operated by the department of rehabilitation and 7625  
correction, and order treatment of the convict. Thereafter, the 7626  
court at any time may conduct and, on motion of the prosecuting 7627  
attorney, shall conduct a hearing pursuant to division (A) of this 7628  
section to continue the inquiry into the convict's insanity and, 7629  
as provided in section 2949.28 of the Revised Code, may appoint 7630  
one or more psychiatrists or psychologists to make a further 7631  
examination of the convict and to submit a report to the court. If 7632  
the court finds at the hearing that the convict is not insane and 7633  
if the time previously appointed for execution of the sentence has 7634  
not passed, the sentence shall be executed at the previously 7635  
appointed time. If the court finds at the hearing that the convict 7636  
is not insane and if the time previously appointed for execution 7637  
of the sentence has passed, the judge who conducts the hearing, if 7638  
authorized by the supreme court, shall appoint a new time for 7639  
execution of the sentence to be effective fifteen days from the 7640  
date of the entry of the judge's findings in the hearing. 7641

(C) In all proceedings under this section, the convict is 7642  
presumed not to be insane, and the court shall find that the 7643  
convict is not insane unless the court finds by a preponderance of 7644  
the evidence that the convict is insane. 7645

(D) Proceedings for inquiry into the insanity of any convict 7646  
sentenced to death shall be exclusively pursuant to this section, 7647

section 2949.28 of the Revised Code, and the Rules of Evidence. 7648  
Neither Chapter 5122. or 5123. of the Revised Code nor any other 7649  
provision of the Revised Code nor any other rule concerning 7650  
mentally ill persons, ~~mentally retarded~~ persons with developmental 7651  
disabilities that are intellectual disabilities, or insane persons 7652  
applies to any proceeding for inquiry into the insanity of any 7653  
convict sentenced to death. 7654

**Sec. 2967.22.** Whenever it is brought to the attention of the 7655  
adult parole authority or a department of probation that a 7656  
parolee, person under a community control sanction, person under 7657  
transitional control, or releasee appears to be a mentally ill 7658  
person subject to hospitalization by court order, as defined in 7659  
section 5122.01 of the Revised Code, or a ~~mentally retarded~~ person 7660  
with an intellectual disability subject to institutionalization by 7661  
court order, as defined in section 5123.01 of the Revised Code, 7662  
the parole or probation officer, subject to the approval of the 7663  
chief of the adult parole authority, the designee of the chief of 7664  
the adult parole authority, or the chief probation officer, may 7665  
file an affidavit under section 5122.11 or 5123.71 of the Revised 7666  
Code. A parolee, person under a community control sanction, or 7667  
releasee who is involuntarily detained under Chapter 5122. or 7668  
5123. of the Revised Code shall receive credit against the period 7669  
of parole or community control or the term of post-release control 7670  
for the period of involuntary detention. 7671

If a parolee, person under a community control sanction, 7672  
person under transitional control, or releasee escapes from an 7673  
institution or facility within the department of mental health and 7674  
addiction services or the department of developmental 7675  
disabilities, the superintendent of the institution immediately 7676  
shall notify the chief of the adult parole authority or the chief 7677  
probation officer. Notwithstanding the provisions of section 7678  
5122.26 of the Revised Code, the procedure for the apprehension, 7679

detention, and return of the parolee, person under a community control sanction, person under transitional control, or releasee is the same as that provided for the apprehension, detention, and return of persons who escape from institutions operated by the department of rehabilitation and correction. If the escaped parolee, person under transitional control, or releasee is not apprehended and returned to the custody of the department of mental health and addiction services or the department of developmental disabilities within ninety days after the escape, the parolee, person under transitional control, or releasee shall be discharged from the custody of the department of mental health and addiction services or the department of developmental disabilities and returned to the custody of the department of rehabilitation and correction. If the escaped person under a community control sanction is not apprehended and returned to the custody of the department of mental health and addiction services or the department of developmental disabilities within ninety days after the escape, the person under a community control sanction shall be discharged from the custody of the department of mental health and addiction services or the department of developmental disabilities and returned to the custody of the court that sentenced that person.

**Sec. 3107.02.** (A) Any minor may be adopted.

(B) An adult may be adopted under any of the following conditions:

(1) If the adult is totally or permanently disabled;

(2) If the adult is determined to be a ~~mentally retarded~~ person with a developmental disability that is an intellectual disability;

(3) If the adult had established a child-foster caregiver, kinship caregiver, or child-stepparent relationship with the

petitioners as a minor, and the adult consents to the adoption; 7711

(4) If the adult was, at the time of the adult's eighteenth 7712  
birthday, in the permanent custody of or in a planned permanent 7713  
living arrangement with a public children services agency or a 7714  
private child placing agency, and the adult consents to the 7715  
adoption; 7716

(5) If the adult is the child of the spouse of the 7717  
petitioner, and the adult consents to the adoption. 7718

(C) When proceedings to adopt a minor are initiated by the 7719  
filing of a petition, and the eighteenth birthday of the minor 7720  
occurs prior to the decision of the court, the court shall require 7721  
the person who is to be adopted to submit a written statement of 7722  
consent or objection to the adoption. If an objection is 7723  
submitted, the petition shall be dismissed, and if a consent is 7724  
submitted, the court shall proceed with the case, and may issue an 7725  
interlocutory order or final decree of adoption. 7726

(D) Any physical examination of the individual to be adopted 7727  
as part of or in contemplation of a petition to adopt may be 7728  
conducted by any health professional authorized by the Revised 7729  
Code to perform physical examinations, including a physician 7730  
assistant, a clinical nurse specialist, a certified nurse 7731  
practitioner, or a certified nurse-midwife. Any written 7732  
documentation of the physical examination shall be completed by 7733  
the healthcare professional who conducted the examination. 7734

(E) An adult who consents to an adoption pursuant to division 7735  
(B)(4) of this section shall provide the court with the name and 7736  
contact information of the public children services agency or 7737  
private child placing agency that had permanent custody of or a 7738  
planned permanent living arrangement with that adult. The 7739  
petitioner shall request verification from the agency as to 7740  
whether the adult was or was not in the permanent custody of or in 7741

a planned permanent living arrangement with that agency at the 7742  
time of the adult's eighteenth birthday and provide the 7743  
verification to the court. 7744

(F) As used in this section: 7745

(1) "Kinship caregiver" has the same meaning as in section 7746  
5101.85 of the Revised Code. 7747

(2) ~~"Mentally retarded person" has the same meaning as in~~ 7748  
~~section 5123.01 of the Revised Code.~~ 7749

~~(3)~~ "Permanent custody" and "planned permanent living 7750  
arrangement" have the same meanings as in section 2151.011 of the 7751  
Revised Code. 7752

(3) "Person with a developmental disability that is an 7753  
intellectual disability" has the same meaning as in section 7754  
5123.01 of the Revised Code. 7755

**Sec. 3301.52.** As used in sections 3301.52 to 3301.59 of the 7756  
Revised Code: 7757

(A) "Preschool program" means either of the following: 7758

(1) A child care program for preschool children that is 7759  
operated by a school district board of education or an eligible 7760  
nonpublic school. 7761

(2) A child care program for preschool children age three or 7762  
older that is operated by a county ~~DD~~ developmental disabilities 7763  
board. 7764

(B) "Preschool child" or "child" means a child who has not 7765  
entered kindergarten and is not of compulsory school age. 7766

(C) "Parent, guardian, or custodian" means the person or 7767  
government agency that is or will be responsible for a child's 7768  
school attendance under section 3321.01 of the Revised Code. 7769

(D) "Superintendent" means the superintendent of a school 7770

district or the chief administrative officer of an eligible 7771  
nonpublic school. 7772

(E) "Director" means the director, head teacher, elementary 7773  
principal, or site administrator who is the individual on site and 7774  
responsible for supervision of a preschool program. 7775

(F) "Preschool staff member" means a preschool employee whose 7776  
primary responsibility is care, teaching, or supervision of 7777  
preschool children. 7778

(G) "Nonteaching employee" means a preschool program or 7779  
school child program employee whose primary responsibilities are 7780  
duties other than care, teaching, and supervision of preschool 7781  
children or school children. 7782

(H) "Eligible nonpublic school" means a nonpublic school 7783  
chartered as described in division (B)(8) of section 5104.02 of 7784  
the Revised Code or chartered by the state board of education for 7785  
any combination of grades one through twelve, regardless of 7786  
whether it also offers kindergarten. 7787

(I) ~~"County DD board" means a county board of developmental~~ 7788  
~~disabilities.~~ 7789

~~(J)~~ "School child program" means a child care program for 7790  
only school children that is operated by a school district board 7791  
of education, county ~~DD~~ developmental disabilities board, or 7792  
eligible nonpublic school. 7793

~~(K)~~(J) "School child" means a child who is enrolled in or is 7794  
eligible to be enrolled in a grade of kindergarten or above but is 7795  
less than fifteen years old. 7796

~~(L)~~(K) "School child program staff member" means an employee 7797  
whose primary responsibility is the care, teaching, or supervision 7798  
of children in a school child program. 7799

~~(M)~~(L) "Child care" means administering to the needs of 7800

infants, toddlers, preschool children, and school children outside 7801  
of school hours by persons other than their parents or guardians, 7802  
custodians, or relatives by blood, marriage, or adoption for any 7803  
part of the twenty-four-hour day in a place or residence other 7804  
than a child's own home. 7805

~~(N)~~(M) "Child day-care center," "publicly funded child care," 7806  
and "school-age child care center" have the same meanings as in 7807  
section 5104.01 of the Revised Code. 7808

**Sec. 3301.53.** (A) The state board of education, in 7809  
consultation with the director of job and family services, shall 7810  
formulate and prescribe by rule adopted under Chapter 119. of the 7811  
Revised Code minimum standards to be applied to preschool programs 7812  
operated by school district boards of education, county ~~DD~~ 7813  
developmental disabilities boards, or eligible nonpublic schools. 7814  
The rules shall include the following: 7815

(1) Standards ensuring that the preschool program is located 7816  
in a safe and convenient facility that accommodates the enrollment 7817  
of the program, is of the quality to support the growth and 7818  
development of the children according to the program objectives, 7819  
and meets the requirements of section 3301.55 of the Revised Code; 7820

(2) Standards ensuring that supervision, discipline, and 7821  
programs will be administered according to established objectives 7822  
and procedures; 7823

(3) Standards ensuring that preschool staff members and 7824  
nonteaching employees are recruited, employed, assigned, 7825  
evaluated, and provided inservice education without discrimination 7826  
on the basis of age, color, national origin, race, or sex; and 7827  
that preschool staff members and nonteaching employees are 7828  
assigned responsibilities in accordance with written position 7829  
descriptions commensurate with their training and experience; 7830

(4) A requirement that boards of education intending to 7831  
establish a preschool program demonstrate a need for a preschool 7832  
program prior to establishing the program; 7833

(5) Requirements that children participating in preschool 7834  
programs have been immunized to the extent considered appropriate 7835  
by the state board to prevent the spread of communicable disease; 7836

(6) Requirements that the parents of preschool children 7837  
complete the emergency medical authorization form specified in 7838  
section 3313.712 of the Revised Code. 7839

(B) The state board of education in consultation with the 7840  
director of job and family services shall ensure that the rules 7841  
adopted by the state board under sections 3301.52 to 3301.58 of 7842  
the Revised Code are consistent with and meet or exceed the 7843  
requirements of Chapter 5104. of the Revised Code with regard to 7844  
child day-care centers. The state board and the director of job 7845  
and family services shall review all such rules at least once 7846  
every five years. 7847

(C) The state board of education, in consultation with the 7848  
director of job and family services, shall adopt rules for school 7849  
child programs that are consistent with and meet or exceed the 7850  
requirements of the rules adopted for school-age child care 7851  
centers under Chapter 5104. of the Revised Code. 7852

**Sec. 3301.55.** (A) A school district, county ~~DD~~ developmental 7853  
disabilities board, or eligible nonpublic school operating a 7854  
preschool program shall house the program in buildings that meet 7855  
the following requirements: 7856

(1) The building is operated by the district, county ~~DD~~ 7857  
developmental disabilities board, or eligible nonpublic school and 7858  
has been approved by the division of industrial compliance in the 7859  
department of commerce or a certified municipal, township, or 7860

county building department for the purpose of operating a program 7861  
for preschool children. Any such structure shall be constructed, 7862  
equipped, repaired, altered, and maintained in accordance with 7863  
applicable provisions of Chapters 3781. and 3791. and with rules 7864  
adopted by the board of building standards under Chapter 3781. of 7865  
the Revised Code for the safety and sanitation of structures 7866  
erected for this purpose. 7867

(2) The building is in compliance with fire and safety laws 7868  
and regulations as evidenced by reports of annual school fire and 7869  
safety inspections as conducted by appropriate local authorities. 7870

(3) The school is in compliance with rules established by the 7871  
state board of education regarding school food services. 7872

(4) The facility includes not less than thirty-five square 7873  
feet of indoor space for each child in the program. Safe play 7874  
space, including both indoor and outdoor play space, totaling not 7875  
less than sixty square feet for each child using the space at any 7876  
one time, shall be regularly available and scheduled for use. 7877

(5) First aid facilities and space for temporary placement or 7878  
isolation of injured or ill children are provided. 7879

(B) Each school district, county ~~DD~~ developmental 7880  
disabilities board, or eligible nonpublic school that operates, or 7881  
proposes to operate, a preschool program shall submit a building 7882  
plan including all information specified by the state board of 7883  
education to the board not later than the first day of September 7884  
of the school year in which the program is to be initiated. The 7885  
board shall determine whether the buildings meet the requirements 7886  
of this section and section 3301.53 of the Revised Code, and 7887  
notify the superintendent of its determination. If the board 7888  
determines, on the basis of the building plan or any other 7889  
information, that the buildings do not meet those requirements, it 7890  
shall cause the buildings to be inspected by the department of 7891

education. The department shall make a report to the 7892  
superintendent specifying any aspects of the building that are not 7893  
in compliance with the requirements of this section and section 7894  
3301.53 of the Revised Code and the time period that will be 7895  
allowed the district, county ~~DD~~ developmental disabilities board, 7896  
or school to meet the requirements. 7897

**Sec. 3301.57.** (A) For the purpose of improving programs, 7898  
facilities, and implementation of the standards promulgated by the 7899  
state board of education under section 3301.53 of the Revised 7900  
Code, the state department of education shall provide consultation 7901  
and technical assistance to school districts, county ~~DD~~ 7902  
developmental disabilities boards, and eligible nonpublic schools 7903  
operating preschool programs or school child programs, and 7904  
inservice training to preschool staff members, school child 7905  
program staff members, and nonteaching employees. 7906

(B) The department and the school district board of 7907  
education, county ~~DD~~ developmental disabilities board, or eligible 7908  
nonpublic school shall jointly monitor each preschool program and 7909  
each school child program. 7910

If the program receives any grant or other funding from the 7911  
state or federal government, the department annually shall monitor 7912  
all reports on attendance, financial support, and expenditures 7913  
according to provisions for use of the funds. 7914

(C) The department of education, at least once during every 7915  
twelve-month period of operation of a preschool program or a 7916  
licensed school child program, shall inspect the program and 7917  
provide a written inspection report to the superintendent of the 7918  
school district, county ~~DD~~ developmental disabilities board, or 7919  
eligible nonpublic school. The department may inspect any program 7920  
more than once, as considered necessary by the department, during 7921  
any twelve-month period of operation. All inspections may be 7922

unannounced. No person shall interfere with any inspection 7923  
conducted pursuant to this division or to the rules adopted 7924  
pursuant to sections 3301.52 to 3301.59 of the Revised Code. 7925

Upon receipt of any complaint that a preschool program or a 7926  
licensed school child program is out of compliance with the 7927  
requirements in sections 3301.52 to 3301.59 of the Revised Code or 7928  
the rules adopted under those sections, the department shall 7929  
investigate and may inspect the program. 7930

(D) If a preschool program or a licensed school child program 7931  
is determined to be out of compliance with the requirements of 7932  
sections 3301.52 to 3301.59 of the Revised Code or the rules 7933  
adopted under those sections, the department of education shall 7934  
notify the appropriate superintendent, county ~~DD~~ developmental 7935  
disabilities board, or eligible nonpublic school in writing 7936  
regarding the nature of the violation, what must be done to 7937  
correct the violation, and by what date the correction must be 7938  
made. If the correction is not made by the date established by the 7939  
department, it may commence action under Chapter 119. of the 7940  
Revised Code to close the program or to revoke the license of the 7941  
program. If a program does not comply with an order to cease 7942  
operation issued in accordance with Chapter 119. of the Revised 7943  
Code, the department shall notify the attorney general, the 7944  
prosecuting attorney of the county in which the program is 7945  
located, or the city attorney, village solicitor, or other chief 7946  
legal officer of the municipal corporation in which the program is 7947  
located that the program is operating in violation of sections 7948  
3301.52 to 3301.59 of the Revised Code or the rules adopted under 7949  
those sections and in violation of an order to cease operation 7950  
issued in accordance with Chapter 119. of the Revised Code. Upon 7951  
receipt of the notification, the attorney general, prosecuting 7952  
attorney, city attorney, village solicitor, or other chief legal 7953  
officer shall file a complaint in the court of common pleas of the 7954

county in which the program is located requesting the court to 7955  
issue an order enjoining the program from operating. The court 7956  
shall grant the requested injunctive relief upon a showing that 7957  
the program named in the complaint is operating in violation of 7958  
sections 3301.52 to 3301.59 of the Revised Code or the rules 7959  
adopted under those sections and in violation of an order to cease 7960  
operation issued in accordance with Chapter 119. of the Revised 7961  
Code. 7962

(E) The department of education shall prepare an annual 7963  
report on inspections conducted under this section. The report 7964  
shall include the number of inspections conducted, the number and 7965  
types of violations found, and the steps taken to address the 7966  
violations. The department shall file the report with the 7967  
governor, the president and minority leader of the senate, and the 7968  
speaker and minority leader of the house of representatives on or 7969  
before the first day of January of each year, beginning in 1999. 7970

**Sec. 3301.58.** (A) The department of education is responsible 7971  
for the licensing of preschool programs and school child programs 7972  
and for the enforcement of sections 3301.52 to 3301.59 of the 7973  
Revised Code and of any rules adopted under those sections. No 7974  
school district board of education, county ~~DD~~ developmental 7975  
disabilities board, or eligible nonpublic school shall operate, 7976  
establish, manage, conduct, or maintain a preschool program 7977  
without a license issued under this section. A school district 7978  
board of education, county ~~DD~~ developmental disabilities board, or 7979  
eligible nonpublic school may obtain a license under this section 7980  
for a school child program. The school district board of 7981  
education, county ~~DD~~ developmental disabilities board, or eligible 7982  
nonpublic school shall post the license for each preschool program 7983  
and licensed school child program it operates, establishes, 7984  
manages, conducts, or maintains in a conspicuous place in the 7985  
preschool program or licensed school child program that is 7986

accessible to parents, custodians, or guardians and employees and 7987  
staff members of the program at all times when the program is in 7988  
operation. 7989

(B) Any school district board of education, county ~~DD~~ 7990  
developmental disabilities board, or eligible nonpublic school 7991  
that desires to operate, establish, manage, conduct, or maintain a 7992  
preschool program shall apply to the department of education for a 7993  
license on a form that the department shall prescribe by rule. Any 7994  
school district board of education, county ~~DD~~ developmental 7995  
disabilities board, or eligible nonpublic school that desires to 7996  
obtain a license for a school child program shall apply to the 7997  
department for a license on a form that the department shall 7998  
prescribe by rule. The department shall provide at no charge to 7999  
each applicant for a license under this section a copy of the 8000  
requirements under sections 3301.52 to 3301.59 of the Revised Code 8001  
and any rules adopted under those sections. The department may 8002  
establish application fees by rule adopted under Chapter 119. of 8003  
the Revised Code, and all applicants for a license shall pay any 8004  
fee established by the department at the time of making an 8005  
application for a license. All fees collected pursuant to this 8006  
section shall be paid into the state treasury to the credit of the 8007  
general revenue fund. 8008

(C) Upon the filing of an application for a license, the 8009  
department of education shall investigate and inspect the 8010  
preschool program or school child program to determine the license 8011  
capacity for each age category of children of the program and to 8012  
determine whether the program complies with sections 3301.52 to 8013  
3301.59 of the Revised Code and any rules adopted under those 8014  
sections. When, after investigation and inspection, the department 8015  
of education is satisfied that sections 3301.52 to 3301.59 of the 8016  
Revised Code and any rules adopted under those sections are 8017  
complied with by the applicant, the department of education shall 8018

issue the program a provisional license as soon as practicable in 8019  
the form and manner prescribed by the rules of the department. The 8020  
provisional license shall be valid for one year from the date of 8021  
issuance unless revoked. 8022

(D) The department of education shall investigate and inspect 8023  
a preschool program or school child program that has been issued a 8024  
provisional license at least once during operation under the 8025  
provisional license. If, after the investigation and inspection, 8026  
the department of education determines that the requirements of 8027  
sections 3301.52 to 3301.59 of the Revised Code and any rules 8028  
adopted under those sections are met by the provisional licensee, 8029  
the department of education shall issue the program a license. The 8030  
license shall remain valid unless revoked or the program ceases 8031  
operations. 8032

(E) The department of education annually shall investigate 8033  
and inspect each preschool program or school child program 8034  
licensed under division (D) of this section to determine if the 8035  
requirements of sections 3301.52 to 3301.59 of the Revised Code 8036  
and any rules adopted under those sections are met by the program, 8037  
and shall notify the program of the results. 8038

(F) The license or provisional license shall state the name 8039  
of the school district board of education, county ~~DD~~ developmental 8040  
disabilities board, or eligible nonpublic school that operates the 8041  
preschool program or school child program and the license capacity 8042  
of the program. 8043

(G) The department of education may revoke the license of any 8044  
preschool program or school child program that is not in 8045  
compliance with the requirements of sections 3301.52 to 3301.59 of 8046  
the Revised Code and any rules adopted under those sections. 8047

(H) If the department of education revokes a license, the 8048  
department shall not issue a license to the program within two 8049

years from the date of the revocation. All actions of the 8050  
department with respect to licensing preschool programs and school 8051  
child programs shall be in accordance with Chapter 119. of the 8052  
Revised Code. 8053

**Sec. 3314.022.** The governing authority of any community 8054  
school established under this chapter may contract with the 8055  
governing authority of another community school, the board of 8056  
education of a school district, the governing board of an 8057  
educational service center, a county ~~DD~~ developmental disabilities 8058  
board, or the administrative authority of a nonpublic school for 8059  
provision of services for any disabled student enrolled at the 8060  
school. Any school district board of education or educational 8061  
service center governing board shall negotiate with a community 8062  
school governing authority that seeks to contract for the 8063  
provision of services for a disabled student under this section in 8064  
the same manner as it would with the board of education of a 8065  
school district that seeks to contract for such services. 8066

**Sec. 3317.02.** As used in this chapter: 8067

(A)(1) "Category one career-technical education ADM" means 8068  
the enrollment of students during the school year on a full-time 8069  
equivalency basis in career-technical education programs described 8070  
in division (A) of section 3317.014 of the Revised Code and 8071  
certified under division (B)(11) or (D)(2)(h) of section 3317.03 8072  
of the Revised Code. 8073

(2) "Category two career-technical education ADM" means the 8074  
enrollment of students during the school year on a full-time 8075  
equivalency basis in career-technical education programs described 8076  
in division (B) of section 3317.014 of the Revised Code and 8077  
certified under division (B)(12) or (D)(2)(i) of section 3317.03 8078  
of the Revised Code. 8079

(3) "Category three career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (C) of section 3317.014 of the Revised Code and certified under division (B)(13) or (D)(2)(j) of section 3317.03 of the Revised Code.

(4) "Category four career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (D) of section 3317.014 of the Revised Code and certified under division (B)(14) or (D)(2)(k) of section 3317.03 of the Revised Code.

(5) "Category five career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (E) of section 3317.014 of the Revised Code and certified under division (B)(15) or (D)(2)(l) of section 3317.03 of the Revised Code.

(B)(1) "Category one limited English proficient ADM" means the full-time equivalent number of limited English proficient students described in division (A) of section 3317.016 of the Revised Code and certified under division (B)(16) or (D)(2)(m) of section 3317.03 of the Revised Code.

(2) "Category two limited English proficient ADM" means the full-time equivalent number of limited English proficient students described in division (B) of section 3317.016 of the Revised Code and certified under division (B)(17) or (D)(2)(n) of section 3317.03 of the Revised Code.

(3) "Category three limited English proficient ADM" means the full-time equivalent number of limited English proficient students described in division (C) of section 3317.016 of the Revised Code

and certified under division (B)(18) or (D)(2)(o) of section 8111  
3317.03 of the Revised Code. 8112

(C)(1) "Category one special education ADM" means the 8113  
full-time equivalent number of children with disabilities 8114  
receiving special education services for the disability specified 8115  
in division (A) of section 3317.013 of the Revised Code and 8116  
certified under division (B)(5) or (D)(2)(b) of section 3317.03 of 8117  
the Revised Code. 8118

(2) "Category two special education ADM" means the full-time 8119  
equivalent number of children with disabilities receiving special 8120  
education services for those disabilities specified in division 8121  
(B) of section 3317.013 of the Revised Code and certified under 8122  
division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised 8123  
Code. 8124

(3) "Category three special education ADM" means the 8125  
full-time equivalent number of students receiving special 8126  
education services for those disabilities specified in division 8127  
(C) of section 3317.013 of the Revised Code, and certified under 8128  
division (B)(7) or (D)(2)(d) of section 3317.03 of the Revised 8129  
Code. 8130

(4) "Category four special education ADM" means the full-time 8131  
equivalent number of students receiving special education services 8132  
for those disabilities specified in division (D) of section 8133  
3317.013 of the Revised Code and certified under division (B)(8) 8134  
or (D)(2)(e) of section 3317.03 of the Revised Code. 8135

(5) "Category five special education ADM" means the full-time 8136  
equivalent number of students receiving special education services 8137  
for the disabilities specified in division (E) of section 3317.013 8138  
of the Revised Code and certified under division (B)(9) or 8139  
(D)(2)(f) of section 3317.03 of the Revised Code. 8140

(6) "Category six special education ADM" means the full-time 8141

equivalent number of students receiving special education services 8142  
for the disabilities specified in division (F) of section 3317.013 8143  
of the Revised Code and certified under division (B)(10) or 8144  
(D)(2)(g) of section 3317.03 of the Revised Code. 8145

~~(D) "County DD board" means a county board of developmental 8146  
disabilities. 8147~~

~~(E)~~ "Economically disadvantaged index for a school district" 8148  
means the square of the quotient of that district's percentage of 8149  
students in its total ADM who are identified as economically 8150  
disadvantaged as defined by the department of education, divided 8151  
by the statewide percentage of students identified as economically 8152  
disadvantaged. 8153

~~(F)~~(E)(1) "Formula ADM" means, for a city, local, or exempted 8154  
village school district, the enrollment reported under division 8155  
(A) of section 3317.03 of the Revised Code, as verified by the 8156  
superintendent of public instruction and adjusted if so ordered 8157  
under division (K) of that section, and as further adjusted by the 8158  
department of education, as follows: 8159

(a) Count only twenty per cent of the number of joint 8160  
vocational school district students counted under division (A)(3) 8161  
of section 3317.03 of the Revised Code; 8162

(b) Add twenty per cent of the number of students who are 8163  
entitled to attend school in the district under section 3313.64 or 8164  
3313.65 of the Revised Code and are enrolled in another school 8165  
district under a career-technical education compact. 8166

(2) "Formula ADM" means, for a joint vocational school 8167  
district, the final number verified by the superintendent of 8168  
public instruction, based on the enrollment reported and certified 8169  
under division (D) of section 3317.03 of the Revised Code, as 8170  
adjusted, if so ordered, under division (K) of that section. 8171

~~(G)~~(F) "Formula amount" means \$5,745, for fiscal year 2014, 8172

and \$5,800, for fiscal year 2015. 8173

~~(H)~~(G) "FTE basis" means a count of students based on 8174  
full-time equivalency, in accordance with rules adopted by the 8175  
department of education pursuant to section 3317.03 of the Revised 8176  
Code. In adopting its rules under this division, the department 8177  
shall provide for counting any student in category one, two, 8178  
three, four, five, or six special education ADM or in category 8179  
one, two, three, four, or five career technical education ADM in 8180  
the same proportion the student is counted in formula ADM. 8181

~~(I)~~(H) "Internet- or computer-based community school" has the 8182  
same meaning as in section 3314.02 of the Revised Code. 8183

~~(J)~~(I) "Medically fragile child" means a child to whom all of 8184  
the following apply: 8185

(1) The child requires the services of a doctor of medicine 8186  
or osteopathic medicine at least once a week due to the 8187  
instability of the child's medical condition. 8188

(2) The child requires the services of a registered nurse on 8189  
a daily basis. 8190

(3) The child is at risk of institutionalization in a 8191  
hospital, skilled nursing facility, or intermediate care facility 8192  
for individuals with intellectual disabilities. 8193

~~(K)~~(J)(1) A child may be identified as having an "other 8194  
health impairment-major" if the child's condition meets the 8195  
definition of "other health impaired" established in rules 8196  
previously adopted by the state board of education and if either 8197  
of the following apply: 8198

(a) The child is identified as having a medical condition 8199  
that is among those listed by the superintendent of public 8200  
instruction as conditions where a substantial majority of cases 8201  
fall within the definition of "medically fragile child." 8202

(b) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

(2) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education but the child's condition does not meet either of the conditions specified in division ~~(K)~~(J)(1)(a) or (b) of this section.

~~(L)~~(K) "Preschool child with a disability" means a child with a disability, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten.

~~(M)~~(L) "Preschool scholarship ADM" means the number of preschool children with disabilities certified under division (B)(3)(h) of section 3317.03 of the Revised Code.

~~(N)~~(M) "Related services" includes:

(1) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for children with disabilities whose disabilities are described in division (B) of section 3317.013 or division (B)(3) of this section, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;

(2) Speech and language services provided to any student with a disability, including any student whose primary or only disability is a speech and language disability;

(3) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;

(4) Any service included in units funded under former division (O)(1) of section 3317.024 of the Revised Code;

(5) Any other related service needed by children with disabilities in accordance with their individualized education programs.

~~(O)~~(N) "School district," unless otherwise specified, means city, local, and exempted village school districts.

~~(P)~~(O) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

~~(Q)~~(P) "State share index" means the state share index calculated for a district under section 3317.017 of the Revised Code.

~~(R)~~(O) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property.

~~(S)~~(R) "Total ADM" means, for a city, local, or exempted village school district, the enrollment reported under division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section.

~~(T)~~(S) "Total special education ADM" means the sum of categories one through six special education ADM.

~~(U)~~(T) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

**Sec. 3317.024.** The following shall be distributed monthly, 8264  
quarterly, or annually as may be determined by the state board of 8265  
education: 8266

(A) An amount for each island school district and each joint 8267  
state school district for the operation of each high school and 8268  
each elementary school maintained within such district and for 8269  
capital improvements for such schools. Such amounts shall be 8270  
determined on the basis of standards adopted by the state board of 8271  
education. However, for fiscal years 2012 and 2013, an island 8272  
district shall receive the lesser of its actual cost of operation, 8273  
as certified to the department of education, or ninety-three per 8274  
cent of the amount the district received in state operating 8275  
funding for fiscal year 2011. If an island district received no 8276  
funding for fiscal year 2011, it shall receive no funding for 8277  
either of fiscal year 2012 or 2013. 8278

(B) An amount for each school district required to pay 8279  
tuition for a child in an institution maintained by the department 8280  
of youth services pursuant to section 3317.082 of the Revised 8281  
Code, provided the child was not included in the calculation of 8282  
the district's formula ADM, as that term is defined in section 8283  
3317.02 of the Revised Code, for the preceding school year. 8284

(C) An amount for the approved cost of transporting eligible 8285  
pupils with disabilities attending a special education program 8286  
approved by the department of education whom it is impossible or 8287  
impractical to transport by regular school bus in the course of 8288  
regular route transportation provided by the school district or 8289  
educational service center. No district or service center is 8290  
eligible to receive a payment under this division for the cost of 8291  
transporting any pupil whom it transports by regular school bus 8292  
and who is included in the district's transportation ADM. The 8293  
state board of education shall establish standards and guidelines 8294

for use by the department of education in determining the approved 8295  
cost of such transportation for each district or service center. 8296

(D) An amount to each school district, including each 8297  
cooperative education school district, pursuant to section 3313.81 8298  
of the Revised Code to assist in providing free lunches to needy 8299  
children. The amounts shall be determined on the basis of rules 8300  
adopted by the state board of education. 8301

(E) An amount to each school district, for each pupil 8302  
attending a chartered nonpublic elementary or high school within 8303  
the district. The amount shall equal the amount appropriated for 8304  
the implementation of section 3317.06 of the Revised Code divided 8305  
by the average daily membership in grades kindergarten through 8306  
twelve in nonpublic elementary and high schools within the state 8307  
as determined as of the last day of October of each school year. 8308

(F) An amount for each county ~~DD~~ developmental disabilities 8309  
board, distributed on the basis of standards adopted by the state 8310  
board of education, for the approved cost of transportation 8311  
required for children attending special education programs 8312  
operated by the county ~~DD~~ developmental disabilities board under 8313  
section 3323.09 of the Revised Code; 8314

(G) An amount to each institution defined under section 8315  
3317.082 of the Revised Code providing elementary or secondary 8316  
education to children other than children receiving special 8317  
education under section 3323.091 of the Revised Code. This amount 8318  
for any institution in any fiscal year shall equal the total of 8319  
all tuition amounts required to be paid to the institution under 8320  
division (A)(1) of section 3317.082 of the Revised Code. 8321

The state board of education or any other board of education 8322  
or governing board may provide for any resident of a district or 8323  
educational service center territory any educational service for 8324  
which funds are made available to the board by the United States 8325

under the authority of public law, whether such funds come 8326  
directly or indirectly from the United States or any agency or 8327  
department thereof or through the state or any agency, department, 8328  
or political subdivision thereof. 8329

**Sec. 3317.03.** (A) The superintendent of each city, local, and 8330  
exempted village school district shall report to the state board 8331  
of education as of the last day of October, March, and June of 8332  
each year the enrollment of students receiving services from 8333  
schools under the superintendent's supervision, and the numbers of 8334  
other students entitled to attend school in the district under 8335  
section 3313.64 or 3313.65 of the Revised Code the superintendent 8336  
is required to report under this section, so that the department 8337  
of education can calculate the district's formula ADM, total ADM, 8338  
category one through five career-technical education ADM, category 8339  
one through three limited English proficient ADM, category one 8340  
through six special education ADM, preschool scholarship ADM, 8341  
transportation ADM, and, for purposes of provisions of law outside 8342  
of Chapter 3317. of the Revised Code, average daily membership. 8343

(1) The enrollment reported by the superintendent during the 8344  
reporting period shall consist of the number of students in grades 8345  
kindergarten through twelve receiving any educational services 8346  
from the district, except that the following categories of 8347  
students shall not be included in the determination: 8348

(a) Students enrolled in adult education classes; 8349

(b) Adjacent or other district students enrolled in the 8350  
district under an open enrollment policy pursuant to section 8351  
3313.98 of the Revised Code; 8352

(c) Students receiving services in the district pursuant to a 8353  
compact, cooperative education agreement, or a contract, but who 8354  
are entitled to attend school in another district pursuant to 8355  
section 3313.64 or 3313.65 of the Revised Code; 8356

(d) Students for whom tuition is payable pursuant to sections 8357  
3317.081 and 3323.141 of the Revised Code; 8358

(e) Students receiving services in the district through a 8359  
scholarship awarded under either section 3310.41 or sections 8360  
3310.51 to 3310.64 of the Revised Code. 8361

When reporting students under division (A)(1) of this 8362  
section, the superintendent also shall report the district where 8363  
each student is entitled to attend school pursuant to sections 8364  
3313.64 and 3313.65 of the Revised Code. 8365

(2) The department of education shall compile a list of all 8366  
students reported to be enrolled in a district under division 8367  
(A)(1) of this section and of the students entitled to attend 8368  
school in the district pursuant to section 3313.64 or 3313.65 of 8369  
the Revised Code on an FTE basis but receiving educational 8370  
services in grades kindergarten through twelve from one or more of 8371  
the following entities: 8372

(a) A community school pursuant to Chapter 3314. of the 8373  
Revised Code, including any participation in a college pursuant to 8374  
Chapter 3365. of the Revised Code while enrolled in such community 8375  
school; 8376

(b) An alternative school pursuant to sections 3313.974 to 8377  
3313.979 of the Revised Code as described in division (I)(2)(a) or 8378  
(b) of this section; 8379

(c) A college pursuant to Chapter 3365. of the Revised Code, 8380  
except when the student is enrolled in the college while also 8381  
enrolled in a community school pursuant to Chapter 3314., a 8382  
science, technology, engineering, and mathematics school 8383  
established under Chapter 3326., or a college-preparatory boarding 8384  
school established under Chapter 3328. of the Revised Code; 8385

(d) An adjacent or other school district under an open 8386  
enrollment policy adopted pursuant to section 3313.98 of the 8387

Revised Code;	8388
(e) An educational service center or cooperative education district;	8389 8390
(f) Another school district under a cooperative education agreement, compact, or contract;	8391 8392
(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code, if the students qualified for the scholarship under section 3310.03 of the Revised Code;	8393 8394 8395 8396
(h) An alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.	8397 8398 8399
As used in this section, "alternative public provider" and "registered private provider" have the same meanings as in section 3310.41 or 3310.51 of the Revised Code, as applicable.	8400 8401 8402
(i) A science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	8403 8404 8405 8406
(j) A college-preparatory boarding school established under Chapter 3328. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school.	8407 8408 8409 8410
(3) The department also shall compile a list of the students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in a joint vocational school district or under a career-technical education compact, excluding any students so entitled to attend school in the district who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of	8411 8412 8413 8414 8415 8416 8417

this section and then enroll in a joint vocational school district 8418  
or under a career-technical education compact. 8419

The department shall provide each city, local, and exempted 8420  
village school district with an opportunity to review the list of 8421  
students compiled under divisions (A)(2) and (3) of this section 8422  
to ensure that the students reported accurately reflect the 8423  
enrollment of students in the district. 8424

(B) To enable the department of education to obtain the data 8425  
needed to complete the calculation of payments pursuant to this 8426  
chapter, each superintendent shall certify from the reports 8427  
provided by the department under division (A) of this section all 8428  
of the following: 8429

(1) The total student enrollment in regular learning day 8430  
classes included in the report under division (A)(1) or (2) of 8431  
this section for each of the individual grades kindergarten 8432  
through twelve in schools under the superintendent's supervision; 8433

(2) The unduplicated count of the number of preschool 8434  
children with disabilities enrolled in the district for whom the 8435  
district is eligible to receive funding under section 3317.0213 of 8436  
the Revised Code adjusted for the portion of the year each child 8437  
is so enrolled, in accordance with the disability categories 8438  
prescribed in section 3317.013 of the Revised Code; 8439

(3) The number of children entitled to attend school in the 8440  
district pursuant to section 3313.64 or 3313.65 of the Revised 8441  
Code who are: 8442

(a) Participating in a pilot project scholarship program 8443  
established under sections 3313.974 to 3313.979 of the Revised 8444  
Code as described in division (I)(2)(a) or (b) of this section; 8445

(b) Enrolled in a college under Chapter 3365. of the Revised 8446  
Code, except when the student is enrolled in the college while 8447  
also enrolled in a community school pursuant to Chapter 3314. of 8448

the Revised Code, a science, technology, engineering, and 8449  
mathematics school established under Chapter 3326., or a 8450  
college-preparatory boarding school established under Chapter 8451  
3328. of the Revised Code; 8452

(c) Enrolled in an adjacent or other school district under 8453  
section 3313.98 of the Revised Code; 8454

(d) Enrolled in a community school established under Chapter 8455  
3314. of the Revised Code that is not an internet- or 8456  
computer-based community school as defined in section 3314.02 of 8457  
the Revised Code, including any participation in a college 8458  
pursuant to Chapter 3365. of the Revised Code while enrolled in 8459  
such community school; 8460

(e) Enrolled in an internet- or computer-based community 8461  
school, as defined in section 3314.02 of the Revised Code, 8462  
including any participation in a college pursuant to Chapter 3365. 8463  
of the Revised Code while enrolled in the school; 8464

(f) Enrolled in a chartered nonpublic school with a 8465  
scholarship paid under section 3310.08 of the Revised Code and who 8466  
qualified for the scholarship under section 3310.03 of the Revised 8467  
Code; 8468

(g) Enrolled in kindergarten through grade twelve in an 8469  
alternative public provider or a registered private provider with 8470  
a scholarship awarded under section 3310.41 of the Revised Code; 8471

(h) Enrolled as a preschool child with a disability in an 8472  
alternative public provider or a registered private provider with 8473  
a scholarship awarded under section 3310.41 of the Revised Code; 8474

(i) Participating in a program operated by a county ~~DD~~ 8475  
developmental disabilities board or a state institution; 8476

(j) Enrolled in a science, technology, engineering, and 8477  
mathematics school established under Chapter 3326. of the Revised 8478

Code, including any participation in a college pursuant to Chapter	8479
3365. of the Revised Code while enrolled in the school;	8480
(k) Enrolled in a college-preparatory boarding school	8481
established under Chapter 3328. of the Revised Code, including any	8482
participation in a college pursuant to Chapter 3365. of the	8483
Revised Code while enrolled in the school;	8484
(1) Enrolled in an alternative public provider or a	8485
registered private provider with a scholarship awarded under	8486
sections 3310.51 to 3310.64 of the Revised Code.	8487
(4) The total enrollment of pupils in joint vocational	8488
schools;	8489
(5) The combined enrollment of children with disabilities	8490
reported under division (A)(1) or (2) of this section receiving	8491
special education services for the category one disability	8492
described in division (A) of section 3317.013 of the Revised Code,	8493
including children attending a special education program operated	8494
by an alternative public provider or a registered private provider	8495
with a scholarship awarded under sections 3310.51 to 3310.64 of	8496
the Revised Code;	8497
(6) The combined enrollment of children with disabilities	8498
reported under division (A)(1) or (2) of this section receiving	8499
special education services for category two disabilities described	8500
in division (B) of section 3317.013 of the Revised Code, including	8501
children attending a special education program operated by an	8502
alternative public provider or a registered private provider with	8503
a scholarship awarded under sections 3310.51 to 3310.64 of the	8504
Revised Code;	8505
(7) The combined enrollment of children with disabilities	8506
reported under division (A)(1) or (2) of this section receiving	8507
special education services for category three disabilities	8508
described in division (C) of section 3317.013 of the Revised Code,	8509

including children attending a special education program operated 8510  
by an alternative public provider or a registered private provider 8511  
with a scholarship awarded under sections 3310.51 to 3310.64 of 8512  
the Revised Code; 8513

(8) The combined enrollment of children with disabilities 8514  
reported under division (A)(1) or (2) of this section receiving 8515  
special education services for category four disabilities 8516  
described in division (D) of section 3317.013 of the Revised Code, 8517  
including children attending a special education program operated 8518  
by an alternative public provider or a registered private provider 8519  
with a scholarship awarded under sections 3310.51 to 3310.64 of 8520  
the Revised Code; 8521

(9) The combined enrollment of children with disabilities 8522  
reported under division (A)(1) or (2) of this section receiving 8523  
special education services for the category five disabilities 8524  
described in division (E) of section 3317.013 of the Revised Code, 8525  
including children attending a special education program operated 8526  
by an alternative public provider or a registered private provider 8527  
with a scholarship awarded under sections 3310.51 to 3310.64 of 8528  
the Revised Code; 8529

(10) The combined enrollment of children with disabilities 8530  
reported under division (A)(1) or (2) and under division (B)(3)(h) 8531  
of this section receiving special education services for category 8532  
six disabilities described in division (F) of section 3317.013 of 8533  
the Revised Code, including children attending a special education 8534  
program operated by an alternative public provider or a registered 8535  
private provider with a scholarship awarded under either section 8536  
3310.41 or sections 3310.51 to 3310.64 of the Revised Code; 8537

(11) The enrollment of pupils reported under division (A)(1) 8538  
or (2) of this section on a full-time equivalency basis in 8539  
category one career-technical education programs or classes, 8540  
described in division (A) of section 3317.014 of the Revised Code, 8541

operated by the school district or by another district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, notwithstanding division ~~(H)~~(G) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(12) The enrollment of pupils reported under division (A)(1) or (2) of this section on a full-time equivalency basis in category two career-technical education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, notwithstanding division ~~(H)~~(G) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(13) The enrollment of pupils reported under division (A)(1) or (2) of this section on a full-time equivalency basis in category three career-technical education programs or services, described in division (C) of section 3317.014 of the Revised Code, operated by the school district or another school district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, notwithstanding division ~~(H)~~(G) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(14) The enrollment of pupils reported under division (A)(1) or (2) of this section on a full-time equivalency basis in category four career-technical education programs or services, described in division (D) of section 3317.014 of the Revised Code, operated by the school district or another school district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an

educational service center, notwithstanding division ~~(H)~~(G) of 8574  
section 3317.02 of the Revised Code and division (C)(3) of this 8575  
section; 8576

(15) The enrollment of pupils reported under division (A)(1) 8577  
or (2) of this section on a full-time equivalency basis in 8578  
category five career-technical education programs or services, 8579  
described in division (E) of section 3317.014 of the Revised Code, 8580  
operated by the school district or another school district that is 8581  
a member of the district's career-technical planning district, 8582  
other than a joint vocational school district, or by an 8583  
educational service center, notwithstanding division ~~(H)~~(G) of 8584  
section 3317.02 of the Revised Code and division (C)(3) of this 8585  
section; 8586

(16) The enrollment of pupils reported under division (A)(1) 8587  
or (2) of this section who are limited English proficient students 8588  
described in division (A) of section 3317.016 of the Revised Code, 8589  
excluding any student reported under division (B)(3)(e) of this 8590  
section as enrolled in an internet- or computer-based community 8591  
school; 8592

(17) The enrollment of pupils reported under division (A)(1) 8593  
or (2) of this section who are limited English proficient students 8594  
described in division (B) of section 3317.016 of the Revised Code, 8595  
excluding any student reported under division (B)(3)(e) of this 8596  
section as enrolled in an internet- or computer-based community 8597  
school; 8598

(18) The enrollment of pupils reported under division (A)(1) 8599  
or (2) of this section who are limited English proficient students 8600  
described in division (C) of section 3317.016 of the Revised Code, 8601  
excluding any student reported under division (B)(3)(e) of this 8602  
section as enrolled in an internet- or computer-based community 8603  
school; 8604

(19) The average number of children transported during the reporting period by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;

(20)(a) The number of children, other than preschool children with disabilities, the district placed with a county ~~DD~~ developmental disabilities board in fiscal year 1998. Division (B)(20)(a) of this section does not apply after fiscal year 2013.

(b) The number of children with disabilities, other than preschool children with disabilities, placed with a county ~~DD~~ developmental disabilities board in the current fiscal year to receive special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code;

(c) The number of children with disabilities, other than preschool children with disabilities, placed with a county ~~DD~~ developmental disabilities board in the current fiscal year to receive special education services for category two disabilities described in division (B) of section 3317.013 of the Revised Code;

(d) The number of children with disabilities, other than preschool children with disabilities, placed with a county ~~DD~~ developmental disabilities board in the current fiscal year to receive special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code;

(e) The number of children with disabilities, other than preschool children with disabilities, placed with a county ~~DD~~ developmental disabilities board in the current fiscal year to receive special education services for category four disabilities described in division (D) of section 3317.013 of the Revised Code;

(f) The number of children with disabilities, other than preschool children with disabilities, placed with a county ~~DD~~ developmental disabilities board in the current fiscal year to

receive special education services for the category five 8636  
disabilities described in division (E) of section 3317.013 of the 8637  
Revised Code; 8638

(g) The number of children with disabilities, other than 8639  
preschool children with disabilities, placed with a county ~~DD~~ 8640  
developmental disabilities board in the current fiscal year to 8641  
receive special education services for category six disabilities 8642  
described in division (F) of section 3317.013 of the Revised Code. 8643

(21) The enrollment of students who are economically 8644  
disadvantaged, as defined by the department, excluding any student 8645  
reported under division (B)(3)(e) of this section as enrolled in 8646  
an internet- or computer-based community school. A student shall 8647  
not be categorically excluded from the number reported under 8648  
division (B)(21) of this section based on anything other than 8649  
family income. 8650

(C)(1) The state board of education shall adopt rules 8651  
necessary for implementing divisions (A), (B), and (D) of this 8652  
section. 8653

(2) A student enrolled in a community school established 8654  
under Chapter 3314., a science, technology, engineering, and 8655  
mathematics school established under Chapter 3326., or a 8656  
college-preparatory boarding school established under Chapter 8657  
3328. of the Revised Code shall be counted in the formula ADM and, 8658  
if applicable, the category one, two, three, four, five, or six 8659  
special education ADM of the school district in which the student 8660  
is entitled to attend school under section 3313.64 or 3313.65 of 8661  
the Revised Code for the same proportion of the school year that 8662  
the student is counted in the enrollment of the community school, 8663  
the science, technology, engineering, and mathematics school, or 8664  
the college-preparatory boarding school for purposes of section 8665  
3314.08, 3326.33, or 3328.24 of the Revised Code. Notwithstanding 8666  
the enrollment of students certified pursuant to division 8667

(B)(3)(d), (e), (j), or (k) of this section, the department may 8668  
adjust the formula ADM of a school district to account for 8669  
students entitled to attend school in the district under section 8670  
3313.64 or 3313.65 of the Revised Code who are enrolled in a 8671  
community school, a science, technology, engineering, and 8672  
mathematics school, or a college-preparatory boarding school for 8673  
only a portion of the school year. 8674

(3) No child shall be counted as more than a total of one 8675  
child in the sum of the enrollment of students of a school 8676  
district under division (A), divisions (B)(1) to (22), or division 8677  
(D) of this section, except as follows: 8678

(a) A child with a disability described in section 3317.013 8679  
of the Revised Code may be counted both in formula ADM and in 8680  
category one, two, three, four, five, or six special education ADM 8681  
and, if applicable, in category one, two, three, four, or five 8682  
career-technical education ADM. As provided in division ~~(H)~~(G) of 8683  
section 3317.02 of the Revised Code, such a child shall be counted 8684  
in category one, two, three, four, five, or six special education 8685  
ADM in the same proportion that the child is counted in formula 8686  
ADM. 8687

(b) A child enrolled in career-technical education programs 8688  
or classes described in section 3317.014 of the Revised Code may 8689  
be counted both in formula ADM and category one, two, three, four, 8690  
or five career-technical education ADM and, if applicable, in 8691  
category one, two, three, four, five, or six special education 8692  
ADM. Such a child shall be counted in category one, two, three, 8693  
four, or five career-technical education ADM in the same 8694  
proportion as the percentage of time that the child spends in the 8695  
career-technical education programs or classes. 8696

(4) Based on the information reported under this section, the 8697  
department of education shall determine the total student count, 8698  
as defined in section 3301.011 of the Revised Code, for each 8699

school district. 8700

(D)(1) The superintendent of each joint vocational school 8701  
district shall report and certify to the superintendent of public 8702  
instruction as of the last day of October, March, and June of each 8703  
year the enrollment of students receiving services from schools 8704  
under the superintendent's supervision so that the department can 8705  
calculate the district's formula ADM, total ADM, category one 8706  
through five career-technical education ADM, category one through 8707  
three limited English proficient ADM, category one through six 8708  
special education ADM, and for purposes of provisions of law 8709  
outside of Chapter 3317. of the Revised Code, average daily 8710  
membership. 8711

The enrollment reported and certified by the superintendent, 8712  
except as otherwise provided in this division, shall consist of 8713  
the the number of students in grades six through twelve receiving 8714  
any educational services from the district, except that the 8715  
following categories of students shall not be included in the 8716  
determination: 8717

(a) Students enrolled in adult education classes; 8718

(b) Adjacent or other district joint vocational students 8719  
enrolled in the district under an open enrollment policy pursuant 8720  
to section 3313.98 of the Revised Code; 8721

(c) Students receiving services in the district pursuant to a 8722  
compact, cooperative education agreement, or a contract, but who 8723  
are entitled to attend school in a city, local, or exempted 8724  
village school district whose territory is not part of the 8725  
territory of the joint vocational district; 8726

(d) Students for whom tuition is payable pursuant to sections 8727  
3317.081 and 3323.141 of the Revised Code. 8728

(2) To enable the department of education to obtain the data 8729  
needed to complete the calculation of payments pursuant to this 8730

chapter, each superintendent shall certify from the report 8731  
provided under division (D)(1) of this section the enrollment for 8732  
each of the following categories of students: 8733

(a) Students enrolled in each individual grade included in 8734  
the joint vocational district schools; 8735

(b) Children with disabilities receiving special education 8736  
services for the category one disability described in division (A) 8737  
of section 3317.013 of the Revised Code; 8738

(c) Children with disabilities receiving special education 8739  
services for the category two disabilities described in division 8740  
(B) of section 3317.013 of the Revised Code; 8741

(d) Children with disabilities receiving special education 8742  
services for category three disabilities described in division (C) 8743  
of section 3317.013 of the Revised Code; 8744

(e) Children with disabilities receiving special education 8745  
services for category four disabilities described in division (D) 8746  
of section 3317.013 of the Revised Code; 8747

(f) Children with disabilities receiving special education 8748  
services for the category five disabilities described in division 8749  
(E) of section 3317.013 of the Revised Code; 8750

(g) Children with disabilities receiving special education 8751  
services for category six disabilities described in division (F) 8752  
of section 3317.013 of the Revised Code; 8753

(h) Students receiving category one career-technical 8754  
education services, described in division (A) of section 3317.014 8755  
of the Revised Code; 8756

(i) Students receiving category two career-technical 8757  
education services, described in division (B) of section 3317.014 8758  
of the Revised Code; 8759

(j) Students receiving category three career-technical 8760

education services, described in division (C) of section 3317.014 8761  
of the Revised Code; 8762

(k) Students receiving category four career-technical 8763  
education services, described in division (D) of section 3317.014 8764  
of the Revised Code; 8765

(l) Students receiving category five career-technical 8766  
education services, described in division (E) of section 3317.014 8767  
of the Revised Code; 8768

(m) Limited English proficient students described in division 8769  
(A) of section 3317.016 of the Revised Code; 8770

(n) Limited English proficient students described in division 8771  
(B) of section 3317.016 of the Revised Code; 8772

(o) Limited English proficient students described in division 8773  
(C) of section 3317.016 of the Revised Code; 8774

(p) Students who are economically disadvantaged, as defined 8775  
by the department. A student shall not be categorically excluded 8776  
from the number reported under division (D)(2)(p) of this section 8777  
based on anything other than family income. 8778

The superintendent of each joint vocational school district 8779  
shall also indicate the city, local, or exempted village school 8780  
district in which each joint vocational district pupil is entitled 8781  
to attend school pursuant to section 3313.64 or 3313.65 of the 8782  
Revised Code. 8783

(E) In each school of each city, local, exempted village, 8784  
joint vocational, and cooperative education school district there 8785  
shall be maintained a record of school enrollment, which record 8786  
shall accurately show, for each day the school is in session, the 8787  
actual enrollment in regular day classes. For the purpose of 8788  
determining the enrollment of students, the enrollment figure of 8789  
any school shall not include any pupils except those pupils 8790

described by division (A) of this section. The record of 8791  
enrollment for each school shall be maintained in such manner that 8792  
no pupil shall be counted as enrolled prior to the actual date of 8793  
entry in the school and also in such manner that where for any 8794  
cause a pupil permanently withdraws from the school that pupil 8795  
shall not be counted as enrolled from and after the date of such 8796  
withdrawal. There shall not be included in the enrollment of any 8797  
school any of the following: 8798

(1) Any pupil who has graduated from the twelfth grade of a 8799  
public or nonpublic high school; 8800

(2) Any pupil who is not a resident of the state; 8801

(3) Any pupil who was enrolled in the schools of the district 8802  
during the previous school year when assessments were administered 8803  
under section 3301.0711 of the Revised Code but did not take one 8804  
or more of the assessments required by that section and was not 8805  
excused pursuant to division (C)(1) or (3) of that section; 8806

(4) Any pupil who has attained the age of twenty-two years, 8807  
except for veterans of the armed services whose attendance was 8808  
interrupted before completing the recognized twelve-year course of 8809  
the public schools by reason of induction or enlistment in the 8810  
armed forces and who apply for reenrollment in the public school 8811  
system of their residence not later than four years after 8812  
termination of war or their honorable discharge; 8813

(5) Any pupil who has a high school equivalence diploma as 8814  
defined in section 5107.40 of the Revised Code. 8815

If, however, any veteran described by division (E)(4) of this 8816  
section elects to enroll in special courses organized for veterans 8817  
for whom tuition is paid under the provisions of federal laws, or 8818  
otherwise, that veteran shall not be included in the enrollment of 8819  
students determined under this section. 8820

Notwithstanding division (E)(3) of this section, the 8821

enrollment of any school may include a pupil who did not take an 8822  
assessment required by section 3301.0711 of the Revised Code if 8823  
the superintendent of public instruction grants a waiver from the 8824  
requirement to take the assessment to the specific pupil and a 8825  
parent is not paying tuition for the pupil pursuant to section 8826  
3313.6410 of the Revised Code. The superintendent may grant such a 8827  
waiver only for good cause in accordance with rules adopted by the 8828  
state board of education. 8829

The formula ADM, total ADM, category one through five 8830  
career-technical education ADM, category one through three limited 8831  
English proficient ADM, category one through six special education 8832  
ADM, preschool scholarship ADM, transportation ADM, and, for 8833  
purposes of provisions of law outside of Chapter 3317. of the 8834  
Revised Code, average daily membership of any school district 8835  
shall be determined in accordance with rules adopted by the state 8836  
board of education. 8837

(F)(1) If a student attending a community school under 8838  
Chapter 3314., a science, technology, engineering, and mathematics 8839  
school established under Chapter 3326., or a college-preparatory 8840  
boarding school established under Chapter 3328. of the Revised 8841  
Code is not included in the formula ADM calculated for the school 8842  
district in which the student is entitled to attend school under 8843  
section 3313.64 or 3313.65 of the Revised Code, the department of 8844  
education shall adjust the formula ADM of that school district to 8845  
include the student in accordance with division (C)(2) of this 8846  
section, and shall recalculate the school district's payments 8847  
under this chapter for the entire fiscal year on the basis of that 8848  
adjusted formula ADM. 8849

(2) If a student awarded an educational choice scholarship is 8850  
not included in the formula ADM of the school district from which 8851  
the department deducts funds for the scholarship under section 8852  
3310.08 of the Revised Code, the department shall adjust the 8853

formula ADM of that school district to include the student to the 8854  
extent necessary to account for the deduction, and shall 8855  
recalculate the school district's payments under this chapter for 8856  
the entire fiscal year on the basis of that adjusted formula ADM. 8857

(3) If a student awarded a scholarship under the Jon Peterson 8858  
special needs scholarship program is not included in the formula 8859  
ADM of the school district from which the department deducts funds 8860  
for the scholarship under section 3310.55 of the Revised Code, the 8861  
department shall adjust the formula ADM of that school district to 8862  
include the student to the extent necessary to account for the 8863  
deduction, and shall recalculate the school district's payments 8864  
under this chapter for the entire fiscal year on the basis of that 8865  
adjusted formula ADM. 8866

(G)(1)(a) The superintendent of an institution operating a 8867  
special education program pursuant to section 3323.091 of the 8868  
Revised Code shall, for the programs under such superintendent's 8869  
supervision, certify to the state board of education, in the 8870  
manner prescribed by the superintendent of public instruction, 8871  
both of the following: 8872

(i) The unduplicated count of the number of all children with 8873  
disabilities other than preschool children with disabilities 8874  
receiving services at the institution for each category of 8875  
disability described in divisions (A) to (F) of section 3317.013 8876  
of the Revised Code adjusted for the portion of the year each 8877  
child is so enrolled; 8878

(ii) The unduplicated count of the number of all preschool 8879  
children with disabilities in classes or programs for whom the 8880  
district is eligible to receive funding under section 3317.0213 of 8881  
the Revised Code adjusted for the portion of the year each child 8882  
is so enrolled, reported according to the categories prescribed in 8883  
section 3317.013 of the Revised Code. 8884

(b) The superintendent of an institution with 8885  
career-technical education units approved under section 3317.05 of 8886  
the Revised Code shall, for the units under the superintendent's 8887  
supervision, certify to the state board of education the 8888  
enrollment in those units, in the manner prescribed by the 8889  
superintendent of public instruction. 8890

(2) The superintendent of each county ~~DD~~ developmental 8891  
disabilities board that maintains special education classes under 8892  
section 3317.20 of the Revised Code or provides services to 8893  
preschool children with disabilities pursuant to an agreement 8894  
between the ~~DD~~ developmental disabilities board and the 8895  
appropriate school district shall do both of the following: 8896

(a) Certify to the state board, in the manner prescribed by 8897  
the board, the enrollment in classes under section 3317.20 of the 8898  
Revised Code for each school district that has placed children in 8899  
the classes; 8900

(b) Certify to the state board, in the manner prescribed by 8901  
the board, the unduplicated count of the number of all preschool 8902  
children with disabilities enrolled in classes for which the ~~DD~~ 8903  
developmental disabilities board is eligible to receive funding 8904  
under section 3317.0213 of the Revised Code adjusted for the 8905  
portion of the year each child is so enrolled, reported according 8906  
to the categories prescribed in section 3317.013 of the Revised 8907  
Code, and the number of those classes. 8908

(H) Except as provided in division (I) of this section, when 8909  
any city, local, or exempted village school district provides 8910  
instruction for a nonresident pupil whose attendance is 8911  
unauthorized attendance as defined in section 3327.06 of the 8912  
Revised Code, that pupil's enrollment shall not be included in 8913  
that district's enrollment figure used in calculating the 8914  
district's payments under this chapter. The reporting official 8915  
shall report separately the enrollment of all pupils whose 8916

attendance in the district is unauthorized attendance, and the 8917  
enrollment of each such pupil shall be credited to the school 8918  
district in which the pupil is entitled to attend school under 8919  
division (B) of section 3313.64 or section 3313.65 of the Revised 8920  
Code as determined by the department of education. 8921

(I)(1) A city, local, exempted village, or joint vocational 8922  
school district admitting a scholarship student of a pilot project 8923  
district pursuant to division (C) of section 3313.976 of the 8924  
Revised Code may count such student in its enrollment. 8925

(2) In any year for which funds are appropriated for pilot 8926  
project scholarship programs, a school district implementing a 8927  
state-sponsored pilot project scholarship program that year 8928  
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 8929  
count in its enrollment: 8930

(a) All children residing in the district and utilizing a 8931  
scholarship to attend kindergarten in any alternative school, as 8932  
defined in section 3313.974 of the Revised Code; 8933

(b) All children who were enrolled in the district in the 8934  
preceding year who are utilizing a scholarship to attend an 8935  
alternative school. 8936

(J) The superintendent of each cooperative education school 8937  
district shall certify to the superintendent of public 8938  
instruction, in a manner prescribed by the state board of 8939  
education, the applicable enrollments for all students in the 8940  
cooperative education district, also indicating the city, local, 8941  
or exempted village district where each pupil is entitled to 8942  
attend school under section 3313.64 or 3313.65 of the Revised 8943  
Code. 8944

(K) If the superintendent of public instruction determines 8945  
that a component of the enrollment certified or reported by a 8946  
district superintendent, or other reporting entity, is not 8947

correct, the superintendent of public instruction may order that 8948  
the formula ADM used for the purposes of payments under any 8949  
section of Title XXXVIII of the Revised Code be adjusted in the 8950  
amount of the error. 8951

**Sec. 3317.032.** Each city, local, exempted village, and 8952  
cooperative education school district, each educational service 8953  
center, each county ~~DD~~ developmental disabilities board, and each 8954  
institution operating a special education program pursuant to 8955  
section 3323.091 of the Revised Code shall, in accordance with 8956  
procedures adopted by the state board of education, maintain a 8957  
record of district membership of all preschool children with 8958  
disabilities who are served by a special education program. 8959

**Sec. 3317.07.** If the department of education determines that 8960  
a county ~~DD~~ developmental disabilities board no longer needs a 8961  
school bus because the board no longer transports children to a 8962  
special education program operated by the board, or if the 8963  
department determines that a school district no longer needs a 8964  
school bus to transport pupils to a nonpublic school or special 8965  
education program, the department may reassign a bus that was 8966  
funded with payments provided pursuant to the version of this 8967  
section in effect prior to the effective date of this amendment 8968  
for the purpose of transporting such pupils. The department may 8969  
reassign a bus to a county ~~DD~~ developmental disabilities board or 8970  
school district that transports children to a special education 8971  
program designated in the children's individualized education 8972  
plans, or to a school district that transports pupils to a 8973  
nonpublic school, and needs an additional school bus. 8974

**Sec. 3317.15.** (A) As used in this section, "child with a 8975  
disability" has the same meaning as in section 3323.01 of the 8976  
Revised Code. 8977

(B) Each city, exempted village, local, and joint vocational school district shall continue to comply with all requirements of federal statutes and regulations, the Revised Code, and rules adopted by the state board of education governing education of children with disabilities, including, but not limited to, requirements that children with disabilities be served by appropriately licensed or certificated education personnel.

(C) Each city, exempted village, local, and joint vocational school district shall consult with the educational service center serving the county in which the school district is located and, if it elects to participate pursuant to section 5126.04 of the Revised Code, the county ~~DD~~ developmental disabilities board of that county, in providing services that serve the best interests of children with disabilities.

(D) Each school district shall annually provide documentation to the department of education that it employs the appropriate number of licensed or certificated personnel to serve the district's students with disabilities.

(E) The department annually shall audit a sample of school districts to ensure that children with disabilities are being appropriately reported.

(F) Each school district shall provide speech-language pathology services at a ratio of one speech-language pathologist per two thousand students receiving any educational services from the district other than adult education. Each district shall provide school psychological services at a ratio of one school psychologist per two thousand five hundred students receiving any educational services from the district other than adult education. A district may obtain the services of speech-language pathologists and school psychologists by any means permitted by law, including contracting with an educational service center. If, however, a district is unable to obtain the services of the required number

of speech-language pathologists or school psychologists, the 9010  
district may request from the superintendent of public 9011  
instruction, and the superintendent may grant, a waiver of this 9012  
provision for a period of time established by the superintendent. 9013

**Sec. 3317.20.** This section does not apply to preschool 9014  
children with disabilities. 9015

(A) As used in this section: 9016

(1) "Applicable special education amount" means the amount 9017  
specified in section 3317.013 of the Revised Code for a disability 9018  
described in that section. 9019

(2) "Child's school district" means the school district in 9020  
which a child is entitled to attend school pursuant to section 9021  
3313.64 or 3313.65 of the Revised Code. 9022

(3) "State share index" means the state share index of the 9023  
child's school district. 9024

(B) The department shall annually pay each county ~~DD~~ 9025  
developmental disabilities board for each child with a disability, 9026  
other than a preschool child with a disability, for whom the 9027  
county ~~DD~~ developmental disabilities board provides special 9028  
education and related services an amount equal to the formula 9029  
amount + (state share index X the applicable special education 9030  
amount). 9031

(C) Each county ~~DD~~ developmental disabilities board shall 9032  
report to the department, in the manner specified by the 9033  
department, the name of each child for whom the county ~~DD~~ 9034  
developmental disabilities board provides special education and 9035  
related services and the child's school district. 9036

(D)(1) For the purpose of verifying the accuracy of the 9037  
payments under this section, the department may request from 9038  
either of the following entities the data verification code 9039

assigned under division (D)(2) of section 3301.0714 of the Revised Code to any child who is placed with a county ~~DD~~ developmental disabilities board: 9040  
9041  
9042

(a) The child's school district; 9043

(b) The independent contractor engaged to create and maintain data verification codes. 9044  
9045

(2) Upon a request by the department under division (D)(1) of this section for the data verification code of a child, the child's school district shall submit that code to the department in the manner specified by the department. If the child has not been assigned a code, the district shall assign a code to that child and submit the code to the department by a date specified by the department. If the district does not assign a code to the child by the specified date, the department shall assign a code to the child. 9046  
9047  
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The department annually shall submit to each school district the name and data verification code of each child residing in the district for whom the department has assigned a code under this division. 9055  
9056  
9057  
9058

(3) The department shall not release any data verification code that it receives under division (D) of this section to any person except as provided by law. 9059  
9060  
9061

(E) Any document relative to special education and related services provided by a county ~~DD~~ developmental disabilities board that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code. 9062  
9063  
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**Sec. 3323.01.** As used in this chapter: 9068

(A) "Child with a disability" means a child who is at least 9069

three years of age and less than twenty-two years of age; who has 9070  
~~mental retardation~~ a developmental disability that is an 9071  
intellectual disability, a hearing impairment (including 9072  
deafness), a speech or language impairment, a visual impairment 9073  
(including blindness), a serious emotional disturbance, an 9074  
orthopedic impairment, autism, traumatic brain injury, an other 9075  
health impairment, a specific learning disability (including 9076  
dyslexia), deaf-blindness, or multiple disabilities; and who, by 9077  
reason thereof, needs special education and related services. 9078

A "child with a disability" may include a child who is at 9079  
least three years of age and less than six years of age; who is 9080  
experiencing developmental delays, as defined by standards adopted 9081  
by the state board of education and as measured by appropriate 9082  
diagnostic instruments and procedures in one or more of the 9083  
following areas: physical development, cognitive development, 9084  
communication development, social or emotional development, or 9085  
adaptive development; and who, by reason thereof, needs special 9086  
education and related services. 9087

(B) ~~"County DD board" means a county board of developmental~~ 9088  
~~disabilities.~~ 9089

~~(C)~~ "Free appropriate public education" means special 9090  
education and related services that meet all of the following: 9091

(1) Are provided at public expense, under public supervision 9092  
and direction, and without charge; 9093

(2) Meet the standards of the state board of education; 9094

(3) Include an appropriate preschool, elementary, or 9095  
secondary education as otherwise provided by the law of this 9096  
state; 9097

(4) Are provided for each child with a disability in 9098  
conformity with the child's individualized education program. 9099

~~(D)~~(C) "Homeless children" means "homeless children and youths" as defined in section 725 of the "McKinney-Vento Homeless Assistance Act," 42 U.S.C. 11434a. 9100  
9101  
9102

~~(E)~~(D) "Individualized education program" or "IEP" means the written statement described in section 3323.011 of the Revised Code. 9103  
9104  
9105

~~(F)~~(E) "Individualized education program team" or "IEP team" means a group of individuals composed of: 9106  
9107

(1) The parents of a child with a disability; 9108

(2) At least one regular education teacher of the child, if the child is or may be participating in the regular education environment; 9109  
9110  
9111

(3) At least one special education teacher, or where appropriate, at least one special education provider of the child; 9112  
9113

(4) A representative of the school district who meets all of the following: 9114  
9115

(a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; 9116  
9117  
9118

(b) Is knowledgeable about the general education curriculum; 9119

(c) Is knowledgeable about the availability of resources of the school district. 9120  
9121

(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team as described in divisions ~~(F)~~(E)(2) to (4) of this section; 9122  
9123  
9124

(6) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; 9125  
9126  
9127  
9128

- (7) Whenever appropriate, the child with a disability. 9129
- ~~(G)~~(F) "Instruction in braille reading and writing" means the 9130  
teaching of the system of reading and writing through touch 9131  
commonly known as standard English braille. 9132
- ~~(H)~~(G) "Other educational agency" means a department, 9133  
division, bureau, office, institution, board, commission, 9134  
committee, authority, or other state or local agency, which is not 9135  
a city, local, or exempted village school district or an agency 9136  
administered by the department of developmental disabilities, that 9137  
provides or seeks to provide special education or related services 9138  
to children with disabilities. The term "other educational agency" 9139  
includes a joint vocational school district. 9140
- ~~(I)~~(H) "Parent" of a child with a disability, except as used 9141  
in sections 3323.09 and 3323.141 of the Revised Code, means: 9142
- (1) A natural or adoptive parent of a child but not a foster 9143  
parent of a child; 9144
- (2) A guardian, but not the state if the child is a ward of 9145  
the state; 9146
- (3) An individual acting in the place of a natural or 9147  
adoptive parent, including a grandparent, stepparent, or other 9148  
relative, with whom the child lives, or an individual who is 9149  
legally responsible for the child's welfare; 9150
- (4) An individual assigned to be a surrogate parent, provided 9151  
the individual is not prohibited by this chapter from serving as a 9152  
surrogate parent for a child. 9153
- ~~(J)~~(I) "Preschool child with a disability" means a child with 9154  
a disability who is at least three years of age but is not of 9155  
compulsory school age, as defined under section 3321.01 of the 9156  
Revised Code, and who is not currently enrolled in kindergarten. 9157
- ~~(K)~~(J) "Related services" means transportation, and such 9158

developmental, corrective, and other supportive services 9159  
(including speech-language pathology and audiology services, 9160  
interpreting services, psychological services, physical and 9161  
occupational therapy, recreation, including therapeutic 9162  
recreation, school nurse services designed to enable a child with 9163  
a disability to receive a free appropriate public education as 9164  
described in the individualized education program of the child, 9165  
counseling services, including rehabilitation counseling, 9166  
orientation and mobility services, school health services, social 9167  
work services in schools, and parent counseling and training, and 9168  
medical services, except that such medical services shall be for 9169  
diagnostic and evaluation purposes only) as may be required to 9170  
assist a child with a disability to benefit from special 9171  
education, and includes the early identification and assessment of 9172  
disabling conditions in children. "Related services" does not 9173  
include a medical device that is surgically implanted, or the 9174  
replacement of such device. 9175

~~(L)~~(K) "School district" means a city, local, or exempted 9176  
village school district. 9177

~~(M)~~(L) "School district of residence," as used in sections 9178  
3323.09, 3323.091, 3323.13, and 3323.14 of the Revised Code, 9179  
means: 9180

(1) The school district in which the child's natural or 9181  
adoptive parents reside; 9182

(2) If the school district specified in division ~~(M)~~(L)(1) of 9183  
this section cannot be determined, the last school district in 9184  
which the child's natural or adoptive parents are known to have 9185  
resided if the parents' whereabouts are unknown; 9186

(3) If the school district specified in division ~~(M)~~(L)(2) of 9187  
this section cannot be determined, the school district determined 9188  
under section 2151.362 of the Revised Code, or if no district has 9189

been so determined, the school district as determined by the 9190  
probate court of the county in which the child resides. 9191

(4) Notwithstanding divisions ~~(M)~~(L)(1) to (3) of this 9192  
section, if a school district is required by section 3313.65 of 9193  
the Revised Code to pay tuition for a child, that district shall 9194  
be the child's school district of residence. 9195

~~(N)~~(M) "Special education" means specially designed 9196  
instruction, at no cost to parents, to meet the unique needs of a 9197  
child with a disability. "Special education" includes instruction 9198  
conducted in the classroom, in the home, in hospitals and 9199  
institutions, and in other settings, including an early childhood 9200  
education setting, and instruction in physical education. 9201

~~(O)~~(N) "Student with a visual impairment" means any person 9202  
who is less than twenty-two years of age and who has a visual 9203  
impairment as that term is defined in this section. 9204

~~(P)~~(O) "Transition services" means a coordinated set of 9205  
activities for a child with a disability that meet all of the 9206  
following: 9207

(1) Is designed to be within a results-oriented process, that 9208  
is focused on improving the academic and functional achievement of 9209  
the child with a disability to facilitate the child's movement 9210  
from school to post-school activities, including post-secondary 9211  
education; vocational education; integrated employment (including 9212  
supported employment); continuing and adult education; adult 9213  
services; independent living; or community participation; 9214

(2) Is based on the individual child's needs, taking into 9215  
account the child's strengths, preferences, and interests; 9216

(3) Includes instruction, related services, community 9217  
experiences, the development of employment and other post-school 9218  
adult living objectives, and, when appropriate, acquisition of 9219  
daily living skills and functional vocational evaluation. 9220

"Transition services" for children with disabilities may be 9221  
special education, if provided as specially designed instruction, 9222  
or may be a related service, if required to assist a child with a 9223  
disability to benefit from special education. 9224

~~(Q)~~(P) "Visual impairment" for any individual means that one 9225  
of the following applies to the individual: 9226

(1) The individual has a visual acuity of 20/200 or less in 9227  
the better eye with correcting lenses or has a limited field of 9228  
vision in the better eye such that the widest diameter subtends an 9229  
angular distance of no greater than twenty degrees. 9230

(2) The individual has a medically indicated expectation of 9231  
meeting the requirements of division ~~(Q)~~(P)(1) of this section 9232  
over a period of time. 9233

(3) The individual has a medically diagnosed and medically 9234  
uncorrectable limitation in visual functioning that adversely 9235  
affects the individual's ability to read and write standard print 9236  
at levels expected of the individual's peers of comparable ability 9237  
and grade level. 9238

~~(R)~~(Q) "Ward of the state" has the same meaning as in section 9239  
602(36) of the "Individuals with Disabilities Education 9240  
Improvement Act of 2004," 20 U.S.C. 1401(36). 9241

**Sec. 3323.02.** As used in this section, "IDEIA" means the 9242  
"Individuals with Disabilities Education Improvement Act of 2004," 9243  
Pub. L. No. 108-446. 9244

It is the purpose of this chapter to ensure that all children 9245  
with disabilities residing in this state who are at least three 9246  
years of age and less than twenty-two years of age, including 9247  
children with disabilities who have been suspended or expelled 9248  
from school, have available to them a free appropriate public 9249  
education. No school district, county ~~DD~~ developmental 9250

disabilities board, or other educational agency shall receive 9251  
state or federal funds for special education and related services 9252  
unless those services for children with disabilities are provided 9253  
in accordance with IDEIA and related provisions of the Code of 9254  
Federal Regulations, the provisions of this chapter, rules and 9255  
standards adopted by the state board of education, and any 9256  
procedures or guidelines issued by the superintendent of public 9257  
instruction. Any options or discretion provided to the state by 9258  
IDEIA may be exercised in state law or in rules or standards 9259  
adopted by the state board of education. 9260

The state board of education shall establish rules or 9261  
standards for the provision of special education and related 9262  
services for all children with disabilities who are at least three 9263  
years of age and less than twenty-two years of age residing in the 9264  
state, regardless of the severity of their disabilities, including 9265  
children with disabilities who have been suspended or expelled 9266  
from school. The state law and the rules or standards of the state 9267  
board of education may impose requirements that are not required 9268  
by IDEIA or related provisions of the Code of Federal Regulations. 9269  
The school district of residence is responsible, in all instances, 9270  
for ensuring that the requirements of Part B of IDEIA are met for 9271  
every eligible child in its jurisdiction, regardless of whether 9272  
services are provided by another school district, other 9273  
educational agency, or other agency, department, or entity, unless 9274  
IDEIA or related provisions of the Code of Federal Regulations, 9275  
another section of this chapter, or a rule adopted by the state 9276  
board of education specifies that another school district, other 9277  
educational agency, or other agency, department, or entity is 9278  
responsible for ensuring compliance with Part B of IDEIA. 9279

Notwithstanding division (A)(4) of section 3301.53 of the 9280  
Revised Code and any rules adopted pursuant to that section and 9281  
division (A) of section 3313.646 of the Revised Code, a board of 9282

education of a school district may provide special education and 9283  
related services for preschool children with disabilities in 9284  
accordance with this chapter and section 3301.52, divisions (A)(1) 9285  
to (3) and (A)(5) and (6) of section 3301.53, and sections 3301.54 9286  
to 3301.59 of the Revised Code. 9287

The superintendent of public instruction may require any 9288  
state or local agency to provide documentation that special 9289  
education and related services for children with disabilities 9290  
provided by the agency are in compliance with the requirements of 9291  
this chapter. 9292

Not later than the first day of February of each year the 9293  
superintendent of public instruction shall furnish the 9294  
chairpersons of the education committees of the house of 9295  
representatives and the senate with a report on the status of 9296  
implementation of special education and related services for 9297  
children with disabilities required by this chapter. The report 9298  
shall include but shall not be limited to the following items: the 9299  
most recent available figures on the number of children identified 9300  
as children with disabilities and the number of identified 9301  
children receiving special education and related services. The 9302  
information contained in these reports shall be public 9303  
information. 9304

**Sec. 3323.021.** As used in this section, "participating county 9305  
~~DD~~ developmental disabilities board" means a county board of 9306  
developmental disabilities electing to participate in the 9307  
provision of or contracting for educational services for children 9308  
under division (D) of section 5126.05 of the Revised Code. 9309

(A) When a school district, educational service center, or 9310  
participating county ~~DD~~ developmental disabilities board enters 9311  
into an agreement or contract with another school district, 9312  
educational service center, or participating county ~~DD~~ 9313

developmental disabilities board to provide educational services 9314  
to a disabled child during a school year, both of the following 9315  
shall apply: 9316

(1) Beginning with fiscal year 1999, if the provider of the 9317  
services intends to increase the amount it charges for some or all 9318  
of those services during the next school year or if the provider 9319  
intends to cease offering all or part of those services during the 9320  
next school year, the provider shall notify the entity for which 9321  
the services are provided of these intended changes no later than 9322  
the first day of March of the current fiscal year. 9323

(2) Beginning with fiscal year 1999, if the entity for which 9324  
services are provided intends to cease obtaining those services 9325  
from the provider for the next school year or intends to change 9326  
the type or amount of services it obtains from the provider for 9327  
the next school year, the entity shall notify the service provider 9328  
of these intended changes no later than the first day of March of 9329  
the current fiscal year. 9330

(B) School districts, educational service centers, 9331  
participating county ~~DD~~ developmental disabilities boards, and 9332  
other applicable governmental entities shall collaborate where 9333  
possible to maximize federal sources of revenue to provide 9334  
additional funds for special education related services for 9335  
disabled children. Annually, each school district shall report to 9336  
the department of education any amounts of such federal revenue 9337  
the district received. 9338

(C) The state board of education, the department of 9339  
developmental disabilities, and the department of medicaid shall 9340  
develop working agreements for pursuing additional funds for 9341  
services for disabled children. 9342

**Sec. 3323.03.** The state board of education shall, in 9343  
consultation with the department of health, the department of 9344

mental health and addiction services, and the department of 9345  
developmental disabilities, establish standards and procedures for 9346  
the identification, location, and evaluation of all children with 9347  
disabilities residing in the state, including children with 9348  
disabilities who are homeless children or are wards of the state 9349  
and children with disabilities attending nonpublic schools, 9350  
regardless of the severity of their disabilities, and who are in 9351  
need of special education and related services. The state board 9352  
shall develop and implement a practical method to determine which 9353  
children with disabilities are currently receiving needed special 9354  
education and related services. 9355

In conducting the evaluation, the board of education of each 9356  
school district shall use a variety of assessment tools and 9357  
strategies to gather relevant functional, developmental, and 9358  
academic information about the child, including information 9359  
provided by the child's parent. The board of education of each 9360  
school district, in consultation with the county ~~DD~~ developmental  
disabilities board, the county family and children first council, 9361  
and the board of alcohol, drug addiction, and mental health 9362  
services of each county in which the school district has 9363  
territory, shall identify, locate, and evaluate all children with 9364  
disabilities residing within the district to determine which 9365  
children with disabilities are not receiving appropriate special 9366  
education and related services. In addition, the board of 9367  
education of each school district, in consultation with such 9368  
county boards or council, shall identify, locate, and evaluate all 9369  
children with disabilities who are enrolled by their parents in 9370  
nonpublic elementary and secondary schools located within the 9371  
public school district, without regard to where those children 9372  
reside in accordance with rules of the state board of education or 9373  
guidelines of the superintendent of public instruction. 9374  
9375

Each county ~~DD~~ developmental disabilities board, county 9376

family and children first council, and board of alcohol, drug 9377  
addiction, and mental health services and the board's or council's 9378  
contract agencies may transmit to boards of education the names 9379  
and addresses of children with disabilities who are not receiving 9380  
appropriate special education and related services. 9381

**Sec. 3323.04.** The state board of education, in consultation 9382  
with the department of mental health and addiction services and 9383  
the department of developmental disabilities, shall establish 9384  
procedures and standards for the development of individualized 9385  
education programs for children with disabilities. 9386

The state board shall require the board of education of each 9387  
school district to develop an individualized education program for 9388  
each child with a disability who is at least three years of age 9389  
and less than twenty-two years of age residing in the district in 9390  
a manner that is in accordance with rules of the state board. 9391

Prior to the placement of a child with a disability in a 9392  
program operated under section 3323.09 of the Revised Code, the 9393  
district board of education shall consult the county ~~DD~~ 9394  
developmental disabilities board of the county in which the child 9395  
resides regarding the proposed placement. 9396

A child with a disability enrolled in a nonpublic school or 9397  
facility shall be provided special education and related services, 9398  
in accordance with an individualized education program, at no cost 9399  
for those services, if the child is placed in, or referred to, 9400  
that nonpublic school or facility by the department of education 9401  
or a school district. 9402

The IEP team shall review the individualized education 9403  
program of each child with a disability periodically, but at least 9404  
annually, to determine whether the annual goals for the child are 9405  
being achieved, and shall revise the individualized education 9406  
program as appropriate. 9407

The state board shall establish procedures and standards to assure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, shall be educated with children who are not disabled. Special classes, separate schools, or other removal of children with disabilities from the regular educational environment shall be used only when the nature or severity of a child's disability is such that education in regular classes with supplementary aids and services cannot be achieved satisfactorily.

If an agency directly affected by a placement decision objects to such decision, an impartial hearing officer, appointed by the department of education from a list prepared by the department, shall conduct a hearing to review the placement decision. The agencies that are parties to a hearing shall divide the costs of such hearing equally. The decision of the hearing officer shall be final, except that any party to the hearing who is aggrieved by the findings or the decision of the hearing officer may appeal the findings or decision in accordance with division (H) of section 3323.05 of the Revised Code or the parent of any child affected by such decision may present a complaint in accordance with that section.

**Sec. 3323.05.** The state board of education shall establish procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards under this chapter with respect to a free appropriate public education.

The procedures shall include, but need not be limited to:

(A) An opportunity for the parents of a child with a disability to examine all records related to the child and to participate in meetings with respect to identification, evaluation, and educational placement of the child, and to obtain an independent educational evaluation of the child;

(B) Procedures to protect the rights of the child whenever 9439  
the parents of the child are not known, an agency after making 9440  
reasonable efforts cannot find the parents, or the child is a ward 9441  
of the state, including the assignment of an individual to act as 9442  
a surrogate for the parents made by the school district or other 9443  
educational agency responsible for educating the child or by the 9444  
court with jurisdiction over the child's custody. Such assignment 9445  
shall be made in accordance with section 3323.051 of the Revised 9446  
Code. 9447

(C) Prior written notice to the child's parents of a school 9448  
district's proposal or refusal to initiate or change the 9449  
identification, evaluation, or educational placement of the child 9450  
or the provision of a free appropriate education for the child. 9451  
The procedures established under this division shall: 9452

(1) Be designed to ensure that the written prior notice is in 9453  
the native language of the parents, unless it clearly is not 9454  
feasible to do so. 9455

(2) Specify that the prior written notice shall include: 9456

(a) A description of the action proposed or refused by the 9457  
district; 9458

(b) An explanation of why the district proposes or refuses to 9459  
take the action and a description of each evaluation procedure, 9460  
assessment, record, or report the district used as a basis for the 9461  
proposed or refused action; 9462

(c) A statement that the parents of a child with a disability 9463  
have protection under the procedural safeguards and, if the notice 9464  
is not in regard to an initial referral for evaluation, the means 9465  
by which a copy of a description of the procedural safeguards can 9466  
be obtained; 9467

(d) Sources for parents to contact to obtain assistance in 9468  
understanding the provisions of Part B of the "Individuals with 9469

Disabilities Education Improvement Act of 2004"; 9470

(e) A description of other options considered by the IEP team 9471  
and the reason why those options were rejected; 9472

(f) A description of the factors that are relevant to the 9473  
agency's proposal or refusal. 9474

(D) An opportunity for the child's parents to present 9475  
complaints to the superintendent of the child's school district of 9476  
residence with respect to any matter relating to the 9477  
identification, evaluation, or educational placement of the child, 9478  
or the provision of a free appropriate public education under this 9479  
chapter. 9480

Within twenty school days after receipt of a complaint, the 9481  
district superintendent or the superintendent's designee, without 9482  
undue delay and at a time and place convenient to all parties, 9483  
shall review the case, may conduct an administrative review, and 9484  
shall notify all parties in writing of the superintendent's or 9485  
designee's decision. Where the child is placed in a program 9486  
operated by a county ~~DD~~ developmental disabilities board or other 9487  
educational agency, the superintendent shall consult with the 9488  
administrator of that county ~~DD~~ developmental disabilities board 9489  
or agency. 9490

Any party aggrieved by the decision of the district 9491  
superintendent or the superintendent's designee may file a 9492  
complaint with the state board as provided under division (E) of 9493  
this section, request mediation as provided under division (F) of 9494  
this section, or present a due process complaint notice and 9495  
request for a due process hearing in writing to the superintendent 9496  
of the district, with a copy to the state board, as provided under 9497  
division (G) of this section. 9498

(E) An opportunity for a party to file a complaint with the 9499  
state board of education with respect to the identification, 9500

evaluation, or educational placement of the child, or the 9501  
provision of a free appropriate public education to such child. 9502  
The department of education shall review and, where appropriate, 9503  
investigate the complaint and issue findings. 9504

(F) An opportunity for parents and a school district to 9505  
resolve through mediation disputes involving any matter. 9506

(1) The procedures established under this section shall 9507  
ensure that the mediation process is voluntary on the part of the 9508  
parties, is not used to deny or delay a parent's right to a due 9509  
process hearing or to deny any other rights afforded under this 9510  
chapter, and is conducted by a qualified and impartial mediator 9511  
who is trained in effective mediation techniques. 9512

(2) A school district may establish procedures to offer to 9513  
parents and schools that choose not to use the mediation process, 9514  
an opportunity to meet, at a time and location convenient to the 9515  
parents, with a disinterested party to encourage the use, and 9516  
explain the benefits, of the mediation process to the parents. The 9517  
disinterested party shall be an individual who is under contract 9518  
with a parent training and information center or community parent 9519  
resource center in the state or is under contract with an 9520  
appropriate alternative dispute resolution entity. 9521

(3) The department shall maintain a list of individuals who 9522  
are qualified mediators and knowledgeable in laws and regulations 9523  
relating to the provision of special education and related 9524  
services. 9525

(4) The department shall bear the cost of the mediation 9526  
process, including the costs of meetings described in division 9527  
(F)(2) of this section. 9528

(5) Each session in the mediation process shall be scheduled 9529  
in a timely manner and shall be held in a location that is 9530  
convenient to the parties to the dispute. 9531

(6) Discussions that occur during the mediation process shall 9532  
be confidential and shall not be used as evidence in any 9533  
subsequent due process hearing or civil proceeding. 9534

(7) In the case that a resolution is reached to resolve the 9535  
complaint through the mediation process, the parties shall execute 9536  
a legally binding agreement that sets forth the resolution and 9537  
that: 9538

(a) States that all discussions that occurred during the 9539  
mediation process shall be confidential and shall not be used as 9540  
evidence in any subsequent due process hearing or civil 9541  
proceeding; 9542

(b) Is signed by both the parent and a representative for the 9543  
school district who has the authority to bind the district; 9544

(c) Is enforceable in any state court of competent 9545  
jurisdiction or in a district court of the United States. 9546

(G)(1) An opportunity for parents or a school district to 9547  
present a due process complaint and request for a due process 9548  
hearing to the superintendent of the school district of the 9549  
child's residence with respect to the identification, evaluation, 9550  
or educational placement of the child, or the provision of a free 9551  
appropriate public education to the child. The party presenting 9552  
the due process complaint and request for a due process hearing 9553  
shall provide due process complaint notice to the other party and 9554  
forward a copy of the notice to the state board. The due process 9555  
complaint notice shall include: 9556

(a) The name of the child, the address of the residence of 9557  
the child, or the available contact information in the case of a 9558  
homeless child, and the name of the school the child is attending; 9559

(b) A description of the nature of the problem of the child 9560  
relating to the proposed initiation or change, including facts 9561  
relating to the problem; 9562

(c) A proposed resolution of the problem to the extent known 9563  
and available to the party at the time. 9564

A party shall not have a due process hearing until the party, 9565  
or the attorney representing the party, files a notice that meets 9566  
the requirement for filing a due process complaint notice. 9567

A due process hearing shall be conducted by an impartial 9568  
hearing officer in accordance with standards and procedures 9569  
adopted by the state board. A hearing officer shall not be an 9570  
employee of the state board or any agency involved in the 9571  
education or care of the child or a person having a personal or 9572  
professional interest that conflicts with the person's objectivity 9573  
in the hearing. A hearing officer shall possess knowledge of, and 9574  
the ability to understand, the provisions of the "Individuals with 9575  
Disabilities Education Improvement Act of 2004," federal and state 9576  
regulations pertaining to that act, and legal interpretations of 9577  
that act by federal and state courts; possess the knowledge and 9578  
ability to conduct hearings in accordance with appropriate 9579  
standard legal practice; and possess the knowledge and ability to 9580  
render and write decisions in accordance with appropriate standard 9581  
legal practice. The due process requirements of section 615 of the 9582  
"Individuals with Disabilities Education Improvement Act of 2004," 9583  
20 U.S.C. 1415, apply to due process complaint notices and 9584  
requests for due process hearings and to due process hearings held 9585  
under division (G) of this section, including, but not limited to, 9586  
timelines for requesting hearings, requirements for sufficient 9587  
complaint notices, resolution sessions, and sufficiency and 9588  
hearing decisions. 9589

(2) Discussions that occur during a resolution session shall 9590  
be confidential and shall not be used as evidence in any 9591  
subsequent due process hearing or civil proceeding. If a 9592  
resolution to the dispute is reached at a resolution session, the 9593  
parties must execute a legally binding written settlement 9594

agreement which shall state that all discussions that occurred 9595  
during the resolution process shall be confidential and shall not 9596  
be used as evidence in any subsequent due process hearing or civil 9597  
proceeding. 9598

(3) A party to a hearing under division (G) of this section 9599  
shall be accorded: 9600

(a) The right to be accompanied and advised by counsel and by 9601  
individuals with special knowledge or training with respect to the 9602  
problems of children with disabilities; 9603

(b) The right to present evidence and confront, 9604  
cross-examine, and compel the attendance of witnesses; 9605

(c) The right to a written or electronic verbatim record of 9606  
the hearing; 9607

(d) The right to written findings of fact and decisions, 9608  
which findings of fact and decisions shall be made available to 9609  
the public consistent with the requirements relating to the 9610  
confidentiality of personally identifiable data, information, and 9611  
records collected and maintained by state educational agencies and 9612  
local educational agencies; and shall be transmitted to the 9613  
advisory panel established and maintained by the department for 9614  
the purpose of providing policy guidance with respect to special 9615  
education and related services for children with disabilities in 9616  
the state. 9617

(H) An opportunity for any party aggrieved by the findings 9618  
and decision rendered in a hearing under division (G) of this 9619  
section to appeal within forty-five days of notification of the 9620  
decision to the state board, which shall appoint a state level 9621  
officer who shall review the case and issue a final order. The 9622  
state level officer shall be appointed and shall review the case 9623  
in accordance with standards and procedures adopted by the state 9624  
board. 9625

Any party aggrieved by the final order of the state level officer may appeal the final order, in accordance with Chapter 119. of the Revised Code, within forty-five days after notification of the order to the court of common pleas of the county in which the child's school district of residence is located, or to a district court of the United States within ninety days after the date of the decision of the state level review officer, as provided in section 615(i)(2) of the "Individuals with Disabilities Education Improvement Act of 2004," 20 U.S.C. 1415(i)(2).

**Sec. 3323.09.** (A) As used in this section:

(1) "Home" has the meaning given in section 3313.64 of the Revised Code.

(2) "Preschool child" means a child who is at least age three but under age six on the thirtieth day of September of an academic year.

(B) Each county ~~DD~~ developmental disabilities board shall establish special education programs for all children with disabilities who in accordance with section 3323.04 of the Revised Code have been placed in special education programs operated by the county board and for preschool children who are developmentally delayed or at risk of being developmentally delayed. The board annually shall submit to the department of education a plan for the provision of these programs. The superintendent of public instruction shall review the plan and approve or modify it in accordance with rules adopted by the state board of education under section 3301.07 of the Revised Code. The superintendent of public instruction shall compile the plans submitted by county boards and shall submit a comprehensive plan to the state board.

A county ~~DD~~ developmental disabilities board may combine

transportation for children enrolled in classes funded under 9657  
sections 3317.0213 or 3317.20 with transportation for children and 9658  
adults enrolled in programs and services offered by the board 9659  
under Chapter 5126. of the Revised Code. 9660

(C) A county ~~DD~~ developmental disabilities board that during 9661  
the school year provided special education pursuant to this 9662  
section for any child with mental disabilities under twenty-two 9663  
years of age shall prepare and submit the following reports and 9664  
statements: 9665

(1) The board shall prepare a statement for each child who at 9666  
the time of receiving such special education was a resident of a 9667  
home and was not in the legal or permanent custody of an Ohio 9668  
resident or a government agency in this state, and whose natural 9669  
or adoptive parents are not known to have been residents of this 9670  
state subsequent to the child's birth. The statement shall contain 9671  
the child's name, the name of the child's school district of 9672  
residence, the name of the county board providing the special 9673  
education, and the number of months, including any fraction of a 9674  
month, it was provided. Not later than the thirtieth day of June, 9675  
the board shall forward a certified copy of such statement to both 9676  
the director of developmental disabilities and to the home. 9677

Within thirty days after its receipt of a statement, the home 9678  
shall pay tuition to the county board computed in the manner 9679  
prescribed by section 3323.141 of the Revised Code. 9680

(2) The board shall prepare a report for each school district 9681  
that is the school district of residence of one or more of such 9682  
children for whom statements are not required by division (C)(1) 9683  
of this section. The report shall contain the name of the county 9684  
board providing special education, the name of each child 9685  
receiving special education, the number of months, including 9686  
fractions of a month, that the child received it, and the name of 9687  
the child's school district of residence. Not later than the 9688

thirtieth day of June, the board shall forward certified copies of 9689  
each report to the school district named in the report, the 9690  
superintendent of public instruction, and the director of 9691  
developmental disabilities. 9692

**Sec. 3323.091.** (A) The department of mental health and 9693  
addiction services, the department of developmental disabilities, 9694  
the department of youth services, and the department of 9695  
rehabilitation and correction shall establish and maintain special 9696  
education programs for children with disabilities in institutions 9697  
under their jurisdiction according to standards adopted by the 9698  
state board of education. 9699

(B) The superintendent of each state institution required to 9700  
provide services under division (A) of this section may apply to 9701  
the department of education for special education and related 9702  
services funding for children with disabilities other than 9703  
preschool children with disabilities, calculated in accordance 9704  
with section 3317.201 of the Revised Code. 9705

Each county ~~DD~~ developmental disabilities board providing 9706  
special education for children with disabilities other than 9707  
preschool children with disabilities may apply to the department 9708  
of education for opportunity funds and special education and 9709  
related services funding calculated in accordance with section 9710  
3317.20 of the Revised Code. 9711

(C) In addition to the authorization to apply for state 9712  
funding described in division (B) of this section, each state 9713  
institution required to provide services under division (A) of 9714  
this section is entitled to tuition payments calculated in the 9715  
manner described in division (C) of this section. 9716

On or before the thirtieth day of June of each year, the 9717  
superintendent of each institution that during the school year 9718  
provided special education pursuant to this section shall prepare 9719

a statement for each child with a disability under twenty-two 9720  
years of age who has received special education. The statement 9721  
shall contain the child's data verification code assigned pursuant 9722  
to division (D)(2) of section 3301.0714 of the Revised Code and 9723  
the name of the child's school district of residence. Within sixty 9724  
days after receipt of such statement, the department of education 9725  
shall perform one of the following: 9726

(1) For any child except a preschool child with a disability 9727  
described in division (C)(2) of this section, pay to the 9728  
institution submitting the statement an amount equal to the 9729  
tuition calculated under division (A) of section 3317.08 of the 9730  
Revised Code for the period covered by the statement, and deduct 9731  
the same from the amount of state funds, if any, payable under 9732  
Chapter 3317. of the Revised Code, to the child's school district 9733  
of residence or, if the amount of such state funds is 9734  
insufficient, require the child's school district of residence to 9735  
pay the institution submitting the statement an amount equal to 9736  
the amount determined under this division. 9737

(2) For any preschool child with a disability, perform the 9738  
following: 9739

(a) Pay to the institution submitting the statement an amount 9740  
equal to the tuition calculated under division (B) of section 9741  
3317.08 of the Revised Code for the period covered by the 9742  
statement, except that in calculating the tuition under that 9743  
section the operating expenses of the institution submitting the 9744  
statement under this section shall be used instead of the 9745  
operating expenses of the school district of residence; 9746

(b) Deduct from the amount of state funds, if any, payable 9747  
under Chapter 3317. of the Revised Code to the child's school 9748  
district of residence an amount equal to the amount paid under 9749  
division (C)(2)(a) of this section. 9750

**Sec. 3323.12.** The board of education of a school district 9751  
shall provide home instruction for children with disabilities who 9752  
are at least three years of age and less than twenty-two years of 9753  
age and who are unable to attend school, even with the help of 9754  
special transportation. The board may arrange for the provision of 9755  
home instruction for a child by a cooperative agreement or 9756  
contract with a county ~~DD~~ developmental disabilities board or 9757  
other educational agency. For the purposes of determining formula 9758  
ADM under section 3317.03 of the Revised Code, five hours of home 9759  
instruction shall be equivalent to attendance for five school 9760  
days. 9761

**Sec. 3323.141.** (A) When a child who is not in the legal or 9762  
permanent custody of an Ohio resident or a government agency in 9763  
this state and whose natural or adoptive parents are not known to 9764  
have been residents of this state subsequent to the child's birth 9765  
is a resident of a home as defined in section 3313.64 of the 9766  
Revised Code and receives special education and related services 9767  
from a school district or county ~~DD~~ developmental disabilities 9768  
board, the home shall pay tuition to the board providing the 9769  
special education. 9770

(B) In the case of a child described in division (A) of this 9771  
section who receives special education and related services from a 9772  
school district, tuition shall be the amount determined under 9773  
division (B)(1) or (2) of this section. 9774

(1) For a child other than a child described in division 9775  
(B)(2) of this section the tuition shall be an amount equal to the 9776  
sum of the following: 9777

(a) Tuition as determined in the manner provided for by 9778  
division (B) of section 3317.081 of the Revised Code for the 9779  
district that provides the special education; 9780

(b) Such excess cost as is determined by using a formula 9781  
established by rule of the department of education. The excess 9782  
cost computed in this section shall not be used as excess cost 9783  
computed under section 3323.14 of the Revised Code. 9784

(2) For a child who is a preschool child with a disability, 9785  
the tuition shall be computed as follows: 9786

(a) Determine the amount of the tuition of the district 9787  
providing the education for the child as calculated under division 9788  
(B) of section 3317.08 of the Revised Code; 9789

(b) For each type of special education service included in 9790  
the computation of the amount of tuition under division (B)(2)(a) 9791  
of this section, divide the amount determined for that computation 9792  
under division (B)(2) of section 3317.08 of the Revised Code by 9793  
the total number of preschool children with disabilities used for 9794  
that computation under division (B)(3) of section 3317.08 of the 9795  
Revised Code; 9796

(c) Determine the sum of the quotients obtained under 9797  
division (B)(2)(b) of this section; 9798

(d) Determine the sum of the amounts determined under 9799  
divisions (B)(2)(a) and (c) of this section. 9800

(C) In the case of a child described in division (A) of this 9801  
section who receives special education and related services from a 9802  
county ~~DD~~ developmental disabilities board, tuition shall be the 9803  
amount determined under division (C)(1) or (2) of this section. 9804

(1) For a child other than a child described in division 9805  
(C)(2) of this section, the tuition shall be an amount equal to 9806  
such board's per capita cost of providing special education and 9807  
related services for children at least three but less than 9808  
twenty-two years of age as determined by using a formula 9809  
established by rule of the department of developmental 9810  
disabilities. 9811

(2) For a child who is a preschool child with a disability, 9812  
the tuition shall equal the sum of the amounts of each such 9813  
board's per capita cost of providing each of the special education 9814  
or related service that the child receives. The calculation of 9815  
tuition shall be made by using a formula established by rule of 9816  
the department of developmental disabilities. The formula for the 9817  
calculation of per capita costs under division (C)(2) of this 9818  
section shall be based only on each such ~~DD~~ developmental 9819  
disabilities board's cost of providing each type of special 9820  
education or related service to preschool children with 9821  
disabilities. 9822

(D) If a home fails to pay the tuition required under this 9823  
section, the board of education or county ~~DD~~ developmental 9824  
disabilities board providing the education may recover in a civil 9825  
action the tuition and the expenses incurred in prosecuting the 9826  
action, including court costs and reasonable attorney's fees. If 9827  
the prosecuting attorney or city director of law represents the 9828  
board in such action, costs and reasonable attorney's fees awarded 9829  
by the court, based upon the time spent preparing and presenting 9830  
the case by the prosecuting attorney, director, or a designee of 9831  
either, shall be deposited in the county or city general fund. 9832

**Sec. 3323.142.** As used in this section, "per pupil amount" 9833  
for a preschool child with a disability included in such an 9834  
approved unit means the amount determined by dividing the amount 9835  
received for the classroom unit in which the child has been placed 9836  
by the number of children in the unit. For any other child, "per 9837  
pupil amount" means the amount paid for the child under section 9838  
3317.20 of the Revised Code. 9839

When a school district places or has placed a child with a 9840  
county ~~DD~~ developmental disabilities board for special education, 9841  
but another district is responsible for tuition under section 9842

3313.64 or 3313.65 of the Revised Code and the child is not a 9843  
resident of the territory served by the county ~~DD~~ developmental 9844  
disabilities board, the board may charge the district responsible 9845  
for tuition with the educational costs in excess of the per pupil 9846  
amount received by the board under Chapter 3317. of the Revised 9847  
Code. The amount of the excess cost shall be determined by the 9848  
formula established by rule of the department of education under 9849  
section 3323.14 of the Revised Code, and the payment for such 9850  
excess cost shall be made by the school district directly to the 9851  
county ~~DD~~ developmental disabilities board. 9852

A school district board of education and the county ~~DD~~ 9853  
developmental disabilities board that serves the school district 9854  
may negotiate and contract, at or after the time of placement, for 9855  
payments by the board of education to the county ~~DD~~ developmental 9856  
disabilities board for additional services provided to a child 9857  
placed with the county ~~DD~~ developmental disabilities board and 9858  
whose individualized education program established pursuant to 9859  
section 3323.08 of the Revised Code requires additional services 9860  
that are not routinely provided children in the county ~~DD~~ 9861  
developmental disabilities board's program but are necessary to 9862  
maintain the child's enrollment and participation in the program. 9863  
Additional services may include, but are not limited to, 9864  
specialized supplies and equipment for the benefit of the child 9865  
and instruction, training, or assistance provided by staff members 9866  
other than staff members for which funding is received under 9867  
Chapter 3317. of the Revised Code. 9868

**Sec. 3707.20.** No person, who is suffering from a contagious 9869  
or infectious disease, or who has been exposed to a contagious or 9870  
infectious disease, may be sent or admitted to a prison, jail, 9871  
workhouse, infirmary, children's home, state hospital or 9872  
institution for the blind, the mentally ill, or ~~the mentally~~ 9873  
~~retarded~~ persons with developmental disabilities that are 9874

intellectual disabilities, or a school for the blind or deaf, or 9875  
other state or county benevolent institution without first making 9876  
known the facts concerning the illness or exposure to the 9877  
superintendent or other person in charge thereof. When a 9878  
dangerous, contagious, or infectious disease is in a jail or 9879  
prison and a prisoner in the jail or prison exposed to the disease 9880  
is sentenced to a state correctional institution, the prisoner 9881  
shall be confined and isolated in the jail or prison or other 9882  
proper place, upon the order of the proper court, for any time 9883  
that is necessary to establish the fact that ~~he~~ the prisoner has 9884  
not contracted the disease. 9885

**Sec. 3721.01.** (A) As used in sections 3721.01 to 3721.09 and 9886  
3721.99 of the Revised Code: 9887

(1)(a) "Home" means an institution, residence, or facility 9888  
that provides, for a period of more than twenty-four hours, 9889  
whether for a consideration or not, accommodations to three or 9890  
more unrelated individuals who are dependent upon the services of 9891  
others, including a nursing home, residential care facility, home 9892  
for the aging, and a veterans' home operated under Chapter 5907. 9893  
of the Revised Code. 9894

(b) "Home" also means both of the following: 9895

(i) Any facility that a person, as defined in section 3702.51 9896  
of the Revised Code, proposes for certification as a skilled 9897  
nursing facility or nursing facility under Title XVIII or XIX of 9898  
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 9899  
as amended, and for which a certificate of need, other than a 9900  
certificate to recategorize hospital beds as described in section 9901  
3702.521 of the Revised Code or division (R)(7)(d) of the version 9902  
of section 3702.51 of the Revised Code in effect immediately prior 9903  
to April 20, 1995, has been granted to the person under sections 9904  
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 9905

(ii) A county home or district home that is or has been licensed as a residential care facility.	9906 9907
(c) "Home" does not mean any of the following:	9908
(i) Except as provided in division (A)(1)(b) of this section, a public hospital or hospital as defined in section 3701.01 or 5122.01 of the Revised Code;	9909 9910 9911
(ii) A residential facility as defined in section 5119.34 of the Revised Code;	9912 9913
(iii) A residential facility as defined in section 5123.19 of the Revised Code;	9914 9915
(iv) A community addiction services provider as defined in section 5119.01 of the Revised Code;	9916 9917
(v) A facility licensed to provide methadone treatment under section 5119.391 of the Revised Code;	9918 9919
(vi) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code;	9920 9921 9922
(vii) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;	9923 9924 9925
(viii) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients;	9926 9927 9928
(ix) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program or the medicaid program if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;	9929 9930 9931 9932 9933 9934 9935

- (x) A county home or district home that has never been licensed as a residential care facility. 9936  
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- (2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle. 9938  
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- (3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or ~~mental retardation~~ developmental disability as defined in section 5123.01 of the Revised Code. 9943  
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- (4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following: 9947  
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- (a) Irrigations, catheterizations, application of dressings, and supervision of special diets; 9953  
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- (b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment; 9955  
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- (c) Special procedures contributing to rehabilitation; 9958
- (d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication; 9959  
9960  
9961
- (e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration. 9962  
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9964
- (5)(a) "Personal care services" means services including, but 9965

not limited to, the following: 9966

(i) Assisting residents with activities of daily living; 9967

(ii) Assisting residents with self-administration of 9968  
medication, in accordance with rules adopted under section 3721.04 9969  
of the Revised Code; 9970

(iii) Preparing special diets, other than complex therapeutic 9971  
diets, for residents pursuant to the instructions of a physician 9972  
or a licensed dietitian, in accordance with rules adopted under 9973  
section 3721.04 of the Revised Code. 9974

(b) "Personal care services" does not include "skilled 9975  
nursing care" as defined in division (A)(4) of this section. A 9976  
facility need not provide more than one of the services listed in 9977  
division (A)(5)(a) of this section to be considered to be 9978  
providing personal care services. 9979

(6) "Nursing home" means a home used for the reception and 9980  
care of individuals who by reason of illness or physical or mental 9981  
impairment require skilled nursing care and of individuals who 9982  
require personal care services but not skilled nursing care. A 9983  
nursing home is licensed to provide personal care services and 9984  
skilled nursing care. 9985

(7) "Residential care facility" means a home that provides 9986  
either of the following: 9987

(a) Accommodations for seventeen or more unrelated 9988  
individuals and supervision and personal care services for three 9989  
or more of those individuals who are dependent on the services of 9990  
others by reason of age or physical or mental impairment; 9991

(b) Accommodations for three or more unrelated individuals, 9992  
supervision and personal care services for at least three of those 9993  
individuals who are dependent on the services of others by reason 9994  
of age or physical or mental impairment, and, to at least one of 9995

those individuals, any of the skilled nursing care authorized by 9996  
section 3721.011 of the Revised Code. 9997

(8) "Home for the aging" means a home that provides services 9998  
as a residential care facility and a nursing home, except that the 9999  
home provides its services only to individuals who are dependent 10000  
on the services of others by reason of both age and physical or 10001  
mental impairment. 10002

The part or unit of a home for the aging that provides 10003  
services only as a residential care facility is licensed as a 10004  
residential care facility. The part or unit that may provide 10005  
skilled nursing care beyond the extent authorized by section 10006  
3721.011 of the Revised Code is licensed as a nursing home. 10007

(9) "County home" and "district home" mean a county home or 10008  
district home operated under Chapter 5155. of the Revised Code. 10009

(B) The director of health may further classify homes. For 10010  
the purposes of this chapter, any residence, institution, hotel, 10011  
congregate housing project, or similar facility that meets the 10012  
definition of a home under this section is such a home regardless 10013  
of how the facility holds itself out to the public. 10014

(C) For purposes of this chapter, personal care services or 10015  
skilled nursing care shall be considered to be provided by a 10016  
facility if they are provided by a person employed by or 10017  
associated with the facility or by another person pursuant to an 10018  
agreement to which neither the resident who receives the services 10019  
nor the resident's sponsor is a party. 10020

(D) Nothing in division (A)(4) of this section shall be 10021  
construed to permit skilled nursing care to be imposed on an 10022  
individual who does not require skilled nursing care. 10023

Nothing in division (A)(5) of this section shall be construed 10024  
to permit personal care services to be imposed on an individual 10025  
who is capable of performing the activity in question without 10026

assistance. 10027

(E) Division (A)(1)(c)(ix) of this section does not prohibit 10028  
a facility, infirmary, or other entity described in that division 10029  
from seeking licensure under sections 3721.01 to 3721.09 of the 10030  
Revised Code or certification under Title XVIII or XIX of the 10031  
"Social Security Act." However, such a facility, infirmary, or 10032  
entity that applies for licensure or certification must meet the 10033  
requirements of those sections or titles and the rules adopted 10034  
under them and obtain a certificate of need from the director of 10035  
health under section 3702.52 of the Revised Code. 10036

(F) Nothing in this chapter, or rules adopted pursuant to it, 10037  
shall be construed as authorizing the supervision, regulation, or 10038  
control of the spiritual care or treatment of residents or 10039  
patients in any home who rely upon treatment by prayer or 10040  
spiritual means in accordance with the creed or tenets of any 10041  
recognized church or religious denomination. 10042

**Sec. 3763.06.** As used in this section, "incompetent person" 10043  
means a person who is so mentally impaired as a result of a mental 10044  
or physical illness or disability, or ~~mental retardation~~ a 10045  
developmental disability that is an intellectual disability, or as 10046  
a result of chronic substance abuse, that the person is incapable 10047  
of taking proper care of the person's self or property or fails to 10048  
provide for the person's family or other persons for whom the 10049  
person is charged by law to provide. 10050

The property, both real and personal, of a defendant against 10051  
whom a judgment is rendered under sections 3763.01 to 3763.08 of 10052  
the Revised Code, for fines, costs, or to recover money or any 10053  
other thing of value, lost or paid, shall be liable therefor 10054  
without exemption, and such judgment shall be a lien thereon until 10055  
paid. If the owner of the building in which the money was lost 10056  
knowingly permits it to be used for gaming purposes, such 10057

building, and the real estate upon which it stands, shall be 10058  
liable therefor in a like manner. The guardian or trustee of a 10059  
minor or incompetent person, permitting property under the 10060  
guardian's or trustee's charge to be used for gaming purposes and 10061  
to become liable on account thereof, shall be liable to the 10062  
guardian's or trustee's ward for such amount. 10063

**Sec. 3791.031.** (A) As used in this section, "place of public 10064  
assembly" means: 10065

(1) Enclosed theatres, except the lobby; opera houses; 10066  
auditoriums; classrooms; elevators; rooms in which persons are 10067  
confined as a matter of health care, including but not limited to 10068  
a hospital room and a room in a residential care facility serving 10069  
as the residence of a person living in such residential care 10070  
facility; 10071

(2) All buildings and other enclosed structures owned by the 10072  
state, its agencies, or political subdivisions, including but not 10073  
limited to hospitals and state institutions for ~~the mentally~~ 10074  
~~retarded and~~ the mentally ill and persons with developmental 10075  
disabilities that are intellectual disabilities; university and 10076  
college buildings, except rooms within those buildings used 10077  
primarily as the residences of students or other persons 10078  
affiliated with the university or college; office buildings; 10079  
libraries; museums; and vehicles used in public transportation. 10080  
That portion of a building or other enclosed structure that is 10081  
owned by the state, a state agency, or a political subdivision and 10082  
that is used primarily as a food service establishment is not a 10083  
place of public assembly. 10084

(3) Each portion of a building or enclosed structure that is 10085  
not included in division (A)(1) or (2) of this section is a place 10086  
of public assembly if it has a seating capacity of fifty or more 10087  
persons and is available to the public. Restaurants, food service 10088

establishments, dining rooms, cafes, cafeterias, or other rooms 10089  
used primarily for the service of food, as well as bowling alleys 10090  
and places licensed by the division of liquor control to sell 10091  
intoxicating beverages for consumption on the premises, are not 10092  
places of public assembly. 10093

(B) For the purpose of separating persons who smoke from 10094  
persons who do not smoke for the comfort and health of persons not 10095  
smoking, in every place of public assembly there shall be an area 10096  
where smoking is not permitted, which shall be designated a no 10097  
smoking area; provided that, no more than one-half of the rooms in 10098  
any health care facility in which persons are confined as a matter 10099  
of health care may be designated as smoking areas in their 10100  
entirety. The designation shall be made before the place of public 10101  
assembly is made available to the public. In places included in 10102  
division (A)(1) of this section, the local fire authority having 10103  
jurisdiction shall designate the no smoking area. In places 10104  
included in division (A)(2) of this section that are owned by the 10105  
state or its agencies, except the capitol square, the director of 10106  
administrative services shall designate the area, and if the place 10107  
is owned by a political subdivision, its legislative authority 10108  
shall designate an officer who shall designate the area. The house 10109  
rules committee shall designate the no smoking areas in all 10110  
capitol square spaces used by the house of representatives; the 10111  
senate rules committee shall designate the no smoking areas in all 10112  
capitol square spaces used by the senate and the legislative 10113  
service commission; the capitol square review and advisory board 10114  
shall designate the no smoking areas in all other spaces in the 10115  
capitol square. In places included in division (A)(3) of this 10116  
section, the person having control of the operations of the place 10117  
of public assembly shall designate the no smoking area. In places 10118  
included in division (A)(2) of this section which are also 10119  
included in division (A)(1) of this section, the officer who has 10120  
authority to designate the area in places in division (A)(2) of 10121

this section shall designate the no smoking area. A no smoking  
area may include the entire place of public assembly. Designations  
shall be made by the placement of signs that are clearly visible  
and that state "no smoking." No person shall remove signs from  
areas designated as no smoking areas.

(C) This section does not affect or modify the prohibition  
contained in division (B) of section 3313.751 of the Revised Code.

(D) No person shall smoke in any area designated as a no  
smoking area in accordance with division (B) of this section.

(E) Whoever violates this section is guilty of a minor  
misdemeanor.

**Sec. 3923.24.** (A) Notwithstanding section 3901.71 of the  
Revised Code, every certificate furnished by an insurer in  
connection with, or pursuant to any provision of, any group  
sickness and accident insurance policy delivered, issued for  
delivery, renewed, or used in this state on or after January 1,  
1972, every policy of sickness and accident insurance delivered,  
issued for delivery, renewed, or used in this state on or after  
January 1, 1972, and every multiple employer welfare arrangement  
offering an insurance program, which provides that coverage of an  
unmarried dependent child of a parent or legal guardian will  
terminate upon attainment of the limiting age for dependent  
children specified in the contract shall also provide in substance  
both of the following:

(1) Once an unmarried child has attained the limiting age for  
dependent children, as provided in the policy, upon the request of  
the insured, the insurer shall offer to cover the unmarried child  
until the child attains twenty-eight years of age if all of the  
following are true:

(a) The child is the natural child, stepchild, or adopted

child of the insured. 10152

(b) The child is a resident of this state or a full-time 10153  
student at an accredited public or private institution of higher 10154  
education. 10155

(c) The child is not employed by an employer that offers any 10156  
health benefit plan under which the child is eligible for 10157  
coverage. 10158

(d) The child is not eligible for the medicaid program or the 10159  
medicare program. 10160

(2) That attainment of the limiting age for dependent 10161  
children shall not operate to terminate the coverage of a 10162  
dependent child if the child is and continues to be both of the 10163  
following: 10164

(a) Incapable of self-sustaining employment by reason of 10165  
~~mental retardation or physical handicap~~ or a developmental 10166  
disability that is an intellectual disability; 10167

(b) Primarily dependent upon the policyholder or certificate 10168  
holder for support and maintenance. 10169

(B) Proof of such incapacity and dependence for purposes of 10170  
division (A)(2) of this section shall be furnished by the 10171  
policyholder or by the certificate holder to the insurer within 10172  
thirty-one days of the child's attainment of the limiting age. 10173  
Upon request, but not more frequently than annually after the 10174  
two-year period following the child's attainment of the limiting 10175  
age, the insurer may require proof satisfactory to it of the 10176  
continuance of such incapacity and dependency. 10177

(C) Nothing in this section shall require an insurer to cover 10178  
a dependent child who ~~is mentally retarded or physically~~ 10179  
~~handicapped~~ has a physical handicap or a developmental disability 10180  
that is an intellectual disability if the contract is underwritten 10181

on evidence of insurability based on health factors set forth in 10182  
the application, or if such dependent child does not satisfy the 10183  
conditions of the contract as to any requirement for evidence of 10184  
insurability or other provision of the contract, satisfaction of 10185  
which is required for coverage thereunder to take effect. In any 10186  
such case, the terms of the contract shall apply with regard to 10187  
the coverage or exclusion of the dependent from such coverage. 10188  
Nothing in this section shall apply to accidental death or 10189  
dismemberment benefits provided by any such policy of sickness and 10190  
accident insurance. 10191

(D) Nothing in this section shall do any of the following: 10192

(1) Require that any policy offer coverage for dependent 10193  
children or provide coverage for an unmarried dependent child's 10194  
children as dependents on the policy; 10195

(2) Require an employer to pay for any part of the premium 10196  
for an unmarried dependent child that has attained the limiting 10197  
age for dependents, as provided in the policy; 10198

(3) Require an employer to offer health insurance coverage to 10199  
the dependents of any employee. 10200

(E) This section does not apply to any policies or 10201  
certificates covering only accident, credit, dental, disability 10202  
income, long-term care, hospital indemnity, medicare supplement, 10203  
specified disease, or vision care; coverage under a 10204  
one-time-limited-duration policy of not longer than six months; 10205  
coverage issued as a supplement to liability insurance; insurance 10206  
arising out of a workers' compensation or similar law; automobile 10207  
medical-payment insurance; or insurance under which benefits are 10208  
payable with or without regard to fault and that is statutorily 10209  
required to be contained in any liability insurance policy or 10210  
equivalent self-insurance. 10211

(F) As used in this section, "health benefit plan" has the 10212

same meaning as in section 3924.01 of the Revised Code and also 10213  
includes both of the following: 10214

(1) A public employee benefit plan; 10215

(2) A health benefit plan as regulated under the "Employee 10216  
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 10217

**Sec. 3923.241.** (A) Notwithstanding section 3901.71 of the 10218  
Revised Code, any public employee benefit plan that provides that 10219  
coverage of an unmarried dependent child will terminate upon 10220  
attainment of the limiting age for dependent children specified in 10221  
the plan shall also provide in substance both of the following: 10222

(1) Once an unmarried child has attained the limiting age for 10223  
dependent children, as provided in the plan, upon the request of 10224  
the employee, the public employee benefit plan shall offer to 10225  
cover the unmarried child until the child attains twenty-eight 10226  
years of age if all of the following are true: 10227

(a) The child is the natural child, stepchild, or adopted 10228  
child of the employee. 10229

(b) The child is a resident of this state or a full-time 10230  
student at an accredited public or private institution of higher 10231  
education. 10232

(c) The child is not employed by an employer that offers any 10233  
health benefit plan under which the child is eligible for 10234  
coverage. 10235

(d) The child is not eligible for the medicaid program or the 10236  
medicare program. 10237

(2) That attainment of the limiting age for dependent 10238  
children shall not operate to terminate the coverage of a 10239  
dependent child if the child is and continues to be both of the 10240  
following: 10241

(a) Incapable of self-sustaining employment by reason of	10242
<del>mental retardation or physical handicap or a developmental</del>	10243
<u>disability that is an intellectual disability;</u>	10244
(b) Primarily dependent upon the plan member for support and	10245
maintenance.	10246
(B) Proof of incapacity and dependence for purposes of	10247
division (A)(2) of this section shall be furnished to the public	10248
employee benefit plan within thirty-one days of the child's	10249
attainment of the limiting age. Upon request, but not more	10250
frequently than annually, the public employee benefit plan may	10251
require proof satisfactory to it of the continuance of such	10252
incapacity and dependency.	10253
(C) Nothing in this section shall do any of the following:	10254
(1) Require that any public employee benefit plan offer	10255
coverage for dependent children or provide coverage for an	10256
unmarried dependent child's children as dependents on the public	10257
employee benefit plan;	10258
(2) Require an employer to pay for any part of the premium	10259
for an unmarried dependent child that has attained the limiting	10260
age for dependents, as provided in the plan;	10261
(3) Require an employer to offer health insurance coverage to	10262
the dependents of any employee.	10263
(D) This section does not apply to any public employee	10264
benefit plan covering only accident, credit, dental, disability	10265
income, long-term care, hospital indemnity, medicare supplement,	10266
specified disease, or vision care; coverage under a	10267
one-time-limited-duration policy of not longer than six months;	10268
coverage issued as a supplement to liability insurance; insurance	10269
arising out of a workers' compensation or similar law; automobile	10270
medical-payment insurance; or insurance under which benefits are	10271
payable with or without regard to fault and which is statutorily	10272

required to be contained in any liability insurance policy or 10273  
equivalent self-insurance. 10274

(E) As used in this section, "health benefit plan" has the 10275  
same meaning as in section 3924.01 of the Revised Code and also 10276  
includes both of the following: 10277

(1) A public employee benefit plan; 10278

(2) A health benefit plan as regulated under the "Employee 10279  
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 10280

**Sec. 4112.01.** (A) As used in this chapter: 10281

(1) "Person" includes one or more individuals, partnerships, 10282  
associations, organizations, corporations, legal representatives, 10283  
trustees, trustees in bankruptcy, receivers, and other organized 10284  
groups of persons. "Person" also includes, but is not limited to, 10285  
any owner, lessor, assignor, builder, manager, broker, 10286  
salesperson, appraiser, agent, employee, lending institution, and 10287  
the state and all political subdivisions, authorities, agencies, 10288  
boards, and commissions of the state. 10289

(2) "Employer" includes the state, any political subdivision 10290  
of the state, any person employing four or more persons within the 10291  
state, and any person acting directly or indirectly in the 10292  
interest of an employer. 10293

(3) "Employee" means an individual employed by any employer 10294  
but does not include any individual employed in the domestic 10295  
service of any person. 10296

(4) "Labor organization" includes any organization that 10297  
exists, in whole or in part, for the purpose of collective 10298  
bargaining or of dealing with employers concerning grievances, 10299  
terms or conditions of employment, or other mutual aid or 10300  
protection in relation to employment. 10301

(5) "Employment agency" includes any person regularly 10302

undertaking, with or without compensation, to procure 10303  
opportunities to work or to procure, recruit, refer, or place 10304  
employees. 10305

(6) "Commission" means the Ohio civil rights commission 10306  
created by section 4112.03 of the Revised Code. 10307

(7) "Discriminate" includes segregate or separate. 10308

(8) "Unlawful discriminatory practice" means any act 10309  
prohibited by section 4112.02, 4112.021, or 4112.022 of the 10310  
Revised Code. 10311

(9) "Place of public accommodation" means any inn, 10312  
restaurant, eating house, barbershop, public conveyance by air, 10313  
land, or water, theater, store, other place for the sale of 10314  
merchandise, or any other place of public accommodation or 10315  
amusement of which the accommodations, advantages, facilities, or 10316  
privileges are available to the public. 10317

(10) "Housing accommodations" includes any building or 10318  
structure, or portion of a building or structure, that is used or 10319  
occupied or is intended, arranged, or designed to be used or 10320  
occupied as the home residence, dwelling, dwelling unit, or 10321  
sleeping place of one or more individuals, groups, or families 10322  
whether or not living independently of each other; and any vacant 10323  
land offered for sale or lease. "Housing accommodations" also 10324  
includes any housing accommodations held or offered for sale or 10325  
rent by a real estate broker, salesperson, or agent, by any other 10326  
person pursuant to authorization of the owner, by the owner, or by 10327  
the owner's legal representative. 10328

(11) "Restrictive covenant" means any specification limiting 10329  
the transfer, rental, lease, or other use of any housing 10330  
accommodations because of race, color, religion, sex, military 10331  
status, familial status, national origin, disability, or ancestry, 10332  
or any limitation based upon affiliation with or approval by any 10333

person, directly or indirectly, employing race, color, religion, 10334  
sex, military status, familial status, national origin, 10335  
disability, or ancestry as a condition of affiliation or approval. 10336

(12) "Burial lot" means any lot for the burial of deceased 10337  
persons within any public burial ground or cemetery, including, 10338  
but not limited to, cemeteries owned and operated by municipal 10339  
corporations, townships, or companies or associations incorporated 10340  
for cemetery purposes. 10341

(13) "Disability" means a physical or mental impairment that 10342  
substantially limits one or more major life activities, including 10343  
the functions of caring for one's self, performing manual tasks, 10344  
walking, seeing, hearing, speaking, breathing, learning, and 10345  
working; a record of a physical or mental impairment; or being 10346  
regarded as having a physical or mental impairment. 10347

(14) Except as otherwise provided in section 4112.021 of the 10348  
Revised Code, "age" means at least forty years old. 10349

(15) "Familial status" means either of the following: 10350

(a) One or more individuals who are under eighteen years of 10351  
age and who are domiciled with a parent or guardian having legal 10352  
custody of the individual or domiciled, with the written 10353  
permission of the parent or guardian having legal custody, with a 10354  
designee of the parent or guardian; 10355

(b) Any person who is pregnant or in the process of securing 10356  
legal custody of any individual who is under eighteen years of 10357  
age. 10358

(16)(a) Except as provided in division (A)(16)(b) of this 10359  
section, "physical or mental impairment" includes any of the 10360  
following: 10361

(i) Any physiological disorder or condition, cosmetic 10362  
disfigurement, or anatomical loss affecting one or more of the 10363

following body systems: neurological; musculoskeletal; special 10364  
sense organs; respiratory, including speech organs; 10365  
cardiovascular; reproductive; digestive; genito-urinary; hemic and 10366  
lymphatic; skin; and endocrine; 10367

(ii) Any mental or psychological disorder, including, but not 10368  
limited to, ~~mental retardation~~ developmental disabilities that are 10369  
intellectual disabilities, organic brain syndrome, emotional or 10370  
mental illness, and specific learning disabilities; 10371

(iii) Diseases and conditions, including, but not limited to, 10372  
orthopedic, visual, speech, and hearing impairments, cerebral 10373  
palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, 10374  
cancer, heart disease, diabetes, human immunodeficiency virus 10375  
infection, ~~mental retardation~~ developmental disabilities that are 10376  
intellectual disabilities, emotional illness, drug addiction, and 10377  
alcoholism. 10378

(b) "Physical or mental impairment" does not include any of 10379  
the following: 10380

(i) Homosexuality and bisexuality; 10381

(ii) Transvestism, transsexualism, pedophilia, exhibitionism, 10382  
voyeurism, gender identity disorders not resulting from physical 10383  
impairments, or other sexual behavior disorders; 10384

(iii) Compulsive gambling, kleptomania, or pyromania; 10385

(iv) Psychoactive substance use disorders resulting from the 10386  
current illegal use of a controlled substance or the current use 10387  
of alcoholic beverages. 10388

(17) "Dwelling unit" means a single unit of residence for a 10389  
family of one or more persons. 10390

(18) "Common use areas" means rooms, spaces, or elements 10391  
inside or outside a building that are made available for the use 10392  
of residents of the building or their guests, and includes, but is 10393

not limited to, hallways, lounges, lobbies, laundry rooms, refuse  
rooms, mail rooms, recreational areas, and passageways among and  
between buildings.

(19) "Public use areas" means interior or exterior rooms or  
spaces of a privately or publicly owned building that are made  
available to the general public.

(20) "Controlled substance" has the same meaning as in  
section 3719.01 of the Revised Code.

(21) "Disabled tenant" means a tenant or prospective tenant  
who is a person with a disability.

(22) "Military status" means a person's status in "service in  
the uniformed services" as defined in section 5923.05 of the  
Revised Code.

(23) "Aggrieved person" includes both of the following:

(a) Any person who claims to have been injured by any  
unlawful discriminatory practice described in division (H) of  
section 4112.02 of the Revised Code;

(b) Any person who believes that the person will be injured  
by, any unlawful discriminatory practice described in division (H)  
of section 4112.02 of the Revised Code that is about to occur.

(B) For the purposes of divisions (A) to (F) of section  
4112.02 of the Revised Code, the terms "because of sex" and "on  
the basis of sex" include, but are not limited to, because of or  
on the basis of pregnancy, any illness arising out of and  
occurring during the course of a pregnancy, childbirth, or related  
medical conditions. Women affected by pregnancy, childbirth, or  
related medical conditions shall be treated the same for all  
employment-related purposes, including receipt of benefits under  
fringe benefit programs, as other persons not so affected but  
similar in their ability or inability to work, and nothing in

division (B) of section 4111.17 of the Revised Code shall be 10424  
interpreted to permit otherwise. This division shall not be 10425  
construed to require an employer to pay for health insurance 10426  
benefits for abortion, except where the life of the mother would 10427  
be endangered if the fetus were carried to term or except where 10428  
medical complications have arisen from the abortion, provided that 10429  
nothing in this division precludes an employer from providing 10430  
abortion benefits or otherwise affects bargaining agreements in 10431  
regard to abortion. 10432

**Sec. 4303.272.** As used in this section, "incompetent person" 10433  
means a person who is so mentally impaired as a result of a mental 10434  
or physical illness or disability, or ~~mental retardation~~ a 10435  
developmental disability that is an intellectual disability, or as 10436  
a result of chronic substance abuse, that the person is incapable 10437  
of taking proper care of the person's self or property or fails to 10438  
provide for the person's family or other persons for whom the 10439  
person is charged by law to provide. 10440

Any permit holder whose permit premises are destroyed or made 10441  
unusable for any cause, or whose tenancy is terminated for any 10442  
cause, shall deliver the permit holder's permit to the division of 10443  
liquor control for safekeeping until such time as the original 10444  
permit premises are made available for occupancy or new premises 10445  
are secured by the permit holder or until new premises are secured 10446  
by the permit holder outside the precinct affected by a local 10447  
option election. 10448

Unless the permit is to be cancelled as the result of a local 10449  
option election held pursuant to section 4301.352 of the Revised 10450  
Code, a permit holder whose permit is to be restricted or 10451  
cancelled as the result of a local option election pursuant to 10452  
sections 4301.32 to 4301.41 and 4305.14 of the Revised Code may, 10453  
within the thirty-day period after the certification of the 10454

results of the election to the division, deliver the permit to the 10455  
division for safekeeping subject to the renewal and transfer 10456  
provision of this section. A permit holder whose permit is to be 10457  
cancelled as the result of a local option election held pursuant 10458  
to section 4301.352 of the Revised Code is not entitled to deliver 10459  
the permit to the division for safekeeping. 10460

If, as the result of the election, the use of a permit is 10461  
made wholly unlawful and the permit holder does not deliver or is 10462  
not entitled to deliver the permit to the division for safekeeping 10463  
as provided in this section, the division shall forthwith cancel 10464  
and pick up the permit. 10465

During the period of time that a permit is held in 10466  
safekeeping by the division, the permit holder shall be allowed to 10467  
transfer the permit to other premises, subject to the provisions 10468  
of Chapters 4301. and 4303. of the Revised Code. 10469

If the expiration date of a permit occurs during the time it 10470  
is held in safekeeping, the permit shall be renewed by the 10471  
division if the permit holder complies with the other provisions 10472  
of Chapters 4301. and 4303. of the Revised Code, pertaining to the 10473  
renewal of a permit. The division shall issue and then retain the 10474  
renewed permit until the original permit premises become available 10475  
for occupancy by the permit holder or until the permit holder 10476  
secures other premises. The division shall return to the permit 10477  
holder a permit renewed while in safekeeping when the original 10478  
permit premises are made available for occupancy or new permit 10479  
premises are secured by the permit holder, if the premises meet 10480  
the requirements of Chapters 4301. and 4303. of the Revised Code. 10481

A permit renewed while in safekeeping shall be considered in 10482  
full force and effect and may be transferred by the division. 10483

Should the permit holder be adjudged an incompetent person or 10484  
die while the permit holder's permit is in safekeeping, the permit 10485

shall be transferred, upon application, by the division to the guardian, administrator, executor, or other fiduciary of the permit holder who shall have the same rights to the transfer, return, and renewal of the permit as is provided in this section for the permit holder.

A permit held in safekeeping shall not be renewed more than once while so held, unless the building from which the permit was taken for safekeeping or the building to which the permit is to be transferred is under construction or reconstruction, in which event the permit shall be held in safekeeping and shall, upon the application of the permit holder, be renewed at each expiration date until the construction or reconstruction of the building is completed.

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

If a person rents or leases to another a building or premises to be used or occupied, in whole or in part, for the sale of intoxicating liquors, or permits such building or premises to be so used or occupied, such building or premises shall be liable for and may be sold to pay all fines, costs, and damages assessed against a person occupying them. Proceedings may be had to subject them to the payment of such fine and costs assessed or judgment recovered, or part remaining unpaid, either before or after execution issues against the property of the person against whom such fine and costs or judgment have been adjudged or assessed.

When execution issues against the property leased or rented, the 10517  
officer shall proceed to satisfy it out of the building or 10518  
premises so leased or occupied. 10519

If such building or premises belong to a minor or incompetent 10520  
person, the guardian having control thereof shall be liable and 10521  
account to the guardian's ward for all damages on account of such 10522  
use and occupation, and the liabilities for such fines, costs, and 10523  
damages. 10524

**Sec. 4723.071.** (A) As used in this section, "health-related 10525  
activities," "~~MR/DD~~ developmental disabilities personnel," 10526  
"prescribed medication," and "tube feeding" have the same meanings 10527  
as in section 5123.41 of the Revised Code. 10528

(B) The board of nursing shall adopt rules as it considers 10529  
necessary to govern nursing delegation as it applies to ~~MR/DD~~ 10530  
developmental disabilities personnel who administer prescribed 10531  
medications, perform health-related activities, and perform tube 10532  
feedings pursuant to the authority granted under section 5123.42 10533  
of the Revised Code. The board shall not establish in the rules 10534  
any requirement that is inconsistent with the authority of ~~MR/DD~~ 10535  
developmental disabilities personnel granted under that section. 10536  
The rules shall be adopted in accordance with Chapter 119. of the 10537  
Revised Code. 10538

(C) The board of nursing may accept complaints from any 10539  
person or government entity regarding the performance or 10540  
qualifications of ~~MR/DD~~ developmental disabilities personnel who 10541  
administer prescribed medications, perform health-related 10542  
activities, and perform tube feedings pursuant to the authority 10543  
granted under section 5123.42 of the Revised Code. The board shall 10544  
refer all complaints received to the department of developmental 10545  
disabilities. The board may participate in an investigation of a 10546  
complaint being conducted by the department under section 5123.421 10547

of the Revised Code. 10548

**Sec. 4757.41.** (A) This chapter shall not apply to the 10549  
following: 10550

(1) A person certified by the state board of education under 10551  
Chapter 3319. of the Revised Code while performing any services 10552  
within the person's scope of employment by a board of education or 10553  
by a private school meeting the standards prescribed by the state 10554  
board of education under division (D) of section 3301.07 of the 10555  
Revised Code or in a program operated under Chapter 5126. of the 10556  
Revised Code for training individuals with ~~mental retardation or~~ 10557  
~~other~~ developmental disabilities; 10558

(2) Psychologists or school psychologists licensed under 10559  
Chapter 4732. of the Revised Code; 10560

(3) Members of other professions licensed, certified, or 10561  
registered by this state while performing services within the 10562  
recognized scope, standards, and ethics of their respective 10563  
professions; 10564

(4) Rabbis, priests, Christian science practitioners, clergy, 10565  
or members of religious orders and other individuals participating 10566  
with them in pastoral counseling when the counseling activities 10567  
are within the scope of the performance of their regular or 10568  
specialized ministerial duties and are performed under the 10569  
auspices or sponsorship of an established and legally cognizable 10570  
church, denomination, or sect or an integrated auxiliary of a 10571  
church as defined in federal tax regulations, paragraph (g)(5) of 10572  
26 C.F.R. 1.6033-2 (1995), and when the individual rendering the 10573  
service remains accountable to the established authority of that 10574  
church, denomination, sect, or integrated auxiliary; 10575

(5) Any person who is not licensed under this chapter as a 10576  
licensed professional clinical counselor, licensed professional 10577

counselor, independent social worker, or social worker and is 10578  
employed in the civil service as defined in section 124.01 of the 10579  
Revised Code while engaging in professional counseling or social 10580  
work as a civil service employee, if on ~~the effective date of this~~ 10581  
~~amendment~~ July 10, 2014, the person has at least two years of 10582  
service in that capacity; 10583

(6) A student in an accredited educational institution while 10584  
carrying out activities that are part of the student's prescribed 10585  
course of study if the activities are supervised as required by 10586  
the educational institution and if the student does not hold 10587  
herself or himself out as a person licensed or registered under 10588  
this chapter; 10589

(7) Individuals who hold a license or certificate under 10590  
Chapter 4758. of the Revised Code who are acting within the scope 10591  
of their license or certificate as members of the profession of 10592  
chemical dependency counseling or alcohol and other drug 10593  
prevention services; 10594

(8) Any person employed by the American red cross while 10595  
engaging in activities relating to services for military families 10596  
and veterans and disaster relief, as described in the "American 10597  
National Red Cross Act," 33 Stat. 599 (1905), 36 U.S.C.A. 1, as 10598  
amended; 10599

(9) Members of labor organizations who hold union counselor 10600  
certificates while performing services in their official capacity 10601  
as union counselors; 10602

(10) Any person employed in a hospital as defined in section 10603  
3727.01 of the Revised Code or in a nursing home as defined in 10604  
section 3721.01 of the Revised Code while providing as a hospital 10605  
employee or nursing home employee, respectively, social services 10606  
other than counseling and the use of psychosocial interventions 10607  
and social psychotherapy; 10608

(11) A vocational rehabilitation professional who is providing rehabilitation services to individuals under section 3304.17 of the Revised Code, or holds certification by the commission on rehabilitation counselor certification and is providing rehabilitation counseling services consistent with the commission's standards;

(12) A caseworker not licensed under this chapter as an independent social worker or social worker who is employed by a public children services agency under section 5153.112 of the Revised Code.

(B) Divisions (A)(5) and (10) of this section do not prevent a person described in those divisions from obtaining a license or certificate of registration under this chapter.

(C) Except as provided in divisions (A) and (D) of this section, no employee in the service of the state, including public employees as defined by Chapter 4117. of the Revised Code, shall engage in the practice of professional counseling, social work, or marriage and family therapy without the appropriate license issued by the board. Failure to comply with this division constitutes nonfeasance under section 124.34 of the Revised Code or just cause under a collective bargaining agreement. Nothing in this division restricts the director of administrative services from developing new classifications related to this division or from reassigning affected employees to appropriate classifications based on the employee's duties and qualifications.

(D) Except as provided in division (A) of this section, an employee who was engaged in the practice of professional counseling, social work, or marriage and family therapy in the service of the state prior to ~~the effective date of this amendment~~ July 10, 2014, including public employees as defined by Chapter 4117. of the Revised Code, shall comply with division (C) of this section within two years after ~~the effective date of this~~

~~amendment~~ July 10, 2014. Any such employee who fails to comply 10641  
shall be removed from employment. 10642

(E) Nothing in this chapter prevents a public children 10643  
services agency from employing as a caseworker a person not 10644  
licensed under this chapter as an independent social worker or 10645  
social worker who has the qualifications specified in section 10646  
5153.112 of the Revised Code. 10647

**Sec. 4971.16.** As used in this section, "incompetent person" 10648  
means a person who is so mentally impaired as a result of a mental 10649  
or physical illness or disability, or ~~mental retardation~~ a 10650  
developmental disability that is an intellectual disability, or as 10651  
a result of chronic substance abuse, that the person is incapable 10652  
of taking proper care of the person's self or property or fails to 10653  
provide for the person's family or other persons for whom the 10654  
person is charged by law to provide. 10655

Persons in interest who fail to become parties to the 10656  
agreement within the four-month period referred to in section 10657  
4971.14 of the Revised Code are entitled to the same rights, 10658  
interest, estate, remedy, liens, and action, and none other, which 10659  
parties in interest of like class and amount who signed the 10660  
agreement obtained by and under it. If a person in interest fails 10661  
for six years after the publication of the notice mentioned in 10662  
such section to apply at the principal office of the company, 10663  
either in person or by proxy, to become a party in interest in the 10664  
agreement, such person, unless an infant or incompetent person, 10665  
shall be barred of all interest, claim, right, or action under the 10666  
agreement or otherwise. In case of such disability such rights 10667  
shall be extended for two years after the termination of the 10668  
disability. 10669

**Sec. 5101.46.** (A) As used in this section: 10670

(1) "Title XX" means Title XX of the "Social Security Act," 10671  
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 10672

(2) "Respective local agency" means, with respect to the 10673  
department of job and family services, a county department of job 10674  
and family services; with respect to the department of mental 10675  
health and addiction services, a board of alcohol, drug addiction, 10676  
and mental health services; and with respect to the department of 10677  
developmental disabilities, a county board of developmental 10678  
disabilities. 10679

(3) "Federal poverty guidelines" means the poverty guidelines 10680  
as revised annually by the United States department of health and 10681  
human services in accordance with section 673(2) of the "Omnibus 10682  
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 10683  
9902, as amended, for a family size equal to the size of the 10684  
family of the person whose income is being determined. 10685

(B) The departments of job and family services, mental 10686  
health, and developmental disabilities, with their respective 10687  
local agencies, shall administer the provision of social services 10688  
funded through grants made under Title XX. The social services 10689  
furnished with Title XX funds shall be directed at the following 10690  
goals: 10691

(1) Achieving or maintaining economic self-support to 10692  
prevent, reduce, or eliminate dependency; 10693

(2) Achieving or maintaining self-sufficiency, including 10694  
reduction or prevention of dependency; 10695

(3) Preventing or remedying neglect, abuse, or exploitation 10696  
of children and adults unable to protect their own interests, or 10697  
preserving, rehabilitating, or reuniting families; 10698

(4) Preventing or reducing inappropriate institutional care 10699  
by providing for community-based care, home-based care, or other 10700  
forms of less intensive care; 10701

(5) Securing referral or admission for institutional care 10702  
when other forms of care are not appropriate, or providing 10703  
services to individuals in institutions. 10704

(C)(1) All federal funds received under Title XX shall be 10705  
appropriated as follows: 10706

(a) Seventy-two and one-half per cent to the department of 10707  
job and family services; 10708

(b) Twelve and ninety-three one-hundredths per cent to the 10709  
department of mental health and addiction services; 10710

(c) Fourteen and fifty-seven one-hundredths per cent to the 10711  
department of developmental disabilities. 10712

(2) Each of the state departments shall, subject to the 10713  
approval of the controlling board, develop a formula for the 10714  
distribution of the Title XX funds appropriated to the department 10715  
to its respective local agencies. The formula developed by each 10716  
state department shall take into account all of the following for 10717  
each of its respective local agencies: 10718

(a) The total population of the area that is served by the 10719  
respective local agency; 10720

(b) The percentage of the population in the area served that 10721  
falls below the federal poverty guidelines; 10722

(c) The respective local agency's history of and ability to 10723  
utilize Title XX funds. 10724

(3) Each of the state departments shall expend for state 10725  
administrative costs not more than three per cent of the Title XX 10726  
funds appropriated to the department. 10727

Each state department shall establish for each of its 10728  
respective local agencies the maximum percentage of the Title XX 10729  
funds distributed to the respective local agency that the 10730  
respective local agency may expend for local administrative costs. 10731

The percentage shall be established by rule and shall comply with 10732  
federal law governing the use of Title XX funds. The rules shall 10733  
be adopted in accordance with section 111.15 of the Revised Code 10734  
as if they were internal management rules. 10735

(4) The department of job and family services shall expend 10736  
for the training of the following not more than two per cent of 10737  
the Title XX funds appropriated to the department: 10738

(a) Employees of county departments of job and family 10739  
services; 10740

(b) Providers of services under contract with the state 10741  
departments' respective local agencies; 10742

(c) Employees of a public children services agency directly 10743  
engaged in providing Title XX services. 10744

(5) Title XX funds distributed for the purpose of providing 10745  
family planning services shall be distributed by the respective 10746  
local agencies according to the same order of priority that 10747  
applies to the department of job and family services under section 10748  
5101.101 of the Revised Code. 10749

(D) The department of job and family services shall prepare 10750  
an annual comprehensive Title XX social services plan on the 10751  
intended use of Title XX funds. The department shall develop a 10752  
method for obtaining public comment during the development of the 10753  
plan and following its completion. 10754

For each federal fiscal year, the department of job and 10755  
family services shall prepare a report on the actual use of Title 10756  
XX funds. The department shall make the annual report available 10757  
for public inspection. 10758

The departments of mental health and addiction services and 10759  
developmental disabilities shall prepare and submit to the 10760  
department of job and family services the portions of each annual 10761

plan and report that apply to services for mental health and 10762  
~~mental retardation and~~ developmental disabilities. Each respective 10763  
local agency of the three state departments shall submit 10764  
information as necessary for the preparation of annual plans and 10765  
reports. 10766

(E) Each county department of job and family services shall 10767  
adopt a county profile for the administration and provision of 10768  
Title XX social services in the county. In developing its county 10769  
profile, the county department shall take into consideration the 10770  
comments and recommendations received from the public by the 10771  
county family services planning committee pursuant to section 10772  
329.06 of the Revised Code. As part of its preparation of the 10773  
county profile, the county department may prepare a local needs 10774  
report analyzing the need for Title XX social services. 10775

The county department shall submit the county profile to the 10776  
board of county commissioners for its review. Once the county 10777  
profile has been approved by the board, the county department 10778  
shall file a copy of the county profile with the department of job 10779  
and family services. The department shall approve the county 10780  
profile if the department determines the profile provides for the 10781  
Title XX social services to meet the goals specified in division 10782  
(B) of this section. 10783

(F) Any of the three state departments and their respective 10784  
local agencies may require that an entity under contract to 10785  
provide social services with Title XX funds submit to an audit on 10786  
the basis of alleged misuse or improper accounting of funds. If an 10787  
audit is required, the social services provider shall reimburse 10788  
the state department or respective local agency for the cost it 10789  
incurred in conducting the audit or having the audit conducted. 10790

If an audit demonstrates that a social services provider is 10791  
responsible for one or more adverse findings, the provider shall 10792  
reimburse the appropriate state department or its respective local 10793

agency the amount of the adverse findings. The amount shall not be 10794  
reimbursed with Title XX funds received under this section. The 10795  
three state departments and their respective local agencies may 10796  
terminate or refuse to enter into a Title XX contract with a 10797  
social services provider if there are adverse findings in an audit 10798  
that are the responsibility of the provider. 10799

(G) Except with respect to the matters for which each of the 10800  
state departments must adopt rules under division (C)(3) of this 10801  
section, the department of job and family services may adopt any 10802  
rules it considers necessary to implement and carry out the 10803  
purposes of this section. Rules governing financial and 10804  
operational matters of the department or matters between the 10805  
department and county departments of job and family services shall 10806  
be adopted as internal management rules in accordance with section 10807  
111.15 of the Revised Code. Rules governing eligibility for 10808  
services, program participation, and other matters pertaining to 10809  
applicants and participants shall be adopted in accordance with 10810  
Chapter 119. of the Revised Code. 10811

**Sec. 5101.611.** If a county department of job and family 10812  
services knows or has reasonable cause to believe that the subject 10813  
of a report made under section 5101.61 or of an investigation 10814  
conducted under sections 5101.62 to 5101.64 or on the initiative 10815  
of the department ~~is mentally retarded or developmentally disabled~~ 10816  
has a developmental disability as defined in section 5126.01 of 10817  
the Revised Code, the department shall refer the case to the 10818  
county board of developmental disabilities of that county for 10819  
review pursuant to section 5126.31 of the Revised Code. 10820

If a county board of developmental disabilities refers a case 10821  
to the county department of job and family services in accordance 10822  
with section 5126.31, the department shall proceed with the case 10823  
in accordance with sections 5101.60 to 5101.71 of the Revised 10824

Code.	10825
<b>Sec. 5103.02.</b> As used in sections 5103.03 to 5103.17 of the	10826
Revised Code:	10827
(A)(1) "Association" or "institution" includes all of the	10828
following:	10829
(a) Any incorporated or unincorporated organization, society,	10830
association, or agency, public or private, that receives or cares	10831
for children for two or more consecutive weeks;	10832
(b) Any individual, including the operator of a foster home,	10833
who, for hire, gain, or reward, receives or cares for children for	10834
two or more consecutive weeks, unless the individual is related to	10835
them by blood or marriage;	10836
(c) Any individual not in the regular employ of a court, or	10837
of an institution or association certified in accordance with	10838
section 5103.03 of the Revised Code, who in any manner becomes a	10839
party to the placing of children in foster homes, unless the	10840
individual is related to such children by blood or marriage or is	10841
the appointed guardian of such children.	10842
(2) "Association" or "institution" does not include any of	10843
the following:	10844
(a) Any organization, society, association, school, agency,	10845
child guidance center, detention or rehabilitation facility, or	10846
children's clinic licensed, regulated, approved, operated under	10847
the direction of, or otherwise certified by the department of	10848
education, a local board of education, the department of youth	10849
services, the department of mental health and addiction services,	10850
or the department of developmental disabilities;	10851
(b) Any individual who provides care for only a single-family	10852
group, placed there by their parents or other relative having	10853
custody.	10854

(B) "Family foster home" means a foster home that is not a 10855  
specialized foster home. 10856

(C) "Foster caregiver" means a person holding a valid foster 10857  
home certificate issued under section 5103.03 of the Revised Code. 10858

(D) "Foster home" means a private residence in which children 10859  
are received apart from their parents, guardian, or legal 10860  
custodian, by an individual reimbursed for providing the children 10861  
nonsecure care, supervision, or training twenty-four hours a day. 10862  
"Foster home" does not include care provided for a child in the 10863  
home of a person other than the child's parent, guardian, or legal 10864  
custodian while the parent, guardian, or legal custodian is 10865  
temporarily away. Family foster homes and specialized foster homes 10866  
are types of foster homes. 10867

(E) "Medically fragile foster home" means a foster home that 10868  
provides specialized medical services designed to meet the needs 10869  
of children with intensive health care needs who meet all of the 10870  
following criteria: 10871

(1) Under rules adopted by the medicaid director governing 10872  
medicaid payments for long-term care services, the children 10873  
require a skilled level of care. 10874

(2) The children require the services of a doctor of medicine 10875  
or osteopathic medicine at least once a week due to the 10876  
instability of their medical conditions. 10877

(3) The children require the services of a registered nurse 10878  
on a daily basis. 10879

(4) The children are at risk of institutionalization in a 10880  
hospital, skilled nursing facility, or intermediate care facility 10881  
for individuals with intellectual disabilities. 10882

(F) "Recommending agency" means a public children services 10883  
agency, private child placing agency, or private noncustodial 10884

agency that recommends that the department of job and family 10885  
services take any of the following actions under section 5103.03 10886  
of the Revised Code regarding a foster home: 10887

(1) Issue a certificate; 10888

(2) Deny a certificate; 10889

(3) Renew a certificate; 10890

(4) Deny renewal of a certificate; 10891

(5) Revoke a certificate. 10892

(G) "Specialized foster home" means a medically fragile 10893  
foster home or a treatment foster home. 10894

(H) "Treatment foster home" means a foster home that 10895  
incorporates special rehabilitative services designed to treat the 10896  
specific needs of the children received in the foster home and 10897  
that receives and cares for children who are emotionally or 10898  
behaviorally disturbed, who are chemically dependent, ~~mentally~~ 10899  
~~retarded, developmentally disabled~~ who have a developmental 10900  
disability, or who otherwise have exceptional needs. 10901

**Sec. 5119.44.** As used in this section, "free clinic" has the 10902  
same meaning as in section 2305.2341 of the Revised Code. 10903

(A) The department of mental health and addiction services 10904  
may provide certain goods and services for the department of 10905  
mental health and addiction services, the department of 10906  
developmental disabilities, the department of rehabilitation and 10907  
correction, the department of youth services, and other state, 10908  
county, or municipal agencies requesting such goods and services 10909  
when the department of mental health and addiction services 10910  
determines that it is in the public interest, and considers it 10911  
advisable, to provide these goods and services. The department of 10912  
mental health and addiction services also may provide goods and 10913  
services to agencies operated by the United States government and 10914

to public or private nonprofit agencies, other than free clinics, 10915  
that are funded in whole or in part by the state if the public or 10916  
private nonprofit agencies are designated for participation in 10917  
this program by the director of mental health and addiction 10918  
services for community addiction services providers and community 10919  
mental health services providers, the director of developmental 10920  
disabilities for community ~~mental retardation and~~ developmental 10921  
disabilities agencies, the director of rehabilitation and 10922  
correction for community rehabilitation and correction agencies, 10923  
or the director of youth services for community youth services 10924  
agencies. 10925

Designated community agencies or services providers shall 10926  
receive goods and services through the department of mental health 10927  
and addiction services only in those cases where the designating 10928  
state agency certifies that providing such goods and services to 10929  
the agency or services provider will conserve public resources to 10930  
the benefit of the public and where the provision of such goods 10931  
and services is considered feasible by the department of mental 10932  
health and addiction services. 10933

(B) The department of mental health and addiction services 10934  
may permit free clinics to purchase certain goods and services to 10935  
the extent the purchases fall within the exemption to the 10936  
Robinson-Patman Act, 15 U.S.C. 13 et seq., applicable to nonprofit 10937  
institutions, in 15 U.S.C. 13c, as amended. 10938

(C) The goods and services that may be provided by the 10939  
department of mental health and addiction services under divisions 10940  
(A) and (B) of this section may include: 10941

(1) Procurement, storage, processing, and distribution of 10942  
food and professional consultation on food operations; 10943

(2) Procurement, storage, and distribution of medical and 10944  
laboratory supplies, dental supplies, medical records, forms, 10945

optical supplies, and sundries, subject to section 5120.135 of the Revised Code; 10946  
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(3) Procurement, storage, repackaging, distribution, and dispensing of drugs, the provision of professional pharmacy consultation, and drug information services; 10948  
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(4) Other goods and services. 10951

(D) The department of mental health and addiction services may provide the goods and services designated in division (C) of this section to its institutions and to state-operated community-based mental health or addiction services providers. 10952  
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(E) After consultation with and advice from the director of developmental disabilities, the director of rehabilitation and correction, and the director of youth services, the department of mental health and addiction services may provide the goods and services designated in division (C) of this section to the department of developmental disabilities, the department of rehabilitation and correction, and the department of youth services. 10956  
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(F) The cost of administration of this section shall be determined by the department of mental health and addiction services and paid by the agencies, services providers, or free clinics receiving the goods and services to the department for deposit in the state treasury to the credit of the office of support services fund, which is hereby created. The fund shall be used to pay the cost of administration of this section to the department. 10964  
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(G) Whenever a state agency fails to make a payment for goods and services provided under this section within thirty-one days after the date the payment was due, the office of budget and management may transfer moneys from the state agency to the department of mental health and addiction services. The amount 10972  
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transferred shall not exceed the amount of overdue payments. Prior 10977  
to making a transfer under this division, the office of budget and 10978  
management shall apply any credits the state agency has 10979  
accumulated in payments for goods and services provided under this 10980  
section. 10981

(H) Purchases of goods and services under this section are 10982  
not subject to section 307.86 of the Revised Code. 10983

**Sec. 5120.051.** The department of rehabilitation and 10984  
correction shall provide for the needs of mentally ill persons and 10985  
~~mentally retarded~~ persons with developmental disabilities that are 10986  
intellectual disabilities who are incarcerated in state 10987  
correctional institutions. The department may designate an 10988  
institution or a unit within an institution for the custody, care, 10989  
special training, treatment, and rehabilitation of mentally ill 10990  
persons or ~~mentally retarded~~ persons with developmental 10991  
disabilities that are intellectual disabilities. 10992

**Sec. 5120.11.** Within the department of rehabilitation and 10993  
correction, there shall be established and maintained a bureau of 10994  
examination and classification. The bureau shall conduct or 10995  
provide for sociological, psychological, and psychiatric 10996  
examination of each inmate of the correctional institutions. The 10997  
examination shall be made as soon as possible after each inmate is 10998  
admitted to any of the institutions, and further examinations may 10999  
be made, if it is advisable. If the inmate is determined to be a 11000  
~~mentally retarded or developmentally disabled~~ person with a 11001  
developmental disability, as defined in section 5123.01 of the 11002  
Revised Code, the bureau shall notify the sentencing court in 11003  
writing of its determination within forty-five days after 11004  
sentencing. 11005

The bureau shall collect such social and other information as 11006

will aid in the interpretation of its examinations. 11007

Subject to division (C) of section 5120.21 of the Revised 11008  
Code, the bureau shall keep a record of the health, activities, 11009  
and behavior of each inmate while the inmate is in the custody of 11010  
the state. The records, including the findings and recommendations 11011  
of the bureau, shall be made available to the adult parole 11012  
authority for use in imposing post-release control sanctions under 11013  
section 2967.28 of the Revised Code or any other section of the 11014  
Revised Code, in granting parole, and in making parole, 11015  
post-release, and rehabilitation plans for the inmate when the 11016  
inmate leaves the institution, and to the department for its use 11017  
in approving transfers of inmates from one institution to another. 11018

**Sec. 5120.17.** (A) As used in this section: 11019

(1) "Mental illness" means a substantial disorder of thought, 11020  
mood, perception, orientation, or memory that grossly impairs 11021  
judgment, behavior, capacity to recognize reality, or ability to 11022  
meet the ordinary demands of life. 11023

(2) "Mentally ill person subject to hospitalization" means a 11024  
mentally ill person to whom any of the following applies because 11025  
of the person's mental illness: 11026

(a) The person represents a substantial risk of physical harm 11027  
to the person as manifested by evidence of threats of, or attempts 11028  
at, suicide or serious self-inflicted bodily harm. 11029

(b) The person represents a substantial risk of physical harm 11030  
to others as manifested by evidence of recent homicidal or other 11031  
violent behavior, evidence of recent threats that place another in 11032  
reasonable fear of violent behavior and serious physical harm, or 11033  
other evidence of present dangerousness. 11034

(c) The person represents a substantial and immediate risk of 11035  
serious physical impairment or injury to the person as manifested 11036

by evidence that the person is unable to provide for and is not 11037  
providing for the person's basic physical needs because of the 11038  
person's mental illness and that appropriate provision for those 11039  
needs cannot be made immediately available in the correctional 11040  
institution in which the inmate is currently housed. 11041

(d) The person would benefit from treatment in a hospital for 11042  
the person's mental illness and is in need of treatment in a 11043  
hospital as manifested by evidence of behavior that creates a 11044  
grave and imminent risk to substantial rights of others or the 11045  
person. 11046

(3) "Psychiatric hospital" means all or part of a facility 11047  
that is operated and managed by the department of mental health 11048  
and addiction services to provide psychiatric hospitalization 11049  
services in accordance with the requirements of this section 11050  
pursuant to an agreement between the directors of rehabilitation 11051  
and correction and mental health and addiction services or, is 11052  
licensed by the department of mental health and addiction services 11053  
pursuant to section 5119.33 of the Revised Code as a psychiatric 11054  
hospital and is accredited by a health care accrediting 11055  
organization approved by the department of mental health and 11056  
addiction services and the psychiatric hospital is any of the 11057  
following: 11058

(a) Operated and managed by the department of rehabilitation 11059  
and correction within a facility that is operated by the 11060  
department of rehabilitation and correction; 11061

(b) Operated and managed by a contractor for the department 11062  
of rehabilitation and correction within a facility that is 11063  
operated by the department of rehabilitation and correction; 11064

(c) Operated and managed in the community by an entity that 11065  
has contracted with the department of rehabilitation and 11066  
correction to provide psychiatric hospitalization services in 11067

accordance with the requirements of this section. 11068

(4) "Inmate patient" means an inmate who is admitted to a 11069  
psychiatric hospital. 11070

(5) "Admitted" to a psychiatric hospital means being accepted 11071  
for and staying at least one night at the psychiatric hospital. 11072

(6) "Treatment plan" means a written statement of reasonable 11073  
objectives and goals for an inmate patient that is based on the 11074  
needs of the inmate patient and that is established by the 11075  
treatment team, with the active participation of the inmate 11076  
patient and with documentation of that participation. "Treatment 11077  
plan" includes all of the following: 11078

(a) The specific criteria to be used in evaluating progress 11079  
toward achieving the objectives and goals; 11080

(b) The services to be provided to the inmate patient during 11081  
the inmate patient's hospitalization; 11082

(c) The services to be provided to the inmate patient after 11083  
discharge from the hospital, including, but not limited to, 11084  
housing and mental health services provided at the state 11085  
correctional institution to which the inmate patient returns after 11086  
discharge or community mental health services. 11087

(7) "~~Mentally retarded person~~ Person with an intellectual 11088  
disability subject to institutionalization by court order" has the 11089  
same meaning as in section 5123.01 of the Revised Code. 11090

(8) "Emergency transfer" means the transfer of a mentally ill 11091  
inmate to a psychiatric hospital when the inmate presents an 11092  
immediate danger to self or others and requires hospital-level 11093  
care. 11094

(9) "Uncontested transfer" means the transfer of a mentally 11095  
ill inmate to a psychiatric hospital when the inmate has the 11096  
mental capacity to, and has waived, the hearing required by 11097

division (B) of this section. 11098

(10)(a) "Independent decision-maker" means a person who is 11099  
employed or retained by the department of rehabilitation and 11100  
correction and is appointed by the chief or chief clinical officer 11101  
of mental health services as a hospitalization hearing officer to 11102  
conduct due process hearings. 11103

(b) An independent decision-maker who presides over any 11104  
hearing or issues any order pursuant to this section shall be a 11105  
psychiatrist, psychologist, or attorney, shall not be specifically 11106  
associated with the institution in which the inmate who is the 11107  
subject of the hearing or order resides at the time of the hearing 11108  
or order, and previously shall not have had any treatment 11109  
relationship with nor have represented in any legal proceeding the 11110  
inmate who is the subject of the order. 11111

(B)(1) Except as provided in division (C) of this section, if 11112  
the warden of a state correctional institution or the warden's 11113  
designee believes that an inmate should be transferred from the 11114  
institution to a psychiatric hospital, the department shall hold a 11115  
hearing to determine whether the inmate is a mentally ill person 11116  
subject to hospitalization. The department shall conduct the 11117  
hearing at the state correctional institution in which the inmate 11118  
is confined, and the department shall provide qualified 11119  
independent assistance to the inmate for the hearing. An 11120  
independent decision-maker provided by the department shall 11121  
preside at the hearing and determine whether the inmate is a 11122  
mentally ill person subject to hospitalization. 11123

(2) Except as provided in division (C) of this section, prior 11124  
to the hearing held pursuant to division (B)(1) of this section, 11125  
the warden or the warden's designee shall give written notice to 11126  
the inmate that the department is considering transferring the 11127  
inmate to a psychiatric hospital, that it will hold a hearing on 11128  
the proposed transfer at which the inmate may be present, that at 11129

the hearing the inmate has the rights described in division (B)(3) 11130  
of this section, and that the department will provide qualified 11131  
independent assistance to the inmate with respect to the hearing. 11132  
The department shall not hold the hearing until the inmate has 11133  
received written notice of the proposed transfer and has had 11134  
sufficient time to consult with the person appointed by the 11135  
department to provide assistance to the inmate and to prepare for 11136  
a presentation at the hearing. 11137

(3) At the hearing held pursuant to division (B)(1) of this 11138  
section, the department shall disclose to the inmate the evidence 11139  
that it relies upon for the transfer and shall give the inmate an 11140  
opportunity to be heard. Unless the independent decision-maker 11141  
finds good cause for not permitting it, the inmate may present 11142  
documentary evidence and the testimony of witnesses at the hearing 11143  
and may confront and cross-examine witnesses called by the 11144  
department. 11145

(4) If the independent decision-maker does not find clear and 11146  
convincing evidence that the inmate is a mentally ill person 11147  
subject to hospitalization, the department shall not transfer the 11148  
inmate to a psychiatric hospital but shall continue to confine the 11149  
inmate in the same state correctional institution or in another 11150  
state correctional institution that the department considers 11151  
appropriate. If the independent decision-maker finds clear and 11152  
convincing evidence that the inmate is a mentally ill person 11153  
subject to hospitalization, the decision-maker shall order that 11154  
the inmate be transported to a psychiatric hospital for 11155  
observation and treatment for a period of not longer than thirty 11156  
days. After the hearing, the independent decision-maker shall 11157  
submit to the department a written decision that states one of the 11158  
findings described in division (B)(4) of this section, the 11159  
evidence that the decision-maker relied on in reaching that 11160  
conclusion, and, if the decision is that the inmate should be 11161

transferred, the reasons for the transfer. 11162

(C)(1) The department may transfer an inmate to a psychiatric 11163  
hospital under an emergency transfer order if the chief clinical 11164  
officer of mental health services of the department or that 11165  
officer's designee and either a psychiatrist employed or retained 11166  
by the department or, in the absence of a psychiatrist, a 11167  
psychologist employed or retained by the department determines 11168  
that the inmate is mentally ill, presents an immediate danger to 11169  
self or others, and requires hospital-level care. 11170

(2) The department may transfer an inmate to a psychiatric 11171  
hospital under an uncontested transfer order if both of the 11172  
following apply: 11173

(a) A psychiatrist employed or retained by the department 11174  
determines all of the following apply: 11175

(i) The inmate has a mental illness or is a mentally ill 11176  
person subject to hospitalization. 11177

(ii) The inmate requires hospital care to address the mental 11178  
illness. 11179

(iii) The inmate has the mental capacity to make a reasoned 11180  
choice regarding the inmate's transfer to a hospital. 11181

(b) The inmate agrees to a transfer to a hospital. 11182

(3) The written notice and the hearing required under 11183  
divisions (B)(1) and (2) of this section are not required for an 11184  
emergency transfer or uncontested transfer under division (C)(1) 11185  
or (2) of this section. 11186

(4) After an emergency transfer under division (C)(1) of this 11187  
section, the department shall hold a hearing for continued 11188  
hospitalization within five working days after admission of the 11189  
transferred inmate to the psychiatric hospital. The department 11190  
shall hold subsequent hearings pursuant to division (F) of this 11191

section at the same intervals as required for inmate patients who 11192  
are transported to a psychiatric hospital under division (B)(4) of 11193  
this section. 11194

(5) After an uncontested transfer under division (C)(2) of 11195  
this section, the inmate may withdraw consent to the transfer in 11196  
writing at any time. Upon the inmate's withdrawal of consent, the 11197  
hospital shall discharge the inmate, or, within five working days, 11198  
the department shall hold a hearing for continued hospitalization. 11199  
The department shall hold subsequent hearings pursuant to division 11200  
(F) of this section at the same time intervals as required for 11201  
inmate patients who are transported to a psychiatric hospital 11202  
under division (B)(4) of this section. 11203

(D)(1) If an independent decision-maker, pursuant to division 11204  
(B)(4) of this section, orders an inmate transported to a 11205  
psychiatric hospital or if an inmate is transferred pursuant to 11206  
division (C)(1) or (2) of this section, the staff of the 11207  
psychiatric hospital shall examine the inmate patient when 11208  
admitted to the psychiatric hospital as soon as practicable after 11209  
the inmate patient arrives at the hospital and no later than 11210  
twenty-four hours after the time of arrival. The attending 11211  
physician responsible for the inmate patient's care shall give the 11212  
inmate patient all information necessary to enable the patient to 11213  
give a fully informed, intelligent, and knowing consent to the 11214  
treatment the inmate patient will receive in the hospital. The 11215  
attending physician shall tell the inmate patient the expected 11216  
physical and medical consequences of any proposed treatment and 11217  
shall give the inmate patient the opportunity to consult with 11218  
another psychiatrist at the hospital and with the inmate advisor. 11219

(2) No inmate patient who is transported or transferred 11220  
pursuant to division (B)(4) or (C)(1) or (2) of this section to a 11221  
psychiatric hospital within a facility that is operated by the 11222  
department of rehabilitation and correction shall be subjected to 11223

any of the following procedures:	11224
(a) Convulsive therapy;	11225
(b) Major aversive interventions;	11226
(c) Any unusually hazardous treatment procedures;	11227
(d) Psychosurgery.	11228
(E) The department of rehabilitation and correction shall	11229
ensure that an inmate patient hospitalized pursuant to this	11230
section receives or has all of the following:	11231
(1) Receives sufficient professional care within twenty days	11232
of admission to ensure that an evaluation of the inmate patient's	11233
current status, differential diagnosis, probable prognosis, and	11234
description of the current treatment plan have been formulated and	11235
are stated on the inmate patient's official chart;	11236
(2) Has a written treatment plan consistent with the	11237
evaluation, diagnosis, prognosis, and goals of treatment;	11238
(3) Receives treatment consistent with the treatment plan;	11239
(4) Receives periodic reevaluations of the treatment plan by	11240
the professional staff at intervals not to exceed thirty days;	11241
(5) Is provided with adequate medical treatment for physical	11242
disease or injury;	11243
(6) Receives humane care and treatment, including, without	11244
being limited to, the following:	11245
(a) Access to the facilities and personnel required by the	11246
treatment plan;	11247
(b) A humane psychological and physical environment;	11248
(c) The right to obtain current information concerning the	11249
treatment program, the expected outcomes of treatment, and the	11250
expectations for the inmate patient's participation in the	11251
treatment program in terms that the inmate patient reasonably can	11252

understand; 11253

(d) Opportunity for participation in programs designed to 11254  
help the inmate patient acquire the skills needed to work toward 11255  
discharge from the psychiatric hospital; 11256

(e) The right to be free from unnecessary or excessive 11257  
medication and from unnecessary restraints or isolation; 11258

(f) All other rights afforded inmates in the custody of the 11259  
department consistent with rules, policy, and procedure of the 11260  
department. 11261

(F) The department shall hold a hearing for the continued 11262  
hospitalization of an inmate patient who is transported or 11263  
transferred to a psychiatric hospital pursuant to division (B)(4) 11264  
or (C)(1) of this section prior to the expiration of the initial 11265  
thirty-day period of hospitalization. The department shall hold 11266  
any subsequent hearings, if necessary, not later than ninety days 11267  
after the first thirty-day hearing and then not later than each 11268  
one hundred and eighty days after the immediately prior hearing. 11269  
An independent decision-maker shall conduct the hearings at the 11270  
psychiatric hospital in which the inmate patient is confined. The 11271  
inmate patient shall be afforded all of the rights set forth in 11272  
this section for the hearing prior to transfer to the psychiatric 11273  
hospital. The department may not waive a hearing for continued 11274  
commitment. A hearing for continued commitment is mandatory for an 11275  
inmate patient transported or transferred to a psychiatric 11276  
hospital pursuant to division (B)(4) or (C)(1) of this section 11277  
unless the inmate patient has the capacity to make a reasoned 11278  
choice to execute a waiver and waives the hearing in writing. An 11279  
inmate patient who is transferred to a psychiatric hospital 11280  
pursuant to an uncontested transfer under division (C)(2) of this 11281  
section and who has scheduled hearings after withdrawal of consent 11282  
for hospitalization may waive any of the scheduled hearings if the 11283  
inmate has the capacity to make a reasoned choice and executes a 11284

written waiver of the hearing. 11285

If upon completion of the hearing the independent 11286  
decision-maker does not find by clear and convincing evidence that 11287  
the inmate patient is a mentally ill person subject to 11288  
hospitalization, the independent decision-maker shall order the 11289  
inmate patient's discharge from the psychiatric hospital. If the 11290  
independent decision-maker finds by clear and convincing evidence 11291  
that the inmate patient is a mentally ill person subject to 11292  
hospitalization, the independent decision-maker shall order that 11293  
the inmate patient remain at the psychiatric hospital for 11294  
continued hospitalization until the next required hearing. 11295

If at any time prior to the next required hearing for 11296  
continued hospitalization, the medical director of the hospital or 11297  
the attending physician determines that the treatment needs of the 11298  
inmate patient could be met equally well in an available and 11299  
appropriate less restrictive state correctional institution or 11300  
unit, the medical director or attending physician may discharge 11301  
the inmate to that facility. 11302

(G) An inmate patient is entitled to the credits toward the 11303  
reduction of the inmate patient's stated prison term pursuant to 11304  
Chapters 2967. and 5120. of the Revised Code under the same terms 11305  
and conditions as if the inmate patient were in any other 11306  
institution of the department of rehabilitation and correction. 11307

(H) The adult parole authority may place an inmate patient on 11308  
parole or under post-release control directly from a psychiatric 11309  
hospital. 11310

(I) If an inmate patient who is a mentally ill person subject 11311  
to hospitalization is to be released from a psychiatric hospital 11312  
because of the expiration of the inmate patient's stated prison 11313  
term, the director of rehabilitation and correction or the 11314  
director's designee, at least fourteen days before the expiration 11315

date, may file an affidavit under section 5122.11 or 5123.71 of 11316  
the Revised Code with the probate court in the county where the 11317  
psychiatric hospital is located or the probate court in the county 11318  
where the inmate will reside, alleging that the inmate patient is 11319  
a mentally ill person subject to hospitalization by court order or 11320  
a ~~mentally retarded~~ person with an intellectual disability subject 11321  
to institutionalization by court order, whichever is applicable. 11322  
The proceedings in the probate court shall be conducted pursuant 11323  
to Chapter 5122. or 5123. of the Revised Code except as modified 11324  
by this division. 11325

Upon the request of the inmate patient, the probate court 11326  
shall grant the inmate patient an initial hearing under section 11327  
5122.141 of the Revised Code or a probable cause hearing under 11328  
section 5123.75 of the Revised Code before the expiration of the 11329  
stated prison term. After holding a full hearing, the probate 11330  
court shall make a disposition authorized by section 5122.15 or 11331  
5123.76 of the Revised Code before the date of the expiration of 11332  
the stated prison term. No inmate patient shall be held in the 11333  
custody of the department of rehabilitation and correction past 11334  
the date of the expiration of the inmate patient's stated prison 11335  
term. 11336

(J) The department of rehabilitation and correction shall set 11337  
standards for treatment provided to inmate patients. 11338

(K) A certificate, application, record, or report that is 11339  
made in compliance with this section and that directly or 11340  
indirectly identifies an inmate or former inmate whose 11341  
hospitalization has been sought under this section is 11342  
confidential. No person shall disclose the contents of any 11343  
certificate, application, record, or report of that nature or any 11344  
other psychiatric or medical record or report regarding a mentally 11345  
ill inmate unless one of the following applies: 11346

(1) The person identified, or the person's legal guardian, if 11347

any, consents to disclosure, and the chief clinical officer or 11348  
designee of mental health services of the department of 11349  
rehabilitation and correction determines that disclosure is in the 11350  
best interests of the person. 11351

(2) Disclosure is required by a court order signed by a 11352  
judge. 11353

(3) An inmate patient seeks access to the inmate patient's 11354  
own psychiatric and medical records, unless access is specifically 11355  
restricted in the treatment plan for clear treatment reasons. 11356

(4) Hospitals and other institutions and facilities within 11357  
the department of rehabilitation and correction may exchange 11358  
psychiatric records and other pertinent information with other 11359  
hospitals, institutions, and facilities of the department, but the 11360  
information that may be released about an inmate patient is 11361  
limited to medication history, physical health status and history, 11362  
summary of course of treatment in the hospital, summary of 11363  
treatment needs, and a discharge summary, if any. 11364

(5) An inmate patient's family member who is involved in 11365  
planning, providing, and monitoring services to the inmate patient 11366  
may receive medication information, a summary of the inmate 11367  
patient's diagnosis and prognosis, and a list of the services and 11368  
personnel available to assist the inmate patient and family if the 11369  
attending physician determines that disclosure would be in the 11370  
best interest of the inmate patient. No disclosure shall be made 11371  
under this division unless the inmate patient is notified of the 11372  
possible disclosure, receives the information to be disclosed, and 11373  
does not object to the disclosure. 11374

(6) The department of rehabilitation and correction may 11375  
exchange psychiatric hospitalization records, other mental health 11376  
treatment records, and other pertinent information with county 11377  
sheriffs' offices, hospitals, institutions, and facilities of the 11378

department of mental health and addiction services and with 11379  
community mental health services providers and boards of alcohol, 11380  
drug addiction, and mental health services with which the 11381  
department of mental health and addiction services has a current 11382  
agreement for patient care or services to ensure continuity of 11383  
care. Disclosure under this division is limited to records 11384  
regarding a mentally ill inmate's medication history, physical 11385  
health status and history, summary of course of treatment, summary 11386  
of treatment needs, and a discharge summary, if any. No office, 11387  
department, agency, provider, or board shall disclose the records 11388  
and other information unless one of the following applies: 11389

(a) The mentally ill inmate is notified of the possible 11390  
disclosure and consents to the disclosure. 11391

(b) The mentally ill inmate is notified of the possible 11392  
disclosure, an attempt to gain the consent of the inmate is made, 11393  
and the office, department, agency, or board documents the attempt 11394  
to gain consent, the inmate's objections, if any, and the reasons 11395  
for disclosure in spite of the inmate's objections. 11396

(7) Information may be disclosed to staff members designated 11397  
by the director of rehabilitation and correction for the purpose 11398  
of evaluating the quality, effectiveness, and efficiency of 11399  
services and determining if the services meet minimum standards. 11400

The name of an inmate patient shall not be retained with the 11401  
information obtained during the evaluations. 11402

(L) The director of rehabilitation and correction may adopt 11403  
rules setting forth guidelines for the procedures required under 11404  
divisions (B), (C)(1), and (C)(2) of this section. 11405

**Sec. 5120.173.** Any person who is required to report abuse or 11406  
neglect of a child under eighteen years of age that is reasonably 11407  
suspected or believed to have occurred or the threat of which is 11408

reasonably suspected or believed to exist pursuant to division (A) 11409  
of section 2151.421 of the Revised Code, any person who is 11410  
permitted to report or cause a report to be made of reasonably 11411  
suspected abuse or neglect of a child under eighteen years of age 11412  
pursuant to division (B) of that section, any person who is 11413  
required to report suspected abuse or neglect of a person with 11414  
~~mental retardation or~~ a developmental disability pursuant to 11415  
division (C) of section 5123.61 of the Revised Code, and any 11416  
person who is permitted to report suspected abuse or neglect of a 11417  
person with ~~mental retardation or~~ a developmental disability 11418  
pursuant to division (F) of that section and who makes or causes 11419  
the report to be made, shall direct that report to the state 11420  
highway patrol if the child or the person with ~~mental retardation~~ 11421  
~~or~~ a developmental disability is an inmate in the custody of a 11422  
state correctional institution. If the state highway patrol 11423  
determines after receipt of the report that it is probable that 11424  
abuse or neglect of the inmate occurred, the patrol shall report 11425  
its findings to the department of rehabilitation and correction, 11426  
to the court that sentenced the inmate for the offense for which 11427  
the inmate is in the custody of the department, and to the 11428  
chairperson and vice-chairperson of the correctional institution 11429  
inspection committee established by section 103.71 of the Revised 11430  
Code. 11431

**Sec. 5121.04.** (A) The department of developmental 11432  
disabilities shall investigate the financial condition of the 11433  
residents in institutions, residents whose care or treatment is 11434  
being paid for in a private facility or home under the control of 11435  
the department, and of the relatives named in section 5121.06 of 11436  
the Revised Code as liable for the support of such residents, in 11437  
order to determine the ability of any resident or liable relatives 11438  
to pay for the support of the resident and to provide suitable 11439  
clothing as required by the superintendent of the institution. 11440

(B) The department shall follow the provisions of this 11441  
division in determining the ability to pay of a resident or the 11442  
resident's liable relatives and the amount to be charged such 11443  
resident or liable relatives. 11444

(1) Subject to divisions (B)(10) and (11) of this section, a 11445  
resident without dependents shall be liable for the full 11446  
applicable cost. A resident without dependents who has a gross 11447  
annual income equal to or exceeding the sum of the full applicable 11448  
cost, plus fifty dollars per month, regardless of the source of 11449  
such income, shall pay currently the full amount of the applicable 11450  
cost; if the resident's gross annual income is less than such sum, 11451  
not more than fifty dollars per month shall be kept for personal 11452  
use by or on behalf of the resident, except as permitted in the 11453  
state plan for providing medical assistance under Title XIX of the 11454  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 11455  
amended, and the balance shall be paid currently on the resident's 11456  
support. Subject to divisions (B)(10) and (11) of this section, 11457  
the estate of a resident without dependents shall pay currently 11458  
any remaining difference between the applicable cost and the 11459  
amounts prescribed in this section, or shall execute an agreement 11460  
with the department for payment to be made at some future date 11461  
under terms suitable to the department. However, no security 11462  
interest, mortgage, or lien shall be taken, granted, or charged 11463  
against any principal residence of a resident without dependents 11464  
under an agreement or otherwise to secure support payments, and no 11465  
foreclosure actions shall be taken on security interests, 11466  
mortgages, or liens taken, granted, or charged against principal 11467  
residences of residents prior to October 7, 1977. 11468

(2) The ability to pay of a resident with dependents, or of a 11469  
liable relative of a resident either with or without dependents, 11470  
shall be determined in accordance with the resident's or liable 11471  
relative's income or other assets, the needs of others who are 11472

dependent on such income and other assets for support, and, if 11473  
applicable, divisions (B)(10) and (11) of this section. 11474

For the first thirty days of care and treatment of each 11475  
admission, but in no event for more than thirty days in any 11476  
calendar year, the resident with dependents or the liable relative 11477  
of a resident either with or without dependents shall be charged 11478  
an amount equal to the percentage of the average applicable cost 11479  
determined in accordance with the schedule of adjusted gross 11480  
annual income contained after this paragraph. After such first 11481  
thirty days of care and treatment, such resident or such liable 11482  
relative shall be charged an amount equal to the percentage of a 11483  
base support rate of four dollars per day for residents, as 11484  
determined in accordance with the schedule of gross annual income 11485  
contained after this paragraph, or in accordance with division 11486  
(B)(5) of this section. Beginning January 1, 1978, the department 11487  
shall increase the base rate when the consumer price index average 11488  
is more than 4.0 for the preceding calendar year by not more than 11489  
the average for such calendar year. 11490

Adjusted Gross Annual 11491  
Income of Resident 11492

or Liable Relative (FN a) Number of Dependents (FN b) 11493

8 or 11494

1 2 3 4 5 6 7 more 11495

Rate of Support (In Percentages) 11496

\$15,000 or less -- -- -- -- -- -- -- -- 11497

15,001 to 17,500 20 -- -- -- -- -- -- -- 11498

17,501 to 20,000 25 20 -- -- -- -- -- -- 11499

20,001 to 21,000 30 25 20 -- -- -- -- -- 11500

21,001 to 22,000 35 30 25 20 -- -- -- -- 11501

22,001 to 23,000 40 35 30 25 20 -- -- -- 11502

23,001 to 24,000 45 40 35 30 25 20 -- -- 11503

24,001 to 25,000 50 45 40 35 30 25 20 -- 11504

25,001 to 26,000	55	50	45	40	35	30	25	20	11505
26,001 to 27,000	60	55	50	45	40	35	30	25	11506
27,001 to 28,000	70	60	55	50	45	40	35	30	11507
28,001 to 30,000	80	70	60	55	50	45	40	35	11508
30,001 to 40,000	90	80	70	60	55	50	45	40	11509
40,001 and over	100	90	80	70	60	55	50	45	11510

Footnote a. The resident or relative shall furnish a copy of the resident's or relative's federal income tax return as evidence of gross annual income. 11511  
11512  
11513

Footnote b. The number of dependents includes the liable relative but excludes a resident in an institution. "Dependent" includes any person who receives more than half the person's support from the resident or the resident's liable relative. 11514  
11515  
11516  
11517

(3) A resident or liable relative having medical, funeral, or related expenses in excess of four per cent of the adjusted gross annual income, which expenses were not covered by insurance, may adjust such gross annual income by reducing the adjusted gross annual income by the full amount of such expenses. Proof of such expenses satisfactory to the department must be furnished. 11518  
11519  
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11521  
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11523

(4) Additional dependencies may be claimed if: 11524

(a) The liable relative is blind; 11525

(b) The liable relative is over sixty-five; 11526

(c) A child is a college student with expenses in excess of fifty dollars per month; 11527  
11528

(d) The services of a housekeeper, costing in excess of fifty dollars per month, are required if the person who normally keeps house for minor children is the resident. 11529  
11530  
11531

(5) If with respect to any resident with dependents there is chargeable under division (B)(2) of this section less than fifty per cent of the applicable cost or, if the base support rate was 11532  
11533  
11534

used, less than fifty per cent of the amount determined by use of 11535  
the base support rate, and if with respect to such resident there 11536  
is a liable relative who has an estate having a value in excess of 11537  
fifteen thousand dollars or if such resident has a dependent and 11538  
an estate having a value in excess of fifteen thousand dollars, 11539  
there shall be paid with respect to such resident a total of fifty 11540  
per cent of the applicable cost or the base support rate amount, 11541  
as the case may be, on a current basis or there shall be executed 11542  
with respect to such resident an agreement with the department for 11543  
payment to be made at some future date under terms suitable to the 11544  
department. 11545

(6) When a person has been a resident for fifteen years and 11546  
the support charges for which a relative is liable have been paid 11547  
for the fifteen-year period, the liable relative shall be relieved 11548  
of any further support charges. 11549

(7) The department shall accept voluntary payments from 11550  
residents or liable relatives whose incomes are below the minimum 11551  
shown in the schedule set forth in this division. The department 11552  
also shall accept voluntary payments in excess of required amounts 11553  
from both liable and nonliable relatives. 11554

(8) If a resident is covered by an insurance policy, or other 11555  
contract that provides for payment of expenses for care and 11556  
treatment for ~~mental retardation or other~~ a developmental 11557  
disability at or from an institution or facility (including a 11558  
community service unit under the jurisdiction of the department), 11559  
the other provisions of this section, except divisions (B)(8), 11560  
(10), and (11) of this section, and of section 5121.01 of the 11561  
Revised Code shall be suspended to the extent that such insurance 11562  
policy or other contract is in force, and such resident shall be 11563  
charged the full amount of the applicable cost. Any insurance 11564  
carrier or other third party payor providing coverage for such 11565  
care and treatment shall pay for this support obligation in an 11566

amount equal to the lesser of either the applicable cost or the 11567  
benefits provided under the policy or other contract. Whether or 11568  
not an insured, owner of, or other person having an interest in 11569  
such policy or other contract is liable for support payments under 11570  
other provisions of this chapter, the insured, policy owner, or 11571  
other person shall assign payment directly to the department of 11572  
all assignable benefits under the policy or other contract and 11573  
shall pay over to the department, within ten days of receipt, all 11574  
insurance or other benefits received as reimbursement or payment 11575  
for expenses incurred by the resident or for any other reason. If 11576  
the insured, policy owner, or other person refuses to assign such 11577  
payment to the department or refuses to pay such received 11578  
reimbursements or payments over to the department within ten days 11579  
of receipt, the insured's, policy owners', or other person's total 11580  
liability for the services equals the applicable statutory 11581  
liability for payment for the services as determined under other 11582  
provisions of this chapter, plus the amounts payable under the 11583  
terms of the policy or other contract. In no event shall this 11584  
total liability exceed the full amount of the applicable cost. 11585  
Upon its request, the department is entitled to a court order that 11586  
compels the insured, owner of, or other person having an interest 11587  
in the policy or other contract to comply with the assignment 11588  
requirements of this division or that itself serves as a legally 11589  
sufficient assignment in compliance with such requirements. 11590  
Notwithstanding section 5123.89 of the Revised Code and any other 11591  
law relating to confidentiality of records, the managing officer 11592  
of the institution or facility where a person is or has been a 11593  
resident shall disclose pertinent medical information concerning 11594  
the resident to the insurance carrier or other third party payor 11595  
in question, in order to effect collection from the carrier or 11596  
payor of the state's claim for care and treatment under this 11597  
division. For such disclosure, the managing officer is not subject 11598  
to any civil or criminal liability. 11599

(9) The rate to be charged for pre-admission care, 11600  
after-care, day-care, or routine consultation and treatment 11601  
services shall be based upon the ability of the resident or the 11602  
resident's liable relatives to pay. When it is determined by the 11603  
department that a charge shall be made, such charge shall be 11604  
computed as provided in divisions (B)(1) and (2) of this section. 11605

(10) If a resident with or without dependents is the 11606  
beneficiary of a trust created pursuant to section 5815.28 of the 11607  
Revised Code, then, notwithstanding any contrary provision of this 11608  
chapter or of a rule adopted pursuant to this chapter, divisions 11609  
(C) and (D) of that section shall apply in determining the assets 11610  
or resources of the resident, the resident's estate, the settlor, 11611  
or the settlor's estate and to claims arising under this chapter 11612  
against the resident, the resident's estate, the settlor, or the 11613  
settlor's estate. 11614

(11) If the department waives the liability of an individual 11615  
and the individual's liable relatives pursuant to section 5123.194 11616  
of the Revised Code, the liability of the individual and relative 11617  
ceases in accordance with the waiver's terms. 11618

(C) The department may enter into agreements with a resident 11619  
or a liable relative for support payments to be made in the 11620  
future. However, no security interest, mortgage, or lien shall be 11621  
taken, granted, or charged against any principal family residence 11622  
of a resident with dependents or a liable relative under an 11623  
agreement or otherwise to secure support payments, and no 11624  
foreclosure actions shall be taken on security interests, 11625  
mortgages or liens taken, granted, or charged against principal 11626  
residences of residents or liable relatives prior to October 7, 11627  
1977. 11628

(D) The department shall make all investigations and 11629  
determinations required by this section within ninety days after a 11630  
resident is admitted to an institution under the department's 11631

control and immediately shall notify by mail the persons liable of 11632  
the amount to be charged. 11633

(E) All actions to enforce the collection of payments agreed 11634  
upon or charged by the department shall be commenced within six 11635  
years after the date of default of an agreement to pay support 11636  
charges or the date such payment becomes delinquent. If a payment 11637  
is made pursuant to an agreement which is in default, a new 11638  
six-year period for actions to enforce the collection of payments 11639  
under such agreement shall be computed from the date of such 11640  
payment. For purposes of this division an agreement is in default 11641  
or a payment is delinquent if a payment is not made within thirty 11642  
days after it is incurred or a payment, pursuant to an agreement, 11643  
is not made within thirty days after the date specified for such 11644  
payment. In all actions to enforce the collection of payment for 11645  
the liability for support, every court of record shall receive 11646  
into evidence the proof of claim made by the state together with 11647  
all debts and credits, and it shall be prima-facie evidence of the 11648  
facts contained in it. 11649

**Sec. 5122.01.** As used in this chapter and Chapter 5119. of 11650  
the Revised Code: 11651

(A) "Mental illness" means a substantial disorder of thought, 11652  
mood, perception, orientation, or memory that grossly impairs 11653  
judgment, behavior, capacity to recognize reality, or ability to 11654  
meet the ordinary demands of life. 11655

(B) "Mentally ill person subject to court order" means a 11656  
mentally ill person who, because of the person's illness: 11657

(1) Represents a substantial risk of physical harm to self as 11658  
manifested by evidence of threats of, or attempts at, suicide or 11659  
serious self-inflicted bodily harm; 11660

(2) Represents a substantial risk of physical harm to others 11661

as manifested by evidence of recent homicidal or other violent 11662  
behavior, evidence of recent threats that place another in 11663  
reasonable fear of violent behavior and serious physical harm, or 11664  
other evidence of present dangerousness; 11665

(3) Represents a substantial and immediate risk of serious 11666  
physical impairment or injury to self as manifested by evidence 11667  
that the person is unable to provide for and is not providing for 11668  
the person's basic physical needs because of the person's mental 11669  
illness and that appropriate provision for those needs cannot be 11670  
made immediately available in the community; ~~or~~ 11671

(4) Would benefit from treatment for the person's mental 11672  
illness and is in need of such treatment as manifested by evidence 11673  
of behavior that creates a grave and imminent risk to substantial 11674  
rights of others or the person; 11675

(5)(a) Would benefit from treatment as manifested by evidence 11676  
of behavior that indicates all of the following: 11677

(i) The person is unlikely to survive safely in the community 11678  
without supervision, based on a clinical determination. 11679

(ii) The person has a history of lack of compliance with 11680  
treatment for mental illness and one of the following applies: 11681

(I) At least twice within the thirty-six months prior to the 11682  
filing of an affidavit seeking court-ordered treatment of the 11683  
person under section 5122.111 of the Revised Code, the lack of 11684  
compliance has been a significant factor in necessitating 11685  
hospitalization in a hospital or receipt of services in a forensic 11686  
or other mental health unit of a correctional facility, provided 11687  
that the thirty-six-month period shall be extended by the length 11688  
of any hospitalization or incarceration of the person that 11689  
occurred within the thirty-six-month period. 11690

(II) Within the forty-eight months prior to the filing of an 11691  
affidavit seeking court-ordered treatment of the person under 11692

section 5122.111 of the Revised Code, the lack of compliance 11693  
resulted in one or more acts of serious violent behavior toward 11694  
self or others or threats of, or attempts at, serious physical 11695  
harm to self or others, provided that the forty-eight-month period 11696  
shall be extended by the length of any hospitalization or 11697  
incarceration of the person that occurred within the 11698  
forty-eight-month period. 11699

(iii) The person, as a result of the person's mental illness, 11700  
is unlikely to voluntarily participate in necessary treatment. 11701

(iv) In view of the person's treatment history and current 11702  
behavior, the person is in need of treatment in order to prevent a 11703  
relapse or deterioration that would be likely to result in 11704  
substantial risk of serious harm to the person or others. 11705

(b) An individual who meets only the criteria described in 11706  
division (B)(5)(a) of this section is not subject to 11707  
hospitalization. 11708

(C)(1) "Patient" means, subject to division (C)(2) of this 11709  
section, a person who is admitted either voluntarily or 11710  
involuntarily to a hospital or other place under section 2945.39, 11711  
2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a 11712  
finding of not guilty by reason of insanity or incompetence to 11713  
stand trial or under this chapter, who is under observation or 11714  
receiving treatment in such place. 11715

(2) "Patient" does not include a person admitted to a 11716  
hospital or other place under section 2945.39, 2945.40, 2945.401, 11717  
or 2945.402 of the Revised Code to the extent that the reference 11718  
in this chapter to patient, or the context in which the reference 11719  
occurs, is in conflict with any provision of sections 2945.37 to 11720  
2945.402 of the Revised Code. 11721

(D) "Licensed physician" means a person licensed under the 11722  
laws of this state to practice medicine or a medical officer of 11723

the government of the United States while in this state in the 11724  
performance of the person's official duties. 11725

(E) "Psychiatrist" means a licensed physician who has 11726  
satisfactorily completed a residency training program in 11727  
psychiatry, as approved by the residency review committee of the 11728  
American medical association, the committee on post-graduate 11729  
education of the American osteopathic association, or the American 11730  
osteopathic board of neurology and psychiatry, or who on July 1, 11731  
1989, has been recognized as a psychiatrist by the Ohio state 11732  
medical association or the Ohio osteopathic association on the 11733  
basis of formal training and five or more years of medical 11734  
practice limited to psychiatry. 11735

(F) "Hospital" means a hospital or inpatient unit licensed by 11736  
the department of mental health and addiction services under 11737  
section 5119.33 of the Revised Code, and any institution, 11738  
hospital, or other place established, controlled, or supervised by 11739  
the department under Chapter 5119. of the Revised Code. 11740

(G) "Public hospital" means a facility that is tax-supported 11741  
and under the jurisdiction of the department of mental health and 11742  
addiction services. 11743

(H) "Community mental health services provider" means an 11744  
agency, association, corporation, individual, or program that 11745  
provides community mental health services that are certified by 11746  
the director of mental health and addiction services under section 11747  
5119.36 of the Revised Code. 11748

(I) "Licensed clinical psychologist" means a person who holds 11749  
a current valid psychologist license issued under section 4732.12 11750  
of the Revised Code, and in addition, meets the educational 11751  
requirements set forth in division (B) of section 4732.10 of the 11752  
Revised Code and has a minimum of two years' full-time 11753  
professional experience, or the equivalent as determined by rule 11754

of the state board of psychology, at least one year of which shall 11755  
be a predoctoral internship, in clinical psychological work in a 11756  
public or private hospital or clinic or in private practice, 11757  
diagnosing and treating problems of mental illness or ~~mental~~ 11758  
~~retardation~~ intellectual disability under the supervision of a 11759  
psychologist who is licensed or who holds a diploma issued by the 11760  
American board of professional psychology, or whose qualifications 11761  
are substantially similar to those required for licensure by the 11762  
state board of psychology when the supervision has occurred prior 11763  
to enactment of laws governing the practice of psychology. 11764

(J) "Health officer" means any public health physician; 11765  
public health nurse; or other person authorized by or designated 11766  
by a city health district; a general health district; or a board 11767  
of alcohol, drug addiction, and mental health services to perform 11768  
the duties of a health officer under this chapter. 11769

(K) "Chief clinical officer" means the medical director of a 11770  
hospital, or a community mental health services provider, or a 11771  
board of alcohol, drug addiction, and mental health services, or, 11772  
if there is no medical director, the licensed physician 11773  
responsible for the treatment a hospital or community mental 11774  
health services provider provides. The chief clinical officer may 11775  
delegate to the attending physician responsible for a patient's 11776  
care the duties imposed on the chief clinical officer by this 11777  
chapter. Within a community mental health services provider, the 11778  
chief clinical officer shall be designated by the governing body 11779  
of the services provider and shall be a licensed physician or 11780  
licensed clinical psychologist who supervises diagnostic and 11781  
treatment services. A licensed physician or licensed clinical 11782  
psychologist designated by the chief clinical officer may perform 11783  
the duties and accept the responsibilities of the chief clinical 11784  
officer in the chief clinical officer's absence. 11785

(L) "Working day" or "court day" means Monday, Tuesday, 11786

Wednesday, Thursday, and Friday, except when such day is a 11787  
holiday. 11788

(M) "Indigent" means unable without deprivation of 11789  
satisfaction of basic needs to provide for the payment of an 11790  
attorney and other necessary expenses of legal representation, 11791  
including expert testimony. 11792

(N) "Respondent" means the person whose detention, 11793  
commitment, hospitalization, continued hospitalization or 11794  
commitment, or discharge is being sought in any proceeding under 11795  
this chapter. 11796

(O) "Ohio protection and advocacy system" has the same 11797  
meaning as in section 5123.60 of the Revised Code. 11798

(P) "Independent expert evaluation" means an evaluation 11799  
conducted by a licensed clinical psychologist, psychiatrist, or 11800  
licensed physician who has been selected by the respondent or the 11801  
respondent's counsel and who consents to conducting the 11802  
evaluation. 11803

(Q) "Court" means the probate division of the court of common 11804  
pleas. 11805

(R) "Expunge" means: 11806

(1) The removal and destruction of court files and records, 11807  
originals and copies, and the deletion of all index references; 11808

(2) The reporting to the person of the nature and extent of 11809  
any information about the person transmitted to any other person 11810  
by the court; 11811

(3) Otherwise insuring that any examination of court files 11812  
and records in question shall show no record whatever with respect 11813  
to the person; 11814

(4) That all rights and privileges are restored, and that the 11815  
person, the court, and any other person may properly reply that no 11816

such record exists, as to any matter expunged. 11817

(S) "Residence" means a person's physical presence in a 11818  
county with intent to remain there, except that: 11819

(1) If a person is receiving a mental health service at a 11820  
facility that includes nighttime sleeping accommodations, 11821  
residence means that county in which the person maintained the 11822  
person's primary place of residence at the time the person entered 11823  
the facility; 11824

(2) If a person is committed pursuant to section 2945.38, 11825  
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 11826  
residence means the county where the criminal charges were filed. 11827

When the residence of a person is disputed, the matter of 11828  
residence shall be referred to the department of mental health and 11829  
addiction services for investigation and determination. Residence 11830  
shall not be a basis for a board's denying services to any person 11831  
present in the board's service district, and the board shall 11832  
provide services for a person whose residence is in dispute while 11833  
residence is being determined and for a person in an emergency 11834  
situation. 11835

(T) "Admission" to a hospital or other place means that a 11836  
patient is accepted for and stays at least one night at the 11837  
hospital or other place. 11838

(U) "Prosecutor" means the prosecuting attorney, village 11839  
solicitor, city director of law, or similar chief legal officer 11840  
who prosecuted a criminal case in which a person was found not 11841  
guilty by reason of insanity, who would have had the authority to 11842  
prosecute a criminal case against a person if the person had not 11843  
been found incompetent to stand trial, or who prosecuted a case in 11844  
which a person was found guilty. 11845

(V)(1) "Treatment plan" means a written statement of 11846  
reasonable objectives and goals for an individual established by 11847

the treatment team, with specific criteria to evaluate progress 11848  
towards achieving those objectives. 11849

(2) The active participation of the patient in establishing 11850  
the objectives and goals shall be documented. The treatment plan 11851  
shall be based on patient needs and include services to be 11852  
provided to the patient while the patient is hospitalized, after 11853  
the patient is discharged, or in an outpatient setting. The 11854  
treatment plan shall address services to be provided. In the 11855  
establishment of the treatment plan, consideration should be given 11856  
to the availability of services, which may include but are not 11857  
limited to all of the following: 11858

(a) Community psychiatric supportive treatment; 11859

(b) Assertive community treatment; 11860

(c) Medications; 11861

(d) Individual or group therapy; 11862

(e) Peer support services; 11863

(f) Financial services; 11864

(g) Housing or supervised living services; 11865

(h) Alcohol or substance abuse treatment; 11866

(i) Any other services prescribed to treat the patient's 11867  
mental illness and to either assist the patient in living and 11868  
functioning in the community or to help prevent a relapse or a 11869  
deterioration of the patient's current condition. 11870

(3) If the person subject to the treatment plan has executed 11871  
an advanced directive for mental health treatment, the treatment 11872  
team shall consider any directions included in such advanced 11873  
directive in developing the treatment plan. 11874

(W) "Community control sanction" has the same meaning as in 11875  
section 2929.01 of the Revised Code. 11876

(X) "Post-release control sanction" has the same meaning as 11877  
in section 2967.01 of the Revised Code. 11878

(Y) "Local correctional facility" has the same meaning as in 11879  
section 2903.13 of the Revised Code. 11880

**Sec. 5123.01.** As used in this chapter: 11881

(A) "Chief medical officer" means the licensed physician 11882  
appointed by the managing officer of an institution for ~~the~~ 11883  
~~mentally retarded persons with developmental disabilities that are~~ 11884  
intellectual disabilities with the approval of the director of 11885  
developmental disabilities to provide medical treatment for 11886  
residents of the institution. 11887

(B) "Chief program director" means a person with special 11888  
training and experience in the diagnosis and management of ~~the~~ 11889  
~~mentally retarded persons with developmental disabilities that are~~ 11890  
intellectual disabilities, certified according to division (C) of 11891  
this section in at least one of the designated fields, and 11892  
appointed by the managing officer of an institution for ~~the~~ 11893  
~~mentally retarded persons with developmental disabilities that are~~ 11894  
intellectual disabilities with the approval of the director to 11895  
provide habilitation and care for residents of the institution. 11896

(C) "Comprehensive evaluation" means a study, including a 11897  
sequence of observations and examinations, of a person leading to 11898  
conclusions and recommendations formulated jointly, with 11899  
dissenting opinions if any, by a group of persons with special 11900  
training and experience in the diagnosis and management of persons 11901  
with ~~mental retardation or a developmental disability~~ 11902  
disabilities, which group shall include individuals who are 11903  
professionally qualified in the fields of medicine, psychology, 11904  
and social work, together with such other specialists as the 11905  
individual case may require. 11906

(D) "Education" means the process of formal training and instruction to facilitate the intellectual and emotional development of residents.

(E) "Habilitation" means the process by which the staff of the institution assists the resident in acquiring and maintaining those life skills that enable the resident to cope more effectively with the demands of the resident's own person and of the resident's environment and in raising the level of the resident's physical, mental, social, and vocational efficiency. Habilitation includes but is not limited to programs of formal, structured education and training.

(F) "Health officer" means any public health physician, public health nurse, or other person authorized or designated by a city or general health district.

(G) "Home and community-based services" means medicaid-funded home and community-based services specified in division (A)(1) of section 5166.20 of the Revised Code provided under the medicaid waiver components the department of developmental disabilities administers pursuant to section 5166.21 of the Revised Code. Except as provided in section 5123.0412 of the Revised Code, home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver are to be considered to be home and community-based services for the purposes of this chapter, and Chapters 5124. and 5126. of the Revised Code, only to the extent, if any, provided by the contract required by section 5166.21 of the Revised Code regarding the waiver.

(H) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(I) "Indigent person" means a person who is unable, without substantial financial hardship, to provide for the payment of an

attorney and for other necessary expenses of legal representation, 11938  
including expert testimony. 11939

(J) "Institution" means a public or private facility, or a 11940  
part of a public or private facility, that is licensed by the 11941  
appropriate state department and is equipped to provide 11942  
residential habilitation, care, and treatment for ~~the mentally~~ 11943  
~~retarded~~ persons with developmental disabilities that are 11944  
intellectual disabilities. 11945

(K) "Licensed physician" means a person who holds a valid 11946  
certificate issued under Chapter 4731. of the Revised Code 11947  
authorizing the person to practice medicine and surgery or 11948  
osteopathic medicine and surgery, or a medical officer of the 11949  
government of the United States while in the performance of the 11950  
officer's official duties. 11951

(L) "Managing officer" means a person who is appointed by the 11952  
director of developmental disabilities to be in executive control 11953  
of an institution for ~~the mentally retarded~~ persons with 11954  
developmental disabilities that are intellectual disabilities 11955  
under the jurisdiction of the department. 11956

(M) "Medicaid case management services" means case management 11957  
services provided to an individual with ~~mental retardation or~~ 11958  
~~other~~ a developmental disability that the state medicaid plan 11959  
requires. 11960

(N) "~~Mentally retarded person~~ Person with an intellectual 11961  
disability" means a person having significantly subaverage general 11962  
intellectual functioning existing concurrently with deficiencies 11963  
in adaptive behavior, manifested during the developmental period. 11964

(O) "~~Mentally retarded person~~ Person with an intellectual 11965  
disability subject to institutionalization by court order" means a 11966  
person eighteen years of age or older ~~who is~~ with at least 11967  
~~moderately mentally retarded~~ a moderate level of intellectual 11968

diability and in relation to whom, because of the person's 11969  
~~retardation~~ disability, either of the following conditions exist: 11970

(1) The person represents a very substantial risk of physical 11971  
impairment or injury to self as manifested by evidence that the 11972  
person is unable to provide for and is not providing for the 11973  
person's most basic physical needs and that provision for those 11974  
needs is not available in the community; 11975

(2) The person needs and is susceptible to significant 11976  
habilitation in an institution. 11977

(P) "A person ~~who is with~~ with at least ~~moderately mentally~~ 11978  
~~retarded~~ a moderate level of intellectual disability" means a 11979  
person who is found, following a comprehensive evaluation, to be 11980  
impaired in adaptive behavior to a moderate degree and to be 11981  
functioning at the moderate level of intellectual functioning in 11982  
accordance with standard measurements as recorded in the most 11983  
current revision of the ~~manual of terminology and classification~~ 11984  
~~in mental retardation~~ intellectual disability definition, 11985  
classification, and systems of support manual or its successor 11986  
publication published by the American association on ~~mental~~ 11987  
~~retardation~~ intellectual and developmental disabilities or its 11988  
successor organization. 11989

(Q) As used in this division, "substantial functional 11990  
limitation," "developmental delay," and "established risk" have 11991  
the meanings established pursuant to section 5123.011 of the 11992  
Revised Code. 11993

"Developmental disability" means a severe, chronic disability 11994  
that is characterized by all of the following: 11995

(1) It is attributable to a mental or physical impairment or 11996  
a combination of mental and physical impairments, other than a 11997  
mental or physical impairment solely caused by mental illness as 11998  
defined in division (A) of section 5122.01 of the Revised Code. 11999

(2) It is manifested before age twenty-two.	12000
(3) It is likely to continue indefinitely.	12001
(4) It results in one of the following:	12002
(a) In the case of a person under three years of age, at least one developmental delay or an established risk;	12003 12004
(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;	12005 12006 12007
(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.	12008 12009 12010 12011 12012 12013 12014
(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.	12015 12016 12017 12018
(R) " <del>Developmentally disabled person</del> <u>Developmental disability</u> " <u>includes intellectual disability. Person with a developmental disability means a person with a developmental disability, including a person with an intellectual disability.</u>	12019 12020 12021 12022
(S) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.	12023 12024
(T) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or	12025 12026 12027 12028 12029

assistance from a private agency that maintains records of 12030  
assistance given. A person having a legal settlement in the state 12031  
shall be considered as having legal settlement in the assistance 12032  
area in which the person resides. No adult person coming into this 12033  
state and having a spouse or minor children residing in another 12034  
state shall obtain a legal settlement in this state as long as the 12035  
spouse or minor children are receiving public assistance, care, or 12036  
support at the expense of the other state or its subdivisions. For 12037  
the purpose of determining the legal settlement of a person who is 12038  
living in a public or private institution or in a home subject to 12039  
licensing by the department of job and family services, the 12040  
department of mental health and addiction services, or the 12041  
department of developmental disabilities, the residence of the 12042  
person shall be considered as though the person were residing in 12043  
the county in which the person was living prior to the person's 12044  
entrance into the institution or home. Settlement once acquired 12045  
shall continue until a person has been continuously absent from 12046  
Ohio for a period of one year or has acquired a legal residence in 12047  
another state. A woman who marries a man with legal settlement in 12048  
any county immediately acquires the settlement of her husband. The 12049  
legal settlement of a minor is that of the parents, surviving 12050  
parent, sole parent, parent who is designated the residential 12051  
parent and legal custodian by a court, other adult having 12052  
permanent custody awarded by a court, or guardian of the person of 12053  
the minor, provided that: 12054

(1) A minor female who marries shall be considered to have 12055  
the legal settlement of her husband and, in the case of death of 12056  
her husband or divorce, she shall not thereby lose her legal 12057  
settlement obtained by the marriage. 12058

(2) A minor male who marries, establishes a home, and who has 12059  
resided in this state for one year without receiving general 12060  
assistance prior to July 17, 1995, under former Chapter 5113. of 12061

the Revised Code, financial assistance under Chapter 5115. of the 12062  
Revised Code, or assistance from a private agency that maintains 12063  
records of assistance given shall be considered to have obtained a 12064  
legal settlement in this state. 12065

(3) The legal settlement of a child under eighteen years of 12066  
age who is in the care or custody of a public or private child 12067  
caring agency shall not change if the legal settlement of the 12068  
parent changes until after the child has been in the home of the 12069  
parent for a period of one year. 12070

No person, adult or minor, may establish a legal settlement 12071  
in this state for the purpose of gaining admission to any state 12072  
institution. 12073

(U)(1) "Resident" means, subject to division (U)(2) of this 12074  
section, a person who is admitted either voluntarily or 12075  
involuntarily to an institution or other facility pursuant to 12076  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 12077  
Code subsequent to a finding of not guilty by reason of insanity 12078  
or incompetence to stand trial or under this chapter who is under 12079  
observation or receiving habilitation and care in an institution. 12080

(2) "Resident" does not include a person admitted to an 12081  
institution or other facility under section 2945.39, 2945.40, 12082  
2945.401, or 2945.402 of the Revised Code to the extent that the 12083  
reference in this chapter to resident, or the context in which the 12084  
reference occurs, is in conflict with any provision of sections 12085  
2945.37 to 2945.402 of the Revised Code. 12086

(V) "Respondent" means the person whose detention, 12087  
commitment, or continued commitment is being sought in any 12088  
proceeding under this chapter. 12089

(W) "Working day" and "court day" mean Monday, Tuesday, 12090  
Wednesday, Thursday, and Friday, except when such day is a legal 12091  
holiday. 12092

(X) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(Y) "Court" means the probate division of the court of common pleas.

(Z) "Supported living" and "residential services" have the same meanings as in section 5126.01 of the Revised Code.

**Sec. 5123.012.** (A) As used in this section:

(1) "Biological risk" and "environmental risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

(2) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code.

(B) Except as provided in division (C) of this section, the department of developmental disabilities shall make eligibility determinations in accordance with the definition of "developmental disability" in section 5123.01 of the Revised Code. The department may adopt rules in accordance with Chapter 119. of the Revised Code establishing eligibility for programs and services for either of the following:

(1) Individuals under age six who have a biological risk or environmental risk of a developmental delay;

(2) Any preschool child with a disability eligible for services under section 3323.02 of the Revised Code whose disability is not attributable solely to mental illness as defined in section 5122.01 of the Revised Code.

(C)(1) The department shall make determinations of 12123  
eligibility for protective services in accordance with sections 12124  
5123.55 to 5123.59 of the Revised Code. 12125

(2) Determinations of whether a ~~mentally retarded~~ person with 12126  
an intellectual disability is subject to institutionalization by 12127  
court order shall be made in accordance with sections 5123.71 to 12128  
5123.76 of the Revised Code and shall be based on the definition 12129  
of "~~mentally retarded~~ person with an intellectual disability 12130  
subject to institutionalization by court order" in section 5123.01 12131  
of the Revised Code. 12132

(3) All persons who were eligible for services and enrolled 12133  
in programs offered by the department of developmental 12134  
disabilities pursuant to this chapter on July 1, 1991, shall 12135  
continue to be eligible for those services and to be enrolled in 12136  
those programs as long as they are in need of services. 12137

**Sec. 5123.014.** (A) Whenever the department or director of 12138  
mental retardation and developmental disabilities is referred to 12139  
or designated in any statute, rule, contract, grant, or other 12140  
document, the reference or designation shall be deemed to refer to 12141  
the department or director of developmental disabilities, as the 12142  
case may be. 12143

(B) Whenever "person with an intellectual disability subject 12144  
to institutionalization by court order" is referred to or 12145  
designated in any statute, rule, contract, grant, or other 12146  
document, the reference or designation is deemed to have the same 12147  
meaning as "mentally retarded person subject to 12148  
institutionalization by court order," as defined in section 12149  
5123.01 of the Revised Code prior to the effective date of this 12150  
amendment. 12151

**Sec. 5123.02.** The department of developmental disabilities 12152

shall do the following: 12153

(A) Promote comprehensive statewide programs and services for 12154  
persons with ~~mental retardation or a~~ developmental ~~disability~~ 12155  
disabilities and their families wherever they reside in the state. 12156  
These programs shall include public education, prevention, 12157  
diagnosis, treatment, training, and care. 12158

(B) Provide administrative leadership for statewide services 12159  
which include residential facilities, evaluation centers, and 12160  
community classes which are wholly or in part financed by the 12161  
department of developmental disabilities as provided by section 12162  
5123.26 of the Revised Code; 12163

(C) Develop and maintain, to the extent feasible, data on all 12164  
services and programs for persons with ~~mental retardation or a~~ 12165  
developmental ~~disability~~ disabilities, that are provided by 12166  
governmental and private agencies; 12167

(D) Make periodic determinations of the number of persons 12168  
with ~~mental retardation or a~~ developmental ~~disability~~ disabilities 12169  
requiring services in the state; 12170

(E) Provide leadership to local authorities in planning and 12171  
developing community-wide services for persons with ~~mental~~ 12172  
~~retardation or a~~ developmental ~~disability~~ disabilities and their 12173  
families; 12174

(F) Promote programs of professional training and research in 12175  
cooperation with other state departments, agencies, and 12176  
institutions of higher learning. 12177

**Sec. 5123.03.** (A) The department of developmental 12178  
disabilities shall do all of the following: 12179

(1) Maintain, operate, manage, and govern all state 12180  
institutions for the care, treatment, and training of ~~the mentally~~ 12181  
~~retarded~~ persons with developmental disabilities that are 12182

<u>intellectual disabilities;</u>	12183
(2) Designate all such institutions by appropriate names;	12184
(3) Provide and designate facilities for the custody, care, and special treatment of persons of the following classes:	12185 12186
(a) Dangerous persons in state institutions for <del>the mentally retarded</del> <u>persons with developmental disabilities that are intellectual disabilities</u> who represent a serious threat to the safety of the other patients of the institution;	12187 12188 12189 12190
(b) Persons charged with crimes who are found incompetent to stand trial or not guilty by reason of insanity and who are also <del>mentally retarded</del> <u>persons with intellectual disabilities</u> subject to institutionalization by court order.	12191 12192 12193 12194
(4) Have control of all institutions maintained in part by the state for the care, treatment, and training of <del>the mentally retarded</del> <u>persons with developmental disabilities that are intellectual disabilities;</u>	12195 12196 12197 12198
(5) Administer the laws relative to persons in such institutions in an efficient, economical, and humane manner;	12199 12200
(6) Ascertain by actual examinations and inquiry whether institutionalizations are made according to law.	12201 12202
(B) The department may do any of the following:	12203
(1) Subject to section 5139.08 of the Revised Code, receive from the department of youth services for observation, diagnosis, care, habilitation, or placement <u>of</u> any children in the custody of the department of youth services;	12204 12205 12206 12207
(2) Receive for observation any minor from a public institution other than an institution under the jurisdiction of the department of developmental disabilities, from a private charitable institution, or from a person having legal custody of such a minor, upon such terms as are proper;	12208 12209 12210 12211 12212

(3) Receive from the department of mental health and 12213  
addiction services any patient in the custody of the department 12214  
who is transferred to the department of developmental disabilities 12215  
upon such terms and conditions as may be agreed upon by the two 12216  
departments. 12217

(C) In addition to the powers and duties expressly conferred 12218  
by this section, the department may take any other action 12219  
necessary for the full and efficient executive, administrative, 12220  
and fiscal supervision of the state institutions described in this 12221  
section. 12222

**Sec. 5123.033.** The program fee fund is hereby created in the 12223  
state treasury. All fees collected pursuant to sections 5123.161, 12224  
5123.164, and 5123.19 of the Revised Code shall be credited to the 12225  
fund. Money credited to the fund shall be used solely for the 12226  
department of developmental disabilities' duties under sections 12227  
5123.16 to 5123.1610, and 5123.19 of the Revised Code and to 12228  
provide continuing education and professional training to 12229  
providers of services to individuals with ~~mental retardation or a~~ 12230  
developmental ~~disability~~ disabilities. If the money credited to 12231  
the fund is inadequate to pay all of the department's costs in 12232  
performing those duties and providing the continuing education and 12233  
professional training, the department may use other available 12234  
funds appropriated to the department to pay the remaining costs of 12235  
performing those duties and providing the continuing education and 12236  
professional training. 12237

**Sec. 5123.04.** (A) The director of developmental disabilities 12238  
is the executive head of the department of developmental 12239  
disabilities. All duties conferred on the department and its 12240  
institutions by law or by order of the director shall be performed 12241  
under such rules as the director prescribes, and shall be under 12242  
the director's control. The director shall establish bylaws for 12243

the government of all institutions under the jurisdiction of the 12244  
department. Except as otherwise is provided as to appointments by 12245  
chiefs of divisions, the director shall appoint such employees as 12246  
are necessary for the efficient conduct of the department, and 12247  
shall prescribe their titles and duties. If the director is not a 12248  
licensed physician, decisions relating to medical diagnosis and 12249  
treatment shall be the responsibility of a licensed physician 12250  
appointed by the director. 12251

(B) The director shall adopt rules for the proper execution 12252  
of the powers and duties of the department. 12253

(C) The director shall adopt rules establishing standards 12254  
that ~~mental retardation~~ programs and facilities for persons with 12255  
developmental disabilities that are intellectual disabilities 12256  
shall follow when performing evaluations of the mental condition 12257  
of defendants ordered by the court under section 2919.271 or 12258  
2945.371 of the Revised Code, and for the treatment of defendants 12259  
who have been found incompetent to stand trial under section 12260  
2945.38 of the Revised Code, and certify the compliance of such 12261  
programs and facilities with the standards. 12262

(D) On behalf of the department, the director has the 12263  
authority to, and responsibility for, entering into contracts and 12264  
other agreements. 12265

(E) The director shall adopt rules in accordance with Chapter 12266  
119. of the Revised Code that do all of the following: 12267

(1) Specify the supplemental services that may be provided 12268  
through a trust authorized by section 5815.28 of the Revised Code; 12269

(2) Establish standards for the maintenance and distribution 12270  
to a beneficiary of assets of a trust authorized by section 12271  
5815.28 of the Revised Code. 12272

(F) The director shall provide monitoring of county boards of 12273  
developmental disabilities. 12274

**Sec. 5123.044.** The department of developmental disabilities 12275  
shall determine whether county boards of developmental 12276  
disabilities violate the rights that individuals with ~~mental~~ 12277  
~~retardation or other~~ developmental disabilities have under section 12278  
5126.046 of the Revised Code to obtain home and community-based 12279  
services, nonmedicaid residential services, or nonmedicaid 12280  
supported living from qualified and willing providers. The 12281  
department shall provide assistance to an individual with ~~mental~~ 12282  
~~retardation or other~~ a developmental disability who requests 12283  
assistance with the individual's rights under that section if the 12284  
department is notified of a county board's alleged violation of 12285  
the individual's rights under that section. 12286

**Sec. 5123.0410.** An individual with ~~mental retardation or~~ 12287  
~~other~~ a developmental disability who moves from one county in this 12288  
state to another county in this state shall receive home and 12289  
community-based services in the new county that are comparable in 12290  
scope to the home and community-based services the individual 12291  
receives in the prior county at the time the individual moves. If 12292  
the county board serving the county to which the individual moves 12293  
determines under section 5126.041 of the Revised Code that the 12294  
individual is eligible for county board services, the county board 12295  
shall ensure that the individual receives the comparable services. 12296  
If the county board determines that the individual is not eligible 12297  
for county board services, the department of developmental 12298  
disabilities shall ensure that the individual receives the 12299  
comparable services. 12300

If the home and community-based services that the individual 12301  
receives at the time the individual moves include supported living 12302  
or residential services, the department shall reduce the amount 12303  
the department allocates to the county board serving the county 12304  
the individual left for those supported living or residential 12305

services by an amount that equals the payment the department 12306  
authorizes or projects, or both, for those supported living or 12307  
residential services from the last day the individual resides in 12308  
the county to the last day of the state fiscal year in which the 12309  
individual moves. The department shall increase the amount the 12310  
department allocates to the county board serving the county the 12311  
individual moves to by the same amount. The department shall make 12312  
the reduction and increase effective the day the department 12313  
determines the individual has residence in the new county. The 12314  
department shall determine the amount that is to be reduced and 12315  
increased in accordance with the department's rules for 12316  
authorizing payments for home and community-based services 12317  
established adopted under section 5123.049 of the Revised Code. 12318  
The department shall annualize the reduction and increase for the 12319  
subsequent state fiscal year as necessary. 12320

**Sec. 5123.0412.** (A) The department of developmental 12321  
disabilities shall charge each county board of developmental 12322  
disabilities an annual fee equal to one and one-quarter per cent 12323  
of the total value of all medicaid paid claims for home and 12324  
community-based services provided during the year to an individual 12325  
eligible for services from the county board. However, the 12326  
department shall not charge the fee for home and community-based 12327  
services provided under the medicaid waiver component known as the 12328  
transitions developmental disabilities waiver. No county board 12329  
shall pass the cost of a fee charged to the county board under 12330  
this section on to another provider of these services. 12331

(B) The fees collected under this section shall be deposited 12332  
into the ~~ODDD~~ department of developmental disabilities 12333  
administration and oversight fund, which is hereby created in the 12334  
state treasury. The department shall use the money in the ~~ODDD~~ 12335  
department of developmental disabilities administration and 12336  
oversight fund for both of the following purposes: 12337

(1) Medicaid administrative costs, including administrative 12338  
and oversight costs of medicaid case management services and home 12339  
and community-based services. The administrative and oversight 12340  
costs of medicaid case management services and home and 12341  
community-based services shall include costs for staff, systems, 12342  
and other resources the department needs and dedicates solely to 12343  
the following duties associated with the services: 12344

(a) Eligibility determinations; 12345

(b) Training; 12346

(c) Fiscal management; 12347

(d) Claims processing; 12348

(e) Quality assurance oversight; 12349

(f) Other duties the department identifies. 12350

(2) Providing technical support to county boards' local 12351  
administrative authority under section 5126.055 of the Revised 12352  
Code for the services. 12353

(C) The department shall submit an annual report to the 12354  
director of budget and management certifying how the department 12355  
spent the money in the ~~ODDD~~ department of developmental 12356  
disabilities administration and oversight fund for the purposes 12357  
specified in division (B) of this section. 12358

**Sec. 5123.0413.** The department of developmental disabilities, 12359  
in consultation with the department of job and family services, 12360  
office of budget and management, and county boards of 12361  
developmental disabilities, shall adopt rules in accordance with 12362  
Chapter 119. of the Revised Code to establish both of the 12363  
following in the event a county property tax levy for services for 12364  
individuals with ~~mental retardation or other~~ developmental 12365  
~~disability~~ disabilities fails: 12366

(A) A method of paying for home and community-based services;	12367
(B) A method of reducing the number of individuals a county board would otherwise be required by section 5126.0512 of the Revised Code to ensure are enrolled in home and community-based services.	12368 12369 12370 12371
<b>Sec. 5123.0418.</b> (A) In addition to other authority granted the director of developmental disabilities for use of funds appropriated to the department of developmental disabilities, the director may use such funds for the following purposes:	12372 12373 12374 12375
(1) All of the following to assist persons with <del>mental retardation or a developmental disability</del> <u>disabilities</u> remain in the community and avoid institutionalization:	12376 12377 12378
(a) Behavioral and short-term interventions;	12379
(b) Residential services;	12380
(c) Supported living.	12381
(2) Respite care services;	12382
(3) Staff training to help the following personnel serve persons with <del>mental retardation or a developmental disability</del> <u>disabilities</u> in the community:	12383 12384 12385
(a) Employees of, and personnel under contract with, county boards of developmental disabilities;	12386 12387
(b) Employees of providers of supported living;	12388
(c) Employees of providers of residential services;	12389
(d) Other personnel the director identifies.	12390
(B) The director may establish priorities for using funds for the purposes specified in division (A) of this section. The director shall use the funds in a manner consistent with the appropriations that authorize the director to use the funds and	12391 12392 12393 12394

all other state and federal laws governing the use of the funds.	12395
<b>Sec. 5123.081.</b> (A) As used in this section:	12396
(1)(a) "Applicant" means any of the following:	12397
(i) A person who is under final consideration for appointment to or employment with the department of developmental disabilities or a county board of developmental disabilities;	12398 12399 12400
(ii) A person who is being transferred to the department or a county board;	12401 12402
(iii) An employee who is being recalled to or reemployed by the department or a county board after a layoff;	12403 12404
(iv) A person under final consideration for a direct services position with a provider or subcontractor.	12405 12406
(b) Neither of the following is an applicant:	12407
(i) A person who is employed by a responsible entity in a position for which a criminal records check is required by this section and either is being considered for a different position with the responsible entity or is returning after a leave of absence or seasonal break in employment, unless the responsible entity has reason to believe that the person has committed a disqualifying offense;	12408 12409 12410 12411 12412 12413 12414
(ii) A person who is to provide only respite care under a family support services program established under section 5126.11 of the Revised Code if a family member of the individual with <del>mental retardation</del> or a developmental disability who is to receive the respite care selects the person.	12415 12416 12417 12418 12419
(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	12420 12421
(3) "Direct services position" means an employment position in which the employee has the opportunity to be alone with or	12422 12423

exercises supervision or control over one or more individuals with 12424  
~~mental retardation or~~ a developmental disability. 12425

(4) "Disqualifying offense" means any of the offenses listed 12426  
or described in divisions (A)(3)(a) to (e) of section 109.572 of 12427  
the Revised Code. 12428

(5)(a) "Employee" means either of the following: 12429

(i) A person appointed to or employed by the department of 12430  
developmental disabilities or a county board of developmental 12431  
disabilities; 12432

(ii) A person employed in a direct services position by a 12433  
provider or subcontractor. 12434

(b) "Employee" does not mean a person who provides only 12435  
respite care under a family support services program established 12436  
under section 5126.11 of the Revised Code if a family member of 12437  
the individual with ~~mental retardation or~~ a developmental 12438  
disability who receives the respite care selected the person. 12439

(6) "Minor drug possession offense" has the same meaning as 12440  
in section 2925.01 of the Revised Code. 12441

(7) "Provider" means a person that provides specialized 12442  
services to individuals with ~~mental retardation or~~ a developmental 12443  
~~disability~~ disabilities and employs one or more persons in direct 12444  
services positions. 12445

(8) "Responsible entity" means the following: 12446

(a) The department of developmental disabilities in the case 12447  
of either of the following: 12448

(i) A person who is an applicant because the person is under 12449  
final consideration for appointment to or employment with the 12450  
department, being transferred to the department, or being recalled 12451  
to or reemployed by the department after a layoff; 12452

(ii) A person who is an employee because the person is 12453

appointed to or employed by the department. 12454

(b) A county board of developmental disabilities in the case 12455  
of either of the following: 12456

(i) A person who is an applicant because the person is under 12457  
final consideration for appointment to or employment with the 12458  
county board, being transferred to the county board, or being 12459  
recalled to or reemployed by the county board after a layoff; 12460

(ii) A person who is an employee because the person is 12461  
appointed to or employed by the county board. 12462

(c) A provider in the case of either of the following: 12463

(i) A person who is an applicant because the person is under 12464  
final consideration for a direct services position with the 12465  
provider; 12466

(ii) A person who is an employee because the person is 12467  
employed in a direct services position by the provider. 12468

(d) A subcontractor in the case of either of the following: 12469

(i) A person who is an applicant because the person is under 12470  
final consideration for a direct services position with the 12471  
subcontractor; 12472

(ii) A person who is an employee because the person is 12473  
employed in a direct services position by the subcontractor. 12474

(9) "Specialized services" means any program or service 12475  
designed and operated to serve primarily individuals with ~~mental~~ 12476  
~~retardation or a~~ developmental ~~disability~~ disabilities, including 12477  
a program or service provided by an entity licensed or certified 12478  
by the department of developmental disabilities. If there is a 12479  
question as to whether a provider or subcontractor is providing 12480  
specialized services, the provider or subcontractor may request 12481  
that the director of developmental disabilities make a 12482  
determination. The director's determination is final. 12483

(10) "Subcontractor" means a person to which both of the	12484
following apply:	12485
(a) The person has either of the following:	12486
(i) A subcontract with a provider to provide specialized	12487
services included in the contract between the provider and the	12488
department of developmental disabilities or a county board of	12489
developmental disabilities;	12490
(ii) A subcontract with another subcontractor to provide	12491
specialized services included in a subcontract between the other	12492
subcontractor and a provider or other subcontractor.	12493
(b) The person employs one or more persons in direct services	12494
positions.	12495
(B) A responsible entity shall not employ an applicant or	12496
continue to employ an employee if either of the following applies:	12497
(1) The applicant or employee fails to comply with division	12498
(D)(3) of this section.	12499
(2) Except as provided in rules adopted under this section,	12500
the applicant or employee is found by a criminal records check	12501
required by this section to have been convicted of, pleaded guilty	12502
to, or been found eligible for intervention in lieu of conviction	12503
for a disqualifying offense.	12504
(C) Before employing an applicant in a position for which a	12505
criminal records check is required by this section, a responsible	12506
entity shall require the applicant to submit a statement with the	12507
applicant's signature attesting that the applicant has not been	12508
convicted of, pleaded guilty to, or been found eligible for	12509
intervention in lieu of conviction for a disqualifying offense.	12510
The responsible entity also shall require the applicant to sign an	12511
agreement under which the applicant agrees to notify the	12512
responsible entity within fourteen calendar days if, while	12513

employed by the responsible entity, the applicant is formally 12514  
charged with, is convicted of, pleads guilty to, or is found 12515  
eligible for intervention in lieu of conviction for a 12516  
disqualifying offense. The agreement shall provide that the 12517  
applicant's failure to provide the notification may result in 12518  
termination of the applicant's employment. 12519

(D)(1) As a condition of employing any applicant in a 12520  
position for which a criminal records check is required by this 12521  
section, a responsible entity shall request the superintendent of 12522  
the bureau of criminal identification and investigation to conduct 12523  
a criminal records check of the applicant. If rules adopted under 12524  
this section require an employee to undergo a criminal records 12525  
check, a responsible entity shall request the superintendent to 12526  
conduct a criminal records check of the employee at times 12527  
specified in the rules as a condition of the responsible entity's 12528  
continuing to employ the employee in a position for which a 12529  
criminal records check is required by this section. If an 12530  
applicant or employee does not present proof that the applicant or 12531  
employee has been a resident of this state for the five-year 12532  
period immediately prior to the date upon which the criminal 12533  
records check is requested, the responsible entity shall request 12534  
that the superintendent obtain information from the federal bureau 12535  
of investigation as a part of the criminal records check. If the 12536  
applicant or employee presents proof that the applicant or 12537  
employee has been a resident of this state for that five-year 12538  
period, the responsible entity may request that the superintendent 12539  
include information from the federal bureau of investigation in 12540  
the criminal records check. For purposes of this division, an 12541  
applicant or employee may provide proof of residency in this state 12542  
by presenting, with a notarized statement asserting that the 12543  
applicant or employee has been a resident of this state for that 12544  
five-year period, a valid driver's license, notification of 12545  
registration as an elector, a copy of an officially filed federal 12546

or state tax form identifying the applicant's or employee's 12547  
permanent residence, or any other document the responsible entity 12548  
considers acceptable. 12549

(2) A responsible entity shall do all of the following: 12550

(a) Provide to each applicant and employee for whom a 12551  
criminal records check is required by this section a copy of the 12552  
form prescribed pursuant to division (C)(1) of section 109.572 of 12553  
the Revised Code and a standard impression sheet to obtain 12554  
fingerprint impressions prescribed pursuant to division (C)(2) of 12555  
section 109.572 of the Revised Code; 12556

(b) Obtain the completed form and standard impression sheet 12557  
from the applicant or employee; 12558

(c) Forward the completed form and standard impression sheet 12559  
to the superintendent at the time the criminal records check is 12560  
requested. 12561

(3) Any applicant or employee who receives pursuant to this 12562  
division a copy of the form prescribed pursuant to division (C)(1) 12563  
of section 109.572 of the Revised Code and a copy of the standard 12564  
impression sheet prescribed pursuant to division (C)(2) of that 12565  
section and who is requested to complete the form and provide a 12566  
set of the applicant's or employee's fingerprint impressions shall 12567  
complete the form or provide all the information necessary to 12568  
complete the form and shall provide the standard impression sheet 12569  
with the impressions of the applicant's or employee's 12570  
fingerprints. 12571

(4) A responsible entity shall pay to the bureau of criminal 12572  
identification and investigation the fee prescribed pursuant to 12573  
division (C)(3) of section 109.572 of the Revised Code for each 12574  
criminal records check requested and conducted pursuant to this 12575  
section. 12576

(E) A responsible entity may request any other state or 12577

federal agency to supply the responsible entity with a written 12578  
report regarding the criminal record of an applicant or employee. 12579  
If an employee holds an occupational or professional license or 12580  
other credentials, the responsible entity may request that the 12581  
state or federal agency that regulates the employee's occupation 12582  
or profession supply the responsible entity with a written report 12583  
of any information pertaining to the employee's criminal record 12584  
that the agency obtains in the course of conducting an 12585  
investigation or in the process of renewing the employee's license 12586  
or other credentials. The responsible entity may consider the 12587  
reports when determining whether to employ the applicant or to 12588  
continue to employ the employee. 12589

(F) As a condition of employing an applicant in a position 12590  
for which a criminal records check is required by this section and 12591  
that involves transporting individuals with ~~mental retardation or~~ 12592  
developmental disabilities or operating a responsible entity's 12593  
vehicles for any purpose, the responsible entity shall obtain the 12594  
applicant's driving record from the bureau of motor vehicles. If 12595  
rules adopted under this section require a responsible entity to 12596  
obtain an employee's driving record, the responsible entity shall 12597  
obtain the employee's driving record from the bureau at times 12598  
specified in the rules as a condition of continuing to employ the 12599  
employee. The responsible entity may consider the applicant's or 12600  
employee's driving record when determining whether to employ the 12601  
applicant or to continue to employ the employee. 12602

(G) A responsible entity may employ an applicant 12603  
conditionally pending receipt of a report regarding the applicant 12604  
requested under this section. The responsible entity shall 12605  
terminate the applicant's employment if it is determined from a 12606  
report that the applicant failed to inform the responsible entity 12607  
that the applicant had been convicted of, pleaded guilty to, or 12608  
been found eligible for intervention in lieu of conviction for a 12609

disqualifying offense. 12610

(H) A responsible entity may charge an applicant a fee for 12611  
costs the responsible entity incurs in obtaining a report 12612  
regarding the applicant under this section if the responsible 12613  
entity notifies the applicant of the amount of the fee at the time 12614  
of the applicant's initial application for employment and that, 12615  
unless the fee is paid, the responsible entity will not consider 12616  
the applicant for employment. The fee shall not exceed the amount 12617  
of the fee, if any, the responsible entity pays for the report. 12618

(I)(1) Any report obtained pursuant to this section is not a 12619  
public record for purposes of section 149.43 of the Revised Code 12620  
and shall not be made available to any person, other than the 12621  
following: 12622

(a) The applicant or employee who is the subject of the 12623  
report or the applicant's or employee's representative; 12624

(b) The responsible entity that requested the report or its 12625  
representative; 12626

(c) The department if a county board, provider, or 12627  
subcontractor is the responsible entity that requested the report 12628  
and the department requests the responsible entity to provide a 12629  
copy of the report to the department; 12630

(d) A county board if a provider or subcontractor is the 12631  
responsible entity that requested the report and the county board 12632  
requests the responsible entity to provide a copy of the report to 12633  
the county board; 12634

(e) Any court, hearing officer, or other necessary individual 12635  
involved in a case dealing with any of the following: 12636

(i) The denial of employment to the applicant or employee; 12637

(ii) The denial, suspension, or revocation of a certificate 12638  
under section 5123.166 or 5123.45 of the Revised Code; 12639

(iii) A civil or criminal action regarding the medicaid program or a program the department administers. 12640  
12641

(2) An applicant or employee for whom the responsible entity has obtained reports under this section may submit a written request to the responsible entity to have copies of the reports sent to any state agency, entity of local government, or private entity. The applicant or employee shall specify in the request the agencies or entities to which the copies are to be sent. On receiving the request, the responsible entity shall send copies of the reports to the agencies or entities specified. 12642  
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(3) A responsible entity may request that a state agency, entity of local government, or private entity send copies to the responsible entity of any report regarding a records check or criminal records check that the agency or entity possesses, if the responsible entity obtains the written consent of the individual who is the subject of the report. 12650  
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(4) A responsible entity shall provide each applicant and employee with a copy of any report obtained about the applicant or employee under this section. 12656  
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(J) The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. 12659  
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(1) The rules may do the following: 12662

(a) Require employees to undergo criminal records checks under this section; 12663  
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(b) Require responsible entities to obtain the driving records of employees under this section; 12665  
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(c) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, exempt one or more classes of 12667  
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employees from the requirements. 12670

(2) The rules shall do both of the following: 12671

(a) If the rules require employees to undergo criminal 12672  
records checks, require responsible entities to obtain the driving 12673  
records of employees, or both, specify the times at which the 12674  
criminal records checks are to be conducted and the driving 12675  
records are to be obtained; 12676

(b) Specify circumstances under which a responsible entity 12677  
may employ an applicant or employee who is found by a criminal 12678  
records check required by this section to have been convicted of, 12679  
pleaded guilty to, or been found eligible for intervention in lieu 12680  
of conviction for a disqualifying offense but meets standards in 12681  
regard to rehabilitation set by the director. 12682

**Sec. 5123.092.** (A) There is hereby established at each 12683  
institution and branch institution under the control of the 12684  
department of developmental disabilities a citizen's advisory 12685  
council consisting of thirteen members. At least seven of the 12686  
members shall be persons who are not providers of ~~mental~~ 12687  
~~retardation~~ services for persons with developmental disabilities 12688  
that are intellectual disabilities. Each council shall include 12689  
parents or other relatives of residents of institutions under the 12690  
control of the department, community leaders, professional persons 12691  
in relevant fields, and persons who have an interest in or 12692  
knowledge of ~~mental-retardation~~ developmental disabilities that 12693  
are intellectual disabilities. The managing officer of the 12694  
institution shall be a nonvoting member of the council. 12695

(B) The director of developmental disabilities shall be the 12696  
appointing authority for the voting members of each citizen's 12697  
advisory council. Each time the term of a voting member expires, 12698  
the remaining members of the council shall recommend to the 12699  
director one or more persons to serve on the council. The director 12700

may accept a nominee of the council or reject the nominee or 12701  
nominees. If the director rejects the nominee or nominees, the 12702  
remaining members of the advisory council shall further recommend 12703  
to the director one or more other persons to serve on the advisory 12704  
council. This procedure shall continue until a member is appointed 12705  
to the advisory council. 12706

Each advisory council shall elect from its appointed members 12707  
a chairperson, vice-chairperson, and a secretary to serve for 12708  
terms of one year. Advisory council officers shall not serve for 12709  
more than two consecutive terms in the same office. A majority of 12710  
the advisory council members constitutes a quorum. 12711

(C) Terms of office shall be for three years, each term 12712  
ending on the same day of the same month of the year as did the 12713  
term which it succeeds. No member shall serve more than two 12714  
consecutive terms, except that any former member may be appointed 12715  
if one year or longer has elapsed since the member served two 12716  
consecutive terms. Each member shall hold office from the date of 12717  
appointment until the end of the term for which the member was 12718  
appointed. Any vacancy shall be filled in the same manner in which 12719  
the original appointment was made, and the appointee to a vacancy 12720  
in an unexpired term shall serve the balance of the term of the 12721  
original appointee. Any member shall continue in office subsequent 12722  
to the expiration date of the member's term until the member's 12723  
successor takes office, or until a period of sixty days has 12724  
elapsed, whichever occurs first. 12725

(D) Members shall be expected to attend all meetings of the 12726  
advisory council. Unexcused absence from two successive regularly 12727  
scheduled meetings shall be considered prima-facie evidence of 12728  
intent not to continue as a member. The chairperson of the board 12729  
shall, after a member has been absent for two successive regularly 12730  
scheduled meetings, direct a letter to the member asking if the 12731  
member wishes to remain in membership. If an affirmative reply is 12732

received, the member shall be retained as a member except that, 12733  
if, after having expressed a desire to remain a member, the member 12734  
then misses a third successive regularly scheduled meeting without 12735  
being excused, the chairperson shall terminate the member's 12736  
membership. 12737

(E) A citizen's advisory council shall meet six times 12738  
annually, or more frequently if three council members request the 12739  
chairperson to call a meeting. The council shall keep minutes of 12740  
each meeting and shall submit them to the managing officer of the 12741  
institution with which the council is associated and the 12742  
department of developmental disabilities. 12743

(F) Members of citizen's advisory councils shall receive no 12744  
compensation for their services, except that they shall be 12745  
reimbursed for their actual and necessary expenses incurred in the 12746  
performance of their official duties by the institution with which 12747  
they are associated from funds allocated to it, provided that 12748  
reimbursement for those expenses shall not exceed limits imposed 12749  
upon the department of developmental disabilities by 12750  
administrative rules regulating travel within this state. 12751

(G) The councils shall have reasonable access to all patient 12752  
treatment and living areas and records of the institution, except 12753  
those records of a strictly personal or confidential nature. The 12754  
councils shall have access to a patient's personal records with 12755  
the consent of the patient or the patient's legal guardian or, if 12756  
the patient is a minor, with the consent of the parent or legal 12757  
guardian of the patient. 12758

(H) As used in this section, "branch institution" means a 12759  
facility that is located apart from an institution and is under 12760  
the control of the managing officer of the institution. 12761

**Sec. 5123.093.** The citizen's advisory councils established 12762  
under section 5123.092 of the Revised Code shall: 12763

(A) Transmit verbal or written information from any person or organization associated with the institution or within the community, that an advisory council considers important, to the director of developmental disabilities;	12764 12765 12766 12767
(B) Review the records of all applicants to any unclassified position at the institution, except for resident physician positions filled under section 5123.11 of the Revised Code;	12768 12769 12770
(C) Review and evaluate institutional employee training and continuing education programs;	12771 12772
(D) On or before the thirty-first day of January of each year, submit a written report to the director of developmental disabilities regarding matters affecting the institution including, but not limited to, allegations of dehumanizing practices and violations of individual or legal rights;	12773 12774 12775 12776 12777
(E) Review institutional budgets, programs, services, and planning;	12778 12779
(F) Develop and maintain relationships within the community with community <del>mental retardation and</del> developmental disabilities organizations;	12780 12781 12782
(G) Participate in the formulation of the institution's objectives, administrative procedures, program philosophy, and long range goals;	12783 12784 12785
(H) Bring any matter that an advisory council considers important to the attention of the joint council on developmental disabilities and the director of developmental disabilities;	12786 12787 12788
(I) Recommend to the director of developmental disabilities persons for appointment to citizen's advisory councils;	12789 12790
(J) Adopt any rules or procedures necessary to carry out this section.	12791 12792
The chairperson of the advisory council or the chairperson's	12793

designee shall be notified within twenty-four hours of any alleged 12794  
incident of abuse to a resident or staff member by anyone. 12795  
Incidents of resident or staff abuse shall include, but not be 12796  
limited to, sudden deaths, accidents, suicides, attempted 12797  
suicides, injury caused by other persons, alleged criminal acts, 12798  
errors in prescribing or administering medication, theft from 12799  
clients, fires, epidemic disease, administering unprescribed 12800  
drugs, unauthorized use of restraint, withholding of information 12801  
concerning alleged abuse, neglect, or any deprivation of rights as 12802  
defined in Chapter 5122. or 5123. of the Revised Code. 12803

**Sec. 5123.122.** Notwithstanding section 5121.04 of the Revised 12804  
Code and except as provided in section 5123.194 of the Revised 12805  
Code, the liable relative of a ~~mentally retarded or~~ 12806  
~~developmentally disabled~~ person with a developmental disability 12807  
who is a minor receiving residential services pursuant to a 12808  
contract entered into with the department of developmental 12809  
disabilities under section 5123.18 of the Revised Code shall be 12810  
charged for the minor's support the percentage of a base support 12811  
rate determined in accordance with division (B)(2) of section 12812  
5121.04 of the Revised Code. 12813

**Sec. 5123.165.** (A) Except as provided in division (B) of this 12814  
section, no person or government entity may provide supported 12815  
living to an individual with ~~mental retardation or~~ a developmental 12816  
disability if the person or government entity also provides the 12817  
individual a residence. 12818

(B) A person may provide supported living to an individual 12819  
with ~~mental retardation or~~ a developmental disability even though 12820  
the person also provides the individual a residence if either of 12821  
the following apply: 12822

(1) The person also resides in the residence with the 12823

individual and does not provide at any one time supported living 12824  
to more than a total of three individuals with ~~mental retardation~~ 12825  
~~or a developmental disability~~ disabilities who reside in that 12826  
residence; 12827

(2) The person is an association of family members related to 12828  
two or more of the individuals with ~~mental retardation or a~~ 12829  
developmental ~~disability~~ disabilities who reside in the residence 12830  
and does not provide at any one time supported living to more than 12831  
a total of four individuals with ~~mental retardation or a~~ 12832  
developmental ~~disability~~ disabilities who reside in that 12833  
residence. 12834

**Sec. 5123.169.** (A) The director of developmental disabilities 12835  
shall not issue a supported living certificate to an applicant or 12836  
renew an applicant's supported living certificate if either of the 12837  
following applies: 12838

(1) The applicant fails to comply with division (C)(2) of 12839  
this section; 12840

(2) Except as provided in rules adopted under section 12841  
5123.1610 of the Revised Code, the applicant is found by a 12842  
criminal records check required by this section to have been 12843  
convicted of, pleaded guilty to, or been found eligible for 12844  
intervention in lieu of conviction for a disqualifying offense. 12845

(B) Before issuing a supported living certificate to an 12846  
applicant or renewing an applicant's supported living certificate, 12847  
the director shall require the applicant to submit a statement 12848  
with the applicant's signature attesting that the applicant has 12849  
not been convicted of, pleaded guilty to, or been found eligible 12850  
for intervention in lieu of conviction for a disqualifying 12851  
offense. The director also shall require the applicant to sign an 12852  
agreement under which the applicant agrees to notify the director 12853  
within fourteen calendar days if, while holding a supported living 12854

certificate, the applicant is formally charged with, is convicted 12855  
of, pleads guilty to, or is found eligible for intervention in 12856  
lieu of conviction for a disqualifying offense. The agreement 12857  
shall provide that the applicant's failure to provide the 12858  
notification may result in action being taken by the director 12859  
against the applicant under section 5123.166 of the Revised Code. 12860

(C)(1) As a condition of receiving a supported living 12861  
certificate or having a supported living certificate renewed, an 12862  
applicant shall request the superintendent of the bureau of 12863  
criminal identification and investigation to conduct a criminal 12864  
records check of the applicant. If an applicant does not present 12865  
proof to the director that the applicant has been a resident of 12866  
this state for the five-year period immediately prior to the date 12867  
that the applicant applies for issuance or renewal of the 12868  
supported living certificate, the director shall require the 12869  
applicant to request that the superintendent obtain information 12870  
from the federal bureau of investigation as a part of the criminal 12871  
records check. If the applicant presents proof to the director 12872  
that the applicant has been a resident of this state for that 12873  
five-year period, the director may require the applicant to 12874  
request that the superintendent include information from the 12875  
federal bureau of investigation in the criminal records check. For 12876  
purposes of this division, an applicant may provide proof of 12877  
residency in this state by presenting, with a notarized statement 12878  
asserting that the applicant has been a resident of this state for 12879  
that five-year period, a valid driver's license, notification of 12880  
registration as an elector, a copy of an officially filed federal 12881  
or state tax form identifying the applicant's permanent residence, 12882  
or any other document the director considers acceptable. 12883

(2) Each applicant shall do all of the following: 12884

(a) Obtain a copy of the form prescribed pursuant to division 12885  
(C)(1) of section 109.572 of the Revised Code and a standard 12886

impression sheet prescribed pursuant to division (C)(2) of section 12887  
109.572 of the Revised Code; 12888

(b) Complete the form and provide the applicant's fingerprint 12889  
impressions on the standard impression sheet; 12890

(c) Forward the completed form and standard impression sheet 12891  
to the superintendent at the time the criminal records check is 12892  
requested; 12893

(d) Instruct the superintendent to submit the completed 12894  
report of the criminal records check directly to the director; 12895

(e) Pay to the bureau of criminal identification and 12896  
investigation the fee prescribed pursuant to division (C)(3) of 12897  
section 109.572 of the Revised Code for each criminal records 12898  
check of the applicant requested and conducted pursuant to this 12899  
section. 12900

(D) The director may request any other state or federal 12901  
agency to supply the director with a written report regarding the 12902  
criminal record of an applicant. The director may consider the 12903  
reports when determining whether to issue a supported living 12904  
certificate to the applicant or to renew an applicant's supported 12905  
living certificate. 12906

(E) An applicant who seeks to be an independent provider or 12907  
is an independent provider seeking renewal of the applicant's 12908  
supported living certificate shall obtain the applicant's driving 12909  
record from the bureau of motor vehicles and provide a copy of the 12910  
record to the director if the supported living that the applicant 12911  
will provide involves transporting individuals with ~~mental~~ 12912  
~~retardation~~ or developmental disabilities. The director may 12913  
consider the applicant's driving record when determining whether 12914  
to issue the applicant a supported living certificate or to renew 12915  
the applicant's supported living certificate. 12916

(F)(1) A report obtained pursuant to this section is not a 12917

public record for purposes of section 149.43 of the Revised Code 12918  
and shall not be made available to any person, other than the 12919  
following: 12920

(a) The applicant who is the subject of the report or the 12921  
applicant's representative; 12922

(b) The director or the director's representative; 12923

(c) Any court, hearing officer, or other necessary individual 12924  
involved in a case dealing with any of the following: 12925

(i) The denial of a supported living certificate or refusal 12926  
to renew a supported living certificate; 12927

(ii) The denial, suspension, or revocation of a certificate 12928  
under section 5123.45 of the Revised Code; 12929

(iii) A civil or criminal action regarding the medicaid 12930  
program. 12931

(2) An applicant for whom the director has obtained reports 12932  
under this section may submit a written request to the director to 12933  
have copies of the reports sent to any person or state or local 12934  
government entity. The applicant shall specify in the request the 12935  
person or entities to which the copies are to be sent. On 12936  
receiving the request, the director shall send copies of the 12937  
reports to the persons or entities specified. 12938

(3) The director may request that a person or state or local 12939  
government entity send copies to the director of any report 12940  
regarding a records check or criminal records check that the 12941  
person or entity possesses, if the director obtains the written 12942  
consent of the individual who is the subject of the report. 12943

(4) The director shall provide each applicant with a copy of 12944  
any report obtained about the applicant under this section. 12945

**Sec. 5123.17.** The department of developmental disabilities 12946

may provide for the custody, supervision, control, treatment, and 12947  
training of persons with ~~mental retardation or a~~ developmental 12948  
~~disability~~ disabilities elsewhere than within the enclosure of an 12949  
institution under its jurisdiction, if the department so 12950  
determines with respect to any individual or group of individuals. 12951  
In all such cases, the department shall ensure adequate and proper 12952  
supervision for the protection of those persons and of the public. 12953

**Sec. 5123.171.** As used in this section, "respite care" means 12954  
appropriate, short-term, temporary care provided to a ~~mentally~~ 12955  
~~retarded or developmentally disabled~~ person with a developmental 12956  
disability to sustain the family structure or to meet planned or 12957  
emergency needs of the family. 12958

The department of developmental disabilities shall provide 12959  
respite care services to persons with ~~mental retardation or a~~ 12960  
developmental ~~disability~~ disabilities for the purpose of promoting 12961  
self-sufficiency and normalization, preventing or reducing 12962  
inappropriate institutional care, and furthering the unity of the 12963  
family by enabling the family to meet the special needs of a 12964  
~~mentally retarded or developmentally disabled~~ person with a 12965  
developmental disability. 12966

In order to be eligible for respite care services under this 12967  
section, the ~~mentally retarded or developmentally disabled~~ person 12968  
with a developmental disability must be in need of habilitation 12969  
services as defined in section 5126.01 of the Revised Code. 12970

Respite care may be provided in a residential facility 12971  
licensed under section 5123.19 of the Revised Code, including a 12972  
residential facility certified as an ICF/IID, and a respite care 12973  
home certified under section 5126.05 of the Revised Code. 12974

The department shall develop a system for locating vacant 12975  
beds that are available for respite care and for making 12976  
information on vacant beds available to users of respite care 12977

services. ICFs/IID shall report vacant beds to the department but 12978  
shall not be required to accept respite care clients. 12979

The director of developmental disabilities shall adopt, and 12980  
may amend or rescind, rules in accordance with Chapter 119. of the 12981  
Revised Code for both of the following: 12982

(A) Certification by county boards of developmental 12983  
disabilities of respite care homes; 12984

(B) Provision of respite care services authorized by this 12985  
section. Rules adopted under this division shall establish all of 12986  
the following: 12987

(1) A formula for distributing funds appropriated for respite 12988  
care services; 12989

(2) Standards for supervision, training, and quality control 12990  
in the provision of respite care services; 12991

(3) Eligibility criteria for emergency respite care services. 12992

**Sec. 5123.18.** ~~(A)~~ The department of developmental 12993  
disabilities may enter into a contract with a person or government 12994  
agency to provide residential services to individuals with ~~mental~~ 12995  
~~retardation~~ or developmental disabilities in need of residential 12996  
services. To be eligible to enter into a contract with the 12997  
department under this section, a person or government entity and 12998  
the home in which the residential services are provided must meet 12999  
all applicable standards for licensing or certification by the 13000  
appropriate government entity. 13001

**Sec. 5123.19.** (A) As used in sections 5123.19 to 5123.20 of 13002  
the Revised Code: 13003

(1) "Independent living arrangement" means an arrangement in 13004  
which a ~~mentally retarded or developmentally disabled~~ person with 13005  
a developmental disability resides in an individualized setting 13006

chosen by the person or the person's guardian, which is not 13007  
dedicated principally to the provision of residential services for 13008  
~~mentally retarded or developmentally disabled~~ persons with 13009  
developmental disabilities, and for which no financial support is 13010  
received for rendering such service from any governmental agency 13011  
by a provider of residential services. 13012

(2) "Licensee" means the person or government agency that has 13013  
applied for a license to operate a residential facility and to 13014  
which the license was issued under this section. 13015

(3) "Political subdivision" means a municipal corporation, 13016  
county, or township. 13017

(4) "Related party" has the same meaning as in section 13018  
5123.16 of the Revised Code except that "provider" as used in the 13019  
definition of "related party" means a person or government entity 13020  
that held or applied for a license to operate a residential 13021  
facility, rather than a person or government entity certified to 13022  
provide supported living. 13023

(5)(a) Except as provided in division (A)(5)(b) of this 13024  
section, "residential facility" means a home or facility, 13025  
including an ICF/IID, in which an individual with ~~mental~~ 13026  
~~retardation or~~ a developmental disability resides. 13027

(b) "Residential facility" does not mean any of the 13028  
following: 13029

(i) The home of a relative or legal guardian in which an 13030  
individual with ~~mental retardation or~~ a developmental disability 13031  
resides; 13032

(ii) A respite care home certified under section 5126.05 of 13033  
the Revised Code; 13034

(iii) A county home or district home operated pursuant to 13035  
Chapter 5155. of the Revised Code; 13036

(iv) A dwelling in which the only residents with ~~mental~~ 13037  
~~retardation~~ or developmental disabilities are in independent 13038  
living arrangements or are being provided supported living. 13039

(B) Every person or government agency desiring to operate a 13040  
residential facility shall apply for licensure of the facility to 13041  
the director of developmental disabilities unless the residential 13042  
facility is subject to section 3721.02, 5103.03, 5119.33, or 13043  
division (A)(9)(b) of section 5119.34 of the Revised Code. 13044

(C) Subject to section 5123.196 of the Revised Code, the 13045  
director of developmental disabilities shall license the operation 13046  
of residential facilities. An initial license shall be issued for 13047  
a period that does not exceed one year, unless the director denies 13048  
the license under division (D) of this section. A license shall be 13049  
renewed for a period that does not exceed three years, unless the 13050  
director refuses to renew the license under division (D) of this 13051  
section. The director, when issuing or renewing a license, shall 13052  
specify the period for which the license is being issued or 13053  
renewed. A license remains valid for the length of the licensing 13054  
period specified by the director, unless the license is 13055  
terminated, revoked, or voluntarily surrendered. 13056

(D) If it is determined that an applicant or licensee is not 13057  
in compliance with a provision of this chapter that applies to 13058  
residential facilities or the rules adopted under such a 13059  
provision, the director may deny issuance of a license, refuse to 13060  
renew a license, terminate a license, revoke a license, issue an 13061  
order for the suspension of admissions to a facility, issue an 13062  
order for the placement of a monitor at a facility, issue an order 13063  
for the immediate removal of residents, or take any other action 13064  
the director considers necessary consistent with the director's 13065  
authority under this chapter regarding residential facilities. In 13066  
the director's selection and administration of the sanction to be 13067  
imposed, all of the following apply: 13068

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (K) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (H)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the

health and safety of the residents, the director shall conduct a 13101  
survey as soon as practicable at each residential facility owned 13102  
or operated by that person or government entity. The director may 13103  
take any action authorized by this section with respect to any 13104  
facility found to be operating in violation of a provision of this 13105  
chapter that applies to residential facilities or the rules 13106  
adopted under such a provision. 13107

(6) When the director initiates license revocation 13108  
proceedings, no opportunity for submitting a plan of correction 13109  
shall be given. The director shall notify the licensee by letter 13110  
of the initiation of the proceedings. The letter shall list the 13111  
deficiencies of the residential facility and inform the licensee 13112  
that no plan of correction will be accepted. The director shall 13113  
also send a copy of the letter to the county board of 13114  
developmental disabilities. The county board shall send a copy of 13115  
the letter to each of the following: 13116

(a) Each resident who receives services from the licensee; 13117

(b) The guardian of each resident who receives services from 13118  
the licensee if the resident has a guardian; 13119

(c) The parent or guardian of each resident who receives 13120  
services from the licensee if the resident is a minor. 13121

(7) Pursuant to rules which shall be adopted in accordance 13122  
with Chapter 119. of the Revised Code, the director may order the 13123  
immediate removal of residents from a residential facility 13124  
whenever conditions at the facility present an immediate danger of 13125  
physical or psychological harm to the residents. 13126

(8) In determining whether a residential facility is being 13127  
operated in compliance with a provision of this chapter that 13128  
applies to residential facilities or the rules adopted under such 13129  
a provision, or whether conditions at a residential facility 13130  
present an immediate danger of physical or psychological harm to 13131

the residents, the director may rely on information obtained by a 13132  
county board of developmental disabilities or other governmental 13133  
agencies. 13134

(9) In proceedings initiated to deny, refuse to renew, or 13135  
revoke licenses, the director may deny, refuse to renew, or revoke 13136  
a license regardless of whether some or all of the deficiencies 13137  
that prompted the proceedings have been corrected at the time of 13138  
the hearing. 13139

(E) The director shall establish a program under which public 13140  
notification may be made when the director has initiated license 13141  
revocation proceedings or has issued an order for the suspension 13142  
of admissions, placement of a monitor, or removal of residents. 13143  
The director shall adopt rules in accordance with Chapter 119. of 13144  
the Revised Code to implement this division. The rules shall 13145  
establish the procedures by which the public notification will be 13146  
made and specify the circumstances for which the notification must 13147  
be made. The rules shall require that public notification be made 13148  
if the director has taken action against the facility in the 13149  
eighteen-month period immediately preceding the director's latest 13150  
action against the facility and the latest action is being taken 13151  
for the same or a substantially similar violation of a provision 13152  
of this chapter that applies to residential facilities or the 13153  
rules adopted under such a provision. The rules shall specify a 13154  
method for removing or amending the public notification if the 13155  
director's action is found to have been unjustified or the 13156  
violation at the residential facility has been corrected. 13157

(F)(1) Except as provided in division (F)(2) of this section, 13158  
appeals from proceedings initiated to impose a sanction under 13159  
division (D) of this section shall be conducted in accordance with 13160  
Chapter 119. of the Revised Code. 13161

(2) Appeals from proceedings initiated to order the 13162  
suspension of admissions to a facility shall be conducted in 13163

accordance with Chapter 119. of the Revised Code, unless the order 13164  
was issued before providing an opportunity for an adjudication, in 13165  
which case all of the following apply: 13166

(a) The licensee may request a hearing not later than ten 13167  
days after receiving the notice specified in section 119.07 of the 13168  
Revised Code. 13169

(b) If a timely request for a hearing that includes the 13170  
licensee's current address is made, the hearing shall commence not 13171  
later than thirty days after the department receives the request. 13172

(c) After commencing, the hearing shall continue 13173  
uninterrupted, except for Saturdays, Sundays, and legal holidays, 13174  
unless other interruptions are agreed to by the licensee and the 13175  
director. 13176

(d) If the hearing is conducted by a hearing examiner, the 13177  
hearing examiner shall file a report and recommendations not later 13178  
than ten days after the last of the following: 13179

(i) The close of the hearing; 13180

(ii) If a transcript of the proceedings is ordered, the 13181  
hearing examiner receives the transcript; 13182

(iii) If post-hearing briefs are timely filed, the hearing 13183  
examiner receives the briefs. 13184

(e) A copy of the written report and recommendation of the 13185  
hearing examiner shall be sent, by certified mail, to the licensee 13186  
and the licensee's attorney, if applicable, not later than five 13187  
days after the report is filed. 13188

(f) Not later than five days after the hearing examiner files 13189  
the report and recommendations, the licensee may file objections 13190  
to the report and recommendations. 13191

(g) Not later than fifteen days after the hearing examiner 13192  
files the report and recommendations, the director shall issue an 13193

order approving, modifying, or disapproving the report and 13194  
recommendations. 13195

(h) Notwithstanding the pendency of the hearing, the director 13196  
shall lift the order for the suspension of admissions when the 13197  
director determines that the violation that formed the basis for 13198  
the order has been corrected. 13199

(G) Neither a person or government agency whose application 13200  
for a license to operate a residential facility is denied nor a 13201  
related party of the person or government agency may apply for a 13202  
license to operate a residential facility before the date that is 13203  
one year after the date of the denial. Neither a licensee whose 13204  
residential facility license is revoked nor a related party of the 13205  
licensee may apply for a residential facility license before the 13206  
date that is five years after the date of the revocation. 13207

(H) In accordance with Chapter 119. of the Revised Code, the 13208  
director shall adopt and may amend and rescind rules for licensing 13209  
and regulating the operation of residential facilities. The rules 13210  
for residential facilities that are ICFs/IID may differ from those 13211  
for other residential facilities. The rules shall establish and 13212  
specify the following: 13213

(1) Procedures and criteria for issuing and renewing 13214  
licenses, including procedures and criteria for determining the 13215  
length of the licensing period that the director must specify for 13216  
each license when it is issued or renewed; 13217

(2) Procedures and criteria for denying, refusing to renew, 13218  
terminating, and revoking licenses and for ordering the suspension 13219  
of admissions to a facility, placement of a monitor at a facility, 13220  
and the immediate removal of residents from a facility; 13221

(3) Fees for issuing and renewing licenses, which shall be 13222  
deposited into the program fee fund created under section 5123.033 13223  
of the Revised Code; 13224

(4) Procedures for surveying residential facilities;	13225
(5) Requirements for the training of residential facility personnel;	13226 13227
(6) Classifications for the various types of residential facilities;	13228 13229
(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;	13230 13231 13232 13233
(8) The maximum number of persons who may be served in a particular type of residential facility;	13234 13235
(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;	13236 13237
(10) Other standards for the operation of residential facilities and the services provided at residential facilities;	13238 13239
(11) Procedures for waiving any provision of any rule adopted under this section.	13240 13241
(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.	13242 13243 13244 13245 13246 13247 13248 13249 13250
In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the	13251 13252 13253 13254

facility; and all persons acting on behalf of, under the control 13255  
of, or in connection with the licensee. The licensee and all 13256  
persons on behalf of, under the control of, or in connection with 13257  
the licensee shall cooperate with the director or the director's 13258  
designee in conducting the survey. 13259

Following each survey, unless the director initiates a 13260  
license revocation proceeding, the director or the director's 13261  
designee shall provide the licensee with a report listing any 13262  
deficiencies, specifying a timetable within which the licensee 13263  
shall submit a plan of correction describing how the deficiencies 13264  
will be corrected, and, when appropriate, specifying a timetable 13265  
within which the licensee must correct the deficiencies. After a 13266  
plan of correction is submitted, the director or the director's 13267  
designee shall approve or disapprove the plan. A copy of the 13268  
report and any approved plan of correction shall be provided to 13269  
any person who requests it. 13270

The director shall initiate disciplinary action against any 13271  
department employee who notifies or causes the notification to any 13272  
unauthorized person of an unannounced survey of a residential 13273  
facility by an authorized representative of the department. 13274

(J) In addition to any other information which may be 13275  
required of applicants for a license pursuant to this section, the 13276  
director shall require each applicant to provide a copy of an 13277  
approved plan for a proposed residential facility pursuant to 13278  
section 5123.042 of the Revised Code. This division does not apply 13279  
to renewal of a license or to an applicant for an initial or 13280  
modified license who meets the requirements of section 5123.197 of 13281  
the Revised Code. 13282

(K) A licensee shall notify the owner of the building in 13283  
which the licensee's residential facility is located of any 13284  
significant change in the identity of the licensee or management 13285  
contractor before the effective date of the change if the licensee 13286

is not the owner of the building. 13287

Pursuant to rules which shall be adopted in accordance with 13288  
Chapter 119. of the Revised Code, the director may require 13289  
notification to the department of any significant change in the 13290  
ownership of a residential facility or in the identity of the 13291  
licensee or management contractor. If the director determines that 13292  
a significant change of ownership is proposed, the director shall 13293  
consider the proposed change to be an application for development 13294  
by a new operator pursuant to section 5123.042 of the Revised Code 13295  
and shall advise the applicant within sixty days of the 13296  
notification that the current license shall continue in effect or 13297  
a new license will be required pursuant to this section. If the 13298  
director requires a new license, the director shall permit the 13299  
facility to continue to operate under the current license until 13300  
the new license is issued, unless the current license is revoked, 13301  
refused to be renewed, or terminated in accordance with Chapter 13302  
119. of the Revised Code. 13303

(L) A county board of developmental disabilities and any 13304  
interested person may file complaints alleging violations of 13305  
statute or department rule relating to residential facilities with 13306  
the department. All complaints shall be in writing and shall state 13307  
the facts constituting the basis of the allegation. The department 13308  
shall not reveal the source of any complaint unless the 13309  
complainant agrees in writing to waive the right to 13310  
confidentiality or until so ordered by a court of competent 13311  
jurisdiction. 13312

The department shall adopt rules in accordance with Chapter 13313  
119. of the Revised Code establishing procedures for the receipt, 13314  
referral, investigation, and disposition of complaints filed with 13315  
the department under this division. 13316

(M) The department shall establish procedures for the 13317  
notification of interested parties of the transfer or interim care 13318

of residents from residential facilities that are closing or are 13319  
losing their license. 13320

(N) Before issuing a license under this section to a 13321  
residential facility that will accommodate at any time more than 13322  
one ~~mentally retarded or developmentally disabled~~ individual with 13323  
a developmental disability, the director shall, by first class 13324  
mail, notify the following: 13325

(1) If the facility will be located in a municipal 13326  
corporation, the clerk of the legislative authority of the 13327  
municipal corporation; 13328

(2) If the facility will be located in unincorporated 13329  
territory, the clerk of the appropriate board of county 13330  
commissioners and the fiscal officer of the appropriate board of 13331  
township trustees. 13332

The director shall not issue the license for ten days after 13333  
mailing the notice, excluding Saturdays, Sundays, and legal 13334  
holidays, in order to give the notified local officials time in 13335  
which to comment on the proposed issuance. 13336

Any legislative authority of a municipal corporation, board 13337  
of county commissioners, or board of township trustees that 13338  
receives notice under this division of the proposed issuance of a 13339  
license for a residential facility may comment on it in writing to 13340  
the director within ten days after the director mailed the notice, 13341  
excluding Saturdays, Sundays, and legal holidays. If the director 13342  
receives written comments from any notified officials within the 13343  
specified time, the director shall make written findings 13344  
concerning the comments and the director's decision on the 13345  
issuance of the license. If the director does not receive written 13346  
comments from any notified local officials within the specified 13347  
time, the director shall continue the process for issuance of the 13348  
license. 13349

(O) Any person may operate a licensed residential facility 13350  
that provides room and board, personal care, habilitation 13351  
services, and supervision in a family setting for at least six but 13352  
not more than eight persons with ~~mental retardation or a~~ 13353  
developmental ~~disability~~ disabilities as a permitted use in any 13354  
residential district or zone, including any single-family 13355  
residential district or zone, of any political subdivision. These 13356  
residential facilities may be required to comply with area, 13357  
height, yard, and architectural compatibility requirements that 13358  
are uniformly imposed upon all single-family residences within the 13359  
district or zone. 13360

(P) Any person may operate a licensed residential facility 13361  
that provides room and board, personal care, habilitation 13362  
services, and supervision in a family setting for at least nine 13363  
but not more than sixteen persons with ~~mental retardation or a~~ 13364  
developmental ~~disability~~ disabilities as a permitted use in any 13365  
multiple-family residential district or zone of any political 13366  
subdivision, except that a political subdivision that has enacted 13367  
a zoning ordinance or resolution establishing planned unit 13368  
development districts may exclude these residential facilities 13369  
from those districts, and a political subdivision that has enacted 13370  
a zoning ordinance or resolution may regulate these residential 13371  
facilities in multiple-family residential districts or zones as a 13372  
conditionally permitted use or special exception, in either case, 13373  
under reasonable and specific standards and conditions set out in 13374  
the zoning ordinance or resolution to: 13375

(1) Require the architectural design and site layout of the 13376  
residential facility and the location, nature, and height of any 13377  
walls, screens, and fences to be compatible with adjoining land 13378  
uses and the residential character of the neighborhood; 13379

(2) Require compliance with yard, parking, and sign 13380  
regulation; 13381

(3) Limit excessive concentration of these residential facilities.	13382 13383
(Q) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.	13384 13385 13386 13387
(R) Divisions (O) and (P) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.	13388 13389 13390 13391 13392 13393
(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:	13394 13395 13396
(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.	13397 13398 13399 13400 13401 13402
(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.	13403 13404 13405
(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.	13406 13407 13408 13409 13410
(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred	13411 13412

fifty days. 13413

(4) The director shall adopt rules in accordance with Chapter 13414  
119. of the Revised Code as the director considers necessary to 13415  
administer the issuance of interim licenses. 13416

(T) Notwithstanding rules adopted pursuant to this section 13417  
establishing the maximum number of persons who may be served in a 13418  
particular type of residential facility, a residential facility 13419  
shall be permitted to serve the same number of persons being 13420  
served by the facility on the effective date of the rules or the 13421  
number of persons for which the facility is authorized pursuant to 13422  
a current application for a certificate of need with a letter of 13423  
support from the department of developmental disabilities and 13424  
which is in the review process prior to April 4, 1986. 13425

(U) The director or the director's designee may enter at any 13426  
time, for purposes of investigation, any home, facility, or other 13427  
structure that has been reported to the director or that the 13428  
director has reasonable cause to believe is being operated as a 13429  
residential facility without a license issued under this section. 13430

The director may petition the court of common pleas of the 13431  
county in which an unlicensed residential facility is located for 13432  
an order enjoining the person or governmental agency operating the 13433  
facility from continuing to operate without a license. The court 13434  
may grant the injunction on a showing that the person or 13435  
governmental agency named in the petition is operating a 13436  
residential facility without a license. The court may grant the 13437  
injunction, regardless of whether the residential facility meets 13438  
the requirements for receiving a license under this section. 13439

**Sec. 5123.196.** (A) Except as provided in division (E) of this 13440  
section, the director of developmental disabilities shall not 13441  
issue a license under section 5123.19 of the Revised Code on or 13442  
after July 1, 2003, if issuance will result in there being more 13443

beds in all residential facilities licensed under that section 13444  
than is permitted under division (B) of this section. 13445

(B) The maximum number of beds for the purpose of division 13446  
(A) of this section shall not exceed ten thousand eight hundred 13447  
thirty-eight minus, except as provided in division (C) of this 13448  
section, both of the following: 13449

(1) The number of such beds that cease to be residential 13450  
facility beds on or after July 1, 2003, because a residential 13451  
facility license is revoked, terminated, or not renewed for any 13452  
reason or is surrendered in accordance with section 5123.19 of the 13453  
Revised Code; 13454

(2) The number of such beds for which a licensee voluntarily 13455  
converts to use for supported living on or after July 1, 2003. 13456

(C) The director is not required to reduce the maximum number 13457  
of beds pursuant to division (B) of this section by a bed that 13458  
ceases to be a residential facility bed if the director determines 13459  
that the bed is needed to provide services to an individual with 13460  
~~mental retardation~~ or a developmental disability who resided in 13461  
the residential facility in which the bed was located. 13462

(D) The director shall maintain an up-to-date written record 13463  
of the maximum number of residential facility beds provided for by 13464  
division (B) of this section. 13465

(E) The director may issue an interim license under division 13466  
(S) of section 5123.19 of the Revised Code and issue, pursuant to 13467  
rules adopted under division (H)(11) of that section, a waiver 13468  
allowing a residential facility to admit more residents than the 13469  
facility is licensed to admit regardless of whether the interim 13470  
license or waiver will result in there being more beds in all 13471  
residential facilities licensed under that section than is 13472  
permitted under division (B) of this section. 13473

**Sec. 5123.20.** No person or government agency shall operate a residential facility or receive a ~~mentally retarded or developmentally disabled~~ person with a developmental disability as a resident of a residential facility unless the facility is licensed under section 5123.19 of the Revised Code, and no person or governmental agency shall operate a respite care home or receive a ~~mentally retarded or developmentally disabled~~ person with a developmental disability in a respite care home unless the home is certified under section 5126.05 of the Revised Code.

**Sec. 5123.27.** The director of developmental disabilities may accept, hold, and administer in trust on behalf of the state, if it is for the public interest, any grant, devise, gift, or bequest of money or property made to the state for the use or benefit of any institution under the jurisdiction of the department of developmental disabilities or for the use and benefit of persons with ~~mental retardation or a developmental disability~~ disabilities under the control of the department. If the trust so provides, the money or property may be used for any work which the department is authorized to undertake.

The department shall keep such gift, grant, devise, or bequest as a distinct property or fund and, if it is in money, shall invest it in the manner provided by law. The department may deposit in a proper trust company or savings bank any money left in trust during a specified life or lives and shall adopt rules governing the deposit, transfer, withdrawal, or investment of the money and the income from it.

The department shall, in the manner prescribed by the director of budget and management pursuant to section 126.21 of the Revised Code, account for all money or property received or expended under this section. The records, together with a statement certified by the depository showing the money deposited

there to the credit of the trust, shall be open to public 13505  
inspection. The director of budget and management may require the 13506  
department to file a report with the director on any particular 13507  
portion, or the whole, of any trust property received or expended 13508  
by it. 13509

The department shall, upon the expiration of any trust 13510  
according to its terms, dispose of the money or property held 13511  
under the trust in the manner provided in the instrument creating 13512  
the trust. If the instrument creating the trust failed to make any 13513  
terms of disposition, or if no trust was in evidence, the decedent 13514  
resident's money, saving or commercial deposits, dividends or 13515  
distributions, bonds, or any other interest-bearing debt 13516  
certificate or stamp issued by the United States government shall 13517  
escheat to the state. All such unclaimed intangible personal 13518  
property of a former resident shall be retained by the managing 13519  
officer in such institution for the period of one year, during 13520  
which time every possible effort shall be made to find the former 13521  
resident or the former resident's legal representative. 13522

If after a period of one year from the time the resident has 13523  
left the institution or has died, the managing officer has been 13524  
unable to locate the person or the person's legal representative, 13525  
then, upon proper notice of that fact, the director shall at that 13526  
time formulate in writing a method of disposition on the minutes 13527  
of the department authorizing the managing officer to convert such 13528  
intangible personal property to cash to be paid into the state 13529  
treasury to the credit of the general revenue fund. 13530

The department shall include in its annual report a statement 13531  
of all such money and property and the terms and conditions 13532  
relating to them. 13533

**Sec. 5123.34.** This chapter attempts to do all of the 13534  
following: 13535

(A) Provide humane and scientific treatment and care and the highest attainable degree of individual development for persons with ~~mental retardation or a developmental disability~~ disabilities;

(B) Promote the study of the causes of ~~mental retardation and~~ developmental disabilities, with a view to ultimate prevention;

(C) Secure by uniform and systematic management the highest attainable degree of economy in the administration of the institutions under the control of the department of developmental disabilities.

Sections 5123.02 to 5123.04, 5123.042, 5123.043, 5123.10, 5123.21, 5123.221, 5123.25, and 5123.31 of the Revised Code shall be liberally construed to attain these purposes.

**Sec. 5123.351.** The director of developmental disabilities, with respect to the eligibility for state reimbursement of expenses incurred by facilities and programs established and operated under Chapter 5126. of the Revised Code for persons with ~~mental retardation or a developmental disability~~ disabilities, shall do all of the following:

(A) Make rules that may be necessary to carry out the purposes of Chapter 5126. and sections 5123.35, 5123.351, and 5123.36 of the Revised Code;

(B) Define minimum standards for qualifications of personnel, professional services, and in-service training and educational leave programs;

(C) Review and evaluate community programs and make recommendations for needed improvements to county boards of developmental disabilities and to program directors;

(D) Withhold state reimbursement, in whole or in part, from any county or combination of counties for failure to comply with

Chapter 5126. or section 5123.35 or 5123.351 of the Revised Code 13566  
or rules of the department of developmental disabilities; 13567

(E) Withhold state funds from an agency, corporation, or 13568  
association denying or rendering service on the basis of race, 13569  
color, sex, religion, ancestry, national origin, disability as 13570  
defined in section 4112.01 of the Revised Code, or inability to 13571  
pay; 13572

(F) Provide consultative staff service to communities to 13573  
assist in ascertaining needs and in planning and establishing 13574  
programs. 13575

**Sec. 5123.36.** (A) To the extent funds are available and on 13576  
application by a county board of developmental disabilities or 13577  
private nonprofit agency incorporated to provide ~~mental~~ 13578  
~~retardation~~ or developmental disability services, the director of 13579  
developmental disabilities may enter into an agreement with the 13580  
county board or agency to assist the county board or agency with a 13581  
~~mental retardation~~ or developmental disability construction 13582  
project. Except as provided by division (B) of this section, the 13583  
director may provide up to ninety per cent of the total project 13584  
cost where circumstances warrant. The director may, where 13585  
circumstances warrant, use existing facilities or other in-kind 13586  
match for the local share of the communities' share of the cost. 13587

(B) Upon the recommendation of the director, for projects of 13588  
the highest priority of the department of developmental 13589  
disabilities, the controlling board may authorize the director to 13590  
provide more than ninety per cent of the total cost of a project 13591  
under this section. 13592

(C) A county board is eligible for funds under this section 13593  
for a project bid on or after January 1, 1992, under either 13594  
section 153.07 or 307.86 of the Revised Code, as long as all other 13595  
applicable requirements were followed. 13596

(D) A private nonprofit agency that receives funds pursuant 13597  
to this section for the construction of a single-family home, 13598  
including, where appropriate, the acquisition and installation of 13599  
a single-family home fabricated in an off-site facility, is not 13600  
subject to the requirements of Chapter 153. of the Revised Code 13601  
with respect to the construction project, notwithstanding any 13602  
provision of that chapter to the contrary. 13603

(E) The director may not assist a project under this section 13604  
unless the controlling board or director of budget and management 13605  
also approves the project pursuant to section 126.14 of the 13606  
Revised Code. 13607

**Sec. 5123.37.** A county board of developmental disabilities or 13608  
private, nonprofit agency that receives state funds pursuant to an 13609  
agreement with the director of developmental disabilities under 13610  
section 5123.36 of the Revised Code to acquire a facility may 13611  
apply to the director for approval to sell the facility before the 13612  
terms of the agreement expire for the purpose of acquiring a 13613  
replacement facility to be used to provide ~~mental retardation or~~ 13614  
developmental disability services to individuals the county board 13615  
or agency serves. The application shall be made on a form the 13616  
director shall prescribe. The county board or agency shall include 13617  
in the application the specific purpose for which the replacement 13618  
facility is to be used. The director may refuse to approve the 13619  
application if the director determines that any of the following 13620  
apply: 13621

(A) The application is incomplete or indicates that the 13622  
county board or agency is unable to purchase a replacement 13623  
facility. 13624

(B) The replacement facility would not be used to continue to 13625  
provide ~~mental retardation or~~ developmental disability services 13626  
that the director determines are appropriate for the individuals 13627

the county board or agency serves. 13628

(C) The county board or agency has failed to comply with a 13629  
provision of Chapter 5123. or 5126. of the Revised Code or a rule 13630  
adopted by the director. 13631

(D) Approving the application would be inconsistent with the 13632  
plans and priorities of the department of developmental 13633  
disabilities. 13634

**Sec. 5123.374.** (A) The director of developmental disabilities 13635  
may rescind approval of an application submitted under section 13636  
5123.37 of the Revised Code if either of the following occurs: 13637  
13638

(1) The county board of developmental disabilities or 13639  
private, nonprofit agency that submitted the application fails, on 13640  
or before the deadline or, if any, the last extended deadline 13641  
established under section 5123.372 of the Revised Code for the 13642  
county board or agency, to notify the director that the county 13643  
board or agency is ready to acquire the replacement facility. 13644

(2) The county board or agency at any time notifies the 13645  
director that the county board or agency no longer intends to 13646  
acquire a replacement facility. 13647

(B) If the director rescinds approval of an application, the 13648  
director shall use any funds the county board or agency paid to 13649  
the director under section 5123.371 of the Revised Code to assist 13650  
~~mental retardation or~~ developmental disabilities construction 13651  
projects under section 5123.36 of the Revised Code. 13652

**Sec. 5123.375.** The developmental disabilities community 13653  
capital replacement facilities fund is hereby created in the state 13654  
treasury. The director of developmental disabilities shall credit 13655  
all amounts paid to the director under section 5123.371 of the 13656  
Revised Code to the fund. The director shall use the money in the 13657

fund as follows: 13658

(A) To make payments to county boards of developmental 13659  
disabilities and private, nonprofit agencies pursuant to 13660  
agreements entered into under section 5123.373 of the Revised 13661  
Code; 13662

(B) To provide, pursuant to section 5123.374 of the Revised 13663  
Code, assistance for ~~mental retardation~~ or developmental 13664  
disabilities construction projects under section 5123.36 of the 13665  
Revised Code. 13666

**Sec. 5123.40.** There is hereby created in the state treasury 13667  
the services fund for individuals with ~~mental retardation and~~ 13668  
developmental disabilities. On the death of the beneficiary of a 13669  
trust created pursuant to section 5815.28 of the Revised Code, the 13670  
portion of the remaining assets of the trust specified in the 13671  
trust instrument shall be deposited to the credit of the fund. 13672

Money credited to the fund shall be used for individuals with 13673  
~~mental retardation and~~ developmental disabilities. In accordance 13674  
with Chapter 119. of the Revised Code, the department of 13675  
developmental disabilities may adopt any rules necessary to 13676  
implement this section. 13677

**Sec. 5123.41.** As used in this section and sections 5123.42 to 13678  
5123.47 of the Revised Code: 13679

(A) "Adult services" has the same meaning as in section 13680  
5126.01 of the Revised Code. 13681

(B) "Certified supported living provider" means a person or 13682  
government entity certified under section 5123.161 of the Revised 13683  
Code. 13684

(C) "Drug" has the same meaning as in section 4729.01 of the 13685  
Revised Code. 13686

(D) "Family support services" has the same meaning as in section 5126.01 of the Revised Code.	13687 13688
(E) "Health-related activities" means the following:	13689
(1) Taking vital signs;	13690
(2) Application of clean dressings that do not require health assessment;	13691 13692
(3) Basic measurement of bodily intake and output;	13693
(4) Oral suctioning;	13694
(5) Use of glucometers;	13695
(6) External urinary catheter care;	13696
(7) Emptying and replacing colostomy bags;	13697
(8) Collection of specimens by noninvasive means.	13698
(F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.	13699 13700 13701
(G) " <del>MR/DD</del> <u>Developmental disabilities</u> personnel" means the employees and the workers under contract who provide specialized services to individuals with <del>mental retardation and</del> developmental disabilities. " <del>MR/DD</del> <u>Developmental disabilities</u> personnel" includes those who provide the services as follows:	13702 13703 13704 13705 13706
(1) Through direct employment with the department of developmental disabilities or a county board of developmental disabilities;	13707 13708 13709
(2) Through an entity under contract with the department of developmental disabilities or a county board of developmental disabilities;	13710 13711 13712
(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities.	13713 13714 13715

(H) "Nursing delegation" means the process established in 13716  
rules adopted by the board of nursing pursuant to Chapter 4723. of 13717  
the Revised Code under which a registered nurse or licensed 13718  
practical nurse acting at the direction of a registered nurse 13719  
transfers the performance of a particular nursing activity or task 13720  
to another person who is not otherwise authorized to perform the 13721  
activity or task. 13722

(I) "Prescribed medication" means a drug that is to be 13723  
administered according to the instructions of a licensed health 13724  
professional authorized to prescribe drugs. 13725

(J) "Residential facility" means a facility licensed under 13726  
section 5123.19 of the Revised Code. 13727

(K) "Specialized services" has the same meaning as in section 13728  
5123.50 of the Revised Code. 13729

(L) "Tube feeding" means the provision of nutrition to an 13730  
individual through a gastrostomy tube or a jejunostomy tube. 13731

**Sec. 5123.42.** (A) Beginning nine months after March 31, 2003, 13732  
~~MR/DD~~ developmental disabilities personnel who are not 13733  
specifically authorized by other provisions of the Revised Code to 13734  
administer prescribed medications, perform health-related 13735  
activities, or perform tube feedings may do so pursuant to this 13736  
section as part of the specialized services the ~~MR/DD~~ 13737  
developmental disabilities personnel provide to individuals with 13738  
~~mental retardation and~~ developmental disabilities in the following 13739  
categories: 13740

(1) Recipients of early intervention, preschool, and 13741  
school-age services offered or provided pursuant to this chapter 13742  
or Chapter 5126. of the Revised Code; 13743

(2) Recipients of adult services offered or provided pursuant 13744  
to this chapter or Chapter 5126. of the Revised Code; 13745

(3) Recipients of family support services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	13746 13747
(4) Recipients of services from certified supported living providers, if the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	13748 13749 13750
(5) Recipients of residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals with <del>mental retardation and</del> developmental disabilities and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	13751 13752 13753 13754 13755 13756
(6) Recipients of services not included in divisions (A)(1) to (5) of this section that are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	13757 13758 13759
(7) Residents of a residential facility with five or fewer resident beds;	13760 13761
(8) Residents of a residential facility with at least six but not more than sixteen resident beds;	13762 13763
(9) Residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, if all of the following are the case:	13764 13765 13766
(a) The field trip is sponsored by the facility for purposes of complying with federal medicaid statutes and regulations, state medicaid statutes and rules, or other federal or state statutes, regulations, or rules that require the facility to provide habilitation, community integration, or normalization services to its residents.	13767 13768 13769 13770 13771 13772
(b) Not more than ten field trip participants are residents who have health needs requiring the administration of prescribed medications, excluding participants who self-administer prescribed	13773 13774 13775

medications or receive assistance with self-administration of 13776  
prescribed medications. 13777

(c) The facility staffs the field trip with ~~MR/DD~~ 13778  
developmental disabilities personnel in such a manner that one 13779  
person will administer prescribed medications, perform 13780  
health-related activities, or perform tube feedings for not more 13781  
than four participants if one or more of those participants have 13782  
health needs requiring the person to administer prescribed 13783  
medications through a gastrostomy or jejunostomy tube. 13784

(d) According to the instructions of a health care 13785  
professional acting within the scope of the professional's 13786  
practice, the health needs of the participants who require 13787  
administration of prescribed medications by ~~MR/DD~~ developmental 13788  
disabilities personnel are such that the participants must receive 13789  
the medications during the field trip to avoid jeopardizing their 13790  
health and safety. 13791

(B)(1) In the case of recipients of early intervention, 13792  
preschool, and school-age services, as specified in division 13793  
(A)(1) of this section, all of the following apply: 13794

(a) With nursing delegation, ~~MR/DD~~ developmental disabilities 13795  
personnel may perform health-related activities. 13796

(b) With nursing delegation, ~~MR/DD~~ developmental disabilities 13797  
personnel may administer oral and topical prescribed medications. 13798

(c) With nursing delegation, ~~MR/DD~~ developmental disabilities 13799  
personnel may administer prescribed medications through 13800  
gastrostomy and jejunostomy tubes, if the tubes being used are 13801  
stable and labeled. 13802

(d) With nursing delegation, ~~MR/DD~~ developmental disabilities 13803  
personnel may perform routine tube feedings, if the gastrostomy 13804  
and jejunostomy tubes being used are stable and labeled. 13805

(2) In the case of recipients of adult services, as specified	13806
in division (A)(2) of this section, all of the following apply:	13807
(a) With nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u>	13808
personnel may perform health-related activities.	13809
(b) With nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u>	13810
personnel may administer oral and topical prescribed medications.	13811
(c) With nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u>	13812
personnel may administer prescribed medications through	13813
gastrostomy and jejunostomy tubes, if the tubes being used are	13814
stable and labeled.	13815
(d) With nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u>	13816
personnel may perform routine tube feedings, if the gastrostomy	13817
and jejunostomy tubes being used are stable and labeled.	13818
(3) In the case of recipients of family support services, as	13819
specified in division (A)(3) of this section, all of the following	13820
apply:	13821
(a) Without nursing delegation, <del>MR/DD</del> <u>developmental</u>	13822
<u>disabilities</u> personnel may perform health-related activities.	13823
(b) Without nursing delegation, <del>MR/DD</del> <u>developmental</u>	13824
<u>disabilities</u> personnel may administer oral and topical prescribed	13825
medications.	13826
(c) With nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u>	13827
personnel may administer prescribed medications through	13828
gastrostomy and jejunostomy tubes, if the tubes being used are	13829
stable and labeled.	13830
(d) With nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u>	13831
personnel may perform routine tube feedings, if the gastrostomy	13832
and jejunostomy tubes being used are stable and labeled.	13833
(e) With nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u>	13834
personnel may administer routine doses of insulin through	13835

subcutaneous injections and insulin pumps.	13836
(4) In the case of recipients of services from certified supported living providers, as specified in division (A)(4) of this section, all of the following apply:	13837 13838 13839
(a) Without nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u> personnel may perform health-related activities.	13840 13841
(b) Without nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u> personnel may administer oral and topical prescribed medications.	13842 13843 13844
(c) With nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u> personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.	13845 13846 13847 13848
(d) With nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u> personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.	13849 13850 13851
(e) With nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u> personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.	13852 13853 13854
(5) In the case of recipients of residential support services from certified home and community-based services providers, as specified in division (A)(5) of this section, all of the following apply:	13855 13856 13857 13858
(a) Without nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u> personnel may perform health-related activities.	13859 13860
(b) Without nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u> personnel may administer oral and topical prescribed medications.	13861 13862 13863
(c) With nursing delegation, <del>MR/DD</del> <u>developmental disabilities</u> personnel may administer prescribed medications through	13864 13865

gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled. 13866  
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(d) With nursing delegation, ~~MR/DD~~ developmental disabilities personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled. 13868  
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(e) With nursing delegation, ~~MR/DD~~ developmental disabilities personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps. 13871  
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(6) In the case of recipients of services not included in divisions (A)(1) to (5) of this section, as specified in division (A)(6) of this section, all of the following apply: 13874  
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(a) With nursing delegation, ~~MR/DD~~ developmental disabilities personnel may perform health-related activities. 13877  
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(b) With nursing delegation, ~~MR/DD~~ developmental disabilities personnel may administer oral and topical prescribed medications. 13879  
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(c) With nursing delegation, ~~MR/DD~~ developmental disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled. 13881  
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13883  
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(d) With nursing delegation, ~~MR/DD~~ developmental disabilities personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled. 13885  
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(7) In the case of residents of a residential facility with five or fewer beds, as specified in division (A)(7) of this section, all of the following apply: 13888  
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13890

(a) Without nursing delegation, ~~MR/DD~~ developmental disabilities personnel may perform health-related activities. 13891  
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(b) Without nursing delegation, ~~MR/DD~~ developmental disabilities personnel may administer oral and topical prescribed medications. 13893  
13894  
13895

(c) With nursing delegation, ~~MR/DD~~ developmental disabilities 13896  
personnel may administer prescribed medications through 13897  
gastrostomy and jejunostomy tubes, if the tubes being used are 13898  
stable and labeled. 13899

(d) With nursing delegation, ~~MR/DD~~ developmental disabilities 13900  
personnel may perform routine tube feedings, if the gastrostomy 13901  
and jejunostomy tubes being used are stable and labeled. 13902

(e) With nursing delegation, ~~MR/DD~~ developmental disabilities 13903  
personnel may administer routine doses of insulin through 13904  
subcutaneous injections and insulin pumps. 13905

(8) In the case of residents of a residential facility with 13906  
at least six but not more than sixteen resident beds, as specified 13907  
in division (A)(8) of this section, all of the following apply: 13908

(a) With nursing delegation, ~~MR/DD~~ developmental disabilities 13909  
personnel may perform health-related activities. 13910

(b) With nursing delegation, ~~MR/DD~~ developmental disabilities 13911  
personnel may administer oral and topical prescribed medications. 13912

(c) With nursing delegation, ~~MR/DD~~ developmental disabilities 13913  
personnel may administer prescribed medications through 13914  
gastrostomy and jejunostomy tubes, if the tubes being used are 13915  
stable and labeled. 13916

(d) With nursing delegation, ~~MR/DD~~ developmental disabilities 13917  
personnel may perform routine tube feedings, if the gastrostomy 13918  
and jejunostomy tubes being used are stable and labeled. 13919

(9) In the case of residents of a residential facility with 13920  
seventeen or more resident beds who are on a field trip from the 13921  
facility, all of the following apply during the field trip, 13922  
subject to the limitations specified in division (A)(9) of this 13923  
section: 13924

(a) With nursing delegation, ~~MR/DD~~ developmental disabilities 13925

personnel may perform health-related activities. 13926

(b) With nursing delegation, ~~MR/DD~~ developmental disabilities 13927  
personnel may administer oral and topical prescribed medications. 13928

(c) With nursing delegation, ~~MR/DD~~ developmental disabilities 13929  
personnel may administer prescribed medications through 13930  
gastrostomy and jejunostomy tubes, if the tubes being used are 13931  
stable and labeled. 13932

(d) With nursing delegation, ~~MR/DD~~ developmental disabilities 13933  
personnel may perform routine tube feedings, if the gastrostomy 13934  
and jejunostomy tubes being used are stable and labeled. 13935

(C) The authority of ~~MR/DD~~ developmental disabilities 13936  
personnel to administer prescribed medications, perform 13937  
health-related activities, and perform tube feedings pursuant to 13938  
this section is subject to all of the following: 13939

(1) To administer prescribed medications, perform 13940  
health-related activities, or perform tube feedings for 13941  
individuals in the categories specified under divisions (A)(1) to 13942  
(8) of this section, ~~MR/DD~~ developmental disabilities personnel 13943  
shall obtain the certificate or certificates required by the 13944  
department of developmental disabilities and issued under section 13945  
5123.45 of the Revised Code. ~~MR/DD~~ Developmental disabilities 13946  
personnel shall administer prescribed medication, perform 13947  
health-related activities, and perform tube feedings only as 13948  
authorized by the certificate or certificates held. 13949

(2) To administer prescribed medications, perform 13950  
health-related activities, or perform tube feedings for 13951  
individuals in the category specified under division (A)(9) of 13952  
this section, ~~MR/DD~~ developmental disabilities personnel shall 13953  
successfully complete the training course or courses developed 13954  
under section 5123.43 of the Revised Code for the ~~MR/DD~~ 13955  
developmental disabilities personnel. ~~MR/DD~~ Developmental 13956

disabilities personnel shall administer prescribed medication, 13957  
perform health-related activities, and perform tube feedings only 13958  
as authorized by the training completed. 13959

(3) If nursing delegation is required under division (B) of 13960  
this section, ~~MR/DD~~ developmental disabilities personnel shall not 13961  
act without nursing delegation or in a manner that is inconsistent 13962  
with the delegation. 13963

(4) The employer of ~~MR/DD~~ developmental disabilities 13964  
personnel shall ensure that ~~MR/DD~~ developmental disabilities 13965  
personnel have been trained specifically with respect to each 13966  
individual for whom they administer prescribed medications, 13967  
perform health-related activities, or perform tube feedings. ~~MR/DD~~ 13968  
Developmental disabilities personnel shall not administer 13969  
prescribed medications, perform health-related activities, or 13970  
perform tube feedings for any individual for whom they have not 13971  
been specifically trained. 13972

(5) If the employer of ~~MR/DD~~ developmental disabilities 13973  
personnel believes that ~~MR/DD~~ developmental disabilities personnel 13974  
have not or will not safely administer prescribed medications, 13975  
perform health-related activities, or perform tube feedings, the 13976  
employer shall prohibit the action from continuing or commencing. 13977  
~~MR/DD~~ Developmental disabilities personnel shall not engage in the 13978  
action or actions subject to an employer's prohibition. 13979

(D) In accordance with section 5123.46 of the Revised Code, 13980  
the department of developmental disabilities shall adopt rules 13981  
governing its implementation of this section. The rules shall 13982  
include the following: 13983

(1) Requirements for documentation of the administration of 13984  
prescribed medications, performance of health-related activities, 13985  
and performance of tube feedings by ~~MR/DD~~ developmental 13986  
disabilities personnel pursuant to the authority granted under 13987

this section; 13988

(2) Procedures for reporting errors that occur in the 13989  
administration of prescribed medications, performance of 13990  
health-related activities, and performance of tube feedings by 13991  
~~MR/DD~~ developmental disabilities personnel pursuant to the 13992  
authority granted under this section; 13993

(3) Other standards and procedures the department considers 13994  
necessary for implementation of this section. 13995

**Sec. 5123.421.** The department of developmental disabilities 13996  
shall accept complaints from any person or government entity 13997  
regarding the administration of prescribed medications, 13998  
performance of health-related activities, and performance of tube 13999  
feedings by ~~MR/DD~~ developmental disabilities personnel pursuant to 14000  
the authority granted under section 5123.42 of the Revised Code. 14001  
The department shall conduct investigations of complaints as it 14002  
considers appropriate. The department shall adopt rules in 14003  
accordance with section 5123.46 of the Revised Code establishing 14004  
procedures for accepting complaints and conducting investigations 14005  
under this section. 14006

**Sec. 5123.422.** ~~MR/DD~~ Developmental disabilities personnel who 14007  
administer prescribed medications, perform health-related 14008  
activities, or perform tube feedings pursuant to the authority 14009  
granted under section 5123.42 of the Revised Code are not liable 14010  
for any injury caused by administering the medications, performing 14011  
the health-related activities, or performing the tube feedings, if 14012  
both of the following apply: 14013

(A) The ~~MR/DD~~ developmental disabilities personnel acted in 14014  
accordance with the methods taught in training completed in 14015  
compliance with section 5123.42 of the Revised Code; 14016

(B) The ~~MR/DD~~ developmental disabilities personnel did not 14017

act in a manner that constitutes wanton or reckless misconduct. 14018

**Sec. 5123.43.** (A) The department of developmental 14019  
disabilities shall develop courses for the training of ~~MR/DD~~ 14020  
developmental disabilities personnel in the administration of 14021  
prescribed medications, performance of health-related activities, 14022  
and performance of tube feedings pursuant to the authority granted 14023  
under section 5123.42 of the Revised Code. The department may 14024  
develop separate or combined training courses for the 14025  
administration of prescribed medications, performance of 14026  
health-related activities, and performance of tube feedings. 14027  
Training in the administration of prescribed medications through 14028  
gastrostomy and jejunostomy tubes may be included in a course 14029  
providing training in tube feedings. Training in the 14030  
administration of insulin may be developed as a separate course or 14031  
included in a course providing training in the administration of 14032  
other prescribed medications. 14033

(B)(1) The department shall adopt rules in accordance with 14034  
section 5123.46 of the Revised Code that specify the content and 14035  
length of the training courses developed under this section. The 14036  
rules may include any other standards the department considers 14037  
necessary for the training courses. 14038

(2) In adopting rules that specify the content of a training 14039  
course or part of a training course that trains ~~MR/DD~~ 14040  
developmental disabilities personnel in the administration of 14041  
prescribed medications, the department shall ensure that the 14042  
content includes all of the following: 14043

- (a) Infection control and universal precautions; 14044
- (b) Correct and safe practices, procedures, and techniques 14045  
for administering prescribed medication; 14046
- (c) Assessment of drug reaction, including known side 14047

effects, interactions, and the proper course of action if a side effect occurs; 14048  
14049

(d) The requirements for documentation of medications administered to each individual; 14050  
14051

(e) The requirements for documentation and notification of medication errors; 14052  
14053

(f) Information regarding the proper storage and care of medications; 14054  
14055

(g) Information about proper receipt of prescriptions and transcription of prescriptions into an individual's medication administration record, except when the ~~MR/DD~~ developmental disabilities personnel being trained will administer prescribed medications only to residents of a residential facility with seventeen or more resident beds who are participating in a field trip, as specified in division (A)(9) of section 5123.42 of the Revised Code; 14056  
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(h) Course completion standards that require successful demonstration of proficiency in administering prescribed medications; 14064  
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(i) Any other material or course completion standards that the department considers relevant to the administration of prescribed medications by ~~MR/DD~~ developmental disabilities personnel. 14067  
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**Sec. 5123.44.** The department of developmental disabilities shall develop courses that train registered nurses to provide the ~~MR/DD~~ developmental disabilities personnel training courses developed under section 5123.43 of the Revised Code. The department may develop courses that train registered nurses to provide all of the courses developed under section 5123.43 of the Revised Code or any one or more of the courses developed under 14071  
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that section. 14078

The department shall adopt rules in accordance with section 14079  
5123.46 of the Revised Code that specify the content and length of 14080  
the training courses. The rules may include any other standards 14081  
the department considers necessary for the training courses. 14082

**Sec. 5123.441.** (A) Each ~~MR/DD~~ developmental disabilities 14083  
personnel training course developed under section 5123.43 of the 14084  
Revised Code shall be provided by a registered nurse. 14085

(B)(1) Except as provided in division (B)(2) of this section, 14086  
to provide a training course or courses to ~~MR/DD~~ developmental 14087  
disabilities personnel, a registered nurse shall obtain the 14088  
certificate or certificates required by the department and issued 14089  
under section 5123.45 of the Revised Code. The registered nurse 14090  
shall provide only the training course or courses authorized by 14091  
the certificate or certificates the registered nurse holds. 14092

(2) A registered nurse is not required to obtain a 14093  
certificate to provide a training course to ~~MR/DD~~ developmental 14094  
disabilities personnel if the only ~~MR/DD~~ developmental 14095  
disabilities personnel to whom the course or courses are provided 14096  
are those who administer prescribed medications, perform 14097  
health-related activities, or perform tube feedings for residents 14098  
of a residential facility with seventeen or more resident beds who 14099  
are on a field trip from the facility, as specified in division 14100  
(A)(9) of section 5123.42 of the Revised Code. To provide the 14101  
training course or courses, the registered nurse shall 14102  
successfully complete the training required by the department 14103  
through the courses it develops under section 5123.44 of the 14104  
Revised Code. The registered nurse shall provide only the training 14105  
courses authorized by the training the registered nurse completes. 14106

**Sec. 5123.45.** (A) The department of developmental 14107

disabilities shall establish a program under which the department 14108  
issues certificates to the following: 14109

(1) ~~MR/DD~~ Developmental disabilities personnel, for purposes 14110  
of meeting the requirement of division (C)(1) of section 5123.42 14111  
of the Revised Code to obtain a certificate or certificates to 14112  
administer prescribed medications, perform health-related 14113  
activities, and perform tube feedings; 14114

(2) Registered nurses, for purposes of meeting the 14115  
requirement of division (B)(1) of section 5123.441 of the Revised 14116  
Code to obtain a certificate or certificates to provide the ~~MR/DD~~ 14117  
developmental disabilities personnel training courses developed 14118  
under section 5123.43 of the Revised Code. 14119

(B)(1) Except as provided in division (B)(2) of this section, 14120  
to receive a certificate issued under this section, ~~MR/DD~~ 14121  
developmental disabilities personnel and registered nurses shall 14122  
successfully complete the applicable training course or courses 14123  
and meet all other applicable requirements established in rules 14124  
adopted pursuant to this section. The department shall issue the 14125  
appropriate certificate or certificates to ~~MR/DD~~ developmental 14126  
disabilities personnel and registered nurses who meet the 14127  
requirements for the certificate or certificates. 14128

(2) The department shall include provisions in the program 14129  
for issuing certificates to ~~MR/DD~~ developmental disabilities 14130  
personnel and registered nurses who were required to be included 14131  
in the certificate program pursuant to division (B)(2) of this 14132  
section as that division existed immediately before ~~the effective~~ 14133  
~~date of this amendment~~ September 29, 2011. ~~MR/DD~~ Developmental 14134  
disabilities personnel who receive a certificate under division 14135  
(B)(2) of this section shall not administer insulin until they 14136  
have been trained by a registered nurse who has received a 14137  
certificate under this section that allows the registered nurse to 14138  
provide training courses to ~~MR/DD~~ developmental disabilities 14139

personnel in the administration of insulin. A registered nurse who 14140  
receives a certificate under division (B)(2) of this section shall 14141  
not provide training courses to ~~MR/DD~~ developmental disabilities 14142  
personnel in the administration of insulin unless the registered 14143  
nurse completes a course developed under section 5123.44 of the 14144  
Revised Code that enables the registered nurse to receive a 14145  
certificate to provide training courses to ~~MR/DD~~ developmental 14146  
disabilities personnel in the administration of insulin. 14147

(C) Certificates issued to ~~MR/DD~~ developmental disabilities 14148  
personnel are valid for one year and may be renewed. Certificates 14149  
issued to registered nurses are valid for two years and may be 14150  
renewed. 14151

To be eligible for renewal, ~~MR/DD~~ developmental disabilities 14152  
personnel and registered nurses shall meet the applicable 14153  
continued competency requirements and continuing education 14154  
requirements specified in rules adopted under division (D) of this 14155  
section. In the case of registered nurses, continuing nursing 14156  
education completed in compliance with the license renewal 14157  
requirements established under Chapter 4723. of the Revised Code 14158  
may be counted toward meeting the continuing education 14159  
requirements established in the rules adopted under division (D) 14160  
of this section. 14161

(D) In accordance with section 5123.46 of the Revised Code, 14162  
the department shall adopt rules that establish all of the 14163  
following: 14164

(1) Requirements that ~~MR/DD~~ developmental disabilities 14165  
personnel and registered nurses must meet to be eligible to take a 14166  
training course; 14167

(2) Standards that must be met to receive a certificate, 14168  
including requirements pertaining to an applicant's criminal 14169  
background; 14170

(3) Procedures to be followed in applying for a certificate 14171  
and issuing a certificate; 14172

(4) Standards and procedures for renewing a certificate, 14173  
including requirements for continuing education and, in the case 14174  
of ~~MR/DD~~ developmental disabilities personnel who administer 14175  
prescribed medications, standards that require successful 14176  
demonstration of proficiency in administering prescribed 14177  
medications; 14178

(5) Standards and procedures for suspending or revoking a 14179  
certificate; 14180

(6) Standards and procedures for suspending a certificate 14181  
without a hearing pending the outcome of an investigation; 14182

(7) Any other standards or procedures the department 14183  
considers necessary to administer the certification program. 14184

**Sec. 5123.451.** The department of developmental disabilities 14185  
shall establish and maintain a registry that lists all ~~MR/DD~~ 14186  
developmental disabilities personnel and registered nurses holding 14187  
valid certificates issued under section 5123.45 of the Revised 14188  
Code. The registry shall specify the type of certificate held and 14189  
any limitations that apply to a certificate holder. The department 14190  
shall make the information in the registry available to the public 14191  
in computerized form or any other manner that provides continuous 14192  
access to the information in the registry. 14193

**Sec. 5123.47.** (A) As used in this section: 14194

(1) "In-home care" means the supportive services provided 14195  
within the home of an individual with ~~mental retardation~~ or a 14196  
developmental disability who receives funding for the services 14197  
through a county board of developmental disabilities, including 14198  
any recipient of residential services funded as home and 14199  
community-based services, family support services provided under 14200

section 5126.11 of the Revised Code, or supported living provided 14201  
in accordance with sections 5126.41 to 5126.47 of the Revised 14202  
Code. "In-home care" includes care that is provided outside an 14203  
individual's home in places incidental to the home, and while 14204  
traveling to places incidental to the home, except that "in-home 14205  
care" does not include care provided in the facilities of a county 14206  
board of developmental disabilities or care provided in schools. 14207

(2) "Parent" means either parent of a child, including an 14208  
adoptive parent but not a foster parent. 14209

(3) "Unlicensed in-home care worker" means an individual who 14210  
provides in-home care but is not a health care professional. 14211

(4) "Family member" means a parent, sibling, spouse, son, 14212  
daughter, grandparent, aunt, uncle, cousin, or guardian of the 14213  
individual with ~~mental retardation~~ or a developmental disability 14214  
if the individual with ~~mental retardation~~ or a developmental 14215  
~~disabilities~~ disability lives with the person and is dependent on 14216  
the person to the extent that, if the supports were withdrawn, 14217  
another living arrangement would have to be found. 14218

(5) "Health care professional" means any of the following: 14219

(a) A dentist who holds a valid license issued under Chapter 14220  
4715. of the Revised Code; 14221

(b) A registered or licensed practical nurse who holds a 14222  
valid license issued under Chapter 4723. of the Revised Code; 14223

(c) An optometrist who holds a valid license issued under 14224  
Chapter 4725. of the Revised Code; 14225

(d) A pharmacist who holds a valid license issued under 14226  
Chapter 4729. of the Revised Code; 14227

(e) A person who holds a valid certificate issued under 14228  
Chapter 4731. of the Revised Code to practice medicine and 14229  
surgery, osteopathic medicine and surgery, podiatric medicine and 14230

surgery, or a limited brand of medicine; 14231

(f) A physician assistant who holds a valid certificate 14232  
issued under Chapter 4730. of the Revised Code; 14233

(g) An occupational therapist or occupational therapy 14234  
assistant or a physical therapist or physical therapist assistant 14235  
who holds a valid license issued under Chapter 4755. of the 14236  
Revised Code; 14237

(h) A respiratory care professional who holds a valid license 14238  
issued under Chapter 4761. of the Revised Code. 14239

(6) "Health care task" means a task that is prescribed, 14240  
ordered, delegated, or otherwise directed by a health care 14241  
professional acting within the scope of the professional's 14242  
practice. 14243

(B) Except as provided in division (E) of this section, a 14244  
family member of an individual with ~~mental retardation~~ or a 14245  
developmental disability may authorize an unlicensed in-home care 14246  
worker to administer oral and topical prescribed medications or 14247  
perform other health care tasks as part of the in-home care the 14248  
worker provides to the individual, if all of the following apply: 14249

(1) The family member is the primary supervisor of the care. 14250

(2) The unlicensed in-home care worker has been selected by 14251  
the family member or the individual receiving care and is under 14252  
the direct supervision of the family member. 14253

(3) The unlicensed in-home care worker is providing the care 14254  
through an employment or other arrangement entered into directly 14255  
with the family member and is not otherwise employed by or under 14256  
contract with a person or government entity to provide services to 14257  
individuals with ~~mental retardation~~ and developmental 14258  
disabilities. 14259

(C) A family member shall obtain a prescription, if 14260

applicable, and written instructions from a health care professional for the care to be provided to the individual. The family member shall authorize the unlicensed in-home care worker to provide the care by preparing a written document granting the authority. The family member shall provide the unlicensed in-home care worker with appropriate training and written instructions in accordance with the instructions obtained from the health care professional.

(D) A family member who authorizes an unlicensed in-home care worker to administer oral and topical prescribed medications or perform other health care tasks retains full responsibility for the health and safety of the individual receiving the care and for ensuring that the worker provides the care appropriately and safely. No entity that funds or monitors the provision of in-home care may be held liable for the results of the care provided under this section by an unlicensed in-home care worker, including such entities as the county board of developmental disabilities and the department of developmental disabilities.

An unlicensed in-home care worker who is authorized under this section by a family member to provide care to an individual may not be held liable for any injury caused in providing the care, unless the worker provides the care in a manner that is not in accordance with the training and instructions received or the worker acts in a manner that constitutes wanton or reckless misconduct.

(E) A county board of developmental disabilities may evaluate the authority granted by a family member under this section to an unlicensed in-home care worker at any time it considers necessary and shall evaluate the authority on receipt of a complaint. If the board determines that a family member has acted in a manner that is inappropriate for the health and safety of the individual receiving the care, the authorization granted by the family member

to an unlicensed in-home care worker is void, and the family 14293  
member may not authorize other unlicensed in-home care workers to 14294  
provide the care. In making such a determination, the board shall 14295  
use appropriately licensed health care professionals and shall 14296  
provide the family member an opportunity to file a complaint under 14297  
section 5126.06 of the Revised Code. 14298

**Sec. 5123.50.** As used in sections 5123.50 to 5123.542 of the 14299  
Revised Code: 14300

(A) "Abuse" means all of the following: 14301

(1) The use of physical force that can reasonably be expected 14302  
to result in physical harm or serious physical harm; 14303

(2) Sexual abuse; 14304

(3) Verbal abuse. 14305

(B) "Misappropriation" means depriving, defrauding, or 14306  
otherwise obtaining the real or personal property of an individual 14307  
by any means prohibited by the Revised Code, including violations 14308  
of Chapter 2911. or 2913. of the Revised Code. 14309

(C) "~~MR/DD~~ Developmental disabilities employee" means all of 14310  
the following: 14311

(1) An employee of the department of developmental 14312  
disabilities; 14313

(2) An employee of a county board of developmental 14314  
disabilities; 14315

(3) An employee in a position that includes providing 14316  
specialized services to an individual with ~~mental retardation or~~ 14317  
~~another~~ a developmental disability; 14318

(4) An independent provider as defined in section 5123.16 of 14319  
the Revised Code. 14320

(D) "Neglect" means, when there is a duty to do so, failing 14321

to provide an individual with any treatment, care, goods, or 14322  
services that are necessary to maintain the health and safety of 14323  
the individual. 14324

(E) "Offense of violence" has the same meaning as in section 14325  
2901.01 of the Revised Code. 14326

(F) "Physical harm" and "serious physical harm" have the same 14327  
meanings as in section 2901.01 of the Revised Code. 14328

(G) "Prescribed medication" has the same meaning as in 14329  
section 5123.41 of the Revised Code. 14330

(H) "Sexual abuse" means unlawful sexual conduct or sexual 14331  
contact. 14332

(I) "Specialized services" means any program or service 14333  
designed and operated to serve primarily individuals with ~~mental~~ 14334  
~~retardation or a~~ developmental ~~disability~~ disabilities, including 14335  
a program or service provided by an entity licensed or certified 14336  
by the department of developmental disabilities. A program or 14337  
service available to the general public is not a specialized 14338  
service. 14339

(J) "Verbal abuse" means purposely using words to threaten, 14340  
coerce, intimidate, harass, or humiliate an individual. 14341

(K) "Sexual conduct," "sexual contact," and "spouse" have the 14342  
same meanings as in section 2907.01 of the Revised Code. 14343

**Sec. 5123.51.** (A) In addition to any other action required by 14344  
sections 5123.61 and 5126.31 of the Revised Code, the department 14345  
of developmental disabilities shall review each report the 14346  
department receives of abuse or neglect of an individual with 14347  
~~mental retardation or a~~ developmental disability or 14348  
misappropriation of an individual's property that includes an 14349  
allegation that ~~an MR/DD~~ a developmental disabilities employee 14350  
committed or was responsible for the abuse, neglect, or 14351

misappropriation. The department shall review a report it receives 14352  
from a public children services agency only after the agency 14353  
completes its investigation pursuant to section 2151.421 of the 14354  
Revised Code. On receipt of a notice under section 2930.061 or 14355  
5123.541 of the Revised Code, the department shall review the 14356  
notice. 14357

(B) The department shall do both of the following: 14358

(1) Investigate the allegation or adopt the findings of an 14359  
investigation or review of the allegation conducted by another 14360  
person or government entity and determine whether there is a 14361  
reasonable basis for the allegation; 14362

(2) If the department determines that there is a reasonable 14363  
basis for the allegation, conduct an adjudication pursuant to 14364  
Chapter 119. of the Revised Code. 14365

(C)(1) The department shall appoint an independent hearing 14366  
officer to conduct any hearing conducted pursuant to division 14367  
(B)(2) of this section, except that, if the hearing is regarding 14368  
an employee of the department who is represented by a union, the 14369  
department and a representative of the union shall jointly select 14370  
the hearing officer. 14371

(2)(a) Except as provided in division (C)(2)(b) of this 14372  
section, no hearing shall be conducted under division (B)(2) of 14373  
this section until any criminal proceeding or collective 14374  
bargaining arbitration concerning the same allegation has 14375  
concluded. 14376

(b) The department may conduct a hearing pursuant to division 14377  
(B)(2) of this section before a criminal proceeding concerning the 14378  
same allegation is concluded if both of the following are the 14379  
case: 14380

(i) The department notifies the prosecutor responsible for 14381  
the criminal proceeding that the department proposes to conduct a 14382

hearing. 14383

(ii) The prosecutor consents to the hearing. 14384

(3) In conducting a hearing pursuant to division (B)(2) of 14385  
this section, the hearing officer shall do all of the following: 14386

(a) Determine whether there is clear and convincing evidence 14387  
that the ~~MR/DD~~ developmental disabilities employee has done any of 14388  
the following: 14389

(i) Misappropriated property of one or more individuals with 14390  
~~mental retardation or a developmental disability~~ disabilities that 14391  
has a value, either separately or taken together, of one hundred 14392  
dollars or more; 14393

(ii) Misappropriated property of an individual with ~~mental~~ 14394  
~~retardation or~~ a developmental disability that is designed to be 14395  
used as a check, draft, negotiable instrument, credit card, charge 14396  
card, or device for initiating an electronic fund transfer at a 14397  
point of sale terminal, automated teller machine, or cash 14398  
dispensing machine; 14399

(iii) Misappropriated prescribed medication of an individual 14400  
with ~~mental retardation or~~ a developmental disability; 14401

(iv) Knowingly abused such an individual; 14402

(v) Recklessly abused or neglected such an individual, with 14403  
resulting physical harm; 14404

(vi) Negligently abused or neglected such an individual, with 14405  
resulting serious physical harm; 14406

(vii) Recklessly neglected such an individual, creating a 14407  
substantial risk of serious physical harm; 14408

(viii) Engaged in sexual conduct or had sexual contact with 14409  
an individual with ~~mental retardation or another~~ a developmental 14410  
disability who was not the ~~MR/DD~~ developmental disabilities 14411  
employee's spouse and for whom the ~~MR/DD~~ developmental 14412

disabilities employee was employed or under a contract to provide 14413  
care; 14414

(ix) Unreasonably failed to make a report pursuant to 14415  
division (C) of section 5123.61 of the Revised Code when the 14416  
employee knew or should have known that the failure would result 14417  
in a substantial risk of harm to an individual with ~~mental~~ 14418  
~~retardation or~~ a developmental disability; 14419

(x) Been convicted of or entered a plea of guilty to any of 14420  
the following if the victim of the offense is an individual with 14421  
~~mental retardation or~~ a developmental disability: an offense of 14422  
violence, a violation of a section contained in Chapter 2907. or 14423  
Chapter 2913. of the Revised Code, or a violation of section 14424  
2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code. 14425

(b) Give weight to the decision in any collective bargaining 14426  
arbitration regarding the same allegation; 14427

(c) Give weight to any relevant facts presented at the 14428  
hearing. 14429

(D)(1) Unless the director of developmental disabilities 14430  
determines that there are extenuating circumstances and except as 14431  
provided in division (E) of this section, if the director, after 14432  
considering all of the factors listed in division (C)(3) of this 14433  
section, finds that there is clear and convincing evidence that ~~an~~ 14434  
~~MR/DD~~ a developmental disabilities employee has done one or more 14435  
of the things described in division (C)(3)(a) of this section the 14436  
director shall include the name of the employee in the registry 14437  
established under section 5123.52 of the Revised Code. 14438

(2) Extenuating circumstances the director must consider 14439  
include the use of physical force by ~~an MR/DD~~ a developmental 14440  
disabilities employee that was necessary as self-defense. 14441

(3) If the director includes ~~an MR/DD~~ a developmental 14442  
disabilities employee in the registry established under section 14443

5123.52 of the Revised Code, the director shall notify the 14444  
employee, the person or government entity that employs or 14445  
contracts with the employee, the individual with ~~mental~~ 14446  
~~retardation~~ or a developmental disability who was the subject of 14447  
the report and that individual's legal guardian, if any, the 14448  
attorney general, and the prosecuting attorney or other law 14449  
enforcement agency. If the ~~MR/DD~~ developmental disabilities 14450  
employee holds a license, certificate, registration, or other 14451  
authorization to engage in a profession issued pursuant to Title 14452  
XLVII of the Revised Code, the director shall notify the 14453  
appropriate agency, board, department, or other entity responsible 14454  
for regulating the employee's professional practice. 14455

(4) If an individual whose name appears on the registry is 14456  
involved in a court proceeding or arbitration arising from the 14457  
same facts as the allegation resulting in the individual's 14458  
placement on the registry, the disposition of the proceeding or 14459  
arbitration shall be noted in the registry next to the 14460  
individual's name. 14461

(E) In the case of an allegation concerning an employee of 14462  
the department, after the hearing conducted pursuant to division 14463  
(B)(2) of this section, the director of health or that director's 14464  
designee shall review the decision of the hearing officer to 14465  
determine whether the standard described in division (C)(3) of 14466  
this section has been met. If the director or designee determines 14467  
that the standard has been met and that no extenuating 14468  
circumstances exist, the director or designee shall notify the 14469  
director of developmental disabilities that the ~~MR/DD~~ 14470  
developmental disabilities employee is to be included in the 14471  
registry established under section 5123.52 of the Revised Code. If 14472  
the director of developmental disabilities receives such 14473  
notification, the director shall include the ~~MR/DD~~ developmental 14474  
disabilities employee in the registry and shall provide the 14475

notification described in division (D)(3) of this section. 14476

(F) If the department is required by Chapter 119. of the 14477  
Revised Code to give notice of an opportunity for a hearing and 14478  
the ~~MR/DD~~ developmental disabilities employee subject to the 14479  
notice does not timely request a hearing in accordance with 14480  
section 119.07 or 5123.0414 of the Revised Code, the department is 14481  
not required to hold a hearing. 14482

(G) Files and records of investigations conducted pursuant to 14483  
this section are not public records as defined in section 149.43 14484  
of the Revised Code, but, on request, the department shall provide 14485  
copies of those files and records to the attorney general, a 14486  
prosecuting attorney, or a law enforcement agency. 14487

**Sec. 5123.52.** (A) The department of developmental 14488  
disabilities shall establish a registry of ~~MR/DD~~ developmental 14489  
disabilities employees consisting of the names of ~~MR/DD~~ 14490  
developmental disabilities employees included in the registry 14491  
pursuant to section 5123.51 of the Revised Code. 14492

(B) Before a person or government entity hires, contracts 14493  
with, or employs an individual as an ~~MR/DD~~ a developmental 14494  
disabilities employee, the person or government entity shall 14495  
inquire whether the individual is included in the registry. 14496

(C) When it receives an inquiry regarding whether an 14497  
individual is included in the registry, the department shall 14498  
inform the person making the inquiry whether the individual is 14499  
included in the registry. 14500

(D)(1) Except as otherwise provided in a collective 14501  
bargaining agreement entered into under Chapter 4117. of the 14502  
Revised Code that is in effect on November 22, 2000, no person or 14503  
government entity shall hire, contract with, or employ as an ~~MR/DD~~ 14504  
a developmental disabilities employee an individual who is 14505

included in the registry. Notwithstanding sections 4117.08 and 14506  
4117.10 of the Revised Code, no agreement entered into under 14507  
Chapter 4117. of the Revised Code after November 22, 2000, may 14508  
contain any provision that in any way limits the effect or 14509  
operation of this section. 14510

(2) Neither the department nor any county board of 14511  
developmental disabilities may enter into a new contract or renew 14512  
a contract with a person or government entity that fails to comply 14513  
with division (D)(1) of this section until the department or board 14514  
is satisfied that the person or government entity will comply. 14515

(3) A person or government entity that fails to hire or 14516  
retain as ~~an MR/DD~~ a developmental disabilities employee a person 14517  
because the person is included in the registry shall not be liable 14518  
in damages in a civil action brought by the employee or applicant 14519  
for employment. Termination of employment pursuant to division 14520  
(D)(1) of this section constitutes a discharge for just cause for 14521  
the purposes of section 4141.29 of the Revised Code. 14522

(E) Information contained in the registry is a public record 14523  
for the purposes of section 149.43 of the Revised Code and is 14524  
subject to inspection and copying under section 1347.08 of the 14525  
Revised Code. 14526

**Sec. 5123.541.** (A) No ~~MR/DD~~ developmental disabilities 14527  
employee shall engage in any sexual conduct or have any sexual 14528  
contact with an individual with ~~mental retardation or another a~~ 14529  
developmental disability for whom the ~~MR/DD~~ developmental 14530  
disabilities employee is employed or under a contract to provide 14531  
care unless the individual is the ~~MR/DD~~ developmental disabilities 14532  
employee's spouse. 14533

(B) Any ~~MR/DD~~ developmental disabilities employee who 14534  
violates division (A) of this section shall be eligible to be 14535  
included in the registry regarding misappropriation, abuse, 14536

neglect, or other specified misconduct by ~~MR/DD~~ developmental disabilities employees established under section 5123.52 of the Revised Code, in addition to any other sanction or penalty authorized or required by law.

(C)(1) Any person listed in division (C)(2) of section 5123.61 of the Revised Code who has reason to believe that an ~~MR/DD~~ developmental disabilities employee has violated division (A) of this section shall immediately report that belief to the department of developmental disabilities.

(2) Any person who has reason to believe that ~~an MR/DD a~~ developmental disabilities employee has violated division (A) of this section may report that belief to the department of developmental disabilities.

**Sec. 5123.542.** (A) Each of the following shall annually provide a written notice to each of its ~~MR/DD~~ developmental disabilities employees explaining the conduct for which ~~an MR/DD a~~ developmental disabilities employee may be included in the registry established under section 5123.52 of the Revised Code:

- (1) The department of developmental disabilities;
- (2) Each county board of developmental disabilities;
- (3) Each provider and subcontractor, as defined in section 5123.081 of the Revised Code;
- (4) Each owner, operator, or administrator of a residential facility, as defined in section 5123.19 of the Revised Code;
- (5) Each owner, operator, or administrator of a program certified by the department to provide supported living.

(B) The department of developmental disabilities or a county board of developmental disabilities shall provide the notice required by division (A) of this section to ~~an MR/DD a~~ developmental disabilities employee who is an independent provider

as defined in section 5123.16 of the Revised Code. 14567

(C) The notice described in division (A) of this section 14568  
shall be in a form and provided in a manner prescribed by the 14569  
department of developmental disabilities. The form shall be the 14570  
same for all persons and entities required to provide notice under 14571  
division (A) of this section. 14572

~~(C)~~(D) The fact that ~~an MR/DD~~ a developmental disabilities 14573  
employee does not receive the notice required by this section does 14574  
not exempt the employee from inclusion in the registry established 14575  
under section 5123.52 of the Revised Code. 14576

**Sec. 5123.55.** As used in sections 5123.55 to 5123.59 of the 14577  
Revised Code: 14578

(A) "Guardian" means a guardian of the person, limited 14579  
guardian, interim guardian, or emergency guardian pursuant to 14580  
appointment by the probate court under Chapter 2111. of the 14581  
Revised Code. 14582

(B) "Trustee" means a trustee appointed by and accountable to 14583  
the probate court, in lieu of a guardian and without a judicial 14584  
determination of incompetency, with respect to an estate of ten 14585  
thousand dollars or less. 14586

(C) "Protector" means an agency under contract with the 14587  
department of developmental disabilities acting with or without 14588  
court appointment to provide guidance, service, and encouragement 14589  
in the development of maximum self-reliance to a person with 14590  
~~mental retardation or~~ a developmental disability, independent of 14591  
any determination of incompetency. 14592

(D) "Protective service" means performance of the duties of a 14593  
guardian, trustee, or conservator, or acting as a protector, with 14594  
respect to a person with ~~mental retardation or~~ a developmental 14595  
disability. 14596

(E) "Conservator" means a conservator of the person pursuant to an appointment by a probate court under Chapter 2111. of the Revised Code.

**Sec. 5123.57.** No guardianship or trusteeship appointment shall be made under sections 5123.55 to 5123.59 of the Revised Code and no person shall be accepted for service by a protector under those sections unless a comprehensive evaluation has been made in a clinic or other facility approved by the department of developmental disabilities. The evaluation shall include a medical, psychological, social, and educational evaluation, and a copy of the evaluation shall be filed with the department.

Any agency that is appointed as a guardian, trustee, or conservator under sections 5123.55 to 5123.59 of the Revised Code or accepted as a protector under those sections shall provide for a review at least once each year in writing of the physical, mental, and social condition of each ~~mentally retarded or developmentally disabled~~ person with a developmental disability for whom it is acting as guardian, trustee, or protector. An agency providing protective services under contract with the department shall file these reports with the department of developmental disabilities. Any record of the department or agency pertaining to a ~~mentally retarded or developmentally disabled~~ person with a developmental disability shall not be a public record under section 149.43 of the Revised Code. Information contained in those records shall not be disclosed publicly in such a manner as to identify individuals, but may be made available to persons approved by the director of developmental disabilities or the court.

**Sec. 5123.58.** An agency providing protective services under contract with the department of developmental disabilities may be nominated under any of the following conditions as guardian,

trustee, protector, conservator, or as trustee and protector of a 14628  
~~mentally retarded or developmentally disabled~~ person with a 14629  
developmental disability: 14630

(A) The person who needs or believes the person needs 14631  
protective service may make application in writing. 14632

(B) Any interested person may make application in writing on 14633  
behalf of a ~~mentally retarded or developmentally disabled~~ person 14634  
with a developmental disability. 14635

(C) A parent may name the department or agency as guardian or 14636  
successor guardian in a will. 14637

(D) A parent may name the department or agency as guardian, 14638  
trustee, or protector, to assume such duties during the parent's 14639  
lifetime. 14640

If the results of the comprehensive evaluation required under 14641  
section 5123.57 of the Revised Code indicate that the person named 14642  
in the nomination is in need of protective services, the agency or 14643  
service either shall reject or accept the nomination as guardian, 14644  
trustee, or conservator, subject to appointment by the probate 14645  
court, or reject or accept the nomination as protector, or trustee 14646  
and protector. 14647

At the time the nomination is accepted or when an appointment 14648  
is made by the court, the ~~mentally retarded or developmentally~~ 14649  
~~disabled~~ person with a developmental disability and any person who 14650  
made application for service on the ~~mentally retarded or~~ 14651  
~~developmentally disabled person's~~ behalf of a person with a 14652  
developmental disability under this section shall be informed by 14653  
the agency, service, or court of the procedure for terminating the 14654  
appointment or service. The agency or service shall cease to 14655  
provide protective service as a protector pursuant to nomination 14656  
under division (A), (B), or (D) of this section when a written 14657  
request for termination is received by the agency from or on 14658

behalf of the ~~mentally retarded or developmentally disabled~~ person 14659  
with a developmental disability. If the agency or service believes 14660  
the person to be in need of protective service, the agency or 14661  
service may file an application for guardianship, trusteeship, or 14662  
protectorship with the probate court. Termination of any court 14663  
appointment as guardian, trustee, or protector shall be by order 14664  
of the probate court. 14665

**Sec. 5123.601.** (A) The Ohio protection and advocacy system 14666  
staff, and attorneys designated by the system to represent persons 14667  
detained, hospitalized, or institutionalized under this chapter or 14668  
Chapter 5122. of the Revised Code shall have ready access to all 14669  
of the following: 14670

(1) During normal business hours and at other reasonable 14671  
times, all records, except records of community residential 14672  
facilities and records of contract agencies of county boards of 14673  
developmental disabilities and boards of alcohol, drug addiction, 14674  
and mental health services, relating to expenditures of state and 14675  
federal funds or to the commitment, care, treatment, and 14676  
habilitation of all persons represented by the Ohio protection and 14677  
advocacy system, including those who may be represented pursuant 14678  
to division (D) of this section, or persons detained, 14679  
hospitalized, institutionalized, or receiving services under this 14680  
chapter or Chapter 340., 5119., 5122., or 5126. of the Revised 14681  
Code that are records maintained by the following entities 14682  
providing services for those persons: departments; institutions; 14683  
hospitals; boards of alcohol, drug addiction, and mental health 14684  
services; county boards of developmental disabilities; and any 14685  
other entity providing services to persons who may be represented 14686  
by the Ohio protection and advocacy system pursuant to division 14687  
(D) of this section; 14688

(2) Any records maintained in computerized data banks of the 14689

departments or boards or, in the case of persons who may be 14690  
represented by the Ohio protection and advocacy system pursuant to 14691  
division (D) of this section, any other entity that provides 14692  
services to those persons; 14693

(3) During their normal working hours, personnel of the 14694  
departments, facilities, boards, agencies, institutions, 14695  
hospitals, and other service-providing entities; 14696

(4) At any time, all persons detained, hospitalized, or 14697  
institutionalized; persons receiving services under this chapter 14698  
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 14699  
persons who may be represented by the Ohio protection and advocacy 14700  
system pursuant to division (D) of this section. 14701

(5) Records of a community residential facility, a contract 14702  
agency of a board of alcohol, drug addiction, and mental health 14703  
services, or a contract agency of a county board of developmental 14704  
disabilities with one of the following consents: 14705

(a) The consent of the person, including when the person is a 14706  
minor or has been adjudicated incompetent; 14707

(b) The consent of the person's guardian of the person, if 14708  
any, or the parent if the person is a minor; 14709

(c) No consent, if the person is unable to consent for any 14710  
reason, and the guardian of the person, if any, or the parent of 14711  
the minor, has refused to consent or has not responded to a 14712  
request for consent and either of the following has occurred: 14713

(i) A complaint regarding the person has been received by the 14714  
Ohio protection and advocacy system; 14715

(ii) The Ohio protection and advocacy system has determined 14716  
that there is probable cause to believe that such person has been 14717  
subjected to abuse or neglect. 14718

(B) All records received or maintained by the Ohio protection 14719

and advocacy system in connection with any investigation, 14720  
representation, or other activity under this section shall be 14721  
confidential and shall not be disclosed except as authorized by 14722  
the person represented by the Ohio protection and advocacy system 14723  
or, subject to any privilege, a guardian of the person or parent 14724  
of the minor. Relationships between personnel and the agents of 14725  
the Ohio protection and advocacy system and its clients shall be 14726  
fiduciary relationships, and all communications shall be 14727  
privileged as if between attorney and client. 14728

(C) The Ohio protection and advocacy system may compel by 14729  
subpoena the appearance and sworn testimony of any person the Ohio 14730  
protection and advocacy system reasonably believes may be able to 14731  
provide information or to produce any documents, books, records, 14732  
papers, or other information necessary to carry out its duties. On 14733  
the refusal of any person to produce or authenticate any requested 14734  
documents, the Ohio protection and advocacy system may apply to 14735  
the Franklin county court of common pleas to compel the production 14736  
or authentication of requested documents. If the court finds that 14737  
failure to produce or authenticate any requested documents was 14738  
improper, the court may hold the person in contempt as in the case 14739  
of disobedience of the requirements of a subpoena issued from the 14740  
court, or a refusal to testify in the court. 14741

(D) In addition to providing services to mentally ill, 14742  
~~mentally retarded, persons~~ or ~~developmentally disabled~~ persons 14743  
with developmental disabilities, when a grant authorizing the 14744  
provision of services to other individuals is accepted by the Ohio 14745  
protection and advocacy system, the Ohio protection and advocacy 14746  
system may provide advocacy to those other individuals and 14747  
exercise any other authority granted by this section on behalf of 14748  
those individuals. Determinations of whether an individual is 14749  
eligible for services under this division shall be made by the 14750  
Ohio protection and advocacy system. 14751

Sec. 5123.61. (A) As used in this section: 14752

(1) "Law enforcement agency" means the state highway patrol, 14753  
the police department of a municipal corporation, or a county 14754  
sheriff. 14755

(2) "Abuse" has the same meaning as in section 5123.50 of the 14756  
Revised Code, except that it includes a misappropriation, as 14757  
defined in that section. 14758

(3) "Neglect" has the same meaning as in section 5123.50 of 14759  
the Revised Code. 14760

(B) The department of developmental disabilities shall 14761  
establish a registry office for the purpose of maintaining reports 14762  
of abuse, neglect, and other major unusual incidents made to the 14763  
department under this section and reports received from county 14764  
boards of developmental disabilities under section 5126.31 of the 14765  
Revised Code. The department shall establish committees to review 14766  
reports of abuse, neglect, and other major unusual incidents. 14767

(C)(1) Any person listed in division (C)(2) of this section, 14768  
having reason to believe that a person with ~~mental retardation or~~ 14769  
a developmental disability has suffered or faces a substantial 14770  
risk of suffering any wound, injury, disability, or condition of 14771  
such a nature as to reasonably indicate abuse or neglect of that 14772  
person, shall immediately report or cause reports to be made of 14773  
such information to the entity specified in this division. Except 14774  
as provided in section 5120.173 of the Revised Code or as 14775  
otherwise provided in this division, the person making the report 14776  
shall make it to a law enforcement agency or to the county board 14777  
of developmental disabilities. If the report concerns a resident 14778  
of a facility operated by the department of developmental 14779  
disabilities the report shall be made either to a law enforcement 14780  
agency or to the department. If the report concerns any act or 14781  
omission of an employee of a county board of developmental 14782

disabilities, the report immediately shall be made to the 14783  
department and to the county board. 14784

(2) All of the following persons are required to make a 14785  
report under division (C)(1) of this section: 14786

(a) Any physician, including a hospital intern or resident, 14787  
any dentist, podiatrist, chiropractor, practitioner of a limited 14788  
branch of medicine as specified in section 4731.15 of the Revised 14789  
Code, hospital administrator or employee of a hospital, nurse 14790  
licensed under Chapter 4723. of the Revised Code, employee of an 14791  
ambulatory health facility as defined in section 5101.61 of the 14792  
Revised Code, employee of a home health agency, employee of a 14793  
residential facility licensed under section 5119.34 of the Revised 14794  
Code that provides accommodations, supervision, and person care 14795  
services for three to sixteen unrelated adults, or employee of a 14796  
community mental health facility; 14797

(b) Any school teacher or school authority, licensed 14798  
professional clinical counselor, licensed professional counselor, 14799  
independent social worker, social worker, independent marriage and 14800  
family therapist, marriage and family therapist, psychologist, 14801  
attorney, peace officer, coroner, or residents' rights advocate as 14802  
defined in section 3721.10 of the Revised Code; 14803

(c) A superintendent, board member, or employee of a county 14804  
board of developmental disabilities; an administrator, board 14805  
member, or employee of a residential facility licensed under 14806  
section 5123.19 of the Revised Code; an administrator, board 14807  
member, or employee of any other public or private provider of 14808  
services to a person with ~~mental retardation~~ or a developmental 14809  
disability, or any ~~MR/DD~~ developmental disabilities employee, as 14810  
defined in section 5123.50 of the Revised Code; 14811

(d) A member of a citizen's advisory council established at 14812  
an institution or branch institution of the department of 14813

developmental disabilities under section 5123.092 of the Revised Code; 14814  
14815

(e) A member of the clergy who is employed in a position that 14816  
includes providing specialized services to an individual with 14817  
~~mental retardation or another~~ a developmental disability, while 14818  
acting in an official or professional capacity in that position, 14819  
or a person who is employed in a position that includes providing 14820  
specialized services to an individual with ~~mental retardation or~~ 14821  
~~another~~ a developmental disability and who, while acting in an 14822  
official or professional capacity, renders spiritual treatment 14823  
through prayer in accordance with the tenets of an organized 14824  
religion. 14825

(3)(a) The reporting requirements of this division do not 14826  
apply to employees of the Ohio protection and advocacy system. 14827

(b) An attorney or physician is not required to make a report 14828  
pursuant to division (C)(1) of this section concerning any 14829  
communication the attorney or physician receives from a client or 14830  
patient in an attorney-client or physician-patient relationship, 14831  
if, in accordance with division (A) or (B) of section 2317.02 of 14832  
the Revised Code, the attorney or physician could not testify with 14833  
respect to that communication in a civil or criminal proceeding, 14834  
except that the client or patient is deemed to have waived any 14835  
testimonial privilege under division (A) or (B) of section 2317.02 14836  
of the Revised Code with respect to that communication and the 14837  
attorney or physician shall make a report pursuant to division 14838  
(C)(1) of this section, if both of the following apply: 14839

(i) The client or patient, at the time of the communication, 14840  
is a person with ~~mental retardation or~~ a developmental disability. 14841

(ii) The attorney or physician knows or suspects, as a result 14842  
of the communication or any observations made during that 14843  
communication, that the client or patient has suffered or faces a 14844

substantial risk of suffering any wound, injury, disability, or 14845  
condition of a nature that reasonably indicates abuse or neglect 14846  
of the client or patient. 14847

(4) Any person who fails to make a report required under 14848  
division (C) of this section and who is ~~an MR/DD~~ a developmental 14849  
disabilities employee, as defined in section 5123.50 of the 14850  
Revised Code, shall be eligible to be included in the registry 14851  
regarding misappropriation, abuse, neglect, or other specified 14852  
misconduct by ~~MR/DD~~ developmental disabilities employees 14853  
established under section 5123.52 of the Revised Code. 14854

(D) The reports required under division (C) of this section 14855  
shall be made forthwith by telephone or in person and shall be 14856  
followed by a written report. The reports shall contain the 14857  
following: 14858

(1) The names and addresses of the person with ~~mental~~ 14859  
~~retardation~~ or a developmental disability and the person's 14860  
custodian, if known; 14861

(2) The age of the person with ~~mental retardation~~ or a 14862  
developmental disability; 14863

(3) Any other information that would assist in the 14864  
investigation of the report. 14865

(E) When a physician performing services as a member of the 14866  
staff of a hospital or similar institution has reason to believe 14867  
that a person with ~~mental retardation~~ or a developmental 14868  
disability has suffered injury, abuse, or physical neglect, the 14869  
physician shall notify the person in charge of the institution or 14870  
that person's designated delegate, who shall make the necessary 14871  
reports. 14872

(F) Any person having reasonable cause to believe that a 14873  
person with ~~mental retardation~~ or a developmental disability has 14874  
suffered or faces a substantial risk of suffering abuse or neglect 14875

may report or cause a report to be made of that belief to the 14876  
entity specified in this division. Except as provided in section 14877  
5120.173 of the Revised Code or as otherwise provided in this 14878  
division, the person making the report shall make it to a law 14879  
enforcement agency or the county board of developmental 14880  
disabilities. If the person is a resident of a facility operated 14881  
by the department of developmental disabilities, the report shall 14882  
be made to a law enforcement agency or to the department. If the 14883  
report concerns any act or omission of an employee of a county 14884  
board of developmental disabilities, the report immediately shall 14885  
be made to the department and to the county board. 14886

(G)(1) Upon the receipt of a report concerning the possible 14887  
abuse or neglect of a person with ~~mental retardation~~ or a 14888  
developmental disability, the law enforcement agency shall inform 14889  
the county board of developmental disabilities or, if the person 14890  
is a resident of a facility operated by the department of 14891  
developmental disabilities, the department. 14892

(2) On receipt of a report under this section that includes 14893  
an allegation of action or inaction that may constitute a crime 14894  
under federal law or the law of this state, the department of 14895  
developmental disabilities shall notify the law enforcement 14896  
agency. 14897

(3) When a county board of developmental disabilities 14898  
receives a report under this section that includes an allegation 14899  
of action or inaction that may constitute a crime under federal 14900  
law or the law of this state, the superintendent of the board or 14901  
an individual the superintendent designates under division (H) of 14902  
this section shall notify the law enforcement agency. The 14903  
superintendent or individual shall notify the department of 14904  
developmental disabilities when it receives any report under this 14905  
section. 14906

(4) When a county board of developmental disabilities 14907

receives a report under this section and believes that the degree 14908  
of risk to the person is such that the report is an emergency, the 14909  
superintendent of the board or an employee of the board the 14910  
superintendent designates shall attempt a face-to-face contact 14911  
with the person with ~~mental retardation~~ or a developmental 14912  
disability who allegedly is the victim within one hour of the 14913  
board's receipt of the report. 14914

(H) The superintendent of the board may designate an 14915  
individual to be responsible for notifying the law enforcement 14916  
agency and the department when the county board receives a report 14917  
under this section. 14918

(I) An adult with ~~mental retardation~~ or a developmental 14919  
disability about whom a report is made may be removed from the 14920  
adult's place of residence only by law enforcement officers who 14921  
consider that the adult's immediate removal is essential to 14922  
protect the adult from further injury or abuse or in accordance 14923  
with the order of a court made pursuant to section 5126.33 of the 14924  
Revised Code. 14925

(J) A law enforcement agency shall investigate each report of 14926  
abuse or neglect it receives under this section. In addition, the 14927  
department, in cooperation with law enforcement officials, shall 14928  
investigate each report regarding a resident of a facility 14929  
operated by the department to determine the circumstances 14930  
surrounding the injury, the cause of the injury, and the person 14931  
responsible. The investigation shall be in accordance with the 14932  
memorandum of understanding prepared under section 5126.058 of the 14933  
Revised Code. The department shall determine, with the registry 14934  
office which shall be maintained by the department, whether prior 14935  
reports have been made concerning an adult with ~~mental retardation~~ 14936  
~~or~~ a developmental disability or other principals in the case. If 14937  
the department finds that the report involves action or inaction 14938  
that may constitute a crime under federal law or the law of this 14939

state, it shall submit a report of its investigation, in writing, 14940  
to the law enforcement agency. If the person with ~~mental~~ 14941  
~~retardation~~ or a developmental disability is an adult, with the 14942  
consent of the adult, the department shall provide such protective 14943  
services as are necessary to protect the adult. The law 14944  
enforcement agency shall make a written report of its findings to 14945  
the department. 14946

If the person is an adult and is not a resident of a facility 14947  
operated by the department, the county board of developmental 14948  
disabilities shall review the report of abuse or neglect in 14949  
accordance with sections 5126.30 to 5126.33 of the Revised Code 14950  
and the law enforcement agency shall make the written report of 14951  
its findings to the county board. 14952

(K) Any person or any hospital, institution, school, health 14953  
department, or agency participating in the making of reports 14954  
pursuant to this section, any person participating as a witness in 14955  
an administrative or judicial proceeding resulting from the 14956  
reports, or any person or governmental entity that discharges 14957  
responsibilities under sections 5126.31 to 5126.33 of the Revised 14958  
Code shall be immune from any civil or criminal liability that 14959  
might otherwise be incurred or imposed as a result of such actions 14960  
except liability for perjury, unless the person or governmental 14961  
entity has acted in bad faith or with malicious purpose. 14962

(L) No employer or any person with the authority to do so 14963  
shall discharge, demote, transfer, prepare a negative work 14964  
performance evaluation, reduce pay or benefits, terminate work 14965  
privileges, or take any other action detrimental to an employee or 14966  
retaliate against an employee as a result of the employee's having 14967  
made a report under this section. This division does not preclude 14968  
an employer or person with authority from taking action with 14969  
regard to an employee who has made a report under this section if 14970  
there is another reasonable basis for the action. 14971

(M) Reports made under this section are not public records as 14972  
defined in section 149.43 of the Revised Code. Information 14973  
contained in the reports on request shall be made available to the 14974  
person who is the subject of the report, to the person's legal 14975  
counsel, and to agencies authorized to receive information in the 14976  
report by the department or by a county board of developmental 14977  
disabilities. 14978

(N) Notwithstanding section 4731.22 of the Revised Code, the 14979  
physician-patient privilege shall not be a ground for excluding 14980  
evidence regarding the injuries or physical neglect of a person 14981  
with ~~mental retardation~~ or a developmental disability or the cause 14982  
thereof in any judicial proceeding resulting from a report 14983  
submitted pursuant to this section. 14984

**Sec. 5123.611.** (A) As used in this section, "~~MR/DD~~ 14985  
developmental disabilities employee" means all of the following: 14986

(1) An employee of the department of developmental 14987  
disabilities; 14988

(2) An employee of a county board of developmental 14989  
disabilities; 14990

(3) An employee in a position that includes providing 14991  
specialized services, as defined in section 5123.50 of the Revised 14992  
Code, to an individual with ~~mental retardation~~ or a developmental 14993  
disability. 14994

(B) At the conclusion of a review of a report of abuse, 14995  
neglect, or a major unusual incident that is conducted by a review 14996  
committee established pursuant to section 5123.61 of the Revised 14997  
Code, the committee shall issue recommendations to the department. 14998  
The department shall review the committee's recommendations and 14999  
issue a report of its findings. The department shall make the 15000  
report available to all of the following: 15001

(1) The individual with ~~mental retardation or~~ a developmental disability who is the subject of the report; 15002  
15003

(2) That individual's guardian or legal counsel; 15004

(3) The licensee, as defined in section 5123.19 of the Revised Code, of a residential facility in which the individual resides; 15005  
15006  
15007

(4) The employer of any ~~MR/DD~~ developmental disabilities employee who allegedly committed or was responsible for the abuse, neglect, or major unusual incident. 15008  
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(C) Except as provided in this section, the department shall not disclose its report to any person or government entity that is not authorized to investigate reports of abuse, neglect, or other major unusual incidents, unless the individual with ~~mental retardation or~~ a developmental disability who is the subject of the report or the individual's guardian gives the department written consent. 15011  
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**Sec. 5123.612.** The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the reporting of major unusual incidents and unusual incidents concerning persons with ~~mental retardation or a developmental disability~~ disabilities. The rules shall specify what constitutes a major unusual incident or an unusual incident. 15018  
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**Sec. 5123.614.** (A) Subject to division (B) of this section, on receipt of a report of a major unusual incident made pursuant to section 5123.61 or 5126.31 of the Revised Code or rules adopted under section 5123.612 of the Revised Code, the department of developmental disabilities may do either of the following: 15024  
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(1) Conduct an independent review or investigation of the incident; 15029  
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(2) Request that an independent review or investigation of the incident be conducted by a county board of developmental disabilities that is not implicated in the report, a regional council of government, or any other entity authorized to conduct such investigations.

(B) If a report described in division (A) of this section concerning the health or safety of a person with ~~mental retardation~~ or a developmental disability involves an allegation that an employee of a county board of developmental disabilities has created a substantial risk of serious physical harm to a person with ~~mental retardation~~ or a developmental disability, the department shall do one of the following:

(1) Conduct an independent investigation regarding the incident;

(2) Request that an independent review or investigation of the incident be conducted by a county board of developmental disabilities that is not implicated in the report, a regional council of government, or any other entity authorized to conduct such investigations.

**Sec. 5123.62.** The rights of persons with ~~mental retardation~~ or a developmental ~~disability~~ disabilities include, but are not limited to, the following:

(A) The right to be treated at all times with courtesy and respect and with full recognition of their dignity and individuality;

(B) The right to an appropriate, safe, and sanitary living environment that complies with local, state, and federal standards and recognizes the persons' need for privacy and independence;

(C) The right to food adequate to meet accepted standards of nutrition;

(D) The right to practice the religion of their choice or to abstain from the practice of religion;	15061 15062
(E) The right of timely access to appropriate medical or dental treatment;	15063 15064
(F) The right of access to necessary ancillary services, including, but not limited to, occupational therapy, physical therapy, speech therapy, and behavior modification and other psychological services;	15065 15066 15067 15068
(G) The right to receive appropriate care and treatment in the least intrusive manner;	15069 15070
(H) The right to privacy, including both periods of privacy and places of privacy;	15071 15072
(I) The right to communicate freely with persons of their choice in any reasonable manner they choose;	15073 15074
(J) The right to ownership and use of personal possessions so as to maintain individuality and personal dignity;	15075 15076
(K) The right to social interaction with members of either sex;	15077 15078
(L) The right of access to opportunities that enable individuals to develop their full human potential;	15079 15080
(M) The right to pursue vocational opportunities that will promote and enhance economic independence;	15081 15082
(N) The right to be treated equally as citizens under the law;	15083 15084
(O) The right to be free from emotional, psychological, and physical abuse;	15085 15086
(P) The right to participate in appropriate programs of education, training, social development, and habilitation and in programs of reasonable recreation;	15087 15088 15089

(Q) The right to participate in decisions that affect their lives;	15090 15091
(R) The right to select a parent or advocate to act on their behalf;	15092 15093
(S) The right to manage their personal financial affairs, based on individual ability to do so;	15094 15095
(T) The right to confidential treatment of all information in their personal and medical records, except to the extent that disclosure or release of records is permitted under sections 5123.89 and 5126.044 of the Revised Code;	15096 15097 15098 15099
(U) The right to voice grievances and recommend changes in policies and services without restraint, interference, coercion, discrimination, or reprisal;	15100 15101 15102
(V) The right to be free from unnecessary chemical or physical restraints;	15103 15104
(W) The right to participate in the political process;	15105
(X) The right to refuse to participate in medical, psychological, or other research or experiments.	15106 15107
<b>Sec. 5123.63.</b> Every state agency, county board of developmental disabilities, or political subdivision that provides services, either directly or through a contract, to persons with <del>mental retardation or a developmental disability</del> <u>disabilities</u> shall give each provider a copy of the list of rights contained in section 5123.62 of the Revised Code. Each public and private provider of services shall carry out the requirements of this section in addition to any other posting or notification requirements imposed by local, state, or federal law or rules.	15108 15109 15110 15111 15112 15113 15114 15115 15116
The provider shall make copies of the list of rights and shall be responsible for an initial distribution of the list to each individual receiving services from the provider. If the	15117 15118 15119

individual is unable to read the list, the provider shall 15120  
communicate the contents of the list to the individual to the 15121  
extent practicable in a manner that the individual understands. 15122  
The individual receiving services or the parent, guardian, or 15123  
advocate of the individual shall sign an acknowledgement of 15124  
receipt of a copy of the list of rights, and a copy of the signed 15125  
acknowledgement shall be placed in the individual's file. The 15126  
provider shall also be responsible for answering any questions and 15127  
giving any explanations necessary to assist the individual to 15128  
understand the rights enumerated. Instruction in these rights 15129  
shall be documented. 15130

Each provider shall make available to all persons receiving 15131  
services and all employees and visitors a copy of the list of 15132  
rights and the addresses and telephone numbers of the Ohio 15133  
protection and advocacy system, the department of developmental 15134  
disabilities, and the county board of developmental disabilities 15135  
of the county in which the provider provides services. 15136

**Sec. 5123.64.** (A) Every provider of services to persons with 15137  
~~mental retardation or a developmental disability~~ disabilities 15138  
shall establish policies and programs to ensure that all staff 15139  
members are familiar with the rights enumerated in section 5123.62 15140  
of the Revised Code and observe those rights in their contacts 15141  
with persons receiving services. Any policy, procedure, or rule of 15142  
the provider that conflicts with any of the rights enumerated 15143  
shall be null and void. Every provider shall establish written 15144  
procedures for resolving complaints of violations of those rights. 15145  
A copy of the procedures shall be provided to any person receiving 15146  
services or to any parent, guardian, or advocate of a person 15147  
receiving services. 15148

(B) Any person with ~~mental retardation or~~ a developmental 15149  
disability who believes that the person's rights as enumerated in 15150

section 5123.62 of the Revised Code have been violated may: 15151

(1) Bring the violation to the attention of the provider for 15152  
resolution; 15153

(2) Report the violation to the department of developmental 15154  
disabilities, the Ohio protection and advocacy system, or the 15155  
appropriate county board of developmental disabilities; 15156

(3) Take any other appropriate action to ensure compliance 15157  
with sections 5123.61 to 5123.64 of the Revised Code, including 15158  
the filing of a legal action to enforce rights or to recover 15159  
damages for violation of rights. 15160

**Sec. 5123.65.** In addition to the rights specified in section 15161  
5123.62 of the Revised Code, individuals with ~~mental retardation~~ 15162  
~~and~~ developmental disabilities who can safely self-administer 15163  
medication or receive assistance with self-administration of 15164  
medication have the right to self-administer medication or receive 15165  
assistance with the self-administration of medication. The 15166  
department of developmental disabilities shall adopt rules as it 15167  
considers necessary to implement and enforce this section. The 15168  
rules shall be adopted in accordance with Chapter 119. of the 15169  
Revised Code. 15170

**Sec. 5123.651.** (A) As used in this section, "~~MR/DD~~ 15171  
developmental disabilities personnel" and "prescribed medication" 15172  
have the same meanings as in section 5123.41 of the Revised Code. 15173

(B) ~~MR/DD~~ Developmental disabilities personnel who are not 15174  
specifically authorized by other provisions of the Revised Code to 15175  
provide assistance in the self-administration of prescribed 15176  
medication may, under this section, provide that assistance as 15177  
part of the services they provide to individuals with ~~mental~~ 15178  
~~retardation and~~ developmental disabilities. To provide assistance 15179  
with self-administration of prescribed medication, ~~MR/DD~~ 15180

developmental disabilities personnel are not required to be 15181  
trained or certified in accordance with section 5123.42 of the 15182  
Revised Code. 15183

(C) When assisting in the self-administration of prescribed 15184  
medication, ~~MR/DD~~ developmental disabilities personnel shall take 15185  
only the following actions: 15186

(1) Remind an individual when to take the medication and 15187  
observe the individual to ensure that the individual follows the 15188  
directions on the container; 15189

(2) Assist an individual by taking the medication in its 15190  
container from the area where it is stored, handing the container 15191  
with the medication in it to the individual, and opening the 15192  
container, if the individual is physically unable to open the 15193  
container; 15194

(3) Assist, on request by or with the consent of, a 15195  
physically impaired but mentally alert individual, with removal of 15196  
oral or topical medication from the container and with the 15197  
individual's taking or applying of the medication. If an 15198  
individual is physically unable to place a dose of oral medication 15199  
to the individual's mouth without spilling or dropping it, ~~MR/DD~~ 15200  
developmental disabilities personnel may place the dose in another 15201  
container and place that container to the individual's mouth. 15202

**Sec. 5123.67.** This chapter shall be liberally interpreted to 15203  
accomplish the following purposes: 15204

(A) To promote the human dignity and to protect the 15205  
constitutional rights of persons with ~~mental retardation or a~~ 15206  
~~developmental disability~~ disabilities in the state; 15207

(B) To encourage the development of the ability and potential 15208  
of each person with ~~mental retardation or a~~ developmental 15209  
disability in the state to the fullest possible extent, no matter 15210

how severe the degree of disability; 15211

(C) To promote the economic security, standard of living, and 15212  
meaningful employment of persons with ~~mental retardation or a~~ 15213  
developmental ~~disability~~ disabilities; 15214

(D) To maximize the assimilation of persons with ~~mental~~ 15215  
~~retardation or a~~ developmental ~~disability~~ disabilities into the 15216  
ordinary life of the communities in which they live; 15217

(E) To promote opportunities for persons with ~~mental~~ 15218  
~~retardation or a~~ developmental ~~disability~~ disabilities to live in 15219  
surroundings or circumstances that are typical for other community 15220  
members; 15221

(F) To promote the right of persons with ~~mental retardation~~ 15222  
~~or a~~ developmental ~~disability~~ disabilities to speak and be heard 15223  
about the desired direction of their lives and to use available 15224  
resources in ways that further that direction. 15225

**Sec. 5123.69.** (A) Except as provided in division (D) of this 15226  
section, any person who is eighteen years of age or older and who 15227  
is or believes self to be ~~mentally retarded~~ a person with a 15228  
developmental disability that is an intellectual disability may 15229  
make written application to the managing officer of any 15230  
institution for voluntary admission. Except as provided in 15231  
division (D) of this section, the application may be made on 15232  
behalf of a minor by a parent or guardian, and on behalf of an 15233  
adult adjudicated mentally incompetent by a guardian. 15234

(B) The managing officer of an institution, with the 15235  
concurrence of the chief program director, may admit a person 15236  
applying pursuant to this section only after a comprehensive 15237  
evaluation has been made of the person and only if the 15238  
comprehensive evaluation concludes that the person ~~is mentally~~ 15239  
~~retarded~~ has a developmental disability that is an intellectual 15240

disability and would benefit significantly from admission. 15241

(C) The managing officer shall discharge any voluntary 15242  
resident if, in the judgment of the chief program director, the 15243  
results of a comprehensive examination indicate that 15244  
institutionalization no longer is advisable. In light of the 15245  
results of the comprehensive evaluation, the managing officer also 15246  
may discharge any voluntary resident if, in the judgment of the 15247  
chief program director, the discharge would contribute to the most 15248  
effective use of the institution in the habilitation and care of 15249  
~~the mentally retarded~~ persons with developmental disabilities that 15250  
are intellectual disabilities. 15251

(D) A person who is found incompetent to stand trial or not 15252  
guilty by reason of insanity and who is committed pursuant to 15253  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 15254  
Code shall not voluntarily commit self pursuant to this section 15255  
until after the final termination of the commitment, as described 15256  
in division (J) of section 2945.401 of the Revised Code. 15257

**Sec. 5123.701.** (A) Except as provided in division (D) of this 15258  
section, any person in the community who is eighteen years of age 15259  
or older and who is or believes self to be ~~mentally retarded~~ a 15260  
person with a developmental disability that is an intellectual 15261  
disability may make written application to the managing officer of 15262  
any institution for temporary admission for short-term care. The 15263  
application may be made on behalf of a minor by a parent or 15264  
guardian, and on behalf of an adult adjudicated mentally 15265  
incompetent by a guardian. 15266

(B) For purposes of this section, short-term care shall be 15267  
defined to mean appropriate services provided to a person with 15268  
~~mental retardation~~ a developmental disability that is an 15269  
intellectual disability for no more than fourteen consecutive days 15270  
and for no more than forty-two days in a fiscal year. When 15271

circumstances warrant, the fourteen-day period may be extended at 15272  
the discretion of the managing officer. Short-term care is 15273  
provided in a developmental center to meet the family's or 15274  
caretaker's needs for separation from the person with ~~mental~~ 15275  
~~retardation~~ a developmental disability that is an intellectual 15276  
disability. 15277

(C) The managing officer of an institution, with the 15278  
concurrence of the chief program director, may admit a person for 15279  
short-term care only after a medical examination has been made of 15280  
the person and only if the managing officer concludes that the 15281  
person ~~is mentally retarded~~ has a developmental disability that is 15282  
an intellectual disability. 15283

(D) A person who is found not guilty by reason of insanity 15284  
shall not admit self to an institution for short-term care unless 15285  
a hearing was held regarding the person pursuant to division (A) 15286  
of section 2945.40 of the Revised Code and either of the following 15287  
applies: 15288

(1) The person was found at the hearing not to be a ~~mentally~~ 15289  
~~retarded~~ person with an intellectual disability subject to 15290  
institutionalization by court order; 15291

(2) The person was found at the hearing to be a ~~mentally~~ 15292  
~~retarded~~ person with an intellectual disability subject to 15293  
institutionalization by court order, was involuntarily committed, 15294  
and was finally discharged. 15295

(E) The ~~mentally retarded~~ person with a developmental 15296  
disability that is an intellectual disability, liable relatives, 15297  
and guardians of ~~mentally retarded~~ persons with developmental 15298  
disabilities that are intellectual disabilities admitted for 15299  
respite care shall pay support charges in accordance with sections 15300  
5121.01 to 5121.21 of the Revised Code. 15301

(F) At the conclusion of each period of short-term care, the 15302

person shall return to the person's family or caretaker. Under no 15303  
circumstances shall a person admitted for short-term care 15304  
according to this section remain in the institution after the 15305  
period of short-term care unless the person is admitted according 15306  
to section 5123.70, sections 5123.71 to 5123.76, or section 15307  
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 15308  
Code. 15309

**Sec. 5123.71.** (A)(1) Proceedings for the involuntary 15310  
institutionalization of a person pursuant to sections 5123.71 to 15311  
5123.76 of the Revised Code shall be commenced by the filing of an 15312  
affidavit with the probate division of the court of common pleas 15313  
of the county where the person resides or where the person is 15314  
institutionalized, in the manner and form prescribed by the 15315  
department of developmental disabilities either on information or 15316  
actual knowledge, whichever is determined to be proper by the 15317  
court. The affidavit may be filed only by a person who has custody 15318  
of the individual as a parent, guardian, or service provider or by 15319  
a person acting on behalf of the department or a county board of 15320  
developmental disabilities. This section does not apply regarding 15321  
the institutionalization of a person pursuant to section 2945.39, 15322  
2945.40, 2945.401, or 2945.402 of the Revised Code. 15323

The affidavit shall contain an allegation setting forth the 15324  
specific category or categories under division (O) of section 15325  
5123.01 of the Revised Code upon which the commencement of 15326  
proceedings is based and a statement of the factual ground for the 15327  
belief that the person is a ~~mentally-retarded~~ person with an 15328  
intellectual disability subject to institutionalization by court 15329  
order. Except as provided in division (A)(2) of this section, the 15330  
affidavit shall be accompanied by both of the following: 15331

(a) A comprehensive evaluation report prepared by the 15332  
person's evaluation team that includes a statement by the members 15333

of the team certifying that they have performed a comprehensive 15334  
evaluation of the person and that they are of the opinion that the 15335  
person is a ~~mentally retarded~~ person with an intellectual 15336  
disability subject to institutionalization by court order; 15337

(b) An assessment report prepared by the county board of 15338  
developmental disabilities under section 5123.711 of the Revised 15339  
Code specifying that the individual is in need of services on an 15340  
emergency or priority basis. 15341

(2) In lieu of the comprehensive evaluation report, the 15342  
affidavit may be accompanied by a written and sworn statement that 15343  
the person or the guardian of a person adjudicated incompetent has 15344  
refused to allow a comprehensive evaluation and county board 15345  
assessment and assessment reports. Immediately after accepting an 15346  
affidavit that is not accompanied by the reports of a 15347  
comprehensive evaluation and county board assessment, the court 15348  
shall cause a comprehensive evaluation and county board assessment 15349  
of the person named in the affidavit to be performed. The 15350  
evaluation shall be conducted in the least restrictive environment 15351  
possible and the assessment shall be conducted in the same manner 15352  
as assessments conducted under section 5123.711 of the Revised 15353  
Code. The evaluation and assessment must be completed before a 15354  
probable cause hearing or full hearing may be held under section 15355  
5123.75 or 5123.76 of the Revised Code. 15356

A written report of the evaluation team's findings and the 15357  
county board's assessment shall be filed with the court. The 15358  
reports shall, consistent with the rules of evidence, be accepted 15359  
as probative evidence in any proceeding under section 5123.75 or 15360  
5123.76 of the Revised Code. If the counsel for the person who is 15361  
evaluated or assessed is known, the court shall send to the 15362  
counsel a copy of the reports as soon as possible after they are 15363  
filed and prior to any proceedings under section 5123.75 or 15364  
5123.76 of the Revised Code. 15365

(B) Any person who is involuntarily detained in an institution or otherwise is in custody under this chapter shall be informed of the right to do the following:

(1) Immediately make a reasonable number of telephone calls or use other reasonable means to contact an attorney, a physician, or both, to contact any other person or persons to secure representation by counsel, or to obtain medical assistance, and be provided assistance in making calls if the assistance is needed and requested;

(2) Retain counsel and have independent expert evaluation and, if the person is an indigent person, be represented by court-appointed counsel and have independent expert evaluation at court expense;

(3) Upon request, have a hearing to determine whether there is probable cause to believe that the person is a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order.

(C) No person who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing may be ordered detained or involuntarily committed unless the court has determined that the person represents a very substantial risk of self-impairment, self-injury, or impairment or injury to others.

**Sec. 5123.74.** (A) On receipt of an affidavit under section 5123.71 of the Revised Code, the probate division of the court of common pleas may, if it has probable cause to believe that the person named in the affidavit is a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order and that emergency institutionalization is required, do any of the following:

(1) Issue a temporary order of detention ordering any health 15396  
or police officer or sheriff to take into custody and transport 15397  
such person to an institution or other place as designated in 15398  
section 5123.77 of the Revised Code; 15399

(2) Order the county board of developmental disabilities to 15400  
provide services to the individual in the community if the board's 15401  
assessment of the individual conducted under section 5123.711 of 15402  
the Revised Code identifies that resources are available to meet 15403  
the individual's needs in an appropriate manner within the 15404  
community as an alternative to institutionalization; 15405

(3) Set the matter for further hearing. 15406

(B) A managing officer of a nonpublic institution may, and 15407  
the managing officer of a public institution shall, receive for 15408  
observation, diagnosis, habilitation, and care any person whose 15409  
admission is ordered pursuant to division (A)(1) of this section. 15410

The alternatives to institutionalization that may be ordered 15411  
under division (A)(2) of this section are limited to those that 15412  
are necessary to remediate the emergency condition; necessary for 15413  
the person's health, safety or welfare; and necessary for the 15414  
protection of society, if applicable. 15415

(C) A person detained under this section may be observed and 15416  
habilitated until the probable cause hearing provided for in 15417  
section 5123.75 of the Revised Code. If no probable cause hearing 15418  
is requested or held, the person may be evaluated and shall be 15419  
provided with habilitative services until the full hearing is held 15420  
pursuant to section 5123.76 of the Revised Code. 15421

**Sec. 5123.75.** A respondent who is involuntarily placed in an 15422  
institution or other place as designated in section 5123.77 of the 15423  
Revised Code or with respect to whom proceedings have been 15424  
instituted under section 5123.71 of the Revised Code shall, on 15425

request of the respondent, the respondent's guardian, or the 15426  
respondent's counsel, or upon the court's own motion, be afforded 15427  
a hearing to determine whether there is probable cause to believe 15428  
that the respondent is a ~~mentally-retarded~~ person with an 15429  
intellectual disability subject to institutionalization by court 15430  
order. 15431

(A) The probable cause hearing shall be conducted within two 15432  
court days from the day on which the request is made. Failure to 15433  
conduct the probable cause hearing within this time shall effect 15434  
an immediate discharge of the respondent. If the proceedings are 15435  
not reinstated within thirty days, records of the proceedings 15436  
shall be expunged. 15437

(B) The respondent shall be informed that the respondent may 15438  
retain counsel and have independent expert evaluation and, if the 15439  
respondent is an indigent person, be represented by court 15440  
appointed counsel and have independent expert evaluation at court 15441  
expense. 15442

(C) The probable cause hearing shall be conducted in a manner 15443  
consistent with the procedures set forth in division (A) of 15444  
section 5123.76 of the Revised Code, except divisions (A)(10) and 15445  
(14) of that section, and the designee of the director of 15446  
developmental disabilities under section 5123.72 of the Revised 15447  
Code shall present evidence for the state. 15448

(D) If the court does not find probable cause to believe that 15449  
the respondent is a ~~mentally-retarded~~ person with an intellectual 15450  
disability subject to institutionalization by court order, it 15451  
shall order immediate release of the respondent and dismiss and 15452  
expunge all record of the proceedings under this chapter. 15453

(E) On motion of the respondent or the respondent's counsel 15454  
and for good cause shown, the court may order a continuance of the 15455  
hearing. 15456

(F) If the court finds probable cause to believe that the respondent is a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order, the court may issue an interim order of placement and, where proceedings under section 5123.71 of the Revised Code have been instituted, shall order a full hearing as provided in section 5123.76 of the Revised Code to be held on the question of whether the respondent is a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order. Unless specifically waived by the respondent or the respondent's counsel, the court shall schedule said hearing to be held as soon as possible within ten days from the probable cause hearing. A waiver of such full hearing at this point shall not preclude the respondent from asserting the respondent's right to such hearing under section 5123.76 of the Revised Code at any time prior to the mandatory hearing provided in division (H) of section 5123.76 of the Revised Code. In any case, if the respondent has waived the right to the full hearing, a mandatory hearing shall be held under division (H) of section 5123.76 of the Revised Code between the ninetieth and the one hundredth day after the original involuntary detention of the person unless the respondent has been discharged.

(G) Whenever possible, the probable cause hearing shall be held before the respondent is taken into custody.

**Sec. 5123.76.** (A) The full hearing shall be conducted in a manner consistent with the procedures outlined in this chapter and with due process of law. The hearing shall be held by a judge of the probate division or, upon transfer by the judge of the probate division, by another judge of the court of common pleas, or a referee designated by the judge of the probate division. Any referee designated by the judge of the probate division must be an attorney.

- (1) The following shall be made available to counsel for the respondent: 15488  
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- (a) All relevant documents, information, and evidence in the custody or control of the state or prosecutor; 15490  
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- (b) All relevant documents, information, and evidence in the custody or control of the institution, facility, or program in which the respondent currently is held or in which the respondent has been held pursuant to these proceedings; 15492  
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- (c) With the consent of the respondent, all relevant documents, information, and evidence in the custody or control of any institution or person other than the state. 15496  
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- (2) The respondent has the right to be represented by counsel of the respondent's choice and has the right to attend the hearing except if unusual circumstances of compelling medical necessity exist that render the respondent unable to attend and the respondent has not expressed a desire to attend. 15499  
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- (3) If the respondent is not represented by counsel and the court determines that the conditions specified in division (A)(2) of this section justify the respondent's absence and the right to counsel has not been validly waived, the court shall appoint counsel forthwith to represent the respondent at the hearing, reserving the right to tax costs of appointed counsel to the respondent unless it is shown that the respondent is indigent. If the court appoints counsel, or if the court determines that the evidence relevant to the respondent's absence does not justify the absence, the court shall continue the case. 15504  
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- (4) The respondent shall be informed of the right to retain counsel, to have independent expert evaluation, and, if an indigent person, to be represented by court appointed counsel and have expert independent evaluation at court expense. 15514  
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- (5) The hearing may be closed to the public unless counsel 15518

for the respondent requests that the hearing be open to the public. 15519  
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(6) Unless objected to by the respondent, the respondent's counsel, or the designee of the director of developmental disabilities under section 5123.72 of the Revised Code, the court, for good cause shown, may admit persons having a legitimate interest in the proceedings. 15521  
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(7) The affiant under section 5123.71 of the Revised Code shall be subject to subpoena by either party. 15526  
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(8) The court shall examine the sufficiency of all documents filed and shall inform the respondent, if present, and the respondent's counsel of the nature of the content of the documents and the reason for which the respondent is being held or for which the respondent's placement is being sought. 15528  
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(9) The court shall receive only relevant, competent, and material evidence. 15533  
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(10) In accordance with section 5123.72 of the Revised Code, the designee of the director shall present the evidence for the state. In proceedings under this chapter, the attorney general shall present the comprehensive evaluation, assessment, diagnosis, prognosis, record of habilitation and care, if any, and less restrictive habilitation plans, if any. The attorney general does not have a similar presentation responsibility in connection with a person who has been found not guilty by reason of insanity and who is the subject of a hearing under section 2945.40 of the Revised Code to determine whether the person is a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order. 15535  
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(11) The respondent has the right to testify and the respondent or the respondent's counsel has the right to subpoena witnesses and documents and to present and cross-examine 15547  
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witnesses. 15550

(12) The respondent shall not be compelled to testify and 15551  
shall be so advised by the court. 15552

(13) On motion of the respondent or the respondent's counsel 15553  
for good cause shown, or upon the court's own motion, the court 15554  
may order a continuance of the hearing. 15555

(14) To an extent not inconsistent with this chapter, the 15556  
Rules of Civil Procedure shall be applicable. 15557

(B) Unless, upon completion of the hearing, the court finds 15558  
by clear and convincing evidence that the respondent named in the 15559  
affidavit is a ~~mentally-retarded~~ person with an intellectual 15560  
disability subject to institutionalization by court order, it 15561  
shall order the respondent's discharge forthwith. 15562

(C) If, upon completion of the hearing, the court finds by 15563  
clear and convincing evidence that the respondent is a ~~mentally~~ 15564  
~~retarded~~ person with an intellectual disability subject to 15565  
institutionalization by court order, the court may order the 15566  
respondent's discharge or order the respondent, for a period not 15567  
to exceed ninety days, to any of the following: 15568

(1) A public institution, provided that commitment of the 15569  
respondent to the institution will not cause the institution to 15570  
exceed its licensed capacity determined in accordance with section 15571  
5123.19 of the Revised Code and provided that such a placement is 15572  
indicated by the comprehensive evaluation report filed pursuant to 15573  
section 5123.71 of the Revised Code; 15574

(2) A private institution; 15575

(3) A county ~~mental-retardation~~ program for persons with 15576  
developmental disabilities that are intellectual disabilities; 15577

(4) Receive private habilitation and care; 15578

(5) Any other suitable facility, program, or the care of any 15579

person consistent with the comprehensive evaluation, assessment, 15580  
diagnosis, prognosis, and habilitation needs of the respondent. 15581

(D) Any order made pursuant to division (C)(2), (4), or (5) 15582  
of this section shall be conditional upon the receipt by the court 15583  
of consent by the facility, program, or person to accept the 15584  
respondent. 15585

(E) In determining the place to which, or the person with 15586  
whom, the respondent is to be committed, the court shall consider 15587  
the comprehensive evaluation, assessment, diagnosis, and projected 15588  
habilitation plan for the respondent, and shall order the 15589  
implementation of the least restrictive alternative available and 15590  
consistent with habilitation goals. 15591

(F) If, at any time it is determined by the director of the 15592  
facility or program to which, or the person to whom, the 15593  
respondent is committed that the respondent could be equally well 15594  
habilitated in a less restrictive environment that is available, 15595  
the following shall occur: 15596

(1) The respondent shall be released by the director of the 15597  
facility or program or by the person forthwith and referred to the 15598  
court together with a report of the findings and recommendations 15599  
of the facility, program, or person. 15600

(2) The director of the facility or program or the person 15601  
shall notify the respondent's counsel and the designee of the 15602  
director of developmental disabilities. 15603

(3) The court shall dismiss the case or order placement in 15604  
the less restrictive environment. 15605

(G)(1) Except as provided in divisions (G)(2) and (3) of this 15606  
section, any person who has been committed under this section may 15607  
apply at any time during the ninety-day period for voluntary 15608  
admission to an institution under section 5123.69 of the Revised 15609  
Code. Upon admission of a voluntary resident, the managing officer 15610

immediately shall notify the court, the respondent's counsel, and 15611  
the designee of the director in writing of that fact by mail or 15612  
otherwise, and, upon receipt of the notice, the court shall 15613  
dismiss the case. 15614

(2) A person who is found incompetent to stand trial or not 15615  
guilty by reason of insanity and who is committed pursuant to 15616  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 15617  
Code shall not be voluntarily admitted to an institution pursuant 15618  
to division (G)(1) of this section until after the termination of 15619  
the commitment, as described in division (J) of section 2945.401 15620  
of the Revised Code. 15621

(H) If, at the end of any commitment period, the respondent 15622  
has not already been discharged or has not requested voluntary 15623  
admission status, the director of the facility or program, or the 15624  
person to whose care the respondent has been committed, shall 15625  
discharge the respondent forthwith, unless at least ten days 15626  
before the expiration of that period the designee of the director 15627  
of developmental disabilities or the prosecutor files an 15628  
application with the court requesting continued commitment. 15629

(1) An application for continued commitment shall include a 15630  
written report containing a current comprehensive evaluation and 15631  
assessment, a diagnosis, a prognosis, an account of progress and 15632  
past habilitation, and a description of alternative habilitation 15633  
settings and plans, including a habilitation setting that is the 15634  
least restrictive setting consistent with the need for 15635  
habilitation. A copy of the application shall be provided to 15636  
respondent's counsel. The requirements for notice under section 15637  
5123.73 of the Revised Code and the provisions of divisions (A) to 15638  
(E) of this section apply to all hearings on such applications. 15639

(2) A hearing on the first application for continued 15640  
commitment shall be held at the expiration of the first ninety-day 15641  
period. The hearing shall be mandatory and may not be waived. 15642

(3) Subsequent periods of commitment not to exceed one hundred eighty days each may be ordered by the court if the designee of the director of developmental disabilities files an application for continued commitment, after a hearing is held on the application or without a hearing if no hearing is requested and no hearing required under division (H)(4) of this section is waived. Upon the application of a person involuntarily committed under this section, supported by an affidavit of a licensed physician alleging that the person is no longer a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order, the court for good cause shown may hold a full hearing on the person's continued commitment prior to the expiration of any subsequent period of commitment set by the court.

(4) A mandatory hearing shall be held at least every two years after the initial commitment.

(5) If the court, after a hearing upon a request to continue commitment, finds that the respondent is a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order, the court may make an order pursuant to divisions (C), (D), and (E) of this section.

(I) Notwithstanding the provisions of division (H) of this section, no person who is found to be a ~~mentally retarded~~ person with an intellectual disability subject to institutionalization by court order pursuant to division (O)(2) of section 5123.01 of the Revised Code shall be held under involuntary commitment for more than five years.

(J) The managing officer admitting a person pursuant to a judicial proceeding, within ten working days of the admission, shall make a report of the admission to the department.

**Sec. 5123.79.** (A) Notwithstanding a finding pursuant to

section 5123.76 of the Revised Code that a person is a ~~mentally~~ 15674  
~~retarded~~ person with an intellectual disability subject to 15675  
institutionalization by court order, the managing officer of an 15676  
institution, with the concurrence of the chief program director, 15677  
shall, except as provided in division (C) of this section, grant a 15678  
discharge without the consent or the authorization of any court 15679  
upon a determination that institutionalization no longer is 15680  
appropriate. Upon the discharge, the managing officer of the 15681  
institution shall notify the probate division of the court of 15682  
common pleas that made the involuntary commitment. 15683

(B) Upon the request of the director of a private 15684  
institution, program, facility, or person having custody of a 15685  
resident institutionalized pursuant to section 5123.76 of the 15686  
Revised Code, or on the order of the probate division of the court 15687  
of common pleas, the resident may be called for a rehearing to 15688  
determine the advisability of continued institutionalization at a 15689  
place within the county of resident's residence or the county 15690  
where the resident is institutionalized as the probate division 15691  
designates. The hearing shall be held pursuant to section 5123.76 15692  
of the Revised Code. 15693

**Sec. 5123.80.** (A) When the chief program director of an 15694  
institution for ~~the mentally retarded~~ persons with developmental 15695  
disabilities that are intellectual disabilities considers that it 15696  
is in the best interest of a resident, the managing officer may 15697  
permit the resident to leave the institution on a trial visit. The 15698  
trial visit shall be for the period of time the managing officer 15699  
determines. 15700

(B) The managing officer, upon releasing a resident on trial 15701  
visit, may impose such requirements and conditions upon the 15702  
resident while the resident is absent from the institution as are 15703  
consistent with the habilitation plan. 15704

(C) The managing officer of the institution from which an involuntary resident is given trial visit status may at any time revoke the trial visit if there is reason to believe that it is in the best interests of the resident to be returned to the institution.

(D) If the revocation is not voluntarily complied with the managing officer, within five days, shall authorize any health or police officer, or sheriff to take the resident into custody and transport the resident to the institution.

(E) An involuntarily committed resident who has successfully completed one year of continuous trial visit shall be automatically discharged.

**Sec. 5123.81.** When an involuntarily committed resident of an institution for ~~the mentally retarded~~ persons with developmental disabilities that are intellectual disabilities is absent without leave, an order shall be issued within five days after the resident's absence requiring the resident to be taken into custody by any health or police officer, or sheriff and transported to the institution from which the resident is absent. The order may be issued by the director of developmental disabilities, the managing officer of the institution from which the resident is absent, or the probate judge of the county from which the resident was ordered institutionalized or in which he is found. The officer who takes the resident into custody shall immediately notify the issuer of the order.

**Sec. 5123.82.** (A) Any person who has been institutionalized under this chapter may, at any time after discharge from such institution, make application to the managing officer of any public institution for habilitation and care if such person feels the person is in need of such services. If the chief program

director determines the applicant to be in need of such services, 15735  
the managing officer may provide such services as are required by 15736  
the applicant. 15737

(B) Any person may apply to the managing officer of any 15738  
public institution for habilitation and care if such person feels 15739  
the person is in need of such services. If the person's condition 15740  
warrants, the ~~person's~~ person may be enrolled as an outpatient 15741  
and, during such enrollment, the person may receive services 15742  
subject to Chapter 5121. of the Revised Code. 15743

(C) The application prescribed in division (A) or (B) of this 15744  
section may also be made on behalf of a minor by a parent, 15745  
guardian, or custodian of a minor, and on behalf of an adult 15746  
adjudicated incompetent by the guardian or custodian of the adult. 15747

(D) The managing officer of the public institution may refer 15748  
any discharged resident who makes an application under this 15749  
section to the director of any community ~~mental retardation~~ 15750  
program for persons with developmental disabilities that are 15751  
intellectual disabilities serving the county in which such 15752  
resident resides, or to such other facility as the director of 15753  
developmental disabilities may designate. Upon notice of such 15754  
referral, the director of such program may provide the services 15755  
required by the applicant. 15756

**Sec. 5123.83.** No person shall be deprived of any civil right, 15757  
or public or private employment, solely by reason of ~~his~~ the 15758  
person's having received services, voluntarily or involuntarily, 15759  
for ~~mental retardation or~~ a developmental disability. Any person 15760  
in custody, voluntarily or involuntarily, under the provisions of 15761  
this chapter, retains all rights not specifically denied ~~him~~ the 15762  
person under this or any other chapter of the Revised Code. 15763

15764

Sec. 5123.84. All residents of institutions for ~~the mentally~~ 15765  
~~retarded~~ persons with developmental disabilities that are 15766  
intellectual disabilities shall be allowed to communicate freely 15767  
with others, including but not restricted to the following: 15768

(A) Receiving visitors at reasonable times; 15769

(B) Being visited by counsel or personal physician, or both, 15770  
at any reasonable time; 15771

(C) Having reasonable access to telephones to make and 15772  
receive confidential calls, including a reasonable number of free 15773  
calls if unable to pay for them and assistance in calling if 15774  
requested and needed; 15775

(D) Having ready access to letter writing materials and 15776  
stamps, including a reasonable number without cost if the resident 15777  
is unable to pay for them, to mailing and receiving unopened 15778  
correspondence, and to receiving assistance in writing if 15779  
requested and needed. 15780

Sec. 5123.85. (A) All residents institutionalized pursuant to 15781  
this chapter shall receive, within thirty days of their admission, 15782  
a comprehensive evaluation, a diagnosis, a prognosis, and a 15783  
description of habilitation goals consistent therewith. 15784

(B) All such residents shall have a written habilitation plan 15785  
consistent with the comprehensive evaluation, diagnosis, 15786  
prognosis, and goals which shall be provided, upon request of 15787  
resident or resident's counsel, to resident's counsel and to any 15788  
private physician designated by the resident or the resident's 15789  
counsel. 15790

(C) All such residents shall receive habilitation and care 15791  
consistent with the habilitation plan. The department of 15792  
developmental disabilities shall set standards for habilitation 15793  
and care provided to such residents, consistent wherever possible 15794

with standards set by the joint commission on accreditation of 15795  
facilities for ~~the mentally retarded~~ persons with developmental 15796  
disabilities that are intellectual disabilities. 15797

(D) All such residents shall receive periodic comprehensive 15798  
re-evaluations of the habilitation plan by the professional staff 15799  
of the institution at intervals not to exceed ninety days. 15800

(E) All such residents shall be provided with prompt and 15801  
adequate medical treatment for any physical or mental disease or 15802  
injury. 15803

**Sec. 5123.86.** (A) Except as provided in divisions (C), (D), 15804  
(E), and (F) of this section, the chief medical officer shall 15805  
provide all information, including expected physical and medical 15806  
consequences, necessary to enable any resident of an institution 15807  
for ~~the mentally retarded~~ persons with developmental disabilities 15808  
that are intellectual disabilities to give a fully informed, 15809  
intelligent, and knowing consent if any of the following 15810  
procedures are proposed: 15811

(1) Surgery; 15812

(2) Convulsive therapy; 15813

(3) Major aversive interventions; 15814

(4) Sterilization; 15815

(5) Experimental procedures; 15816

(6) Any unusual or hazardous treatment procedures. 15817

(B) No resident shall be subjected to any of the procedures 15818  
listed in division (A)(4), (5), or (6) of this section without the 15819  
resident's informed consent. 15820

(C) If a resident is physically or mentally unable to receive 15821  
the information required for surgery under division (A)(1) of this 15822  
section, or has been adjudicated incompetent, the information may 15823

be provided to the resident's natural or court-appointed guardian, 15824  
including an agency providing guardianship services under contract 15825  
with the department of developmental disabilities under sections 15826  
5123.55 to 5123.59 of the Revised Code, who may give the informed, 15827  
intelligent, and knowing written consent for surgery. Consent for 15828  
surgery shall not be provided by a guardian who is an officer or 15829  
employee of the department of mental health and addiction services 15830  
or the department of developmental disabilities. 15831

If a resident is physically or mentally unable to receive the 15832  
information required for surgery under division (A)(1) of this 15833  
section and has no guardian, then the information, the 15834  
recommendation of the chief medical officer, and the concurring 15835  
judgment of a licensed physician who is not a full-time employee 15836  
of the state may be provided to the court in the county in which 15837  
the institution is located, which may approve the surgery. Before 15838  
approving the surgery, the court shall notify the Ohio protection 15839  
and advocacy system created by section 5123.60 of the Revised 15840  
Code, and shall notify the resident of the resident's rights to 15841  
consult with counsel, to have counsel appointed by the court if 15842  
the resident is indigent, and to contest the recommendation of the 15843  
chief medical officer. 15844

(D) If, in the judgment of two licensed physicians, delay in 15845  
obtaining consent for surgery would create a grave danger to the 15846  
health of a resident, emergency surgery may be performed without 15847  
the consent of the resident if the necessary information is 15848  
provided to the resident's guardian, including an agency providing 15849  
guardianship services under contract with the department of 15850  
developmental disabilities under sections 5123.55 to 5123.59 of 15851  
the Revised Code, or to the resident's spouse or next of kin to 15852  
enable that person or agency to give an informed, intelligent, and 15853  
knowing written consent. 15854

If the guardian, spouse, or next of kin cannot be contacted 15855

through exercise of reasonable diligence, or if the guardian, 15856  
spouse, or next of kin is contacted, but refuses to consent, then 15857  
the emergency surgery may be performed upon the written 15858  
authorization of the chief medical officer and after court 15859  
approval has been obtained. However, if delay in obtaining court 15860  
approval would create a grave danger to the life of the resident, 15861  
the chief medical officer may authorize surgery, in writing, 15862  
without court approval. If the surgery is authorized without court 15863  
approval, the chief medical officer who made the authorization and 15864  
the physician who performed the surgery shall each execute an 15865  
affidavit describing the circumstances constituting the emergency 15866  
and warranting the surgery and the circumstances warranting their 15867  
not obtaining prior court approval. The affidavit shall be filed 15868  
with the court with which the request for prior approval would 15869  
have been filed within five court days after the surgery, and a 15870  
copy of the affidavit shall be placed in the resident's file and 15871  
shall be given to the guardian, spouse, or next of kin of the 15872  
resident, to the hospital at which the surgery was performed, and 15873  
to the Ohio protection and advocacy system created by section 15874  
5123.60 of the Revised Code. 15875

(E)(1) If it is the judgment of two licensed physicians, as 15876  
described in division (E)(2) of this section, that a medical 15877  
emergency exists and delay in obtaining convulsive therapy creates 15878  
a grave danger to the life of a resident who is both ~~mentally~~ 15879  
retarded a person with a developmental disability that is an 15880  
intellectual disability and a mentally ill person, convulsive 15881  
therapy may be administered without the consent of the resident if 15882  
the resident is physically or mentally unable to receive the 15883  
information required for convulsive therapy and if the necessary 15884  
information is provided to the resident's natural or 15885  
court-appointed guardian, including an agency providing 15886  
guardianship services under contract with the department of 15887  
developmental disabilities under sections 5123.55 to 5123.59 of 15888

the Revised Code, or to the resident's spouse or next of kin to 15889  
enable that person or agency to give an informed, intelligent, and 15890  
knowing written consent. If neither the resident's guardian, 15891  
spouse, nor next of kin can be contacted through exercise of 15892  
reasonable diligence, or if the guardian, spouse, or next of kin 15893  
is contacted, but refuses to consent, then convulsive therapy may 15894  
be performed upon the written authorization of the chief medical 15895  
officer and after court approval has been obtained. 15896

(2) The two licensed physicians referred to in division 15897  
(E)(1) of this section shall not be associated with each other in 15898  
the practice of medicine or surgery by means of a partnership or 15899  
corporate arrangement, other business arrangement, or employment. 15900  
At least one of the physicians shall be a psychiatrist as defined 15901  
in division (E) of section 5122.01 of the Revised Code. 15902

(F) Major aversive interventions shall not be used unless a 15903  
resident continues to engage in behavior destructive to self or 15904  
others after other forms of therapy have been attempted. Major 15905  
aversive interventions shall not be applied to a voluntary 15906  
resident without the informed, intelligent, and knowing written 15907  
consent of the resident or the resident's guardian, including an 15908  
agency providing guardianship services under contract with the 15909  
department of developmental disabilities under sections 5123.55 to 15910  
5123.59 of the Revised Code. 15911

(G)(1) This chapter does not authorize any form of compulsory 15912  
medical or psychiatric treatment of any resident who is being 15913  
treated by spiritual means through prayer alone in accordance with 15914  
a recognized religious method of healing. 15915

(2) For purposes of this section, "convulsive therapy" does 15916  
not include defibrillation. 15917

**Sec. 5123.87.** (A) No resident of an institution for ~~the~~ 15918  
mentally retarded persons with developmental disabilities that are 15919

intellectual disabilities shall be compelled to perform labor 15920  
which involves the operation, support, or maintenance of the 15921  
institution or for which the institution is under contract with an 15922  
outside organization. Privileges or release from the institution 15923  
shall not be conditional upon the performance of such labor. 15924  
Residents who volunteer to perform such labor shall be compensated 15925  
at a rate derived from the value of the work performed, having 15926  
reference to the prevailing wage rate for comparable work or wage 15927  
rates established under section 4111.06 of the Revised Code. 15928

(B) A resident may be required to perform habilitative tasks 15929  
which do not involve the operation, support, or maintenance of the 15930  
institution if those tasks are an integrated part of the 15931  
resident's habilitation plan and supervised by a ~~mental~~ 15932  
~~retardation~~ an intellectual disability professional designated by 15933  
the chief program director. 15934

(C) A resident may be required to perform tasks of a personal 15935  
housekeeping nature. 15936

**Sec. 5123.88.** Any person detained pursuant to this chapter 15937  
shall be entitled to the writ of habeas corpus upon proper 15938  
petition by ~~himself~~ self or a friend to any court generally 15939  
empowered to issue the writ of habeas corpus in the county in 15940  
which the person is detained. 15941

No person may bring a petition for a writ of habeas corpus 15942  
that alleges that a person involuntarily detained pursuant to this 15943  
chapter is no longer ~~mentally retarded~~ a person with an 15944  
intellectual disability subject to institutionalization by court 15945  
order unless the person shows that the release procedures of 15946  
division (H) of section 5123.76 of the Revised Code are inadequate 15947  
or unavailable. 15948

**Sec. 5123.89.** (A) As used in this section: 15949

(1) "Family" means a parent, brother, sister, spouse, son,	15950
daughter, grandparent, aunt, uncle, or cousin.	15951
(2) "Payment" means activities undertaken by a service	15952
provider or government entity to obtain or provide reimbursement	15953
for services provided to a person.	15954
(3) "Treatment" means the provision of services to a person,	15955
including the coordination or management of services provided to	15956
the person.	15957
(B) All certificates, applications, records, and reports made	15958
for the purpose of this chapter, other than court journal entries	15959
or court docket entries, which directly or indirectly identify a	15960
resident or former resident of an institution for <del>the mentally</del>	15961
<del>retarded</del> <u>persons with developmental disabilities that are</u>	15962
<u>intellectual disabilities</u> or person whose institutionalization has	15963
been sought under this chapter shall be kept confidential and	15964
shall not be disclosed by any person except in the following	15965
situations:	15966
(1) It is the judgment of the court for judicial records, and	15967
the managing officer for institution records, that disclosure is	15968
in the best interest of the person identified, and that person or	15969
that person's guardian or, if that person is a minor, that	15970
person's parent or guardian consents.	15971
(2) Disclosure is provided for in other sections of this	15972
chapter.	15973
(3) It is the judgment of the managing officer for	15974
institution records that disclosure to a mental health facility is	15975
in the best interest of the person identified.	15976
(4) Disclosure is of a record deposited with the Ohio	15977
historical society pursuant to division (C) of section 5123.31 of	15978
the Revised Code and the disclosure is made to the closest living	15979
relative of the person identified, on the relative's request.	15980

(5) Disclosure is needed for the treatment of a person who is a resident or former resident of an institution for ~~the mentally retarded~~ persons with developmental disabilities that are intellectual disabilities or a person whose institutionalization has been sought under this chapter or is needed for the payment of services provided to the person.

(C) The department of developmental disabilities shall adopt rules with respect to the systematic and periodic destruction of residents' records.

(D) Upon the death of a resident or former resident of an institution for ~~the mentally retarded~~ persons with developmental disabilities that are intellectual disabilities or a person whose institutionalization was sought under this chapter, the managing officer of an institution shall provide access to the certificates, applications, records, and reports made for the purposes of this chapter to the resident's, former resident's, or person's guardian if the guardian makes a written request. If a deceased resident, former resident, or person whose institutionalization was sought under this chapter did not have a guardian at the time of death, the managing officer shall provide access to the certificates, applications, records, and reports made for purposes of this chapter to a member of the person's family, upon that family member's written request.

(E) No person shall reveal the contents of a record of a resident except as authorized by this chapter.

**Sec. 5123.91.** All persons who are not subject to any criminal provisions and who act reasonable and in good faith, either upon actual knowledge or upon information reasonably thought by them to be reliable, shall be free from any liability to a person institutionalized in institutions for ~~the mentally retarded~~ persons with developmental disabilities that are intellectual

disabilities or to any other person in their procedural or 16012  
physical assistance administered in the course of the 16013  
institutionalization or discharge of a person pursuant to the 16014  
provisions of this chapter. 16015

**Sec. 5123.92.** If an affidavit alleging that a person ~~is~~ 16016  
~~mentally retarded~~ has a developmental disability that is an 16017  
intellectual disability and is subject to institutionalization by 16018  
court order is filed, according to the provisions of section 16019  
5123.71 of the Revised Code, in the probate division of a county 16020  
within the institutional district but not in the county within 16021  
which the institution is located, and if such person is detained 16022  
in the institution, the probate division of the county in which 16023  
the institution is located shall, upon the request of the probate 16024  
division receiving the affidavit, hold a hearing and make a 16025  
disposition of the person in accordance with the procedures 16026  
prescribed by this chapter. 16027

**Sec. 5123.93.** Minors with ~~mental retardation~~ developmental 16028  
disabilities that are intellectual disabilities shall remain under 16029  
the guardianship of their parents or of a guardian appointed 16030  
pursuant to Chapter 2111. of the Revised Code, notwithstanding 16031  
institutionalization pursuant to any section of this chapter, 16032  
unless parental rights have been terminated pursuant to a court 16033  
finding that the child is neglected, abused, or dependent pursuant 16034  
to Chapter 2151. of the Revised Code. If a minor with ~~mental~~ 16035  
~~retardation~~ a developmental disability that is an intellectual 16036  
disability has been found to be dependent, abused, or neglected, 16037  
the public children services agency to whom permanent custody has 16038  
been assigned pursuant to Chapter 2151. of the Revised Code shall 16039  
have the same authority and responsibility it would have if the 16040  
child were not ~~mentally retarded~~ a person with a developmental 16041  
disability that is an intellectual disability and were not 16042

institutionalized. In no case shall the guardianship of a person 16043  
with ~~mental retardation~~ a developmental disability that is an 16044  
intellectual disability be assigned to the managing officer or any 16045  
other employee of an institution in which the person is 16046  
institutionalized, or be assigned, unless there is a relationship 16047  
by blood or marriage or unless the service is a protective service 16048  
as defined in section 5123.55 of the Revised Code, to a person or 16049  
agency who provides services to the person with ~~mental retardation~~ 16050  
a developmental disability that is an intellectual disability. 16051

**Sec. 5123.95.** The probate judge, upon making an order 16052  
institutionalizing a person under this chapter, shall forthwith 16053  
transmit copies, under ~~his~~ the judge's official seal, of court 16054  
papers in the case, including the certificate of the expert 16055  
witnesses, and of ~~his~~ the judge's findings in the case to the 16056  
managing officer of the institution for ~~the mentally retarded~~ 16057  
persons with developmental disabilities that are intellectual 16058  
disabilities. 16059

If not otherwise furnished, the probate judge shall see that 16060  
each person institutionalized under section 5123.76 of the Revised 16061  
Code is properly attired for transportation and, in addition, the 16062  
institution shall be furnished a complete change of clothing for 16063  
such person, which shall be paid for on the certificate of the 16064  
probate judge and the order of the county auditor from the county 16065  
treasury. The clothing shall be new or as good as new. The 16066  
managing officer of the institution need not receive the person 16067  
without such clothing. 16068

Upon institutionalization, the managing officer of the 16069  
institution to which the individual is admitted shall take 16070  
possession of all money and other valuables that may be upon the 16071  
person of the individual and shall, within ten days, file a list 16072  
thereof with the probate judge of the county of which the 16073

individual is a resident. If the amount of money is fifty dollars 16074  
or less it shall be retained and expended by the managing officer 16075  
of the institution for the benefit of the individual. Unless a 16076  
guardian of the estate of the individual has already been 16077  
appointed, the probate judge may, upon ~~his~~ the judge's own motion 16078  
and without notice, appoint a special guardian of the estate of 16079  
the individual. Any special guardian, before being appointed, 16080  
shall file a bond approved by the probate judge in the same amount 16081  
as is required by section 2109.04 of the Revised Code. A special 16082  
guardian as provided for in this section, and while acting as 16083  
such, shall be governed by all laws applicable to guardians of the 16084  
estates of incompetents. The special guardian shall be allowed 16085  
such compensation for ~~his~~ the special guardian's services as the 16086  
court thinks reasonable, providing ~~he~~ the special guardian 16087  
forthwith performs all the duties incumbent upon ~~him~~ the special 16088  
guardian. 16089

**Sec. 5123.96.** Costs, fees, and expenses of all proceedings 16090  
held under this chapter shall be paid as follows: 16091

(A) To police and health officers, other than sheriffs or 16092  
their deputies, the same fees allowed to constables, to be paid 16093  
upon the approval of the probate judge; 16094

(B) To sheriffs or their deputies, the same fees allowed for 16095  
similar services in the court of common pleas; 16096

(C) To physicians or licensed clinical psychologists acting 16097  
as expert witnesses and to other expert witnesses designated by 16098  
the court, an amount determined by the court; 16099

(D) To witnesses in an administrative proceeding, the same 16100  
fees and mileage as are provided to witnesses by section 119.094 16101  
of the Revised Code, and to witnesses in a judicial proceeding, 16102  
the same fees and mileage as are provided to witnesses by section 16103  
2335.06 of the Revised Code, to be paid upon the approval of the 16104

probate judge; 16105

(E) To a person, other than the sheriff or the sheriff's 16106  
deputies, for taking a ~~mentally-retarded~~ person with a 16107  
developmental disability that is an intellectual disability to an 16108  
institution or removing a ~~mentally-retarded~~ person with a 16109  
developmental disability that is an intellectual disability from 16110  
an institution, the actual necessary expenses incurred, 16111  
specifically itemized, and approved by the probate judge; 16112

(F) To assistants who convey ~~mentally-retarded~~ persons with 16113  
developmental disabilities that are intellectual disabilities to 16114  
institutions when authorized by the probate judge, a fee set by 16115  
the probate court, provided the assistants are not drawing a 16116  
salary from the state or any political subdivision of the state, 16117  
and their actual necessary expenses incurred, provided that the 16118  
expenses are specifically itemized and approved by the probate 16119  
judge; 16120

(G) To an attorney appointed by the probate division for an 16121  
indigent who allegedly is a ~~mentally-retarded~~ person with a 16122  
developmental disability that is an intellectual disability 16123  
pursuant to any section of this chapter, the fees that are 16124  
determined by the probate division. When those indigent persons 16125  
are before the court, all filing and recording fees shall be 16126  
waived. 16127

(H) To a referee who is appointed to conduct proceedings 16128  
under this chapter that involve a respondent whose domicile is or, 16129  
before the respondent's institutionalization, was not the county 16130  
in which the proceedings are held, compensation as fixed by the 16131  
probate division, but not more than the compensation paid for 16132  
similar proceedings for respondents whose domicile is in the 16133  
county in which the proceedings are held; 16134

(I) To a court reporter appointed to make a transcript of 16135

proceedings under this chapter, the compensation and fees allowed 16136  
in other cases under section 2101.08 of the Revised Code. 16137

All costs, fees, and expenses described in this section, 16138  
after payment by the county from appropriations pursuant to 16139  
section 2101.11 of the Revised Code, shall be certified by the 16140  
county auditor to the department of developmental disabilities 16141  
within two months of the date the costs, fees, and expenses are 16142  
incurred by the county. Payment shall be provided for by the 16143  
director of budget and management upon presentation of properly 16144  
verified vouchers. The director of developmental disabilities may 16145  
adopt rules in accordance with Chapter 119. of the Revised Code to 16146  
implement the payment of costs, fees, and expenses under this 16147  
section. 16148

**Sec. 5123.99.** (A) Whoever violates section 5123.16 or 5123.20 16149  
of the Revised Code is guilty of a misdemeanor of the first 16150  
degree. 16151

(B) Whoever violates division (C), (E), or (G)(3) of section 16152  
5123.61 of the Revised Code is guilty of a misdemeanor of the 16153  
fourth degree or, if the abuse or neglect constitutes a felony, a 16154  
misdemeanor of the second degree. In addition to any other 16155  
sanction or penalty authorized or required by law, if a person who 16156  
is convicted of or pleads guilty to a violation of division (C), 16157  
(E), or (G)(3) of section 5123.61 of the Revised Code is ~~an MR/DD~~ 16158  
a developmental disabilities employee, as defined in section 16159  
5123.50 of the Revised Code, the offender shall be eligible to be 16160  
included in the registry regarding misappropriation, abuse, 16161  
neglect, or other specified misconduct by ~~MR/DD~~ developmental 16162  
disabilities employees established under section 5123.52 of the 16163  
Revised Code. 16164

**Sec. 5126.01.** As used in this chapter: 16165

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code.

(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

(a) Adult day habilitation services;

(b) Employment services;

(c) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with ~~mental retardation~~ and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports.

(B)(1) "Adult day habilitation services" means adult services that do the following:

(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community

events, and activities where individuals without disabilities are involved; 16197  
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(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community. 16199  
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(2) "Adult day habilitation services" includes all of the following: 16203  
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(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services; 16205  
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(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services; 16209  
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(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community; 16213  
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(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports; 16220  
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(e) Transportation necessary to access adult day habilitation services; 16223  
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(f) Habilitation management, as described in section 5126.14 of the Revised Code. 16225  
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(3) "Adult day habilitation services" does not include 16227  
activities that are components of the provision of residential 16228  
services, family support services, or supported living services. 16229

(C) "Appointing authority" means the following: 16230

(1) In the case of a member of a county board of 16231  
developmental disabilities appointed by, or to be appointed by, a 16232  
board of county commissioners, the board of county commissioners; 16233

(2) In the case of a member of a county board appointed by, 16234  
or to be appointed by, a senior probate judge, the senior probate 16235  
judge. 16236

(D) "Community employment," "competitive employment," and 16237  
"integrated setting" have the same meanings as in section 5123.022 16238  
of the Revised Code. 16239

(E) "Supported employment services" means vocational 16240  
assessment, job training and coaching, job development and 16241  
placement, worksite accessibility, and other services related to 16242  
employment outside a sheltered workshop. "Supported employment 16243  
services" includes both of the following: 16244

(1) Job training resulting in the attainment of community 16245  
employment, supported work in a typical work environment, or 16246  
self-employment; 16247

(2) Support for ongoing community employment, supported work 16248  
at community-based sites, or self-employment. 16249

(F) As used in this division, "developmental delay" has the 16250  
meaning established pursuant to section 5123.011 of the Revised 16251  
Code. 16252

"Developmental disability" means a severe, chronic disability 16253  
that is characterized by all of the following: 16254

(1) It is attributable to a mental or physical impairment or 16255  
a combination of mental and physical impairments, other than a 16256

mental or physical impairment solely caused by mental illness as 16257  
defined in division (A) of section 5122.01 of the Revised Code; 16258

(2) It is manifested before age twenty-two; 16259

(3) It is likely to continue indefinitely; 16260

(4) It results in one of the following: 16261

(a) In the case of a person under age three, at least one 16262  
developmental delay or a diagnosed physical or mental condition 16263  
that has a high probability of resulting in a developmental delay; 16264

(b) In the case of a person at least age three but under age 16265  
six, at least two developmental delays; 16266

(c) In the case of a person age six or older, a substantial 16267  
functional limitation in at least three of the following areas of 16268  
major life activity, as appropriate for the person's age: 16269  
self-care, receptive and expressive language, learning, mobility, 16270  
self-direction, capacity for independent living, and, if the 16271  
person is at least age sixteen, capacity for economic 16272  
self-sufficiency. 16273

(5) It causes the person to need a combination and sequence 16274  
of special, interdisciplinary, or other type of care, treatment, 16275  
or provision of services for an extended period of time that is 16276  
individually planned and coordinated for the person. 16277

"Developmental disability" includes intellectual disability. 16278

(G) "Early childhood services" means a planned program of 16279  
habilitation designed to meet the needs of individuals with ~~mental~~ 16280  
~~retardation or other~~ developmental disabilities who have not 16281  
attained compulsory school age. 16282

(H) "Employment services" means prevocational services or 16283  
supported employment services. 16284

(I)(1) "Environmental modifications" means the physical 16285  
adaptations to an individual's home, specified in the individual's 16286

service plan, that are necessary to ensure the individual's 16287  
health, safety, and welfare or that enable the individual to 16288  
function with greater independence in the home, and without which 16289  
the individual would require institutionalization. 16290

(2) "Environmental modifications" includes such adaptations 16291  
as installation of ramps and grab-bars, widening of doorways, 16292  
modification of bathroom facilities, and installation of 16293  
specialized electric and plumbing systems necessary to accommodate 16294  
the individual's medical equipment and supplies. 16295

(3) "Environmental modifications" does not include physical 16296  
adaptations or improvements to the home that are of general 16297  
utility or not of direct medical or remedial benefit to the 16298  
individual, including such adaptations or improvements as 16299  
carpeting, roof repair, and central air conditioning. 16300

(J) "Family support services" means the services provided 16301  
under a family support services program operated under section 16302  
5126.11 of the Revised Code. 16303

(K) "Habilitation" means the process by which the staff of 16304  
the facility or agency assists an individual with ~~mental~~ 16305  
~~retardation or other~~ a developmental disability in acquiring and 16306  
maintaining those life skills that enable the individual to cope 16307  
more effectively with the demands of the individual's own person 16308  
and environment, and in raising the level of the individual's 16309  
personal, physical, mental, social, and vocational efficiency. 16310  
Habilitation includes, but is not limited to, programs of formal, 16311  
structured education and training. 16312

(L) "Home and community-based services" has the same meaning 16313  
as in section 5123.01 of the Revised Code. 16314

(M) "ICF/IID" has the same meaning as in section 5124.01 of 16315  
the Revised Code. 16316

(N) "Immediate family" means parents, grandparents, brothers, 16317

sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, 16318  
fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and 16319  
daughters-in-law. 16320

(O) "Intellectual disability" means a mental impairment 16321  
manifested during the developmental period characterized by 16322  
significantly subaverage general intellectual functioning existing 16323  
concurrently with deficiencies in the effectiveness or degree with 16324  
which an individual meets the standards of personal independence 16325  
and social responsibility expected of the individual's age and 16326  
cultural group. 16327

(P) "Medicaid case management services" means case management 16328  
services provided to an individual with ~~mental retardation or~~ 16329  
~~either~~ a developmental disability that the state medicaid plan 16330  
requires. 16331

~~(P) "Mental retardation" means a mental impairment manifested~~ 16332  
~~during the developmental period characterized by significantly~~ 16333  
~~subaverage general intellectual functioning existing concurrently~~ 16334  
~~with deficiencies in the effectiveness or degree with which an~~ 16335  
~~individual meets the standards of personal independence and social~~ 16336  
~~responsibility expected of the individual's age and cultural~~ 16337  
~~group.~~ 16338

(Q) "Prevocational services" means services that provide 16339  
learning and work experiences, including volunteer work 16340  
experiences, from which an individual can develop general 16341  
strengths and skills that are not specific to a particular task or 16342  
job but contribute to employability in community employment, 16343  
supported work at community-based sites, or self-employment. 16344

(R) "Residential services" means services to individuals with 16345  
~~mental retardation or other~~ developmental disabilities to provide 16346  
housing, food, clothing, habilitation, staff support, and related 16347  
support services necessary for the health, safety, and welfare of 16348

the individuals and the advancement of their quality of life. 16349  
"Residential services" includes program management, as described 16350  
in section 5126.14 of the Revised Code. 16351

(S) "Resources" means available capital and other assets, 16352  
including moneys received from the federal, state, and local 16353  
governments, private grants, and donations; appropriately 16354  
qualified personnel; and appropriate capital facilities and 16355  
equipment. 16356

(T) "Senior probate judge" means the current probate judge of 16357  
a county who has served as probate judge of that county longer 16358  
than any of the other current probate judges of that county. If a 16359  
county has only one probate judge, "senior probate judge" means 16360  
that probate judge. 16361

(U) "Service and support administration" means the duties 16362  
performed by a service and support administrator pursuant to 16363  
section 5126.15 of the Revised Code. 16364

(V)(1) "Specialized medical, adaptive, and assistive 16365  
equipment, supplies, and supports" means equipment, supplies, and 16366  
supports that enable an individual to increase the ability to 16367  
perform activities of daily living or to perceive, control, or 16368  
communicate within the environment. 16369

(2) "Specialized medical, adaptive, and assistive equipment, 16370  
supplies, and supports" includes the following: 16371

(a) Eating utensils, adaptive feeding dishes, plate guards, 16372  
mylatex straps, hand splints, reaches, feeder seats, adjustable 16373  
pointer sticks, interpreter services, telecommunication devices 16374  
for the deaf, computerized communications boards, other 16375  
communication devices, support animals, veterinary care for 16376  
support animals, adaptive beds, supine boards, prone boards, 16377  
wedges, sand bags, sidelayers, bolsters, adaptive electrical 16378  
switches, hand-held shower heads, air conditioners, humidifiers, 16379

emergency response systems, folding shopping carts, vehicle lifts, 16380  
vehicle hand controls, other adaptations of vehicles for 16381  
accessibility, and repair of the equipment received. 16382

(b) Nondisposable items not covered by medicaid that are 16383  
intended to assist an individual in activities of daily living or 16384  
instrumental activities of daily living. 16385

(W) "Supportive home services" means a range of services to 16386  
families of individuals with ~~mental retardation or other~~ 16387  
developmental disabilities to develop and maintain increased 16388  
acceptance and understanding of such persons, increased ability of 16389  
family members to teach the person, better coordination between 16390  
school and home, skills in performing specific therapeutic and 16391  
management techniques, and ability to cope with specific 16392  
situations. 16393

(X)(1) "Supported living" means services provided for as long 16394  
as twenty-four hours a day to an individual with ~~mental~~ 16395  
~~retardation or other~~ a developmental disability through any public 16396  
or private resources, including moneys from the individual, that 16397  
enhance the individual's reputation in community life and advance 16398  
the individual's quality of life by doing the following: 16399

(a) Providing the support necessary to enable an individual 16400  
to live in a residence of the individual's choice, with any number 16401  
of individuals who are not disabled, or with not more than three 16402  
individuals with ~~mental retardation and~~ developmental disabilities 16403  
unless the individuals are related by blood or marriage; 16404

(b) Encouraging the individual's participation in the 16405  
community; 16406

(c) Promoting the individual's rights and autonomy; 16407

(d) Assisting the individual in acquiring, retaining, and 16408  
improving the skills and competence necessary to live successfully 16409  
in the individual's residence. 16410

- (2) "Supported living" includes the provision of all of the following: 16411  
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- (a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services; 16413  
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- (b) A combination of lifelong or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies; 16417  
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- (c) Personal care services and homemaker services; 16422
- (d) Household maintenance that does not include modifications to the physical structure of the residence; 16423  
16424
- (e) Respite care services; 16425
- (f) Program management, as described in section 5126.14 of the Revised Code. 16426  
16427

**Sec. 5126.022.** When making appointments to a county board of developmental disabilities, an appointing authority shall do all of the following: 16428  
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(A) Appoint only individuals who are residents of the county the appointing authority serves, citizens of the United States, and interested and knowledgeable in the field of ~~mental retardation~~ intellectual disabilities and other allied fields; 16431  
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(B) If the appointing authority is a board of county commissioners, appoint at least two individuals who are eligible for services provided by the county board or are immediate family members of such individuals. The board of county commissioners shall, whenever possible, ensure that one of those two members is an individual eligible for adult services or an immediate family 16435  
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member of an individual eligible for adult services and the other 16441  
is an immediate family member of an individual eligible for early 16442  
intervention services or services for preschool or school-age 16443  
children; 16444

(C) If the appointing authority is a senior probate judge, 16445  
appoint at least one individual who is an immediate family member 16446  
of an individual eligible for residential services or supported 16447  
living; 16448

(D) Appoint, to the maximum extent possible, individuals who 16449  
have professional training and experience in business management, 16450  
finance, law, health care practice, personnel administration, or 16451  
government service; 16452

(E) Provide for the county board's membership to reflect, as 16453  
nearly as possible, the composition of the county that the county 16454  
board serves. 16455

**Sec. 5126.023.** None of the following individuals may serve as 16456  
a member of a county board of developmental disabilities: 16457

(A) An elected public official, except for a township 16458  
trustee, township fiscal officer, or individual excluded from the 16459  
definition of public official or employee in division (B) of 16460  
section 102.01 of the Revised Code; 16461

(B) An immediate family member of a member of the same county 16462  
board; 16463

(C) An employee of any county board; 16464

(D) An immediate family member of an employee of the same 16465  
county board; 16466

(E) A former employee of a county board whose employment 16467  
ceased less than four calendar years before the former employee 16468  
would begin to serve as a member of the same county board; 16469

(F) A former employee of a county board whose employment 16470  
ceased less than two years before the former employee would begin 16471  
to serve as a member of a different county board; 16472

(G) Unless there is no conflict of interest, an individual 16473  
who or whose immediate family member is a board member of an 16474  
agency licensed or certified by the department of developmental 16475  
disabilities to provide services to individuals with ~~mental~~ 16476  
~~retardation or~~ developmental disabilities or an individual who or 16477  
whose immediate family member is an employee of such an agency; 16478

(H) An individual with an immediate family member who serves 16479  
as a county commissioner of a county served by the county board 16480  
unless the individual was a member of the county board before 16481  
October 31, 1980. 16482

**Sec. 5126.04.** (A) Each county board of developmental 16483  
disabilities shall plan and set priorities based on available 16484  
resources for the provision of facilities, programs, and other 16485  
services to meet the needs of county residents who are individuals 16486  
with ~~mental retardation and other~~ developmental disabilities, 16487  
former residents of the county residing in state institutions or, 16488  
before ~~the effective date of this amendment~~ September 29, 2011, 16489  
placed under purchase of service agreements under section 5123.18 16490  
of the Revised Code, and children subject to a determination made 16491  
pursuant to section 121.38 of the Revised Code. 16492

Each county board shall assess the facility and service needs 16493  
of the individuals with ~~mental retardation and other~~ developmental 16494  
disabilities who are residents of the county or former residents 16495  
of the county residing in state institutions or, before ~~the~~ 16496  
~~effective date of this amendment~~ September 29, 2011, placed under 16497  
purchase of service agreements under section 5123.18 of the 16498  
Revised Code. 16499

Each county board shall require individual habilitation or 16500

service plans for individuals with ~~mental retardation and other~~ 16501  
developmental disabilities who are being served or who have been 16502  
determined eligible for services and are awaiting the provision of 16503  
services. Each board shall ensure that methods of having their 16504  
service needs evaluated are available. 16505

(B)(1) If a foster child is in need of assessment for 16506  
eligible services or is receiving services from a county board of 16507  
developmental disabilities and that child is placed in a different 16508  
county, the agency that placed the child, immediately upon 16509  
placement, shall inform the county board in the new county all of 16510  
the following: 16511

(a) That a foster child has been placed in that county; 16512

(b) The name and other identifying information of the foster 16513  
child; 16514

(c) The name of the foster child's previous county of 16515  
residence; 16516

(d) That the foster child was in need of assessment for 16517  
eligible services or was receiving services from the county board 16518  
of developmental disabilities in the previous county. 16519

(2) Upon receiving the notice described in division (B)(1) of 16520  
this section or otherwise learning that the child was in need of 16521  
assessment for eligible services or was receiving services from a 16522  
county board of developmental disabilities in the previous county, 16523  
the county board in the new county shall communicate with the 16524  
county board of the previous county to determine how services for 16525  
the foster child shall be provided in accordance with each board's 16526  
plan and priorities as described in division (A) of this section. 16527

If the two county boards are unable to reach an agreement 16528  
within ten days of the child's placement, the county board in the 16529  
new county shall send notice to the Ohio department of 16530  
developmental disabilities of the failure to agree. The department 16531

shall decide how services shall be provided for the foster child 16532  
within ten days of receiving notice that the county boards could 16533  
not reach an agreement. The department may decide that one, or 16534  
both, of the county boards shall provide services. The services 16535  
shall be provided in accordance with the board's plan and 16536  
priorities as described in division (A) of this section. 16537

(C) The department of developmental disabilities may adopt 16538  
rules in accordance with Chapter 119. of the Revised Code as 16539  
necessary to implement this section. To the extent that rules 16540  
adopted under this section apply to the identification and 16541  
placement of children with disabilities under Chapter 3323. of the 16542  
Revised Code, the rules shall be consistent with the standards and 16543  
procedures established under sections 3323.03 to 3323.05 of the 16544  
Revised Code. 16545

(D) The responsibility or authority of a county board to 16546  
provide services under this chapter does not affect the 16547  
responsibility of any other entity of state or local government to 16548  
provide services to individuals with ~~mental retardation and~~ 16549  
developmental disabilities. 16550

(E) On or before the first day of February prior to a school 16551  
year, a county board of developmental disabilities may elect not 16552  
to participate during that school year in the provision of or 16553  
contracting for educational services for children ages six through 16554  
twenty-one years of age, provided that on or before that date the 16555  
board gives notice of this election to the superintendent of 16556  
public instruction, each school district in the county, and the 16557  
educational service center serving the county. If a board makes 16558  
this election, it shall not have any responsibility for or 16559  
authority to provide educational services that school year for 16560  
children ages six through twenty-one years of age. If a board does 16561  
not make an election for a school year in accordance with this 16562  
division, the board shall be deemed to have elected to participate 16563

during that school year in the provision of or contracting for 16564  
educational services for children ages six through twenty-one 16565  
years of age. 16566

(F) If a county board of developmental disabilities elects to 16567  
provide educational services during a school year to individuals 16568  
six through twenty-one years of age who have multiple 16569  
disabilities, the board may provide these services to individuals 16570  
who are appropriately identified and determined eligible pursuant 16571  
to Chapter 3323. of the Revised Code, and in accordance with 16572  
applicable rules of the state board of education. The county board 16573  
may also provide related services to individuals six through 16574  
twenty-one years of age who have one or more disabling conditions, 16575  
in accordance with section 3317.20 and Chapter 3323. of the 16576  
Revised Code and applicable rules of the state board of education. 16577

**Sec. 5126.041.** (A) As used in this section: 16578

(1) "Preschool child with a disability" has the same meaning 16579  
as in section 3323.01 of the Revised Code. 16580

(2) "State institution" means all or part of an institution 16581  
under the control of the department of developmental disabilities 16582  
pursuant to section 5123.03 of the Revised Code and maintained for 16583  
the care, treatment, and training of ~~the mentally retarded~~ persons 16584  
with developmental disabilities that are intellectual 16585  
disabilities. 16586

(B) Except as provided in division (C) of this section, each 16587  
county board of developmental disabilities shall make eligibility 16588  
determinations in accordance with the definition of "developmental 16589  
disability" in section 5126.01 of the Revised Code. Pursuant to 16590  
rules adopted under section 5123.012 of the Revised Code, a county 16591  
board may establish eligibility for programs and services for any 16592  
preschool child with a disability eligible for services under 16593  
section 3323.02 of the Revised Code whose disability is not 16594

attributable solely to mental illness as defined in section 16595  
5122.01 of the Revised Code. 16596

(C)(1) A county board shall make determinations of 16597  
eligibility for service and support administration in accordance 16598  
with rules adopted under section 5126.08 of the Revised Code. 16599

(2) All persons who were eligible for services and enrolled 16600  
in programs offered by a county board of developmental 16601  
disabilities pursuant to this chapter on July 1, 1991, shall 16602  
continue to be eligible for those services and to be enrolled in 16603  
those programs as long as they are in need of services. 16604

(3) A person who resided in a state institution on or before 16605  
October 29, 1993, is eligible for programs and services offered by 16606  
a county board of developmental disabilities, unless the person is 16607  
determined by the county board not to be in need of those programs 16608  
and services. 16609

(D) A county board shall refer a person who requests but is 16610  
not eligible for programs and services offered by the board to 16611  
other entities of state and local government or appropriate 16612  
private entities that provide services. 16613

(E) Membership of a person on, or employment of a person by, 16614  
a county board of developmental disabilities does not affect the 16615  
eligibility of any member of that person's family for services 16616  
provided by the board or by any entity under contract with the 16617  
board. 16618

**Sec. 5126.042.** (A) As used in this section, "emergency 16619  
status" means a status that an individual with ~~mental retardation~~ 16620  
~~or~~ developmental disabilities has when the individual is at risk 16621  
of substantial self-harm or substantial harm to others if action 16622  
is not taken within thirty days. An "emergency status" may include 16623  
a status resulting from one or more of the following situations: 16624

(1) Loss of present residence for any reason, including legal action;	16625 16626
(2) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual;	16627 16628 16629 16630
(3) Abuse, neglect, or exploitation of the individual;	16631
(4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;	16632 16633
(5) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.	16634 16635 16636
(B) If a county board of developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request non-medicaid programs or services, it shall establish one or more waiting lists for the non-medicaid programs or services in accordance with its plan developed under section 5126.04 of the Revised Code. The board may establish priorities for making placements on its waiting lists established under this division. Any such priorities shall be consistent with the board's plan and applicable law.	16637 16638 16639 16640 16641 16642 16643 16644 16645
(C) If a county board determines that available resources are insufficient to meet the needs of all individuals who request home and community-based services, it shall establish a waiting list for the services. An individual's date of placement on the waiting list shall be the date a request is made to the board for the individual to receive the home and community-based services. The board shall provide for an individual who has an emergency status to receive priority status on the waiting list. The board shall also provide for an individual to whom any of the following apply to receive priority status on the waiting list in accordance	16646 16647 16648 16649 16650 16651 16652 16653 16654 16655

with rules adopted under division (E) of this section: 16656

(1) The individual is receiving supported living, family 16657  
support services, or adult services for which no federal financial 16658  
participation is received under the medicaid program; 16659

(2) The individual's primary caregiver is at least sixty 16660  
years of age; 16661

(3) The individual has intensive needs as determined in 16662  
accordance with rules adopted under division (E) of this section. 16663

(D) If two or more individuals on a waiting list established 16664  
under division (C) of this section for home and community-based 16665  
services have priority for the services pursuant to division 16666  
(C)(1), (2), or (3) of this section, a county board shall use 16667  
criteria specified in rules adopted under division (E) of this 16668  
section in determining the order in which the individuals with 16669  
priority will be offered the services. An individual who has 16670  
priority for home and community-based services because the 16671  
individual has an emergency status has priority for the services 16672  
over all other individuals on the waiting list who do not have 16673  
emergency status. 16674

(E) The department of developmental disabilities shall adopt 16675  
rules in accordance with Chapter 119. of the Revised Code 16676  
governing waiting lists established under division (C) of this 16677  
section. The rules shall include procedures to be followed to 16678  
ensure that the due process rights of individuals placed on 16679  
waiting lists are not violated. As part of the rules adopted under 16680  
this division, the department shall adopt rules establishing 16681  
criteria a county board shall use under division (D) of this 16682  
section in determining the order in which individuals with 16683  
priority for home and community-based services pursuant to 16684  
division (C)(1), (2), or (3) of this section will be offered the 16685  
services. 16686

(F) The following shall take precedence over the applicable 16687  
provisions of this section: 16688

(1) Medicaid rules and regulations; 16689

(2) Any specific requirements that may be contained within a 16690  
medicaid state plan amendment or waiver program that a county 16691  
board has authority to administer or with respect to which it has 16692  
authority to provide services, programs, or supports. 16693

**Sec. 5126.043.** (A) Unless a guardian has been appointed for 16694  
the individual, when a decision regarding receipt of a service or 16695  
participation in a program provided for or funded under this 16696  
chapter or Chapter 5123. or 5124. of the Revised Code by an 16697  
individual with ~~mental retardation or other~~ a developmental 16698  
disability must be made, the individual shall be permitted to make 16699  
the decision. The individual may obtain support and guidance from 16700  
an adult family member or other person, but doing so does not 16701  
affect the right of the individual to make the decision. 16702

(B) An individual with ~~mental retardation or other~~ a 16703  
developmental disability may authorize an adult to make a decision 16704  
described in division (A) of this section on the individual's 16705  
behalf, as long as the adult does not have a financial interest in 16706  
the decision. The authorization shall be made in writing. 16707

(C) If a guardian has been appointed for an individual with 16708  
~~mental retardation or other~~ a developmental disability, the 16709  
guardian shall make any decision described in division (A) of this 16710  
section on behalf of the individual. This section does not require 16711  
appointment of a guardian. 16712

(D) Individuals with ~~mental retardation and other~~ 16713  
developmental disabilities, including those who have been 16714  
adjudicated incompetent pursuant to Chapter 2111. of the Revised 16715  
Code, have the right to participate in decisions that affect their 16716

lives and to have their needs, desires, and preferences 16717  
considered. An adult or guardian who makes a decision pursuant to 16718  
division (B) or (C) of this section shall make a decision that is 16719  
in the best interests of the individual on whose behalf the 16720  
decision is made and that is consistent with the needs, desires, 16721  
and preferences of that individual. 16722

**Sec. 5126.046.** (A) Except as otherwise provided by 42 C.F.R. 16723  
431.51, an individual with ~~mental retardation or other a~~ 16724  
developmental disability who is eligible for home and 16725  
community-based services has the right to obtain the services from 16726  
any provider of the services that is qualified to furnish the 16727  
services and is willing to furnish the services to the individual. 16728  
A county board of developmental disabilities that has medicaid 16729  
local administrative authority under division (A) of section 16730  
5126.055 of the Revised Code for home and community-based services 16731  
and refuses to permit an individual to obtain home and 16732  
community-based services from a qualified and willing provider 16733  
shall provide the individual timely notice that the individual may 16734  
appeal under section 5160.31 of the Revised Code. 16735

(B) An individual with ~~mental retardation or other a~~ 16736  
developmental disability who is eligible for nonmedicaid 16737  
residential services or nonmedicaid supported living has the right 16738  
to obtain the services from any provider of the residential 16739  
services or supported living that is qualified to furnish the 16740  
residential services or supported living and is willing to furnish 16741  
the residential services or supported living to the individual. 16742

(C) The department of developmental disabilities shall make 16743  
available to the public on its internet web site an up-to-date 16744  
list of all providers of home and community-based services, 16745  
nonmedicaid residential services, and nonmedicaid supported 16746  
living. County boards shall assist individuals with ~~mental~~ 16747

~~retardation or other~~ developmental disabilities and the families 16748  
of such individuals access the list on the department's internet 16749  
web site. 16750

(D) The director of developmental disabilities shall adopt 16751  
rules in accordance with Chapter 119. of the Revised Code 16752  
governing the implementation of this section. The rules shall 16753  
include procedures for individuals to choose their providers. 16754

**Sec. 5126.05.** (A) Subject to the rules established by the 16755  
director of developmental disabilities pursuant to Chapter 119. of 16756  
the Revised Code for programs and services offered pursuant to 16757  
this chapter, and subject to the rules established by the state 16758  
board of education pursuant to Chapter 119. of the Revised Code 16759  
for programs and services offered pursuant to Chapter 3323. of the 16760  
Revised Code, the county board of developmental disabilities 16761  
shall: 16762

(1) Administer and operate facilities, programs, and services 16763  
as provided by this chapter and Chapter 3323. of the Revised Code 16764  
and establish policies for their administration and operation; 16765

(2) Coordinate, monitor, and evaluate existing services and 16766  
facilities available to individuals with ~~mental retardation and~~ 16767  
developmental disabilities; 16768

(3) Provide early childhood services, supportive home 16769  
services, and adult services, according to the plan and priorities 16770  
developed under section 5126.04 of the Revised Code; 16771

(4) Provide or contract for special education services 16772  
pursuant to Chapters 3317. and 3323. of the Revised Code and 16773  
ensure that related services, as defined in section 3323.01 of the 16774  
Revised Code, are available according to the plan and priorities 16775  
developed under section 5126.04 of the Revised Code; 16776

(5) Adopt a budget, authorize expenditures for the purposes 16777

specified in this chapter and do so in accordance with section 16778  
319.16 of the Revised Code, approve attendance of board members 16779  
and employees at professional meetings and approve expenditures 16780  
for attendance, and exercise such powers and duties as are 16781  
prescribed by the director; 16782

(6) Submit annual reports of its work and expenditures, 16783  
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to 16784  
the director, the superintendent of public instruction, and the 16785  
board of county commissioners at the close of the fiscal year and 16786  
at such other times as may reasonably be requested; 16787

(7) Authorize all positions of employment, establish 16788  
compensation, including but not limited to salary schedules and 16789  
fringe benefits for all board employees, approve contracts of 16790  
employment for management employees that are for a term of more 16791  
than one year, employ legal counsel under section 309.10 of the 16792  
Revised Code, and contract for employee benefits; 16793

(8) Provide service and support administration in accordance 16794  
with section 5126.15 of the Revised Code; 16795

(9) Certify respite care homes pursuant to rules adopted 16796  
under section 5123.171 of the Revised Code by the director of 16797  
developmental disabilities; 16798

(10) Implement an employment first policy that clearly 16799  
identifies community employment as the desired outcome for every 16800  
individual of working age who receives services from the board; 16801

(11) Set benchmarks for improving community employment 16802  
outcomes. 16803

(B) To the extent that rules adopted under this section apply 16804  
to the identification and placement of children with disabilities 16805  
under Chapter 3323. of the Revised Code, they shall be consistent 16806  
with the standards and procedures established under sections 16807  
3323.03 to 3323.05 of the Revised Code. 16808

(C) Any county board may enter into contracts with other such boards and with public or private, nonprofit, or profit-making agencies or organizations of the same or another county, to provide the facilities, programs, and services authorized or required, upon such terms as may be agreeable, and in accordance with this chapter and Chapter 3323. of the Revised Code and rules adopted thereunder and in accordance with sections 307.86 and 5126.071 of the Revised Code.

(D) A county board may combine transportation for children and adults enrolled in programs and services offered under Chapter 5126. of the Revised Code with transportation for children enrolled in classes funded under sections 3317.0213 and 3317.20 of the Revised Code.

(E) A county board may purchase all necessary insurance policies, may purchase equipment and supplies through the department of administrative services or from other sources, and may enter into agreements with public agencies or nonprofit organizations for cooperative purchasing arrangements.

(F) A county board may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established and hold, apply, and dispose of the moneys, lands, and property according to the terms of the gift, grant, devise, or bequest. All money received by gift, grant, bequest, or disposition of lands or property received by gift, grant, devise, or bequest shall be deposited in the county treasury to the credit of such board and shall be available for use by the board for purposes determined or stated by the donor or grantor, but may not be used for personal expenses of the board members. Any interest or earnings accruing from such gift, grant, devise, or bequest shall be treated in the same manner and subject to the same provisions as such gift, grant, devise, or bequest.

(G) The board of county commissioners shall levy taxes and 16841  
make appropriations sufficient to enable the county board of 16842  
developmental disabilities to perform its functions and duties, 16843  
and may utilize any available local, state, and federal funds for 16844  
such purpose. 16845

**Sec. 5126.051.** (A) To the extent that resources are 16846  
available, a county board of developmental disabilities shall 16847  
provide for or arrange residential services and supported living 16848  
for individuals with ~~mental retardation and~~ developmental 16849  
disabilities. 16850

A county board may acquire, convey, lease, or sell property 16851  
for residential services and supported living and enter into loan 16852  
agreements, including mortgages, for the acquisition of such 16853  
property. A county board is not required to comply with provisions 16854  
of Chapter 307. of the Revised Code providing for competitive 16855  
bidding or sheriff sales in the acquisition, lease, conveyance, or 16856  
sale of property under this division, but the acquisition, lease, 16857  
conveyance, or sale must be at fair market value determined by 16858  
appraisal of one or more disinterested persons appointed by the 16859  
board. 16860

Any action taken by a county board under this division that 16861  
will incur debt on the part of the county shall be taken in 16862  
accordance with Chapter 133. of the Revised Code. A county board 16863  
shall not incur any debt on the part of the county without the 16864  
prior approval of the board of county commissioners. 16865

(B)(1) To the extent that resources are available, a county 16866  
board shall provide or arrange for the provision of adult services 16867  
to individuals who are age eighteen and older and not enrolled in 16868  
a program or service under Chapter 3323. of the Revised Code or 16869  
age sixteen or seventeen and eligible for adult services under 16870  
rules adopted by the director of developmental disabilities under 16871

Chapter 119. of the Revised Code. These services shall be provided 16872  
in accordance with the individual's individual service plan and 16873  
shall include support services specified in the plan. 16874

(2) Any prevocational services shall be provided in 16875  
accordance with the individual's individual service plan and occur 16876  
over a specified period of time with specific outcomes sought to 16877  
be achieved. 16878

(3) A county board may, in cooperation with the opportunities 16879  
for Ohioans with disabilities agency, seek federal funds for job 16880  
training or other services directed at helping individuals obtain 16881  
community employment. 16882

(4) A county board may contract with any agency, board, or 16883  
other entity that is accredited by the commission on accreditation 16884  
of rehabilitation facilities to provide services. A county board 16885  
that is accredited by the commission on accreditation of 16886  
rehabilitation facilities may provide services for which it is 16887  
certified by the commission. 16888

(C) To the extent that resources are available, a county 16889  
board may provide services to an individual with ~~mental~~ 16890  
~~retardation or other~~ a developmental disability in addition to 16891  
those provided pursuant to this section, section 5126.05 of the 16892  
Revised Code, or any other section of this chapter. The services 16893  
shall be provided in accordance with the individual's individual 16894  
service plan and may be provided in collaboration with other 16895  
entities of state or local government. 16896

**Sec. 5126.054.** (A) Each county board of developmental 16897  
disabilities shall, by resolution, develop a three-calendar year 16898  
plan that includes the following three components: 16899

(1) An assessment component that includes all of the 16900  
following: 16901

(a) The number of individuals with ~~mental retardation or~~ 16902  
~~other~~ developmental ~~disability~~ disabilities residing in the county 16903  
who need the level of care provided by an ICF/IID, may seek home 16904  
and community-based services, and are given priority on a waiting 16905  
list established for the services pursuant to section 5126.042 of 16906  
the Revised Code; the service needs of those individuals; and the 16907  
projected annualized cost for services; 16908

(b) The source of funds available to the county board to pay 16909  
the nonfederal share of medicaid expenditures that the county 16910  
board is required by sections 5126.059 and 5126.0510 of the 16911  
Revised Code to pay; 16912

(c) Any other applicable information or conditions that the 16913  
department of developmental disabilities requires as a condition 16914  
of approving the component under section 5123.046 of the Revised 16915  
Code. 16916

(2) A preliminary implementation component that specifies the 16917  
number of individuals to be provided, during the first year that 16918  
the plan is in effect, home and community-based services pursuant 16919  
to the waiting list priority given to them under section 5126.042 16920  
of the Revised Code and the types of home and community-based 16921  
services the individuals are to receive; 16922

(3) A component that provides for the implementation of 16923  
medicaid case management services and home and community-based 16924  
services for individuals who begin to receive the services on or 16925  
after the date the plan is approved under section 5123.046 of the 16926  
Revised Code. A county board shall include all of the following in 16927  
the component: 16928

(a) If the department of developmental disabilities or 16929  
department of medicaid requires, an agreement to pay the 16930  
nonfederal share of medicaid expenditures that the county board is 16931  
required by sections 5126.059 and 5126.0510 of the Revised Code to 16932

pay;	16933
(b) How the services are to be phased in over the period the plan covers, including how the county board will serve individuals who have priority on a waiting list established under section 5126.042 of the Revised Code;	16934 16935 16936 16937
(c) Any agreement or commitment regarding the county board's funding of home and community-based services that the county board has with the department at the time the county board develops the component;	16938 16939 16940 16941
(d) Assurances adequate to the department that the county board will comply with all of the following requirements:	16942 16943
(i) To provide the types of home and community-based services specified in the preliminary implementation component required by division (A)(2) of this section to at least the number of individuals specified in that component;	16944 16945 16946 16947
(ii) To use any additional funds the county board receives for the services to improve the county board's resource capabilities for supporting such services available in the county at the time the component is developed and to expand the services to accommodate the unmet need for those services in the county;	16948 16949 16950 16951 16952
(iii) To employ or contract with a business manager or enter into an agreement with another county board of developmental disabilities that employs or contracts with a business manager to have the business manager serve both county boards. No superintendent of a county board may serve as the county board's business manager.	16953 16954 16955 16956 16957 16958
(iv) To employ or contract with a medicaid services manager or enter into an agreement with another county board of developmental disabilities that employs or contracts with a medicaid services manager to have the medicaid services manager serve both county boards. No superintendent of a county board may	16959 16960 16961 16962 16963

serve as the county board's medicaid services manager. 16964

(e) Programmatic and financial accountability measures and 16965  
projected outcomes expected from the implementation of the plan; 16966

(f) Any other applicable information or conditions that the 16967  
department requires as a condition of approving the component 16968  
under section 5123.046 of the Revised Code. 16969

(B) A county board whose plan developed under division (A) of 16970  
this section is approved by the department under section 5123.046 16971  
of the Revised Code shall update and renew the plan in accordance 16972  
with a schedule the department shall develop. 16973

**Sec. 5126.055.** (A) Except as provided in section 5126.056 of 16974  
the Revised Code, a county board of developmental disabilities has 16975  
medicaid local administrative authority to, and shall, do all of 16976  
the following for an individual with ~~mental retardation or other a~~ 16977  
developmental disability who resides in the county that the county 16978  
board serves and seeks or receives home and community-based 16979  
services: 16980

(1) Perform assessments and evaluations of the individual. As 16981  
part of the assessment and evaluation process, the county board 16982  
shall do all of the following: 16983

(a) Make a recommendation to the department of developmental 16984  
disabilities on whether the department should approve or deny the 16985  
individual's application for the services, including on the basis 16986  
of whether the individual needs the level of care an ICF/IID 16987  
provides; 16988

(b) If the individual's application is denied because of the 16989  
county board's recommendation and the individual appeals pursuant 16990  
to section 5160.31 of the Revised Code, present, with the 16991  
department of developmental disabilities or department of 16992  
medicaid, whichever denies the application, the reasons for the 16993

recommendation and denial at the hearing; 16994

(c) If the individual's application is approved, recommend to 16995  
the departments of developmental disabilities and medicaid the 16996  
services that should be included in the individual's 16997  
individualized service plan and, if either department approves, 16998  
reduces, denies, or terminates a service included in the 16999  
individual's individualized service plan under section 5166.20 of 17000  
the Revised Code because of the county board's recommendation, 17001  
present, with the department that made the approval, reduction, 17002  
denial, or termination, the reasons for the recommendation and 17003  
approval, reduction, denial, or termination at a hearing held 17004  
pursuant to an appeal made under section 5160.31 of the Revised 17005  
Code. 17006

(2) Perform any duties assigned to the county board in rules 17007  
adopted under section 5126.046 of the Revised Code regarding the 17008  
individual's right to choose a qualified and willing provider of 17009  
the services and, at a hearing held pursuant to an appeal made 17010  
under section 5160.31 of the Revised Code, present evidence of the 17011  
process for appropriate assistance in choosing providers; 17012

(3) If the county board is certified under section 5123.161 17013  
of the Revised Code to provide the services and agrees to provide 17014  
the services to the individual and the individual chooses the 17015  
county board to provide the services, furnish, in accordance with 17016  
the county board's medicaid provider agreement and for the 17017  
authorized reimbursement rate, the services the individual 17018  
requires; 17019

(4) Monitor the services provided to the individual and 17020  
ensure the individual's health, safety, and welfare. The 17021  
monitoring shall include quality assurance activities. If the 17022  
county board provides the services, the department of 17023  
developmental disabilities shall also monitor the services. 17024

(5) Develop, with the individual and the provider of the individual's services, an effective individualized service plan that includes coordination of services, recommend that the departments of developmental disabilities and medicaid approve the plan, and implement the plan unless either department disapproves it. The individualized service plan shall include a summary page, agreed to by the county board, provider, and individual receiving services, that clearly outlines the amount, duration, and scope of services to be provided under the plan.

(6) Have an investigative agent conduct investigations under section 5126.313 of the Revised Code that concern the individual;

(7) Have a service and support administrator perform the duties under division (B)(9) of section 5126.15 of the Revised Code that concern the individual.

(B) A county board shall perform its medicaid local administrative authority under this section in accordance with all of the following:

(1) The county board's plan that the department of developmental disabilities approves under section 5123.046 of the Revised Code;

(2) All applicable federal and state laws;

(3) All applicable policies of the departments of developmental disabilities and medicaid and the United States department of health and human services;

(4) The department of medicaid's supervision under its authority as the single state medicaid agency;

(5) The department of developmental disabilities' oversight.

(C) The departments of developmental disabilities and medicaid shall communicate with and provide training to county boards regarding medicaid local administrative authority granted

by this section. The communication and training shall include 17055  
issues regarding audit protocols and other standards established 17056  
by the United States department of health and human services that 17057  
the departments determine appropriate for communication and 17058  
training. County boards shall participate in the training. The 17059  
departments shall assess the county board's compliance against 17060  
uniform standards that the departments shall establish. 17061

(D) A county board may not delegate its medicaid local 17062  
administrative authority granted under this section but may 17063  
contract with a person or government entity, including a council 17064  
of governments, for assistance with its medicaid local 17065  
administrative authority. A county board that enters into such a 17066  
contract shall notify the director of developmental disabilities. 17067  
The notice shall include the tasks and responsibilities that the 17068  
contract gives to the person or government entity. The person or 17069  
government entity shall comply in full with all requirements to 17070  
which the county board is subject regarding the person or 17071  
government entity's tasks and responsibilities under the contract. 17072  
The county board remains ultimately responsible for the tasks and 17073  
responsibilities. 17074

(E) A county board that has medicaid local administrative 17075  
authority under this section shall, through the departments of 17076  
developmental disabilities and medicaid, reply to, and cooperate 17077  
in arranging compliance with, a program or fiscal audit or program 17078  
violation exception that a state or federal audit or review 17079  
discovers. The department of medicaid shall timely notify the 17080  
department of developmental disabilities and the county board of 17081  
any adverse findings. After receiving the notice, the county 17082  
board, in conjunction with the department of developmental 17083  
disabilities, shall cooperate fully with the department of 17084  
medicaid and timely prepare and send to the department a written 17085  
plan of correction or response to the adverse findings. The county 17086

board is liable for any adverse findings that result from an 17087  
action it takes or fails to take in its implementation of medicaid 17088  
local administrative authority. 17089

(F) If the department of developmental disabilities or 17090  
department of medicaid determines that a county board's 17091  
implementation of its medicaid local administrative authority 17092  
under this section is deficient, the department that makes the 17093  
determination shall require that county board do the following: 17094

(1) If the deficiency affects the health, safety, or welfare 17095  
of an individual with ~~mental retardation or other~~ a developmental 17096  
disability, correct the deficiency within twenty-four hours; 17097

(2) If the deficiency does not affect the health, safety, or 17098  
welfare of an individual with ~~mental retardation or other~~ a 17099  
developmental disability, receive technical assistance from the 17100  
department or submit a plan of correction to the department that 17101  
is acceptable to the department within sixty days and correct the 17102  
deficiency within the time required by the plan of correction. 17103

**Sec. 5126.058.** (A) Each county board of developmental 17104  
disabilities shall prepare a memorandum of understanding that is 17105  
developed by all of the following and that is signed by the 17106  
persons identified in divisions (A)(2) to (7) of this section: 17107

(1) The senior probate judge of the county or the senior 17108  
probate judge's representative; 17109

(2) The county peace officer; 17110

(3) All chief municipal peace officers within the county; 17111

(4) Other law enforcement officers handling abuse, neglect, 17112  
and exploitation of ~~mentally retarded and developmentally disabled~~ 17113  
persons with developmental disabilities in the county; 17114

(5) The prosecuting attorney of the county; 17115

(6) The public children services agency; 17116

(7) The coroner of the county. 17117

(B) A memorandum of understanding shall set forth the normal 17118  
operating procedure to be employed by all concerned officials in 17119  
the execution of their respective responsibilities under this 17120  
section and sections 313.12, 2151.421, 2903.16, 5126.31, and 17121  
5126.33 of the Revised Code and shall have as its primary goal the 17122  
elimination of all unnecessary interviews of persons who are the 17123  
subject of reports made pursuant to this section. A failure to 17124  
follow the procedure set forth in the memorandum by the concerned 17125  
officials is not grounds for, and shall not result in, the 17126  
dismissal of any charge or complaint arising from any reported 17127  
case of abuse, neglect, or exploitation or the suppression of any 17128  
evidence obtained as a result of any reported abuse, neglect, or 17129  
exploitation and does not give any rights or grounds for appeal or 17130  
post-conviction relief to any person. 17131

(C) A memorandum of understanding shall include, but is not 17132  
limited to, all of the following: 17133

(1) The roles and responsibilities for handling emergency and 17134  
nonemergency cases of abuse, neglect, or exploitation; 17135

(2) The roles and responsibilities for handling and 17136  
coordinating investigations of reported cases of abuse, neglect, 17137  
or exploitation and methods to be used in interviewing the person 17138  
who is the subject of the report and who allegedly was abused, 17139  
neglected, or exploited; 17140

(3) The roles and responsibilities for addressing the 17141  
categories of persons who may interview the person who is the 17142  
subject of the report and who allegedly was abused, neglected, or 17143  
exploited; 17144

(4) The roles and responsibilities for providing victim 17145  
services to ~~mentally retarded and developmentally disabled~~ persons 17146

with developmental disabilities pursuant to Chapter 2930. of the Revised Code; 17147  
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(5) The roles and responsibilities for the filing of criminal charges against persons alleged to have abused, neglected, or exploited ~~mentally retarded or developmentally disabled~~ persons with developmental disabilities. 17149  
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(D) A memorandum of understanding may be signed by victim advocates, municipal court judges, municipal prosecutors, and any other person whose participation furthers the goals of a memorandum of understanding, as set forth in this section. 17153  
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**Sec. 5126.059.** A county board of developmental disabilities shall pay the nonfederal share of medicaid expenditures for medicaid case management services the county board provides to an individual with ~~mental retardation or other~~ a developmental disability who the county board determines under section 5126.041 of the Revised Code is eligible for county board services. 17157  
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**Sec. 5126.0510.** (A) Except as otherwise provided in an agreement entered into under section 5123.048 of the Revised Code and subject to divisions (B), (C), and (D) of this section, a county board of developmental disabilities shall pay the nonfederal share of medicaid expenditures for the following home and community-based services provided to an individual with ~~mental retardation or other~~ a developmental disability who the county board determines under section 5126.041 of the Revised Code is eligible for county board services: 17163  
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(1) Home and community-based services provided by the county board to such an individual; 17172  
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(2) Home and community-based services provided by a provider other than the county board to such an individual who is enrolled as of June 30, 2007, in the medicaid waiver component under which 17174  
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the services are provided; 17177

(3) Home and community-based services provided by a provider 17178  
other than the county board to such an individual who, pursuant to 17179  
a request the county board makes, enrolls in the medicaid waiver 17180  
component under which the services are provided after June 30, 17181  
2007; 17182

(4) Home and community-based services provided by a provider 17183  
other than the county board to such an individual for whom there 17184  
is in effect an agreement entered into under division (E) of this 17185  
section between the county board and director of developmental 17186  
disabilities. 17187

(B) In the case of medicaid expenditures for home and 17188  
community-based services for which division (A)(2) of this section 17189  
requires a county board to pay the nonfederal share, the following 17190  
shall apply to such services provided during fiscal year 2008 17191  
under the individual options medicaid waiver component: 17192

(1) The county board shall pay no less than the total amount 17193  
the county board paid as the nonfederal share for home and 17194  
community-based services provided in fiscal year 2007 under the 17195  
individual options medicaid waiver component; 17196

(2) The county board shall pay no more than the sum of the 17197  
following: 17198

(a) The total amount the county board paid as the nonfederal 17199  
share for home and community-based services provided in fiscal 17200  
year 2007 under the individual options medicaid waiver component; 17201

(b) An amount equal to one per cent of the total amount the 17202  
department of developmental disabilities and county board paid as 17203  
the nonfederal share for home and community-based services 17204  
provided in fiscal year 2007 under the individual options medicaid 17205  
waiver component to individuals the county board determined under 17206  
section 5126.041 of the Revised Code are eligible for county board 17207

services. 17208

(C) A county board is not required to pay the nonfederal 17209  
share of home and community-based services provided after June 30, 17210  
2008, that the county board is otherwise required by division 17211  
(A)(2) of this section to pay if the department of developmental 17212  
disabilities fails to comply with division (A) of section 17213  
5123.0416 of the Revised Code. 17214

(D) A county board is not required to pay the nonfederal 17215  
share of home and community-based services that the county board 17216  
is otherwise required by division (A)(3) of this section to pay if 17217  
both of the following apply: 17218

(1) The services are provided to an individual who enrolls in 17219  
the medicaid waiver component under which the services are 17220  
provided as the result of an order issued following a state 17221  
hearing, administrative appeal, or appeal to a court of common 17222  
pleas made under section 5101.35 of the Revised Code; 17223

(2) There are more individuals who are eligible for services 17224  
from the county board enrolled in home and community-based 17225  
services than is required by section 5126.0512 of the Revised 17226  
Code. 17227

(E) A county board may enter into an agreement with the 17228  
director of developmental disabilities under which the county 17229  
board agrees to pay the nonfederal share of medicaid expenditures 17230  
for one or more home and community-based services that the county 17231  
board is not otherwise required by division (A)(1), (2), or (3) of 17232  
this section to pay and that are provided to an individual the 17233  
county board determines under section 5126.041 of the Revised Code 17234  
is eligible for county board services. The agreement shall specify 17235  
which home and community-based services the agreement covers. The 17236  
county board shall pay the nonfederal share of medicaid 17237  
expenditures for the home and community-based services that the 17238

agreement covers as long as the agreement is in effect. 17239

**Sec. 5126.08.** (A) The director of developmental disabilities 17240  
shall adopt rules in accordance with Chapter 119. of the Revised 17241  
Code for all programs and services offered by a county board of 17242  
developmental disabilities. Such rules shall include, but are not 17243  
limited to, the following: 17244

(1) Determination of what constitutes a program or service; 17245

(2) Standards to be followed by a board in administering, 17246  
providing, arranging, or operating programs and services; 17247

(3) Standards for determining the nature and degree of ~~mental~~ 17248  
~~retardation, including mild mental retardation, or~~ developmental 17249  
disability; 17250

(4) Standards and procedures for making eligibility 17251  
determinations for the programs and services; 17252

(5) Procedures for obtaining consent for the arrangement of 17253  
services under section 5126.31 of the Revised Code and for 17254  
obtaining signatures on individual service plans under that 17255  
section; 17256

(6) Specification of the service and support administration 17257  
to be provided by a county board and standards for resolving 17258  
grievances in connection with service and support administration. 17259

(B) The director shall be the final authority in determining 17260  
the nature and degree of ~~mental retardation or~~ developmental 17261  
disability. 17262

**Sec. 5126.082.** (A) In addition to the rules adopted under 17263  
division (A)(2) of section 5126.08 of the Revised Code 17264  
establishing standards to be followed by county boards of 17265  
developmental disabilities in administering, providing, arranging, 17266  
and operating programs and services and in addition to the board 17267

accreditation system established under section 5126.081 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for promoting and advancing the quality of life of individuals with ~~mental retardation and~~ developmental disabilities receiving any of the following:

(1) Early childhood services pursuant to section 5126.05 of the Revised Code for children under age three;

(2) Adult services pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code for individuals age sixteen or older;

(3) Family support services pursuant to section 5126.11 of the Revised Code.

(B) The rules adopted under this section shall specify the actions county boards of developmental disabilities and the agencies with which they contract should take to do the following:

(1) Offer individuals with ~~mental retardation and~~ developmental disabilities, and their families when appropriate, choices in programs and services that are centered on the needs and desires of those individuals;

(2) Maintain infants with their families whenever possible by collaborating with other agencies that provide services to infants and their families and taking other appropriate actions;

(3) Provide families that have children with ~~mental retardation and~~ developmental disabilities under age eighteen residing in their homes the resources necessary to allow the children to remain in their homes;

(4) Create and implement community employment services based on the needs and desires of adults with ~~mental retardation and~~ developmental disabilities;

(5) Create, in collaboration with other agencies, 17298  
transportation systems that provide safe and accessible 17299  
transportation within the county to individuals with disabilities; 17300

(6) Provide services that allow individuals with disabilities 17301  
to be integrated into the community by engaging in educational, 17302  
vocational, and recreational activities with individuals who do 17303  
not have disabilities; 17304

(7) Provide age-appropriate retirement services for 17305  
individuals age sixty-five and older with ~~mental retardation and~~ 17306  
developmental disabilities; 17307

(8) Establish residential services and supported living for 17308  
individuals with ~~mental retardation and~~ developmental disabilities 17309  
in accordance with their needs. 17310

(C) To assist in funding programs and services that meet the 17311  
standards established under this section, each county board of 17312  
developmental disabilities shall make a good faith effort to 17313  
acquire available federal funds, including reimbursements under 17314  
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 17315  
U.S.C.A. 1396, as amended. 17316

(D) Each county board of developmental disabilities shall 17317  
work toward full compliance with the standards established under 17318  
this section, based on its available resources. Funds received 17319  
under this chapter shall be used to comply with the standards. 17320  
Annually, each board shall conduct a self audit to evaluate the 17321  
board's progress in complying fully with the standards. 17322

(E) The department shall complete a program quality review of 17323  
each county board of developmental disabilities to determine the 17324  
extent to which the board has complied with the standards. The 17325  
review shall be conducted in conjunction with the comprehensive 17326  
accreditation review of the board that is conducted under section 17327  
5126.081 of the Revised Code. 17328

Notwithstanding any provision of this chapter or Chapter 17329  
5123. of the Revised Code requiring the department to distribute 17330  
funds to county boards of developmental disabilities, the 17331  
department may withhold funds from a board if it finds that the 17332  
board is not in substantial compliance with the standards 17333  
established under this section. 17334

(F) When the standards for accreditation from the commission 17335  
on accreditation of rehabilitation facilities, or another 17336  
accrediting agency, meet or exceed the standards established under 17337  
this section, the director may accept accreditation from the 17338  
commission or other agency as evidence that the board is in 17339  
compliance with all or part of the standards established under 17340  
this section. Programs and services accredited by the commission 17341  
or agency are exempt from the program quality reviews required by 17342  
division (E) of this section. 17343

**Sec. 5126.11.** (A) As used in this section, "respite care" 17344  
means appropriate, short-term, temporary care that is provided to 17345  
a ~~mentally retarded or developmentally disabled~~ person with a 17346  
developmental disability to sustain the family structure or to 17347  
meet planned or emergency needs of the family. 17348

(B) Subject to rules adopted by the director of developmental 17349  
disabilities, and subject to the availability of money from state 17350  
and federal sources, the county board of developmental 17351  
disabilities shall establish a family support services program. 17352  
Under such a program, the board shall make payments to an 17353  
individual with ~~mental retardation or other~~ a developmental 17354  
disability or the family of an individual with ~~mental retardation~~ 17355  
~~or other~~ a developmental disability who desires to remain in and 17356  
be supported in the family home. Payments shall be made for all or 17357  
part of costs incurred or estimated to be incurred for services 17358  
that would promote self-sufficiency and normalization, prevent or 17359

reduce inappropriate institutional care, and further the unity of 17360  
the family by enabling the family to meet the special needs of the 17361  
individual and to live as much like other families as possible. 17362  
Payments may be made in the form of reimbursement for expenditures 17363  
or in the form of vouchers to be used to purchase services. 17364

(C) Payment shall not be made under this section to an 17365  
individual or the individual's family if the individual is living 17366  
in a residential facility that is providing residential services 17367  
under contract with the department of developmental disabilities 17368  
or a county board. 17369

(D) Payments may be made for the following services: 17370

(1) Respite care, in or out of the home; 17371

(2) Counseling, supervision, training, and education of the 17372  
individual, the individual's caregivers, and members of the 17373  
individual's family that aid the family in providing proper care 17374  
for the individual, provide for the special needs of the family, 17375  
and assist in all aspects of the individual's daily living; 17376

(3) Special diets, purchase or lease of special equipment, or 17377  
modifications of the home, if such diets, equipment, or 17378  
modifications are necessary to improve or facilitate the care and 17379  
living environment of the individual; 17380

(4) Providing support necessary for the individual's 17381  
continued skill development, including such services as 17382  
development of interventions to cope with unique problems that may 17383  
occur within the complexity of the family, enrollment of the 17384  
individual in special summer programs, provision of appropriate 17385  
leisure activities, and other social skills development 17386  
activities; 17387

(5) Any other services that are consistent with the purposes 17388  
specified in division (B) of this section and specified in the 17389  
individual's service plan. 17390

(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and the individual must be in need of habilitation. Payments shall be adjusted for income in accordance with the payment schedule established in rules adopted under this section. Payments shall be made only after the county board has taken into account all other available assistance for which the individual or family is eligible.

(F) Before incurring expenses for a service for which payment will be sought under a family support services program, the individual or family shall apply to the county board for a determination of eligibility and approval of the service. The service need not be provided in the county served by the county board. After being determined eligible and receiving approval for the service, the individual or family may incur expenses for the service or use the vouchers received from the county board for the purchase of the service.

If the county board refuses to approve a service, an appeal may be made in accordance with rules adopted by the department under this section.

(G) To be reimbursed for expenses incurred for approved services, the individual or family shall submit to the county board a statement of the expenses incurred accompanied by any evidence required by the board. To redeem vouchers used to purchase approved services, the entity that provided the service shall submit to the county board evidence that the service was provided and a statement of the charges. The county board shall make reimbursements and redeem vouchers no later than forty-five days after it receives the statements and evidence required by this division.

(H) A county board shall consider the following objectives in

carrying out a family support services program:	17423
(1) Enabling individuals to return to their families from an institution under the jurisdiction of the department of developmental disabilities;	17424 17425 17426
(2) Enabling individuals found to be subject to institutionalization by court order under section 5123.76 of the Revised Code to remain with their families with the aid of payments provided under this section;	17427 17428 17429 17430
(3) Providing services to eligible children and adults currently residing in the community;	17431 17432
(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board.	17433 17434
(I) The director shall adopt, and may amend and rescind, rules for the implementation of family support services programs by county boards. Such rules shall include the following:	17435 17436 17437
(1) A payment schedule adjusted for income;	17438
(2) Standards for supervision, training, and quality control in the provision of respite care services;	17439 17440
(3) Eligibility standards and procedures for providing temporary emergency respite care;	17441 17442
(4) Procedures for hearing and deciding appeals made under division (F) of this section.	17443 17444
Rules adopted under division (I)(1) of this section shall be adopted in accordance with section 111.15 of the Revised Code.	17445 17446
Rules adopted under divisions (I)(2) to (4) of this section shall be adopted in accordance with Chapter 119. of the Revised Code.	17447 17448
(J) All individuals certified by the superintendent of the county board as eligible for temporary emergency respite care in accordance with rules adopted under this section shall be considered eligible for temporary emergency respite care for not	17449 17450 17451 17452

more than five days to permit the determination of eligibility for 17453  
family support services. The requirements of divisions (E) and (F) 17454  
of this section do not apply to temporary emergency respite care. 17455

(K) The county board shall not be required to make payments 17456  
for family support services at a level that exceeds available 17457  
state and federal funds for such payments. 17458

**Sec. 5126.15.** (A) A county board of developmental 17459  
disabilities shall provide service and support administration to 17460  
each individual three years of age or older who is eligible for 17461  
service and support administration if the individual requests, or 17462  
a person on the individual's behalf requests, service and support 17463  
administration. A board shall provide service and support 17464  
administration to each individual receiving home and 17465  
community-based services. A board may provide, in accordance with 17466  
the service coordination requirements of 34 C.F.R. 303.23, service 17467  
and support administration to an individual under three years of 17468  
age eligible for early intervention services under 34 C.F.R. part 17469  
303. A board may provide service and support administration to an 17470  
individual who is not eligible for other services of the board. 17471  
Service and support administration shall be provided in accordance 17472  
with rules adopted under section 5126.08 of the Revised Code. 17473

A board may provide service and support administration by 17474  
directly employing service and support administrators or by 17475  
contracting with entities for the performance of service and 17476  
support administration. Individuals employed or under contract as 17477  
service and support administrators shall not be in the same 17478  
collective bargaining unit as employees who perform duties that 17479  
are not administrative. 17480

Individuals employed by a board as service and support 17481  
administrators shall not be assigned responsibilities for 17482  
implementing other services for individuals and shall not be 17483

employed by or serve in a decision-making or policy-making 17484  
capacity for any other entity that provides programs or services 17485  
to individuals with ~~mental retardation or~~ developmental 17486  
disabilities. An individual employed as a conditional status 17487  
service and support administrator shall perform the duties of 17488  
service and support administration only under the supervision of a 17489  
management employee who is a service and support administration 17490  
supervisor. 17491

(B) The individuals employed by or under contract with a 17492  
board to provide service and support administration shall do all 17493  
of the following: 17494

(1) Establish an individual's eligibility for the services of 17495  
the county board of developmental disabilities; 17496

(2) Assess individual needs for services; 17497

(3) Develop individual service plans with the active 17498  
participation of the individual to be served, other persons 17499  
selected by the individual, and, when applicable, the provider 17500  
selected by the individual, and recommend the plans for approval 17501  
by the department of developmental disabilities when services 17502  
included in the plans are funded through medicaid; 17503

(4) Establish budgets for services based on the individual's 17504  
assessed needs and preferred ways of meeting those needs; 17505

(5) Assist individuals in making selections from among the 17506  
providers they have chosen; 17507

(6) Ensure that services are effectively coordinated and 17508  
provided by appropriate providers; 17509

(7) Establish and implement an ongoing system of monitoring 17510  
the implementation of individual service plans to achieve 17511  
consistent implementation and the desired outcomes for the 17512  
individual; 17513

(8) Perform quality assurance reviews as a distinct function of service and support administration;	17514 17515
(9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual.	17516 17517 17518 17519 17520
<b>Sec. 5126.22.</b> (A) Employees who hold the following positions in a county board of developmental disabilities are management employees:	17521 17522 17523
assistant superintendent	17524
director of business	17525
director of personnel	17526
adult services director	17527
workshop director	17528
habilitation manager	17529
director of residential services	17530
principal (director of children services)	17531
program or service supervisor	17532
plant manager	17533
production manager	17534
service and support administration supervisor	17535
investigative agent	17536
confidential employees as defined in section 4117.01 of the Revised Code	17537 17538
positions designated by the director of developmental disabilities as having managerial or supervisory responsibilities	17539 17540

and duties	17541
positions designated by the county board in accordance with	17542
division (D) of this section.	17543
(B) Employees who hold the following positions in a board are	17544
professional employees:	17545
personnel licensed or certified pursuant to Chapter 3319. of	17546
the Revised Code	17547
early intervention specialist	17548
physical development specialist	17549
habilitation specialist	17550
work adjustment specialist	17551
placement specialist	17552
vocational evaluator	17553
psychologist	17554
occupational therapist	17555
speech and language pathologist	17556
recreation specialist	17557
behavior management specialist	17558
physical therapist	17559
supportive home services specialist	17560
licensed practical nurse or registered nurse	17561
rehabilitation counselor	17562
doctor of medicine and surgery or of osteopathic medicine and	17563
surgery	17564
dentist	17565
service and support administrator	17566

conditional status service and support administrator	17567
social worker	17568
any position that is not a management position and for which	17569
the standards for certification established by the director of	17570
developmental disabilities under section 5126.25 of the Revised	17571
Code require a bachelor's or higher degree	17572
professional positions designated by the director	17573
professional positions designated by the county board in	17574
accordance with division (D) of this section.	17575
(C) Employees who hold positions in a board that are neither	17576
management positions nor professional positions are service	17577
employees. Service employee positions include:	17578
workshop specialist	17579
workshop specialist assistant	17580
contract procurement specialist	17581
community employment specialist	17582
any assistant to a professional employee certified to	17583
provide, or supervise the provision of, adult services or service	17584
and support administration	17585
service positions designated by the director	17586
service positions designated by a county board in accordance	17587
with division (D) of this section.	17588
(D) A county board may designate a position only if the	17589
position does not include directly providing, or supervising	17590
employees who directly provide, service or instruction to	17591
individuals with <del>mental retardation or</del> developmental disabilities.	17592
(E) If a county board desires to have a position established	17593
that is not specifically listed in this section that includes	17594
directly providing, or supervising employees who directly provide,	17595

services or instruction to individuals with ~~mental retardation or~~ 17596  
developmental disabilities, the board shall submit to the director 17597  
a written description of the position and request that the 17598  
director designate the position as a management, professional, or 17599  
service position under this section. The director shall consider 17600  
each request submitted under this division and respond within 17601  
thirty days. If the director approves the request, the director 17602  
shall designate the position as a management, professional, or 17603  
service position. 17604

(F) A county board shall not terminate its employment of any 17605  
management, professional, or service employee solely because a 17606  
position is added to or eliminated from those positions listed in 17607  
this section or because a position is designated or no longer 17608  
designated by the director or a county board. 17609

**Sec. 5126.25.** (A) The director of developmental disabilities 17610  
shall adopt rules under division (C) of this section establishing 17611  
uniform standards and procedures for the certification and 17612  
registration of persons, other than the persons described in 17613  
division (I) of this section, who are seeking employment with or 17614  
are employed by either of the following: 17615

(1) A county board of developmental disabilities; 17616

(2) An entity that contracts with a county board to operate 17617  
programs and services for individuals with ~~mental retardation or~~ 17618  
developmental disabilities. 17619

(B) No person shall be employed in a position for which 17620  
certification or registration is required pursuant to the rules 17621  
adopted under this section without the certification or 17622  
registration that is required for that position. The person shall 17623  
not be employed or shall not continue to be employed if the 17624  
required certification or registration is denied, revoked, or not 17625  
renewed. 17626

(C) The director shall adopt rules in accordance with Chapter 17627  
119. of the Revised Code as the director considers necessary to 17628  
implement and administer this section, including rules 17629  
establishing all of the following: 17630

(1) Positions of employment that are subject to this section 17631  
and, for each position, whether a person must receive 17632  
certification or receive registration to be employed in that 17633  
position; 17634

(2) Requirements that must be met to receive the 17635  
certification or registration required to be employed in a 17636  
particular position, including standards regarding education, 17637  
specialized training, and experience, taking into account the 17638  
needs of individuals with ~~mental retardation or~~ developmental 17639  
disabilities and the specialized techniques needed to serve them, 17640  
except that the rules shall not require a person designated as a 17641  
service employee under section 5126.22 of the Revised Code to have 17642  
or obtain a bachelor's or higher degree; 17643

(3) Procedures to be followed in applying for initial 17644  
certification or registration and for renewing the certification 17645  
or registration. 17646

(4) Requirements that must be met for renewal of 17647  
certification or registration, which may include continuing 17648  
education and professional training requirements; 17649

(5) Subject to section 5126.23 of the Revised Code, grounds 17650  
for which certification or registration may be denied, suspended, 17651  
or revoked and procedures for appealing the denial, suspension, or 17652  
revocation. 17653

(D) Each person seeking certification or registration for 17654  
employment shall apply in the manner established in rules adopted 17655  
under this section. 17656

(E)(1) Except as provided in division (E)(2) of this section, 17657

the superintendent of each county board is responsible for taking 17658  
all actions regarding certification and registration of employees, 17659  
other than the position of superintendent, early intervention 17660  
supervisor, early intervention specialist, or investigative agent. 17661  
For the position of superintendent, early intervention supervisor, 17662  
early intervention specialist, or investigative agent, the 17663  
director of developmental disabilities is responsible for taking 17664  
all such actions. 17665

Actions that may be taken by the superintendent or director 17666  
include issuing, renewing, denying, suspending, and revoking 17667  
certification and registration. All actions shall be taken in 17668  
accordance with the rules adopted under this section. 17669

The superintendent may charge a fee to persons applying for 17670  
certification or registration. The superintendent shall establish 17671  
the amount of the fee according to the costs the county board 17672  
incurs in administering its program for certification and 17673  
registration of employees. 17674

A person subject to the denial, suspension, or revocation of 17675  
certification or registration may appeal the decision. The appeal 17676  
shall be made in accordance with the rules adopted under this 17677  
section. 17678

(2) Pursuant to division (C) of section 5126.05 of the 17679  
Revised Code, the superintendent may enter into a contract with 17680  
any other entity under which the entity is given authority to 17681  
carry out all or part of the superintendent's responsibilities 17682  
under division (E)(1) of this section. 17683

(F) A person with valid certification or registration under 17684  
this section on the effective date of any rules adopted under this 17685  
section that increase the standards applicable to the 17686  
certification or registration shall have such period as the rules 17687  
prescribe, but not less than one year after the effective date of 17688

the rules, to meet the new certification or registration standards. 17689  
17690

(G) A person with valid certification or registration is 17691  
qualified to be employed according to that certification or 17692  
registration by any county board or entity contracting with a 17693  
county board. 17694

(H) The director shall monitor county boards to ensure that 17695  
their employees and the employees of their contracting entities 17696  
have the applicable certification or registration required under 17697  
this section and that the employees are performing only those 17698  
functions they are authorized to perform under the certification 17699  
or registration. The superintendent of each county board or the 17700  
superintendent's designee shall maintain in appropriate personnel 17701  
files evidence acceptable to the director that the employees have 17702  
met the requirements. On request, representatives of the 17703  
department of developmental disabilities shall be given access to 17704  
the evidence. 17705

(I) The certification and registration requirements of this 17706  
section and the rules adopted under it do not apply to either of 17707  
the following: 17708

(1) A person who holds a valid license issued or certificate 17709  
issued under Chapter 3319. of the Revised Code and performs no 17710  
duties other than teaching or supervision of a teaching program; 17711

(2) A person who holds a valid license or certificate issued 17712  
under Title XLVII of the Revised Code and performs only those 17713  
duties governed by the license or certificate. 17714

**Sec. 5126.30.** As used in sections 5126.30 to 5126.34 of the 17715  
Revised Code: 17716

(A) "Adult" means a person eighteen years of age or older 17717  
with ~~mental retardation~~ or a developmental disability. 17718

(B) "Caretaker" means a person who is responsible for the care of an adult by order of a court, including an order of guardianship, or who assumes the responsibility for the care of an adult as a volunteer, as a family member, by contract, or by the acceptance of payment for care.

(C) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section.

(D) "Neglect" has the same meaning as in section 5123.50 of the Revised Code.

(E) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain, including misappropriation, as defined in section 5123.50 of the Revised Code, of an adult's resources.

(F) "Working day" means Monday, Tuesday, Wednesday, Thursday, or Friday, except when that day is a holiday as defined in section 1.14 of the Revised Code.

(G) "Incapacitated" means lacking understanding or capacity, with or without the assistance of a caretaker, to make and carry out decisions regarding food, clothing, shelter, health care, or other necessities, but does not include mere refusal to consent to the provision of services.

(H) "Emergency protective services" means protective services furnished to a person with ~~mental retardation or~~ a developmental disability to prevent immediate physical harm.

(I) "Protective services" means services provided by the county board of developmental disabilities to an adult with ~~mental retardation or~~ a developmental disability for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation.

(J) "Protective service plan" means an individualized plan developed by the county board of developmental disabilities to prevent the further abuse, neglect, or exploitation of an adult with ~~mental retardation or~~ a developmental disability.

(K) "Substantial risk" has the same meaning as in section 2901.01 of the Revised Code.

(L) "Party" means all of the following:

(1) An adult who is the subject of a probate proceeding under sections 5126.30 to 5126.33 of the Revised Code;

(2) A caretaker, unless otherwise ordered by the probate court;

(3) Any other person designated as a party by the probate court including but not limited to, the adult's spouse, custodian, guardian, or parent.

(M) "Board" means a county board of developmental disabilities.

**Sec. 5126.31.** (A) A county board of developmental disabilities shall review reports of abuse and neglect made under section 5123.61 of the Revised Code and reports referred to it under section 5101.611 of the Revised Code to determine whether the person who is the subject of the report is an adult with ~~mental retardation or~~ a developmental disability in need of services to deal with the abuse or neglect. The board shall give notice of each report to the registry office of the department of developmental disabilities established pursuant to section 5123.61 of the Revised Code on the first working day after receipt of the report. If the report alleges that there is a substantial risk to the adult of immediate physical harm or death, the board shall initiate review within twenty-four hours of its receipt of the report. If the board determines that the person is sixty years of

age or older but does not have ~~mental retardation~~ or a 17780  
developmental disability, it shall refer the case to the county 17781  
department of job and family services. If the board determines 17782  
that the person is an adult with ~~mental retardation~~ or a 17783  
developmental disability, it shall continue its review of the 17784  
case. 17785

(B) For each review over which the board retains 17786  
responsibility under division (A) of this section, it shall do all 17787  
of the following: 17788

(1) Give both written and oral notice of the purpose of the 17789  
review to the adult and, if any, to the adult's legal counsel or 17790  
caretaker, in simple and clear language; 17791

(2) Visit the adult, in the adult's residence if possible, 17792  
and explain the notice given under division (B)(1) of this 17793  
section; 17794

(3) Request from the registry office any prior reports 17795  
concerning the adult or other principals in the case; 17796

(4) Consult, if feasible, with the person who made the report 17797  
under section 5101.61 or 5123.61 of the Revised Code and with any 17798  
agencies or persons who have information about the alleged abuse 17799  
or neglect; 17800

(5) Cooperate fully with the law enforcement agency 17801  
responsible for investigating the report and for filing any 17802  
resulting criminal charges and, on request, turn over evidence to 17803  
the agency; 17804

(6) Determine whether the adult needs services, and prepare a 17805  
written report stating reasons for the determination. No adult 17806  
shall be determined to be abused, neglected, or in need of 17807  
services for the sole reason that, in lieu of medical treatment, 17808  
the adult relies on or is being furnished spiritual treatment 17809  
through prayer alone in accordance with the tenets and practices 17810

of a church or religious denomination of which the adult is a 17811  
member or adherent. 17812

(C) The board shall arrange for the provision of services for 17813  
the prevention, correction or discontinuance of abuse or neglect 17814  
or of a condition resulting from abuse or neglect for any adult 17815  
who has been determined to need the services and consents to 17816  
receive them. These services may include, but are not limited to, 17817  
service and support administration, fiscal management, medical, 17818  
mental health, home health care, homemaker, legal, and residential 17819  
services and the provision of temporary accommodations and 17820  
necessities such as food and clothing. The services do not include 17821  
acting as a guardian, trustee, or protector as defined in section 17822  
5123.55 of the Revised Code. If the provision of residential 17823  
services would require expenditures by the department of 17824  
developmental disabilities, the board shall obtain the approval of 17825  
the department prior to arranging the residential services. 17826

To arrange services, the board shall: 17827

(1) Develop an individualized service plan identifying the 17828  
types of services required for the adult, the goals for the 17829  
services, and the persons or agencies that will provide them; 17830

(2) In accordance with rules established by the director of 17831  
developmental disabilities, obtain the consent of the adult or the 17832  
adult's guardian to the provision of any of these services and 17833  
obtain the signature of the adult or guardian on the individual 17834  
service plan. An adult who has been found incompetent under 17835  
Chapter 2111. of the Revised Code may consent to services. If the 17836  
board is unable to obtain consent, it may seek, if the adult is 17837  
incapacitated, a court order pursuant to section 5126.33 of the 17838  
Revised Code authorizing the board to arrange these services. 17839

(D) The board shall ensure that the adult receives the 17840  
services arranged by the board from the provider and shall have 17841

the services terminated if the adult withdraws consent. 17842

(E) On completion of a review, the board shall submit a 17843  
written report to the registry office established under section 17844  
5123.61 of the Revised Code. If the report includes a finding that 17845  
a person with ~~mental retardation~~ or a developmental disability is 17846  
a victim of action or inaction that may constitute a crime under 17847  
federal law or the law of this state, the board shall submit the 17848  
report to the law enforcement agency responsible for investigating 17849  
the report. Reports prepared under this section are not public 17850  
records as defined in section 149.43 of the Revised Code. 17851

**Sec. 5126.33.** (A) A county board of developmental 17852  
disabilities may file a complaint with the probate court of the 17853  
county in which an adult with ~~mental retardation~~ or a 17854  
developmental disability resides for an order authorizing the 17855  
board to arrange services described in division (C) of section 17856  
5126.31 of the Revised Code for that adult if the adult is 17857  
eligible to receive services or support under section 5126.041 of 17858  
the Revised Code and the board has been unable to secure consent. 17859  
The complaint shall include: 17860

(1) The name, age, and address of the adult; 17861

(2) Facts describing the nature of the abuse, neglect, or 17862  
exploitation and supporting the board's belief that services are 17863  
needed; 17864

(3) The types of services proposed by the board, as set forth 17865  
in the protective service plan described in division (J) of 17866  
section 5126.30 of the Revised Code and filed with the complaint; 17867

(4) Facts showing the board's attempts to obtain the consent 17868  
of the adult or the adult's guardian to the services. 17869

(B) The board shall give the adult notice of the filing of 17870  
the complaint and in simple and clear language shall inform the 17871

adult of the adult's rights in the hearing under division (C) of 17872  
this section and explain the consequences of a court order. This 17873  
notice shall be personally served upon all parties, and also shall 17874  
be given to the adult's legal counsel, if any, and the legal 17875  
rights service. The notice shall be given at least twenty-four 17876  
hours prior to the hearing, although the court may waive this 17877  
requirement upon a showing that there is a substantial risk that 17878  
the adult will suffer immediate physical harm in the twenty-four 17879  
hour period and that the board has made reasonable attempts to 17880  
give the notice required by this division. 17881

(C) Upon the filing of a complaint for an order under this 17882  
section, the court shall hold a hearing at least twenty-four hours 17883  
and no later than seventy-two hours after the notice under 17884  
division (B) of this section has been given unless the court has 17885  
waived the notice. All parties shall have the right to be present 17886  
at the hearing, present evidence, and examine and cross-examine 17887  
witnesses. The Ohio Rules of Evidence shall apply to a hearing 17888  
conducted pursuant to this division. The adult shall be 17889  
represented by counsel unless the court finds that the adult has 17890  
made a voluntary, informed, and knowing waiver of the right to 17891  
counsel. If the adult is indigent, the court shall appoint counsel 17892  
to represent the adult. The board shall be represented by the 17893  
county prosecutor or an attorney designated by the board. 17894

(D)(1) The court shall issue an order authorizing the board 17895  
to arrange the protective services if it finds, on the basis of 17896  
clear and convincing evidence, all of the following: 17897

(a) The adult has been abused, neglected, or exploited; 17898

(b) The adult is incapacitated; 17899

(c) There is a substantial risk to the adult of immediate 17900  
physical harm or death; 17901

(d) The adult is in need of the services; 17902

(e) No person authorized by law or court order to give consent for the adult is available or willing to consent to the services.

(2) The board shall develop a detailed protective service plan describing the services that the board will provide, or arrange for the provision of, to the adult to prevent further abuse, neglect, or exploitation. The board shall submit the plan to the court for approval. The protective service plan may be changed only by court order.

(3) In formulating the order, the court shall consider the individual protective service plan and shall specifically designate the services that are necessary to deal with the abuse, neglect, or exploitation or condition resulting from abuse, neglect, or exploitation and that are available locally, and authorize the board to arrange for these services only. The court shall limit the provision of these services to a period not exceeding six months, renewable for an additional six-month period on a showing by the board that continuation of the order is necessary.

(E) If the court finds that all other options for meeting the adult's needs have been exhausted, it may order that the adult be removed from the adult's place of residence and placed in another residential setting. Before issuing that order, the court shall consider the adult's choice of residence and shall determine that the new residential setting is the least restrictive alternative available for meeting the adult's needs and is a place where the adult can obtain the necessary requirements for daily living in safety. The court shall not order an adult to a hospital or public hospital as defined in section 5122.01 or a state institution as defined in section 5123.01 of the Revised Code.

(F) The court shall not authorize a change in an adult's placement ordered under division (E) of this section unless it

finds compelling reasons to justify a change. The parties to whom 17935  
notice was given in division (B) of this section shall be given 17936  
notice of a proposed change at least five working days prior to 17937  
the change. 17938

(G) The adult, the board, or any other person who received 17939  
notice of the petition may file a motion for modification of the 17940  
court order at any time. 17941

(H) The county board shall pay court costs incurred in 17942  
proceedings brought pursuant to this section. The adult shall not 17943  
be required to pay for court-ordered services. 17944

(I)(1) After the filing of a complaint for an order under 17945  
this section, the court, prior to the final disposition, may enter 17946  
any temporary order that the court finds necessary to protect the 17947  
adult with ~~mental retardation~~ or a developmental disability from 17948  
abuse, neglect, or exploitation including, but not limited to, the 17949  
following: 17950

(a) A temporary protection order; 17951

(b) An order requiring the evaluation of the adult; 17952

(c) An order requiring a party to vacate the adult's place of 17953  
residence or legal settlement, provided that, subject to division 17954  
(K)(1)(d) of this section, no operator of a residential facility 17955  
licensed by the department may be removed under this division; 17956

(d) In the circumstances described in, and in accordance with 17957  
the procedures set forth in, section 5123.191 of the Revised Code, 17958  
an order of the type described in that section that appoints a 17959  
receiver to take possession of and operate a residential facility 17960  
licensed by the department. 17961

(2) The court may grant an ex parte order pursuant to this 17962  
division on its own motion or if a party files a written motion or 17963  
makes an oral motion requesting the issuance of the order and 17964

stating the reasons for it if it appears to the court that the 17965  
best interest and the welfare of the adult require that the court 17966  
issue the order immediately. The court, if acting on its own 17967  
motion, or the person requesting the granting of an ex parte 17968  
order, to the extent possible, shall give notice of its intent or 17969  
of the request to all parties, the adult's legal counsel, if any, 17970  
and the legal rights service. If the court issues an ex parte 17971  
order, the court shall hold a hearing to review the order within 17972  
seventy-two hours after it is issued or before the end of the next 17973  
day after the day on which it is issued, whichever occurs first. 17974  
The court shall give written notice of the hearing to all parties 17975  
to the action. 17976

**Sec. 5126.333.** Any person who has reason to believe that 17977  
there is a substantial risk to an adult with ~~mental retardation or~~ 17978  
a developmental disability of immediate physical harm or death and 17979  
that the responsible county board of developmental disabilities 17980  
has failed to seek an order pursuant to section 5126.33 or 17981  
5126.331 of the Revised Code may notify the department of 17982  
developmental disabilities. Within twenty-four hours of receipt of 17983  
such notice, the department shall cause an investigation to be 17984  
conducted regarding the notice. The department shall provide 17985  
assistance to the county board to provide for the health and 17986  
safety of the adult as permitted by law. 17987

**Sec. 5126.40.** (A) Sections 5126.40 to 5126.47 of the Revised 17988  
Code do not apply to medicaid-funded supported living. 17989

(B) As used in sections 5126.40 to 5126.47 of the Revised 17990  
Code, "provider" means a person or government entity certified by 17991  
the director of developmental disabilities to provide supported 17992  
living for individuals with ~~mental retardation and~~ developmental 17993  
disabilities. 17994

(C) On and after July 1, 1995, each county board shall plan 17995  
and develop supported living for individuals with ~~mental~~ 17996  
~~retardation and~~ developmental disabilities who are residents of 17997  
the county in accordance with sections 5126.41 to 5126.47 of the 17998  
Revised Code. 17999

**Sec. 5126.46.** (A) No county board of developmental 18000  
disabilities shall be obligated to use any money other than money 18001  
in the community developmental disabilities residential services 18002  
fund to furnish residential services. 18003

(B) Except with respect to a child required to be provided 18004  
services pursuant to section 121.38 of the Revised Code, no court 18005  
or other entity of state or local government shall order or 18006  
otherwise require a county board of developmental disabilities to 18007  
use money from local sources for residential services for an 18008  
individual with ~~mental retardation or a~~ developmental ~~disabilities~~ 18009  
disability or to arrange for residential services for such an 18010  
individual unless a vacancy exists in an appropriate residential 18011  
setting within the county. 18012

**Sec. 5126.49.** The county board of developmental disabilities 18013  
may adopt a resolution requesting the board of county 18014  
commissioners to implement a residential facility linked deposit 18015  
program under sections 5126.51 to 5126.62 of the Revised Code if 18016  
the county board of developmental disabilities finds all of the 18017  
following: 18018

(A) There is a shortage of residential facilities in the 18019  
county for individuals with ~~mental retardation or~~ developmental 18020  
disabilities. 18021

(B) Eligible organizations, otherwise willing and able to 18022  
develop residential facilities in the county, have been unable to 18023  
do so because of high interest rates. 18024

(C) Placement of residential facility linked deposits will 18025  
assist in financing the development of residential facilities in 18026  
the county that otherwise would not be developed because of high 18027  
interest rates. 18028

The board shall transmit a certified copy of the resolution 18029  
to the board of county commissioners. 18030

**Sec. 5126.52.** The general assembly finds that individuals 18031  
with ~~mental retardation or~~ developmental disabilities residing in 18032  
the state face a shortage of suitable residential facilities; that 18033  
loans to finance the development of suitable residential 18034  
facilities are subject to high interest rates; that eligible 18035  
organizations, otherwise willing and able to develop suitable 18036  
residential facilities, are unable to do so because of the high 18037  
interest rates; and, consequently, that the shortage of suitable 18038  
residential facilities is likely to continue and worsen. 18039

The residential facility linked deposit program, when 18040  
implemented in a county, is intended to provide low-cost funds for 18041  
lending purposes that will effectively reduce high interest rates 18042  
and materially contribute to remedying the shortage of suitable 18043  
residential facilities for individuals with ~~mental retardation or~~ 18044  
developmental disabilities who reside in the county. 18045

**Sec. 5126.55.** The county board of developmental disabilities 18046  
shall review each application filed under section 5126.54 of the 18047  
Revised Code and adopt a resolution approving or disapproving 18048  
development of the proposed residential facility. The board shall 18049  
not approve development of the proposed residential facility 18050  
unless it finds, based upon the application and its evaluation of 18051  
the applicant, that development of the residential facility is 18052  
consistent with its plan and priorities, under section 5126.05 of 18053  
the Revised Code, for the provision of residential facilities for 18054

individuals with ~~mental retardation or~~ developmental disabilities 18055  
residing in the county. 18056

The resolution shall include specific findings of fact 18057  
justifying the approval or disapproval. 18058

The board shall transmit a certified copy of the resolution 18059  
to the applicant and to the board of county commissioners. 18060

**Sec. 5126.58.** The county board of developmental disabilities 18061  
shall adopt a resolution approving or disapproving an eligible 18062  
organization's application for a residential facility linked 18063  
deposit loan. The board shall disapprove an application unless it 18064  
finds, based on the application and its evaluation of the 18065  
applicant, each of the following: 18066

(A) The applicant has fully complied with sections 5126.54 18067  
and 5126.56 of the Revised Code. 18068

(B) Development of the residential facility will materially 18069  
contribute to alleviating the shortage of residential facilities 18070  
in the county for individuals with ~~mental retardation or~~ 18071  
developmental disabilities. 18072

(C) The applicant is ready to proceed with development of the 18073  
residential facility, but is unable to do so because of high 18074  
interest rates. 18075

(D) The board of county commissioners has certified that 18076  
public moneys of the county are currently available for placement 18077  
of the residential facility linked deposit necessary to provide 18078  
low-cost financing to the applicant. 18079

(E) Placement of the residential facility linked deposit, 18080  
considered in the aggregate with all other residential facility 18081  
linked deposits under the county's residential facility linked 18082  
deposit program, will not cause the total amount of the county's 18083  
residential facility linked deposits to exceed an amount equal to 18084

ten per cent of the operating budget of the county board of 18085  
developmental disabilities for the current year. If placement of 18086  
the residential facility linked deposit would cause the total 18087  
amount of the county's residential facility linked deposits to 18088  
exceed the maximum established by this division, the board may 18089  
accept the application but limit the amount of the residential 18090  
facility linked deposit accordingly. 18091

The resolution shall include specific findings of fact 18092  
justifying acceptance or rejection of the application. If the 18093  
board accepts the application, it shall specify the amount of the 18094  
residential facility linked deposit in the resolution. 18095

The board shall transmit a certified copy of the resolution 18096  
to the applicant, the eligible lending institution, and the 18097  
county's investing authority. 18098

**Sec. 5139.06.** (A) When a child has been committed to the 18099  
department of youth services, the department shall do both of the 18100  
following: 18101

(1) Place the child in an appropriate institution under the 18102  
condition that it considers best designed for the training and 18103  
rehabilitation of the child and the protection of the public, 18104  
provided that the institutional placement shall be consistent with 18105  
the order committing the child to its custody; 18106

(2) Maintain the child in institutional care or institutional 18107  
care in a secure facility for the required period of 18108  
institutionalization in a manner consistent with division (A)(1) 18109  
of section 2152.16 and divisions (A) to (F) of section 2152.17 of 18110  
the Revised Code, whichever are applicable, and with section 18111  
5139.38 or division (B), (C), or (D) of section 2152.22 of the 18112  
Revised Code. 18113

(B) When a child has been committed to the department of 18114

youth services and has not been institutionalized or 18115  
institutionalized in a secure facility for the prescribed minimum 18116  
period of time, including, but not limited to, a prescribed period 18117  
of time under division (A)(1)(a) of section 2152.16 of the Revised 18118  
Code, the department, the child, or the child's parent may request 18119  
the court that committed the child to order a judicial release to 18120  
court supervision or a judicial release to department of youth 18121  
services supervision in accordance with division (B), (C), or (D) 18122  
of section 2152.22 of the Revised Code, and the child may be 18123  
released from institutionalization or institutionalization in a 18124  
secure facility in accordance with the applicable division. A 18125  
child in those circumstances shall not be released from 18126  
institutionalization or institutionalization in a secure facility 18127  
except in accordance with section 2152.22 or 5139.38 of the 18128  
Revised Code. When a child is released pursuant to a judicial 18129  
release to court supervision under division (B) or (D) of section 18130  
2152.22 of the Revised Code, the department shall comply with 18131  
division (B)(3) of that section and, if the court requests, shall 18132  
send the committing court a report on the child's progress in the 18133  
institution and recommendations for conditions of supervision by 18134  
the court after release. When a child is released pursuant to a 18135  
judicial release to department of youth services supervision under 18136  
division (C) or (D) of section 2152.22 of the Revised Code, the 18137  
department shall comply with division (C)(3) of that section 18138  
relative to the child and shall send the committing court and the 18139  
juvenile court of the county in which the child is placed a copy 18140  
of the treatment and rehabilitation plan described in that 18141  
division and the conditions that it fixed. The court of the county 18142  
in which the child is placed may adopt the conditions as an order 18143  
of the court and may add any additional consistent conditions it 18144  
considers appropriate, provided that the court may not add any 18145  
condition that decreases the level or degree of supervision 18146  
specified by the department in its plan, that substantially 18147

increases the financial burden of supervision that will be 18148  
experienced by the department, or that alters the placement 18149  
specified by the department in its plan. Any violations of the 18150  
conditions of the child's judicial release or early release shall 18151  
be handled pursuant to division (E) of section 2152.22 of the 18152  
Revised Code. 18153

(C) When a child has been committed to the department of 18154  
youth services, the department may do any of the following: 18155

(1) Notwithstanding the provisions of this chapter, Chapter 18156  
2151., or Chapter 2152. of the Revised Code that prescribe 18157  
required periods of institutionalization, transfer the child to 18158  
any other state institution, whenever it appears that the child by 18159  
reason of mental illness, ~~mental retardation~~, or other 18160  
developmental disability ought to be in another state institution. 18161  
Before transferring a child to any other state institution, the 18162  
department shall include in the minutes a record of the order of 18163  
transfer and the reason for the transfer and, at least seven days 18164  
prior to the transfer, shall send a certified copy of the order to 18165  
the person shown by its record to have had the care or custody of 18166  
the child immediately prior to the child's commitment. Except as 18167  
provided in division (C)(2) of this section, no person shall be 18168  
transferred from a benevolent institution to a correctional 18169  
institution or to a facility or institution operated by the 18170  
department of youth services. 18171

(2) Notwithstanding the provisions of this chapter, Chapter 18172  
2151., or Chapter 2152. of the Revised Code that prescribe 18173  
required periods of institutionalization, transfer the child under 18174  
section 5120.162 of the Revised Code to a correctional medical 18175  
center established by the department of rehabilitation and 18176  
correction, whenever the child has an illness, physical condition, 18177  
or other medical problem and it appears that the child would 18178  
benefit from diagnosis or treatment at the center for that 18179

illness, condition, or problem. Before transferring a child to a center, the department of youth services shall include in the minutes a record of the order of transfer and the reason for the transfer and, except in emergency situations, at least seven days prior to the transfer, shall send a certified copy of the order to the person shown by its records to have had the care or custody of the child immediately prior to the child's commitment. If the transfer of the child occurs in an emergency situation, as soon as possible after the decision is made to make the transfer, the department of youth services shall send a certified copy of the order to the person shown by its records to have had the care or custody of the child immediately prior to the child's commitment. A transfer under this division shall be in accordance with the terms of the agreement the department of youth services enters into with the department of rehabilitation and correction under section 5120.162 of the Revised Code and shall continue only as long as the child reasonably appears to receive benefit from diagnosis or treatment at the center for an illness, physical condition, or other medical problem.

(3) Revoke or modify any order of the department except an order of discharge as often as conditions indicate it to be desirable;

(4) If the child was committed pursuant to division (A)(1)(b), (c), (d), or (e) of section 2152.16 of the Revised Code and has been institutionalized or institutionalized in a secure facility for the prescribed minimum periods of time under the division pursuant to which the commitment was made, assign the child to a family home, a group care facility, or other place maintained under public or private auspices, within or without this state, for necessary treatment and rehabilitation, the costs of which may be paid by the department, provided that the department shall notify the committing court, in writing, of the

place and terms of the assignment at least fifteen days prior to 18212  
the scheduled date of the assignment; 18213

(5) Release the child from an institution in accordance with 18214  
sections 5139.51 to 5139.54 of the Revised Code in the 18215  
circumstances described in those sections. 18216

(D) The department of youth services shall notify the 18217  
committing court of any order transferring the physical location 18218  
of any child committed to it in accordance with section 5139.35 of 18219  
the Revised Code. Upon the discharge from its custody and control, 18220  
the department may petition the court for an order terminating its 18221  
custody and control. 18222

**Sec. 5139.08.** The department of youth services may enter into 18223  
an agreement with the director of rehabilitation and correction 18224  
pursuant to which the department of youth services, in accordance 18225  
with division (C)(2) of section 5139.06 and section 5120.162 of 18226  
the Revised Code, may transfer to a correctional medical center 18227  
established by the department of rehabilitation and correction, 18228  
children who are within its custody for diagnosis or treatment of 18229  
an illness, physical condition, or other medical problem. The 18230  
department of youth services may enter into any other agreements 18231  
with the director of job and family services, the director of 18232  
mental health and addiction services, the director of 18233  
developmental disabilities, the director of rehabilitation and 18234  
correction, with the courts having probation officers or other 18235  
public officials, and with private agencies or institutions for 18236  
separate care or special treatment of children subject to the 18237  
control of the department of youth services. The department of 18238  
youth services may, upon the request of a juvenile court not 18239  
having a regular probation officer, provide probation services for 18240  
such court. 18241

Upon request by the department of youth services, any public 18242

agency or group care facility established or administered by the 18243  
state for the care and treatment of children and youth shall, 18244  
consistent with its functions, accept and care for any child whose 18245  
custody is vested in the department in the same manner as it would 18246  
be required to do if custody had been vested by a court in such 18247  
agency or group care facility. If the department has reasonable 18248  
grounds to believe that any child or youth whose custody is vested 18249  
in it is mentally ill or ~~mentally retarded~~ has a developmental 18250  
disability that is an intellectual disability, the department may 18251  
file an affidavit under section 5122.11 or 5123.76 of the Revised 18252  
Code. The department's affidavit for admission of a child or youth 18253  
to such institution shall be filed with the probate court of the 18254  
county from which the child was committed to the department. Such 18255  
court may request the probate court of the county in which the 18256  
child is held to conduct the hearing on the application, in which 18257  
case the court making such request shall bear the expenses of the 18258  
proceeding. If the department files such an affidavit, the child 18259  
or youth may be kept in such institution until a final decision on 18260  
the affidavit is made by the appropriate court. 18261

**Sec. 5139.27.** The department of youth services shall adopt 18262  
rules prescribing the minimum standards of construction for a 18263  
school, forestry camp, or other facility established under section 18264  
2151.65 of the Revised Code for which financial assistance may be 18265  
granted to assist in defraying the cost of the construction of the 18266  
school, forestry camp, or other facility. If an application for 18267  
that financial assistance is filed with the department under 18268  
section 2151.651 of the Revised Code, and the department finds 18269  
that the application is in proper form and the specifications for 18270  
the construction of the school, forestry camp, or other facility 18271  
meet the minimum standards set forth in the rules adopted by the 18272  
department, the department may, from moneys available to it for 18273  
granting financial assistance for the construction of schools, 18274

forestry camps, or other facilities established under section 18275  
2151.65 of the Revised Code, grant financial assistance to the 18276  
county making the application, subject to the approval of the 18277  
controlling board, in an amount not to exceed one-half of the 18278  
county's share of the cost of construction of the school, forestry 18279  
camp, or other facility but not to exceed six thousand five 18280  
hundred dollars for each bed unit provided for in the school, 18281  
forestry camp, or other facility. As used in this section, 18282  
"construction" means the building and the initial equipping of new 18283  
structures and, to the extent provided for in rules adopted by the 18284  
department, the acquisition, remodeling, and initial equipping of 18285  
existing structures, excluding architect's fees and the cost of 18286  
land acquisition. 18287

A county that receives financial assistance under this 18288  
section shall not be obligated to repay the assistance to the 18289  
state unless the school, forestry camp, or other facility for 18290  
which the assistance is granted is used within the ten-year period 18291  
immediately following its establishment for other than the purpose 18292  
of rehabilitating children between the ages of twelve to eighteen 18293  
years, other than psychotic ~~or mentally retarded~~ children or 18294  
children with developmental disabilities that are intellectual 18295  
disabilities, who are designated delinquent children, as defined 18296  
in section 2152.02 of the Revised Code, or unruly, as defined in 18297  
section 2151.022 of the Revised Code, by order of a juvenile 18298  
court. If the department of youth services finds that the school, 18299  
forestry camp, or other facility is used for other than that 18300  
purpose within that ten-year period, the county shall be obligated 18301  
to repay the assistance to the state and, through its board of 18302  
county commissioners, may enter into an agreement with the 18303  
director of budget and management for the discharge of that 18304  
obligation over a period not to exceed ten years in duration. 18305  
Whenever a county is obligated to repay that assistance to the 18306

state and its board of county commissioners fails to enter into or 18307  
fails to comply with an agreement for the discharge of that 18308  
obligation, the tax commissioner, pursuant to section 5747.54 of 18309  
the Revised Code, shall withhold from distribution to the county 18310  
from the local government fund an amount sufficient to discharge 18311  
the county from that obligation to the state. 18312

**Sec. 5139.39.** The department of youth services, in the manner 18313  
provided in this chapter and Chapter 2151. of the Revised Code, 18314  
may transfer to a foster care facility certified by the department 18315  
of job and family services under section 5103.03 of the Revised 18316  
Code, any child committed to it and, in the event of a transfer of 18317  
that nature, unless otherwise mutually agreed, the department of 18318  
youth services shall bear the cost of care and services provided 18319  
for the child in the foster care facility. A juvenile court may 18320  
transfer to any foster facility certified by the department of job 18321  
and family services any child between twelve and eighteen years of 18322  
age, other than a psychotic ~~or mentally retarded~~ child or a child 18323  
with a developmental disability that is an intellectual 18324  
disability, who has been designated a delinquent child and placed 18325  
on probation by order of the juvenile court as a result of having 18326  
violated any law of this state or the United States or any 18327  
ordinance of a political subdivision of this state. 18328

**Sec. 5139.54.** (A) Notwithstanding any other provision for 18329  
determining when a child shall be released or discharged from the 18330  
legal custody of the department of youth services, including 18331  
jurisdictional provisions in section 2152.22 of the Revised Code, 18332  
the release authority, for medical reasons, may release a child 18333  
upon supervised release or discharge the child from the custody of 18334  
the department when any of the following applies: 18335

(1) The child is terminally ill or otherwise in imminent 18336  
danger of death. 18337

(2) The child is incapacitated due to injury, disease, 18338  
illness, or other medical condition and is no longer a threat to 18339  
public safety. 18340

(3) The child appears to be a mentally ill person subject to 18341  
court order, as defined in section 5122.01 of the Revised Code, or 18342  
a ~~mentally retarded~~ person with an intellectual disability subject 18343  
to institutionalization by court order, as defined in section 18344  
5123.01 of the Revised Code. 18345

(B) When considering whether to release or discharge a child 18346  
under this section for medical reasons, the release authority may 18347  
request additional medical information about the child or may ask 18348  
the department to conduct additional medical examinations. 18349

(C) The release authority shall determine the appropriate 18350  
level of supervised release for a child released under this 18351  
section. The terms and conditions of the release may require 18352  
periodic medical reevaluations as appropriate. Upon granting a 18353  
release or discharge under this section, the release authority 18354  
shall give notice of the release and its terms and conditions or 18355  
of the discharge to the court that committed the child to the 18356  
custody of the department. 18357

(D) The release authority shall submit annually to the 18358  
director of youth services a report that includes all of the 18359  
following information for the previous calendar year: 18360

(1) The number of children the release authority considered 18361  
for medical release or discharge; 18362

(2) The nature of the injury, disease, illness, or other 18363  
medical condition of each child considered for medical release or 18364  
discharge; 18365

(3) The decision made by the release authority for each 18366  
child, including the reasons for denying medical release or 18367  
discharge or for granting it; 18368

(4) The number of children on medical release who were 18369  
returned to a secure facility or whose supervised release was 18370  
revoked. 18371

**Sec. 5164.25.** The departments of developmental disabilities 18372  
and medicaid may approve, reduce, deny, or terminate a medicaid 18373  
service included in the individualized service plan developed for 18374  
a medicaid recipient with ~~mental retardation or other a~~ 18375  
developmental disability who is eligible for medicaid case 18376  
management services. If either department approves, reduces, 18377  
denies, or terminates a service, that department shall timely 18378  
notify the medicaid recipient that the recipient may appeal 18379  
pursuant to section 5160.31 of the Revised Code. 18380

**Sec. 5164.342.** (A) As used in this section: 18381

"Applicant" means a person who is under final consideration 18382  
for employment with a waiver agency in a full-time, part-time, or 18383  
temporary position that involves providing home and 18384  
community-based services. 18385

"Community-based long-term care provider" means a provider as 18386  
defined in section 173.39 of the Revised Code. 18387

"Community-based long-term care subcontractor" means a 18388  
subcontractor as defined in section 173.38 of the Revised Code. 18389

"Criminal records check" has the same meaning as in section 18390  
109.572 of the Revised Code. 18391

"Disqualifying offense" means any of the offenses listed or 18392  
described in divisions (A)(3)(a) to (e) of section 109.572 of the 18393  
Revised Code. 18394

"Employee" means a person employed by a waiver agency in a 18395  
full-time, part-time, or temporary position that involves 18396  
providing home and community-based services. 18397

"Waiver agency" means a person or government entity that provides home and community-based services under a home and community-based services medicaid waiver component administered by the department of medicaid, other than such a person or government entity that is certified under the medicare program. "Waiver agency" does not mean an independent provider as defined in section 5164.341 of the Revised Code.

(B) This section does not apply to any individual who is subject to a database review or criminal records check under section 3701.881 of the Revised Code. If a waiver agency also is a community-based long-term care provider or community-based long-term care subcontractor, the waiver agency may provide for applicants and employees to undergo database reviews and criminal records checks in accordance with section 173.38 of the Revised Code rather than this section.

(C) No waiver agency shall employ an applicant or continue to employ an employee in a position that involves providing home and community-based services if any of the following apply:

(1) A review of the databases listed in division (E) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (E)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules authorized by this

section and the rules prohibit the waiver agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing home and community-based services.

(2) After the applicant or employee is given the information and notification required by divisions (F)(2)(a) and (b) of this section, the applicant or employee fails to do either of the following:

(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the chief administrator of the waiver agency.

(3) Except as provided in rules authorized by this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or date of entry of the guilty plea.

(D) At the time of each applicant's initial application for employment in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall inform the applicant of both of the following:

(1) That a review of the databases listed in division (E) of this section will be conducted to determine whether the waiver agency is prohibited by division (C)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records

check of the applicant will be conducted and the applicant is 18460  
required to provide a set of the applicant's fingerprint 18461  
impressions as part of the criminal records check. 18462

(E) As a condition of employing any applicant in a position 18463  
that involves providing home and community-based services, the 18464  
chief administrator of a waiver agency shall conduct a database 18465  
review of the applicant in accordance with rules authorized by 18466  
this section. If rules authorized by this section so require, the 18467  
chief administrator of a waiver agency shall conduct a database 18468  
review of an employee in accordance with the rules as a condition 18469  
of continuing to employ the employee in a position that involves 18470  
providing home and community-based services. A database review 18471  
shall determine whether the applicant or employee is included in 18472  
any of the following: 18473

(1) The excluded parties list system that is maintained by 18474  
the United States general services administration pursuant to 18475  
subpart 9.4 of the federal acquisition regulation and available at 18476  
the federal web site known as the system for award management; 18477

(2) The list of excluded individuals and entities maintained 18478  
by the office of inspector general in the United States department 18479  
of health and human services pursuant to the "Social Security 18480  
Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 and 1320c-5; 18481

(3) The registry of ~~MR/DD~~ developmental disabilities 18482  
employees established under section 5123.52 of the Revised Code; 18483

(4) The internet-based sex offender and child-victim offender 18484  
database established under division (A)(11) of section 2950.13 of 18485  
the Revised Code; 18486

(5) The internet-based database of inmates established under 18487  
section 5120.66 of the Revised Code; 18488

(6) The state nurse aide registry established under section 18489  
3721.32 of the Revised Code; 18490

(7) Any other database, if any, specified in rules authorized 18491  
by this section. 18492

(F)(1) As a condition of employing any applicant in a 18493  
position that involves providing home and community-based 18494  
services, the chief administrator of a waiver agency shall require 18495  
the applicant to request that the superintendent of the bureau of 18496  
criminal identification and investigation conduct a criminal 18497  
records check of the applicant. If rules authorized by this 18498  
section so require, the chief administrator of a waiver agency 18499  
shall require an employee to request that the superintendent 18500  
conduct a criminal records check of the employee at times 18501  
specified in the rules as a condition of continuing to employ the 18502  
employee in a position that involves providing home and 18503  
community-based services. However, a criminal records check is not 18504  
required for an applicant or employee if the waiver agency is 18505  
prohibited by division (C)(1) of this section from employing the 18506  
applicant or continuing to employ the employee in a position that 18507  
involves providing home and community-based services. If an 18508  
applicant or employee for whom a criminal records check request is 18509  
required by this section does not present proof of having been a 18510  
resident of this state for the five-year period immediately prior 18511  
to the date the criminal records check is requested or provide 18512  
evidence that within that five-year period the superintendent has 18513  
requested information about the applicant or employee from the 18514  
federal bureau of investigation in a criminal records check, the 18515  
chief administrator shall require the applicant or employee to 18516  
request that the superintendent obtain information from the 18517  
federal bureau of investigation as part of the criminal records 18518  
check. Even if an applicant or employee for whom a criminal 18519  
records check request is required by this section presents proof 18520  
of having been a resident of this state for the five-year period, 18521  
the chief administrator may require the applicant or employee to 18522  
request that the superintendent include information from the 18523

federal bureau of investigation in the criminal records check. 18524

(2) The chief administrator shall provide the following to 18525  
each applicant and employee for whom a criminal records check is 18526  
required by this section: 18527

(a) Information about accessing, completing, and forwarding 18528  
to the superintendent of the bureau of criminal identification and 18529  
investigation the form prescribed pursuant to division (C)(1) of 18530  
section 109.572 of the Revised Code and the standard impression 18531  
sheet prescribed pursuant to division (C)(2) of that section; 18532

(b) Written notification that the applicant or employee is to 18533  
instruct the superintendent to submit the completed report of the 18534  
criminal records check directly to the chief administrator. 18535

(3) A waiver agency shall pay to the bureau of criminal 18536  
identification and investigation the fee prescribed pursuant to 18537  
division (C)(3) of section 109.572 of the Revised Code for any 18538  
criminal records check required by this section. However, a waiver 18539  
agency may require an applicant to pay to the bureau the fee for a 18540  
criminal records check of the applicant. If the waiver agency pays 18541  
the fee for an applicant, it may charge the applicant a fee not 18542  
exceeding the amount the waiver agency pays to the bureau under 18543  
this section if the waiver agency notifies the applicant at the 18544  
time of initial application for employment of the amount of the 18545  
fee and that, unless the fee is paid, the applicant will not be 18546  
considered for employment. 18547

(G)(1) A waiver agency may employ conditionally an applicant 18548  
for whom a criminal records check is required by this section 18549  
prior to obtaining the results of the criminal records check if 18550  
both of the following apply: 18551

(a) The waiver agency is not prohibited by division (C)(1) of 18552  
this section from employing the applicant in a position that 18553  
involves providing home and community-based services. 18554

(b) The chief administrator of the waiver agency requires the applicant to request a criminal records check regarding the applicant in accordance with division (F)(1) of this section not later than five business days after the applicant begins conditional employment.

(2) A waiver agency that employs an applicant conditionally under division (G)(1) of this section shall terminate the applicant's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of or has pleaded guilty to a disqualifying offense, the waiver agency shall terminate the applicant's employment unless circumstances specified in rules authorized by this section exist that permit the waiver agency to employ the applicant and the waiver agency chooses to employ the applicant.

(H) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the representative of the applicant or employee;

(2) The chief administrator of the waiver agency that requires the applicant or employee to request the criminal records check or the administrator's representative;

(3) The medicaid director and the staff of the department who

are involved in the administration of the medicaid program; 18586

(4) The director of aging or the director's designee if the 18587  
waiver agency also is a community-based long-term care provider or 18588  
community-based long-term care subcontractor; 18589

(5) An individual receiving or deciding whether to receive 18590  
home and community-based services from the subject of the criminal 18591  
records check; 18592

(6) A court, hearing officer, or other necessary individual 18593  
involved in a case dealing with any of the following: 18594

(a) A denial of employment of the applicant or employee; 18595

(b) Employment or unemployment benefits of the applicant or 18596  
employee; 18597

(c) A civil or criminal action regarding the medicaid 18598  
program. 18599

(I) The medicaid director shall adopt rules under section 18600  
5164.02 of the Revised Code to implement this section. 18601

(1) The rules may do the following: 18602

(a) Require employees to undergo database reviews and 18603  
criminal records checks under this section; 18604

(b) If the rules require employees to undergo database 18605  
reviews and criminal records checks under this section, exempt one 18606  
or more classes of employees from the requirements; 18607

(c) For the purpose of division (E)(7) of this section, 18608  
specify other databases that are to be checked as part of a 18609  
database review conducted under this section. 18610

(2) The rules shall specify all of the following: 18611

(a) The procedures for conducting a database review under 18612  
this section; 18613

(b) If the rules require employees to undergo database 18614

reviews and criminal records checks under this section, the times 18615  
at which the database reviews and criminal records checks are to 18616  
be conducted; 18617

(c) If the rules specify other databases to be checked as 18618  
part of a database review, the circumstances under which a waiver 18619  
agency is prohibited from employing an applicant or continuing to 18620  
employ an employee who is found by the database review to be 18621  
included in one or more of those databases; 18622

(d) The circumstances under which a waiver agency may employ 18623  
an applicant or employee who is found by a criminal records check 18624  
required by this section to have been convicted of or have pleaded 18625  
guilty to a disqualifying offense. 18626

(J) The amendments made by H.B. 487 of the 129th general 18627  
assembly to this section do not preclude the department of 18628  
medicaid from taking action against a person for failure to comply 18629  
with former division (H) of this section as that division existed 18630  
on the day preceding January 1, 2013. 18631

**Sec. 5164.881.** The medicaid director, in consultation with 18632  
the director of developmental disabilities, may develop and 18633  
implement within the medicaid program a system under which 18634  
eligible individuals with chronic conditions, as defined in the 18635  
"Social Security Act," section 1945 (h)(1), 42 U.S.C. 18636  
1396w-4(h)(1), who also have ~~mental retardation or other~~ 18637  
developmental disabilities may receive health home services, as 18638  
defined in the "Social Security Act," section 1945 (h)(4), 42 18639  
U.S.C. 1396w-4(h)(4). Any such system shall focus on the needs of 18640  
individuals and have as its goal improving services and outcomes 18641  
under the medicaid program by improving integration of long-term 18642  
care services and supportive services with primary and acute 18643  
health care services. 18644

In developing any system under this section, the directors 18645

shall consult with representatives of county boards of 18646  
developmental disabilities, the Ohio provider resource 18647  
association, and the arc of Ohio. The directors may consult with 18648  
any other individuals or entities that have an interest in the 18649  
well being of individuals with developmental disabilities. 18650

**Sec. 5165.01.** As used in this chapter: 18651

(A) "Affiliated operator" means an operator affiliated with 18652  
either of the following: 18653

(1) The exiting operator for whom the affiliated operator is 18654  
to assume liability for the entire amount of the exiting 18655  
operator's debt under the medicaid program or the portion of the 18656  
debt that represents the franchise permit fee the exiting operator 18657  
owes; 18658

(2) The entering operator involved in the change of operator 18659  
with the exiting operator specified in division (A)(1) of this 18660  
section. 18661

(B) "Allowable costs" are a nursing facility's costs that the 18662  
department of medicaid determines are reasonable. Fines paid under 18663  
sections 5165.60 to 5165.89 and section 5165.99 of the Revised 18664  
Code are not allowable costs. 18665

(C) "Ancillary and support costs" means all reasonable costs 18666  
incurred by a nursing facility other than direct care costs, tax 18667  
costs, or capital costs. "Ancillary and support costs" includes, 18668  
but is not limited to, costs of activities, social services, 18669  
pharmacy consultants, habilitation supervisors, qualified ~~mental~~ 18670  
~~retardation~~ intellectual disability professionals, program 18671  
directors, medical and habilitation records, program supplies, 18672  
incontinence supplies, food, enterals, dietary supplies and 18673  
personnel, laundry, housekeeping, security, administration, 18674  
medical equipment, utilities, liability insurance, bookkeeping, 18675

purchasing department, human resources, communications, travel, 18676  
dues, license fees, subscriptions, home office costs not otherwise 18677  
allocated, legal services, accounting services, minor equipment, 18678  
maintenance and repairs, help-wanted advertising, informational 18679  
advertising, start-up costs, organizational expenses, other 18680  
interest, property insurance, employee training and staff 18681  
development, employee benefits, payroll taxes, and workers' 18682  
compensation premiums or costs for self-insurance claims and 18683  
related costs as specified in rules adopted under section 5165.02 18684  
of the Revised Code, for personnel listed in this division. 18685  
"Ancillary and support costs" also means the cost of equipment, 18686  
including vehicles, acquired by operating lease executed before 18687  
December 1, 1992, if the costs are reported as administrative and 18688  
general costs on the nursing facility's cost report for the cost 18689  
reporting period ending December 31, 1992. 18690

(D)(1) "Capital costs" means the actual expense incurred by a 18691  
nursing facility for all of the following: 18692

(a) Depreciation and interest on any capital assets that cost 18693  
five hundred dollars or more per item, including the following: 18694

(i) Buildings; 18695

(ii) Building improvements; 18696

(iii) Except as provided in division (C) of this section, 18697  
equipment; 18698

(iv) Transportation equipment. 18699

(b) Amortization and interest on land improvements and 18700  
leasehold improvements; 18701

(c) Amortization of financing costs; 18702

(d) Lease and rent of land, buildings, and equipment. 18703

(2) The costs of capital assets of less than five hundred 18704  
dollars per item may be considered capital costs in accordance 18705

with a provider's practice. 18706

(E) "Capital lease" and "operating lease" shall be construed 18707  
in accordance with generally accepted accounting principles. 18708

(F) "Case-mix score" means a measure determined under section 18709  
5165.192 of the Revised Code of the relative direct-care resources 18710  
needed to provide care and habilitation to a nursing facility 18711  
resident. 18712

(G) "Change of operator" means an entering operator becoming 18713  
the operator of a nursing facility in the place of the exiting 18714  
operator. 18715

(1) Actions that constitute a change of operator include the 18716  
following: 18717

(a) A change in an exiting operator's form of legal 18718  
organization, including the formation of a partnership or 18719  
corporation from a sole proprietorship; 18720

(b) A transfer of all the exiting operator's ownership 18721  
interest in the operation of the nursing facility to the entering 18722  
operator, regardless of whether ownership of any or all of the 18723  
real property or personal property associated with the nursing 18724  
facility is also transferred; 18725

(c) A lease of the nursing facility to the entering operator 18726  
or the exiting operator's termination of the exiting operator's 18727  
lease; 18728

(d) If the exiting operator is a partnership, dissolution of 18729  
the partnership; 18730

(e) If the exiting operator is a partnership, a change in 18731  
composition of the partnership unless both of the following apply: 18732

(i) The change in composition does not cause the 18733  
partnership's dissolution under state law. 18734

(ii) The partners agree that the change in composition does 18735

not constitute a change in operator. 18736

(f) If the operator is a corporation, dissolution of the 18737  
corporation, a merger of the corporation into another corporation 18738  
that is the survivor of the merger, or a consolidation of one or 18739  
more other corporations to form a new corporation. 18740

(2) The following, alone, do not constitute a change of 18741  
operator: 18742

(a) A contract for an entity to manage a nursing facility as 18743  
the operator's agent, subject to the operator's approval of daily 18744  
operating and management decisions; 18745

(b) A change of ownership, lease, or termination of a lease 18746  
of real property or personal property associated with a nursing 18747  
facility if an entering operator does not become the operator in 18748  
place of an exiting operator; 18749

(c) If the operator is a corporation, a change of one or more 18750  
members of the corporation's governing body or transfer of 18751  
ownership of one or more shares of the corporation's stock, if the 18752  
same corporation continues to be the operator. 18753

(H) "Cost center" means the following: 18754

(1) Ancillary and support costs; 18755

(2) Capital costs; 18756

(3) Direct care costs; 18757

(4) Tax costs. 18758

(I) "Custom wheelchair" means a wheelchair to which both of 18759  
the following apply: 18760

(1) It has been measured, fitted, or adapted in consideration 18761  
of either of the following: 18762

(a) The body size or disability of the individual who is to 18763  
use the wheelchair; 18764

(b) The individual's period of need for, or intended use of, 18765  
the wheelchair. 18766

(2) It has customized features, modifications, or components, 18767  
such as adaptive seating and positioning systems, that the 18768  
supplier who assembled the wheelchair, or the manufacturer from 18769  
which the wheelchair was ordered, added or made in accordance with 18770  
the instructions of the physician of the individual who is to use 18771  
the wheelchair. 18772

(J)(1) "Date of licensure" means the following: 18773

(a) In the case of a nursing facility that was required by 18774  
law to be licensed as a nursing home under Chapter 3721. of the 18775  
Revised Code when it originally began to be operated as a nursing 18776  
home, the date the nursing facility was originally so licensed; 18777

(b) In the case of a nursing facility that was not required 18778  
by law to be licensed as a nursing home when it originally began 18779  
to be operated as a nursing home, the date it first began to be 18780  
operated as a nursing home, regardless of the date the nursing 18781  
facility was first licensed as a nursing home. 18782

(2) If, after a nursing facility's original date of 18783  
licensure, more nursing home beds are added to the nursing 18784  
facility, the nursing facility has a different date of licensure 18785  
for the additional beds. This does not apply, however, to 18786  
additional beds when both of the following apply: 18787

(a) The additional beds are located in a part of the nursing 18788  
facility that was constructed at the same time as the continuing 18789  
beds already located in that part of the nursing facility; 18790

(b) The part of the nursing facility in which the additional 18791  
beds are located was constructed as part of the nursing facility 18792  
at a time when the nursing facility was not required by law to be 18793  
licensed as a nursing home. 18794

(3) The definition of "date of licensure" in this section	18795
applies in determinations of nursing facilities' medicaid payment	18796
rates but does not apply in determinations of nursing facilities'	18797
franchise permit fees.	18798
(K) "Desk-reviewed" means that a nursing facility's costs as	18799
reported on a cost report submitted under section 5165.10 of the	18800
Revised Code have been subjected to a desk review under section	18801
5165.108 of the Revised Code and preliminarily determined to be	18802
allowable costs.	18803
(L) "Direct care costs" means all of the following costs	18804
incurred by a nursing facility:	18805
(1) Costs for registered nurses, licensed practical nurses,	18806
and nurse aides employed by the nursing facility;	18807
(2) Costs for direct care staff, administrative nursing	18808
staff, medical directors, respiratory therapists, and except as	18809
provided in division (L)(8) of this section, other persons holding	18810
degrees qualifying them to provide therapy;	18811
(3) Costs of purchased nursing services;	18812
(4) Costs of quality assurance;	18813
(5) Costs of training and staff development, employee	18814
benefits, payroll taxes, and workers' compensation premiums or	18815
costs for self-insurance claims and related costs as specified in	18816
rules adopted under section 5165.02 of the Revised Code, for	18817
personnel listed in divisions (L)(1), (2), (4), and (8) of this	18818
section;	18819
(6) Costs of consulting and management fees related to direct	18820
care;	18821
(7) Allocated direct care home office costs;	18822
(8) Costs of habilitation staff (other than habilitation	18823
supervisors), medical supplies, emergency oxygen, over-the-counter	18824

pharmacy products, behavioral and mental health services, physical	18825
therapists, physical therapy assistants, occupational therapists,	18826
occupational therapy assistants, speech therapists, audiologists,	18827
habilitation supplies, and universal precautions supplies;	18828
(9) Until January 1, 2014, costs of oxygen, wheelchairs, and	18829
resident transportation;	18830
(10) Beginning January 1, 2014, costs of both of the	18831
following:	18832
(a) Emergency oxygen;	18833
(b) Wheelchairs other than the following:	18834
(i) Custom wheelchairs;	18835
(ii) Repairs to and replacements of custom wheelchairs and	18836
parts that are made in accordance with the instructions of the	18837
physician of the individual who uses the custom wheelchair.	18838
(11) Costs of other direct-care resources that are specified	18839
as direct care costs in rules adopted under section 5165.02 of the	18840
Revised Code.	18841
(M) "Dual eligible individual" has the same meaning as in	18842
section 5160.01 of the Revised Code.	18843
(N) "Effective date of a change of operator" means the day	18844
the entering operator becomes the operator of the nursing	18845
facility.	18846
(O) "Effective date of a facility closure" means the last day	18847
that the last of the residents of the nursing facility resides in	18848
the nursing facility.	18849
(P) "Effective date of an involuntary termination" means the	18850
date the department of medicaid terminates the operator's provider	18851
agreement for the nursing facility.	18852
(Q) "Effective date of a voluntary withdrawal of	18853

participation" means the day the nursing facility ceases to accept 18854  
new medicaid residents other than the individuals who reside in 18855  
the nursing facility on the day before the effective date of the 18856  
voluntary withdrawal of participation. 18857

(R) "Entering operator" means the person or government entity 18858  
that will become the operator of a nursing facility when a change 18859  
of operator occurs or following an involuntary termination. 18860

(S) "Exiting operator" means any of the following: 18861

(1) An operator that will cease to be the operator of a 18862  
nursing facility on the effective date of a change of operator; 18863

(2) An operator that will cease to be the operator of a 18864  
nursing facility on the effective date of a facility closure; 18865

(3) An operator of a nursing facility that is undergoing or 18866  
has undergone a voluntary withdrawal of participation; 18867

(4) An operator of a nursing facility that is undergoing or 18868  
has undergone an involuntary termination. 18869

(T)(1) Subject to divisions (T)(2) and (3) of this section, 18870  
"facility closure" means either of the following: 18871

(a) Discontinuance of the use of the building, or part of the 18872  
building, that houses the facility as a nursing facility that 18873  
results in the relocation of all of the nursing facility's 18874  
residents; 18875

(b) Conversion of the building, or part of the building, that 18876  
houses a nursing facility to a different use with any necessary 18877  
license or other approval needed for that use being obtained and 18878  
one or more of the nursing facility's residents remaining in the 18879  
building, or part of the building, to receive services under the 18880  
new use. 18881

(2) A facility closure occurs regardless of any of the 18882  
following: 18883

(a) The operator completely or partially replacing the nursing facility by constructing a new nursing facility or transferring the nursing facility's license to another nursing facility;	18884 18885 18886 18887
(b) The nursing facility's residents relocating to another of the operator's nursing facilities;	18888 18889
(c) Any action the department of health takes regarding the nursing facility's medicaid certification that may result in the transfer of part of the nursing facility's survey findings to another of the operator's nursing facilities;	18890 18891 18892 18893
(d) Any action the department of health takes regarding the nursing facility's license under Chapter 3721. of the Revised Code.	18894 18895 18896
(3) A facility closure does not occur if all of the nursing facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the nursing facility not later than thirty days after the evacuation occurs.	18897 18898 18899 18900 18901
(U) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.	18902 18903
(V) "Franchise permit fee" means the fee imposed by sections 5168.40 to 5168.56 of the Revised Code.	18904 18905
(W) "Inpatient days" means both of the following:	18906
(1) All days during which a resident, regardless of payment source, occupies a bed in a nursing facility that is included in the nursing facility's medicaid-certified capacity;	18907 18908 18909
(2) Fifty per cent of the days for which payment is made under section 5165.34 of the Revised Code.	18910 18911
(X) "Involuntary termination" means the department of medicaid's termination of the operator's provider agreement for	18912 18913

the nursing facility when the termination is not taken at the operator's request.

(Y) "Low resource utilization resident" means a medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's medicaid payment rate for direct care costs, is placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data.

(Z) "Maintenance and repair expenses" means a nursing facility's expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the costs of ordinary repairs such as painting and wallpapering.

(AA) "Medicaid-certified capacity" means the number of a nursing facility's beds that are certified for participation in medicaid as nursing facility beds.

(BB) "Medicaid days" means both of the following:

(1) All days during which a resident who is a medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's medicaid-certified capacity;

(2) Fifty per cent of the days for which payment is made under section 5165.34 of the Revised Code.

(CC)(1) "New nursing facility" means a nursing facility for which the provider obtains an initial provider agreement following medicaid certification of the nursing facility by the director of health, including such a nursing facility that replaces one or more nursing facilities for which a provider previously held a provider agreement.

(2) "New nursing facility" does not mean a nursing facility 18945  
for which the entering operator seeks a provider agreement 18946  
pursuant to section 5165.511 or 5165.512 or (pursuant to section 18947  
5165.515) section 5165.07 of the Revised Code. 18948

(DD) "Nursing facility" has the same meaning as in the 18949  
"Social Security Act," section 1919(a), 42 U.S.C. 1396r(a). 18950

(EE) "Nursing facility services" has the same meaning as in 18951  
the "Social Security Act," section 1905(f), 42 U.S.C. 1396d(f). 18952

(FF) "Nursing home" has the same meaning as in section 18953  
3721.01 of the Revised Code. 18954

(GG) "Operator" means the person or government entity 18955  
responsible for the daily operating and management decisions for a 18956  
nursing facility. 18957

(HH)(1) "Owner" means any person or government entity that 18958  
has at least five per cent ownership or interest, either directly, 18959  
indirectly, or in any combination, in any of the following 18960  
regarding a nursing facility: 18961

(a) The land on which the nursing facility is located; 18962

(b) The structure in which the nursing facility is located; 18963

(c) Any mortgage, contract for deed, or other obligation 18964  
secured in whole or in part by the land or structure on or in 18965  
which the nursing facility is located; 18966

(d) Any lease or sublease of the land or structure on or in 18967  
which the nursing facility is located. 18968

(2) "Owner" does not mean a holder of a debenture or bond 18969  
related to the nursing facility and purchased at public issue or a 18970  
regulated lender that has made a loan related to the nursing 18971  
facility unless the holder or lender operates the nursing facility 18972  
directly or through a subsidiary. 18973

(II) "Per diem" means a nursing facility's actual, allowable 18974

costs in a given cost center in a cost reporting period, divided 18975  
by the nursing facility's inpatient days for that cost reporting 18976  
period. 18977

(JJ) "Provider" means an operator with a provider agreement. 18978

(KK) "Provider agreement" means a provider agreement, as 18979  
defined in section 5164.01 of the Revised Code, that is between 18980  
the department of medicaid and the operator of a nursing facility 18981  
for the provision of nursing facility services under the medicaid 18982  
program. 18983

(LL) "Purchased nursing services" means services that are 18984  
provided in a nursing facility by registered nurses, licensed 18985  
practical nurses, or nurse aides who are not employees of the 18986  
nursing facility. 18987

(MM) "Reasonable" means that a cost is an actual cost that is 18988  
appropriate and helpful to develop and maintain the operation of 18989  
patient care facilities and activities, including normal standby 18990  
costs, and that does not exceed what a prudent buyer pays for a 18991  
given item or services. Reasonable costs may vary from provider to 18992  
provider and from time to time for the same provider. 18993

(NN) "Related party" means an individual or organization 18994  
that, to a significant extent, has common ownership with, is 18995  
associated or affiliated with, has control of, or is controlled 18996  
by, the provider. 18997

(1) An individual who is a relative of an owner is a related 18998  
party. 18999

(2) Common ownership exists when an individual or individuals 19000  
possess significant ownership or equity in both the provider and 19001  
the other organization. Significant ownership or equity exists 19002  
when an individual or individuals possess five per cent ownership 19003  
or equity in both the provider and a supplier. Significant 19004  
ownership or equity is presumed to exist when an individual or 19005

individuals possess ten per cent ownership or equity in both the 19006  
provider and another organization from which the provider 19007  
purchases or leases real property. 19008

(3) Control exists when an individual or organization has the 19009  
power, directly or indirectly, to significantly influence or 19010  
direct the actions or policies of an organization. 19011

(4) An individual or organization that supplies goods or 19012  
services to a provider shall not be considered a related party if 19013  
all of the following conditions are met: 19014

(a) The supplier is a separate bona fide organization. 19015

(b) A substantial part of the supplier's business activity of 19016  
the type carried on with the provider is transacted with others 19017  
than the provider and there is an open, competitive market for the 19018  
types of goods or services the supplier furnishes. 19019

(c) The types of goods or services are commonly obtained by 19020  
other nursing facilities from outside organizations and are not a 19021  
basic element of patient care ordinarily furnished directly to 19022  
patients by nursing facilities. 19023

(d) The charge to the provider is in line with the charge for 19024  
the goods or services in the open market and no more than the 19025  
charge made under comparable circumstances to others by the 19026  
supplier. 19027

(00) "Relative of owner" means an individual who is related 19028  
to an owner of a nursing facility by one of the following 19029  
relationships: 19030

(1) Spouse; 19031

(2) Natural parent, child, or sibling; 19032

(3) Adopted parent, child, or sibling; 19033

(4) Stepparent, stepchild, stepbrother, or stepsister; 19034

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;	19035 19036
(6) Grandparent or grandchild;	19037
(7) Foster caregiver, foster child, foster brother, or foster sister.	19038 19039
(PP) "Residents' rights advocate" has the same meaning as in section 3721.10 of the Revised Code.	19040 19041
(QQ) "Skilled nursing facility" has the same meaning as in the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-3(a).	19042 19043
(RR) "Sponsor" has the same meaning as in section 3721.10 of the Revised Code.	19044 19045
(SS) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.	19046 19047 19048
(TT) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq.	19049 19050
(UU) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.	19051 19052
(VV) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.	19053 19054 19055 19056
<b>Sec. 5166.20.</b> (A) The department of medicaid may create the following:	19057 19058
(1) One or more medicaid waiver components under which home and community-based services are provided to individuals with <del>mental retardation or other developmental disability</del> <u>disabilities</u> as an alternative to placement in ICFs/IID;	19059 19060 19061 19062
(2) One or more medicaid waiver components under which home	19063

and community-based services are provided in the form of any of 19064  
the following: 19065

(a) Early intervention and supportive services for children 19066  
under three years of age who have developmental delays or 19067  
disabilities the department determines are significant; 19068

(b) Therapeutic services for children who have autism; 19069

(c) Specialized habilitative services for individuals who are 19070  
eighteen years of age or older and have autism. 19071

(B) No medicaid waiver component created pursuant to division 19072  
(A)(2)(b) or (c) of this section shall provide services that are 19073  
available under another medicaid waiver component. No medicaid 19074  
waiver component created pursuant to division (A)(2)(b) of this 19075  
section shall provide services to an individual that the 19076  
individual is eligible to receive through an individualized 19077  
education program as defined in section 3323.01 of the Revised 19078  
Code. 19079

(C) The director of developmental disabilities and director 19080  
of health may request that the department of medicaid create one 19081  
or more medicaid waiver components under this section. 19082

(D) Before creating a medicaid waiver component under this 19083  
section, the department of medicaid shall seek, accept, and 19084  
consider public comments. 19085

**Sec. 5166.22.** (A) Subject to division (B) of this section, 19086  
when the department of developmental disabilities allocates 19087  
enrollment numbers to a county board of developmental disabilities 19088  
for home and community-based services specified in division (A)(1) 19089  
of section 5166.20 of the Revised Code and provided under any of 19090  
the medicaid waiver components that the department administers 19091  
under section 5166.21 of the Revised Code, the department shall 19092  
consider all of the following: 19093

(1) The number of individuals with ~~mental retardation or~~ 19094  
~~either~~ developmental ~~disability~~ disabilities who are on a waiting 19095  
list the county board establishes under section 5126.042 of the 19096  
Revised Code for those services and are given priority on the 19097  
waiting list; 19098

(2) The implementation component required by division (A)(3) 19099  
of section 5126.054 of the Revised Code of the county board's plan 19100  
approved under section 5123.046 of the Revised Code; 19101

(3) Anything else the department considers necessary to 19102  
enable county boards to provide those services to individuals in 19103  
accordance with the priority requirements for waiting lists 19104  
established under section 5126.042 of the Revised Code for those 19105  
services. 19106

(B) Division (A) of this section applies to home and 19107  
community-based services provided under the medicaid waiver 19108  
component known as the transitions developmental disabilities 19109  
waiver only to the extent, if any, provided by the contract 19110  
required by section 5166.21 of the Revised Code regarding the 19111  
component. 19112

**Sec. 5168.68.** There is hereby created in the state treasury 19113  
the home and community-based services for the ~~mentally retarded~~ 19114  
~~and~~ developmentally disabled fund. All installment payments and 19115  
penalties paid by an ICF/IID under sections 5168.63 and 5168.65 of 19116  
the Revised Code shall be deposited into the fund. As soon as 19117  
possible after the end of each quarter, the medicaid director 19118  
shall certify to the director of budget and management the amount 19119  
of money that is in the fund as of the last day of that quarter. 19120  
On receipt of a certification, the director of budget and 19121  
management shall transfer the amount so certified from the home 19122  
and community-based services for the ~~mentally retarded and~~ 19123  
developmentally disabled fund to the department of developmental 19124

disabilities operating and services fund created under section 19125  
5168.69 of the Revised Code. 19126

**Sec. 5301.22.** As used in this section, "incompetent person" 19127  
means a person who is so mentally impaired as a result of a mental 19128  
or physical illness or disability, or ~~mental retardation~~ a 19129  
developmental disability that is an intellectual disability, or as 19130  
a result of chronic substance abuse, that the person is incapable 19131  
of taking proper care of the person's self or property or fails to 19132  
provide for the person's family or other persons for whom the 19133  
person is charged by law to provide. 19134

No agreement described in section 5301.21 of the Revised Code 19135  
shall be executed by a minor or incompetent person, but it may be 19136  
executed and delivered for record, on such a person's behalf, by 19137  
the person's guardian. When executed, acknowledged, delivered for 19138  
record, and recorded, such agreement shall be as effectual against 19139  
such minor or incompetent person, as if the person had been under 19140  
no disability, and had performed such acts personally. An owner, 19141  
not under any of such disabilities, may perform all such acts by 19142  
an attorney in fact. The power of such attorney must be in writing 19143  
and first recorded in the county recorder's office. 19144

**Sec. 5305.17.** As used in this section and sections 5305.18 to 19145  
5305.22 of the Revised Code, "incompetent person" means a person 19146  
who is so mentally impaired as a result of a mental or physical 19147  
illness or disability, or ~~mental retardation~~ a developmental 19148  
disability that is an intellectual disability, or as a result of 19149  
chronic substance abuse, that the person is incapable of taking 19150  
proper care of the person's self or property or fails to provide 19151  
for the person's family or other persons for whom the person is 19152  
charged by law to provide. 19153

The guardian of a surviving spouse who has been adjudged to 19154

be an incompetent person may appear and answer for such 19155  
incompetent person in an action under section 5305.15 of the 19156  
Revised Code, subject to the approval of the court in which it is 19157  
pending. Such answer has the same effect as if such spouse 19158  
answered personally. The guardian shall be liable to such spouse, 19159  
or the heirs, for all damage or loss sustained by the guardian's 19160  
fraud or collusion, notwithstanding the approval of the court. 19161

**Sec. 5307.19.** As used in this section and section 5307.20 of 19162  
the Revised Code, "incompetent person" means a person who is so 19163  
mentally impaired as a result of a mental or physical illness or 19164  
disability, or ~~mental retardation~~ a developmental disability that 19165  
is an intellectual disability, or as a result of chronic substance 19166  
abuse, that the person is incapable of taking proper care of the 19167  
person's self or property or fails to provide for the person's 19168  
family or other persons for whom the person is charged by law to 19169  
provide. 19170

The guardian of a minor or incompetent person, on behalf of 19171  
the guardian's ward, may perform any act, matter, or thing 19172  
respecting the partition of an estate which such ward could do 19173  
under sections 5307.01 to 5307.25 of the Revised Code, if the ward 19174  
were of age and of sound mind. On behalf of such ward, the 19175  
guardian may elect to take the estate, when it cannot be divided 19176  
without injury, and make payments therefor on the ward's behalf. 19177

**Sec. 5310.12.** As used in this section, "incompetent person" 19178  
means a person who is so mentally impaired as a result of a mental 19179  
or physical illness or disability, or ~~mental retardation~~ a 19180  
developmental disability that is an intellectual disability, or as 19181  
a result of chronic substance abuse, that the person is incapable 19182  
of taking proper care of the person's self or property or fails to 19183  
provide for the person's family or other persons for whom the 19184  
person is charged by law to provide. 19185

No action or proceeding for compensation from the assurance fund provided for in section 5310.05 of the Revised Code for, or by reason of, any deprivation, loss, or damage shall be made, brought or taken, except within a period of six years from the time when the right to bring such action or proceeding first accrued. If at the time when such right of action first accrues the person entitled to bring such action or take such proceedings is within the age of eighteen years, an incompetent person, imprisoned, or absent from the United States in the service of the United States or of this state, such person or anyone claiming from, by, or under the person, may bring the action at any time within two years after such disability is removed.

**Sec. 5705.05.** The purpose and intent of the general levy for current expenses is to provide one general operating fund derived from taxation from which any expenditures for current expenses of any kind may be made. The taxing authority of a political subdivision may include in such levy the amounts required for carrying into effect any of the general or special powers granted by law to such subdivision, including the acquisition or construction of permanent improvements and the payment of judgments, but excluding the payment of debt charges and, in the case of counties, the construction, reconstruction, resurfacing, or repair of roads and bridges. The power to include in the general levy for current expenses additional amounts for purposes for which a special tax is authorized shall not affect the right or obligation to levy such special tax. Without prejudice to the generality of the authority to levy a general tax for any current expense, such general levy shall include:

(A) The amounts certified to be necessary for the payment of final judgments;

(B) The amounts necessary for general, special, and primary

elections;	19217
(C) The amounts necessary for boards and commissioners of health, and other special or district appropriating authorities deriving their revenue in whole or part from the subdivision;	19218 19219 19220
(D) In the case of municipal corporations, the amounts necessary for the maintenance, operation, and repair of public buildings, wharves, bridges, parks, and streets, for the prevention, control, and abatement of air pollution, and for a sanitary fund;	19221 19222 19223 19224 19225
(E) In the case of counties, the amounts necessary for the maintenance, operation, and repair of public buildings, for providing or maintaining senior citizens services or facilities, for the relief and support of the poor, for the relief of needy blind, for the support of mental health, <del>mental retardation</del> , or developmental disability services, for the relief of honorably discharged soldiers, indigent soldiers, sailors, and marines, for the operation and maintenance and the acquisition, construction, or improvement of permanent improvements, including, without limitation, the acquisition and improvement of land and buildings owned or used by a county land reutilization corporation organized under Chapter 1724. of the Revised Code, for mothers' pension fund, support of soil and water conservation districts, watershed conservancy districts, and educational television, for the prevention, control, and abatement of air pollution, and for the county's share of the compensation paid judges;	19226 19227 19228 19229 19230 19231 19232 19233 19234 19235 19236 19237 19238 19239 19240 19241
(F) In the case of a school district, the amounts necessary for tuition, the state teachers retirement system, and the maintenance, operation, and repair of schools;	19242 19243 19244
(G) In the case of a township, the amounts necessary for the relief of the poor and for the prevention, control, and abatement of air pollution.	19245 19246 19247

This section does not require the inclusion within the 19248  
general levy of amounts for any purpose for which a special levy 19249  
is authorized by section 5705.06 of the Revised Code. 19250

**Sec. 5705.091.** The board of county commissioners of each 19251  
county shall establish a county developmental disabilities general 19252  
fund. Notwithstanding section 5705.10 of the Revised Code, 19253  
proceeds from levies under section 5705.222 and division (L) of 19254  
section 5705.19 of the Revised Code shall be deposited to the 19255  
credit of the county developmental disabilities general fund. 19256  
Accounts shall be established within the county developmental 19257  
disabilities general fund for each of the several particular 19258  
purposes of the levies as specified in the resolutions under which 19259  
the levies were approved, and proceeds from different levies that 19260  
were approved for the same particular purpose shall be credited to 19261  
accounts for that purpose. Other money received by the county for 19262  
the purposes of Chapters 3323. and 5126. of the Revised Code and 19263  
not required by state or federal law to be deposited to the credit 19264  
of a different fund shall also be deposited to the credit of the 19265  
county developmental disabilities general fund, in an account 19266  
appropriate to the particular purpose for which the money was 19267  
received. Unless otherwise provided by law, an unexpended balance 19268  
at the end of a fiscal year in any account in the county 19269  
developmental disabilities general fund shall be appropriated the 19270  
next fiscal year to the same fund. 19271

A county board of developmental disabilities may request, by 19272  
resolution, that the board of county commissioners establish a 19273  
county developmental disabilities capital fund for money to be 19274  
used for acquisition, construction, or improvement of capital 19275  
facilities or acquisition of capital equipment used in providing 19276  
services to ~~mentally retarded and developmentally disabled~~ persons 19277  
with developmental disabilities. The county board of developmental 19278  
disabilities shall transmit a certified copy of the resolution to 19279

the board of county commissioners. Upon receiving the resolution, 19280  
the board of county commissioners shall establish a county 19281  
developmental disabilities capital fund. 19282

**Sec. 5705.19.** This section does not apply to school 19283  
districts, county school financing districts, or lake facilities 19284  
authorities. 19285

The taxing authority of any subdivision at any time and in 19286  
any year, by vote of two-thirds of all the members of the taxing 19287  
authority, may declare by resolution and certify the resolution to 19288  
the board of elections not less than ninety days before the 19289  
election upon which it will be voted that the amount of taxes that 19290  
may be raised within the ten-mill limitation will be insufficient 19291  
to provide for the necessary requirements of the subdivision and 19292  
that it is necessary to levy a tax in excess of that limitation 19293  
for any of the following purposes: 19294

(A) For current expenses of the subdivision, except that the 19295  
total levy for current expenses of a detention facility district 19296  
or district organized under section 2151.65 of the Revised Code 19297  
shall not exceed two mills and that the total levy for current 19298  
expenses of a combined district organized under sections 2151.65 19299  
and 2152.41 of the Revised Code shall not exceed four mills; 19300

(B) For the payment of debt charges on certain described 19301  
bonds, notes, or certificates of indebtedness of the subdivision 19302  
issued subsequent to January 1, 1925; 19303

(C) For the debt charges on all bonds, notes, and 19304  
certificates of indebtedness issued and authorized to be issued 19305  
prior to January 1, 1925; 19306

(D) For a public library of, or supported by, the subdivision 19307  
under whatever law organized or authorized to be supported; 19308

(E) For a municipal university, not to exceed two mills over 19309

the limitation of one mill prescribed in section 3349.13 of the Revised Code; 19310  
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(F) For the construction or acquisition of any specific permanent improvement or class of improvements that the taxing authority of the subdivision may include in a single bond issue; 19312  
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(G) For the general construction, reconstruction, resurfacing, and repair of streets, roads, and bridges in municipal corporations, counties, or townships; 19315  
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(H) For parks and recreational purposes; 19318

(I) For the purpose of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and materials therefor, or the establishment and maintenance of lines of fire alarm telegraph, or the payment of firefighting companies or permanent, part-time, or volunteer firefighting, emergency medical service, administrative, or communications personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, or the purchase of ambulance equipment, or the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company; 19319  
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(J) For the purpose of providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of a police department, or the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.33 of the Revised Code, or the payment of the costs incurred by townships as a result of contracts made with other political subdivisions in order to obtain police protection, or the provision of ambulance 19331  
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or emergency medical services operated by a police department;	19341
(K) For the maintenance and operation of a county home or detention facility;	19342 19343
(L) For community <del>mental retardation and</del> developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code, except that the procedure for such levies shall be as provided in section 5705.222 of the Revised Code;	19344 19345 19346 19347
(M) For regional planning;	19348
(N) For a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or both of those sections;	19349 19350 19351 19352 19353
(O) For providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods;	19354 19355 19356
(P) For maintaining and operating sewage disposal plants and facilities;	19357 19358
(Q) For the purpose of purchasing, acquiring, constructing, enlarging, improving, equipping, repairing, maintaining, or operating, or any combination of the foregoing, a county transit system pursuant to sections 306.01 to 306.13 of the Revised Code, or of making any payment to a board of county commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code;	19359 19360 19361 19362 19363 19364 19365
(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;	19366 19367 19368 19369
(S) For the prevention, control, and abatement of air	19370

pollution;	19371
(T) For maintaining and operating cemeteries;	19372
(U) For providing ambulance service, emergency medical service, or both;	19373 19374
(V) For providing for the collection and disposal of garbage or refuse, including yard waste;	19375 19376
(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;	19377 19378 19379
(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;	19380 19381
(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;	19382 19383 19384
(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;	19385 19386 19387
(AA) For the maintenance and operation of a free public museum of art, science, or history;	19388 19389
(BB) For the establishment and operation of a 9-1-1 system, as defined in section 128.01 of the Revised Code;	19390 19391
(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.	19392 19393 19394 19395 19396
(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the Revised Code;	19397 19398 19399

(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code are found by the board of county commissioners to constitute the promotion of economic development, for the payment of such operations and expenses;

(FF) For the purpose of acquiring, establishing, constructing, improving, equipping, maintaining, or operating, or any combination of the foregoing, a township airport, landing field, or other air navigation facility pursuant to section 505.15 of the Revised Code;

(GG) For the payment of costs incurred by a township as a result of a contract made with a county pursuant to section 505.263 of the Revised Code in order to pay all or any part of the cost of constructing, maintaining, repairing, or operating a water supply improvement;

(HH) For a board of township trustees to acquire, other than by appropriation, an ownership interest in land, water, or wetlands, or to restore or maintain land, water, or wetlands in which the board has an ownership interest, not for purposes of recreation, but for the purposes of protecting and preserving the natural, scenic, open, or wooded condition of the land, water, or wetlands against modification or encroachment resulting from occupation, development, or other use, which may be styled as protecting or preserving "greenspace" in the resolution, notice of election, or ballot form. Except as otherwise provided in this division, land is not acquired for purposes of recreation, even if the land is used for recreational purposes, so long as no

building, structure, or fixture used for recreational purposes is 19432  
permanently attached or affixed to the land. Except as otherwise 19433  
provided in this division, land that previously has been acquired 19434  
in a township for these greenspace purposes may subsequently be 19435  
used for recreational purposes if the board of township trustees 19436  
adopts a resolution approving that use and no building, structure, 19437  
or fixture used for recreational purposes is permanently attached 19438  
or affixed to the land. The authorization to use greenspace land 19439  
for recreational use does not apply to land located in a township 19440  
that had a population, at the time it passed its first greenspace 19441  
levy, of more than thirty-eight thousand within a county that had 19442  
a population, at that time, of at least eight hundred sixty 19443  
thousand. 19444

(II) For the support by a county of a crime victim assistance 19445  
program that is provided and maintained by a county agency or a 19446  
private, nonprofit corporation or association under section 307.62 19447  
of the Revised Code; 19448

(JJ) For any or all of the purposes set forth in divisions 19449  
(I) and (J) of this section. This division applies only to a 19450  
township. 19451

(KK) For a countywide public safety communications system 19452  
under section 307.63 of the Revised Code. This division applies 19453  
only to counties. 19454

(LL) For the support by a county of criminal justice services 19455  
under section 307.45 of the Revised Code; 19456

(MM) For the purpose of maintaining and operating a jail or 19457  
other detention facility as defined in section 2921.01 of the 19458  
Revised Code; 19459

(NN) For purchasing, maintaining, or improving, or any 19460  
combination of the foregoing, real estate on which to hold, and 19461  
the operating expenses of, agricultural fairs operated by a county 19462

agricultural society or independent agricultural society under 19463  
Chapter 1711. of the Revised Code. This division applies only to a 19464  
county. 19465

(OO) For constructing, rehabilitating, repairing, or 19466  
maintaining sidewalks, walkways, trails, bicycle pathways, or 19467  
similar improvements, or acquiring ownership interests in land 19468  
necessary for the foregoing improvements; 19469

(PP) For both of the purposes set forth in divisions (G) and 19470  
(OO) of this section. 19471

(QQ) For both of the purposes set forth in divisions (H) and 19472  
(HH) of this section. This division applies only to a township. 19473

(RR) For the legislative authority of a municipal 19474  
corporation, board of county commissioners of a county, or board 19475  
of township trustees of a township to acquire agricultural 19476  
easements, as defined in section 5301.67 of the Revised Code, and 19477  
to supervise and enforce the easements. 19478

(SS) For both of the purposes set forth in divisions (BB) and 19479  
(KK) of this section. This division applies only to a county. 19480

(TT) For the maintenance and operation of a facility that is 19481  
organized in whole or in part to promote the sciences and natural 19482  
history under section 307.761 of the Revised Code. 19483

(UU) For the creation and operation of a county land 19484  
reutilization corporation and for any programs or activities of 19485  
the corporation found by the board of directors of the corporation 19486  
to be consistent with the purposes for which the corporation is 19487  
organized; 19488

(VV) For construction and maintenance of improvements and 19489  
expenses of soil and water conservation district programs under 19490  
Chapter 1515. of the Revised Code; 19491

(WW) For the OSU extension fund created under section 3335.35 19492

of the Revised Code for the purposes prescribed under section 19493  
3335.36 of the Revised Code for the benefit of the citizens of a 19494  
county. This division applies only to a county. 19495

(XX) For a municipal corporation that withdraws or proposes 19496  
by resolution to withdraw from a regional transit authority under 19497  
section 306.55 of the Revised Code to provide transportation 19498  
services for the movement of persons within, from, or to the 19499  
municipal corporation; 19500

(YY) For any combination of the purposes specified in 19501  
divisions (NN), (VV), and (WW) of this section. This division 19502  
applies only to a county. 19503

The resolution shall be confined to the purpose or purposes 19504  
described in one division of this section, to which the revenue 19505  
derived therefrom shall be applied. The existence in any other 19506  
division of this section of authority to levy a tax for any part 19507  
or all of the same purpose or purposes does not preclude the use 19508  
of such revenues for any part of the purpose or purposes of the 19509  
division under which the resolution is adopted. 19510

The resolution shall specify the amount of the increase in 19511  
rate that it is necessary to levy, the purpose of that increase in 19512  
rate, and the number of years during which the increase in rate 19513  
shall be in effect, which may or may not include a levy upon the 19514  
duplicate of the current year. The number of years may be any 19515  
number not exceeding five, except as follows: 19516

(1) When the additional rate is for the payment of debt 19517  
charges, the increased rate shall be for the life of the 19518  
indebtedness. 19519

(2) When the additional rate is for any of the following, the 19520  
increased rate shall be for a continuing period of time: 19521

(a) For the current expenses for a detention facility 19522  
district, a district organized under section 2151.65 of the 19523

Revised Code, or a combined district organized under sections 19524  
2151.65 and 2152.41 of the Revised Code; 19525

(b) For providing a county's share of the cost of maintaining 19526  
and operating schools, district detention facilities, forestry 19527  
camps, or other facilities, or any combination thereof, 19528  
established under section 2151.65 or 2152.41 of the Revised Code 19529  
or under both of those sections. 19530

(3) When the additional rate is for either of the following, 19531  
the increased rate may be for a continuing period of time: 19532

(a) For the purposes set forth in division (I), (J), (U), or 19533  
(KK) of this section; 19534

(b) For the maintenance and operation of a joint recreation 19535  
district. 19536

(4) When the increase is for the purpose or purposes set 19537  
forth in division (D), (G), (H), (Z), (CC), or (PP) of this 19538  
section, the tax levy may be for any specified number of years or 19539  
for a continuing period of time, as set forth in the resolution. 19540

A levy for one of the purposes set forth in division (G), 19541  
(I), (J), or (U) of this section may be reduced pursuant to 19542  
section 5705.261 or 5705.31 of the Revised Code. A levy for one of 19543  
the purposes set forth in division (G), (I), (J), or (U) of this 19544  
section may also be terminated or permanently reduced by the 19545  
taxing authority if it adopts a resolution stating that the 19546  
continuance of the levy is unnecessary and the levy shall be 19547  
terminated or that the millage is excessive and the levy shall be 19548  
decreased by a designated amount. 19549

A resolution of a detention facility district, a district 19550  
organized under section 2151.65 of the Revised Code, or a combined 19551  
district organized under both sections 2151.65 and 2152.41 of the 19552  
Revised Code may include both current expenses and other purposes, 19553  
provided that the resolution shall apportion the annual rate of 19554

levy between the current expenses and the other purpose or 19555  
purposes. The apportionment need not be the same for each year of 19556  
the levy, but the respective portions of the rate actually levied 19557  
each year for the current expenses and the other purpose or 19558  
purposes shall be limited by the apportionment. 19559

Whenever a board of county commissioners, acting either as 19560  
the taxing authority of its county or as the taxing authority of a 19561  
sewer district or subdistrict created under Chapter 6117. of the 19562  
Revised Code, by resolution declares it necessary to levy a tax in 19563  
excess of the ten-mill limitation for the purpose of constructing, 19564  
improving, or extending sewage disposal plants or sewage systems, 19565  
the tax may be in effect for any number of years not exceeding 19566  
twenty, and the proceeds of the tax, notwithstanding the general 19567  
provisions of this section, may be used to pay debt charges on any 19568  
obligations issued and outstanding on behalf of the subdivision 19569  
for the purposes enumerated in this paragraph, provided that any 19570  
such obligations have been specifically described in the 19571  
resolution. 19572

A resolution adopted by the legislative authority of a 19573  
municipal corporation that is for the purpose in division (XX) of 19574  
this section may be combined with the purpose provided in section 19575  
306.55 of the Revised Code, by vote of two-thirds of all members 19576  
of the legislative authority. The legislative authority may 19577  
certify the resolution to the board of elections as a combined 19578  
question. The question appearing on the ballot shall be as 19579  
provided in section 5705.252 of the Revised Code. 19580

The resolution shall go into immediate effect upon its 19581  
passage, and no publication of the resolution is necessary other 19582  
than that provided for in the notice of election. 19583

When the electors of a subdivision or, in the case of a 19584  
qualifying library levy for the support of a library association 19585  
or private corporation, the electors of the association library 19586

district, have approved a tax levy under this section, the taxing 19587  
authority of the subdivision may anticipate a fraction of the 19588  
proceeds of the levy and issue anticipation notes in accordance 19589  
with section 5705.191 or 5705.193 of the Revised Code. 19590

**Sec. 5705.222.** (A) At any time the board of county 19591  
commissioners of any county by a majority vote of the full 19592  
membership may declare by resolution and certify to the board of 19593  
elections of the county that the amount of taxes which may be 19594  
raised within the ten-mill limitation by levies on the current tax 19595  
duplicate will be insufficient to provide the necessary 19596  
requirements of the county board of developmental disabilities 19597  
established pursuant to Chapter 5126. of the Revised Code and that 19598  
it is necessary to levy a tax in excess of such limitation for the 19599  
operation of programs and services by county boards of 19600  
developmental disabilities and for the acquisition, construction, 19601  
renovation, financing, maintenance, and operation of ~~mental~~ 19602  
~~retardation and~~ developmental disabilities facilities. 19603

Such resolution shall conform to section 5705.19 of the 19604  
Revised Code, except that the increased rate may be in effect for 19605  
any number of years not exceeding ten or for a continuing period 19606  
of time. 19607

The resolution shall be certified and submitted in the manner 19608  
provided in section 5705.25 of the Revised Code, except that it 19609  
may be placed on the ballot in any election, and shall be 19610  
certified to the board of elections not less than ninety days 19611  
before the election at which it will be voted upon. 19612

If the majority of the electors voting on a levy for the 19613  
support of the programs and services of the county board of 19614  
developmental disabilities vote in favor of the levy, the board of 19615  
county commissioners may levy a tax within the county at the 19616  
additional rate outside the ten-mill limitation during the 19617

specified or continuing period, for the purpose stated in the 19618  
resolution. The county board of developmental disabilities, within 19619  
its budget and with the approval of the board of county 19620  
commissioners through annual appropriations, shall use the 19621  
proceeds of a levy approved under this section solely for the 19622  
purposes authorized by this section. 19623

(B) When electors have approved a tax levy under this 19624  
section, the county commissioners may anticipate a fraction of the 19625  
proceeds of the levy and issue anticipation notes in accordance 19626  
with section 5705.191 or 5705.193 of the Revised Code. 19627

(C) The county auditor, upon receipt of a resolution from the 19628  
county board of developmental disabilities, shall establish a 19629  
capital improvements account or a reserve balance account, or 19630  
both, as specified in the resolution. The capital improvements 19631  
account shall be a contingency account for the necessary 19632  
acquisition, replacement, renovation, or construction of 19633  
facilities and movable and fixed equipment. Upon the request of 19634  
the county board of developmental disabilities, moneys not needed 19635  
to pay for current expenses may be appropriated to this account, 19636  
in amounts such that this account does not exceed twenty-five per 19637  
cent of the replacement value of all capital facilities and 19638  
equipment currently used by the county board of developmental 19639  
disabilities for ~~mental retardation and~~ developmental disabilities 19640  
programs and services. Other moneys available for current capital 19641  
expenses from federal, state, or local sources may also be 19642  
appropriated to this account. 19643

The reserve balance account shall contain those moneys that 19644  
are not needed to pay for current operating expenses and not 19645  
deposited in the capital improvements account but that will be 19646  
needed to pay for operating expenses in the future. Upon the 19647  
request of a county board of developmental disabilities, the board 19648  
of county commissioners may appropriate moneys to the reserve 19649

balance account. 19650

**Sec. 5709.40.** (A) As used in this section: 19651

(1) "Blighted area" and "impacted city" have the same 19652  
meanings as in section 1728.01 of the Revised Code. 19653

(2) "Business day" means a day of the week excluding 19654  
Saturday, Sunday, and a legal holiday as defined under section 19655  
1.14 of the Revised Code. 19656

(3) "Housing renovation" means a project carried out for 19657  
residential purposes. 19658

(4) "Improvement" means the increase in the assessed value of 19659  
any real property that would first appear on the tax list and 19660  
duplicate of real and public utility property after the effective 19661  
date of an ordinance adopted under this section were it not for 19662  
the exemption granted by that ordinance. 19663

(5) "Incentive district" means an area not more than three 19664  
hundred acres in size enclosed by a continuous boundary in which a 19665  
project is being, or will be, undertaken and having one or more of 19666  
the following distress characteristics: 19667

(a) At least fifty-one per cent of the residents of the 19668  
district have incomes of less than eighty per cent of the median 19669  
income of residents of the political subdivision in which the 19670  
district is located, as determined in the same manner specified 19671  
under section 119(b) of the "Housing and Community Development Act 19672  
of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended; 19673

(b) The average rate of unemployment in the district during 19674  
the most recent twelve-month period for which data are available 19675  
is equal to at least one hundred fifty per cent of the average 19676  
rate of unemployment for this state for the same period. 19677

(c) At least twenty per cent of the people residing in the 19678  
district live at or below the poverty level as defined in the 19679

federal Housing and Community Development Act of 1974, 42 U.S.C. 19680  
5301, as amended, and regulations adopted pursuant to that act. 19681

(d) The district is a blighted area. 19682

(e) The district is in a situational distress area as 19683  
designated by the director of development services under division 19684  
(F) of section 122.23 of the Revised Code. 19685

(f) As certified by the engineer for the political 19686  
subdivision, the public infrastructure serving the district is 19687  
inadequate to meet the development needs of the district as 19688  
evidenced by a written economic development plan or urban renewal 19689  
plan for the district that has been adopted by the legislative 19690  
authority of the subdivision. 19691

(g) The district is comprised entirely of unimproved land 19692  
that is located in a distressed area as defined in section 122.23 19693  
of the Revised Code. 19694

(6) "Project" means development activities undertaken on one 19695  
or more parcels, including, but not limited to, construction, 19696  
expansion, and alteration of buildings or structures, demolition, 19697  
remediation, and site development, and any building or structure 19698  
that results from those activities. 19699

(7) "Public infrastructure improvement" includes, but is not 19700  
limited to, public roads and highways; water and sewer lines; 19701  
environmental remediation; land acquisition, including acquisition 19702  
in aid of industry, commerce, distribution, or research; 19703  
demolition, including demolition on private property when 19704  
determined to be necessary for economic development purposes; 19705  
stormwater and flood remediation projects, including such projects 19706  
on private property when determined to be necessary for public 19707  
health, safety, and welfare; the provision of gas, electric, and 19708  
communications service facilities, including the provision of gas 19709  
or electric service facilities owned by nongovernmental entities 19710

when such improvements are determined to be necessary for economic 19711  
development purposes; and the enhancement of public waterways 19712  
through improvements that allow for greater public access. 19713

(B) The legislative authority of a municipal corporation, by 19714  
ordinance, may declare improvements to certain parcels of real 19715  
property located in the municipal corporation to be a public 19716  
purpose. Improvements with respect to a parcel that is used or to 19717  
be used for residential purposes may be declared a public purpose 19718  
under this division only if the parcel is located in a blighted 19719  
area of an impacted city. For this purpose, "parcel that is used 19720  
or to be used for residential purposes" means a parcel that, as 19721  
improved, is used or to be used for purposes that would cause the 19722  
tax commissioner to classify the parcel as residential property in 19723  
accordance with rules adopted by the commissioner under section 19724  
5713.041 of the Revised Code. Except with the approval under 19725  
division (D) of this section of the board of education of each 19726  
city, local, or exempted village school district within which the 19727  
improvements are located, not more than seventy-five per cent of 19728  
an improvement thus declared to be a public purpose may be 19729  
exempted from real property taxation for a period of not more than 19730  
ten years. The ordinance shall specify the percentage of the 19731  
improvement to be exempted from taxation and the life of the 19732  
exemption. 19733

An ordinance adopted or amended under this division shall 19734  
designate the specific public infrastructure improvements made, to 19735  
be made, or in the process of being made by the municipal 19736  
corporation that directly benefit, or that once made will directly 19737  
benefit, the parcels for which improvements are declared to be a 19738  
public purpose. The service payments provided for in section 19739  
5709.42 of the Revised Code shall be used to finance the public 19740  
infrastructure improvements designated in the ordinance, for the 19741  
purpose described in division (D)(1) of this section or as 19742

provided in section 5709.43 of the Revised Code. 19743

(C)(1) The legislative authority of a municipal corporation 19744  
may adopt an ordinance creating an incentive district and 19745  
declaring improvements to parcels within the district to be a 19746  
public purpose and, except as provided in division (F) of this 19747  
section, exempt from taxation as provided in this section, but no 19748  
legislative authority of a municipal corporation that has a 19749  
population that exceeds twenty-five thousand, as shown by the most 19750  
recent federal decennial census, shall adopt an ordinance that 19751  
creates an incentive district if the sum of the taxable value of 19752  
real property in the proposed district for the preceding tax year 19753  
and the taxable value of all real property in the municipal 19754  
corporation that would have been taxable in the preceding year 19755  
were it not for the fact that the property was in an existing 19756  
incentive district and therefore exempt from taxation exceeds 19757  
twenty-five per cent of the taxable value of real property in the 19758  
municipal corporation for the preceding tax year. The ordinance 19759  
shall delineate the boundary of the district and specifically 19760  
identify each parcel within the district. A district may not 19761  
include any parcel that is or has been exempted from taxation 19762  
under division (B) of this section or that is or has been within 19763  
another district created under this division. An ordinance may 19764  
create more than one such district, and more than one ordinance 19765  
may be adopted under division (C)(1) of this section. 19766

(2) Not later than thirty days prior to adopting an ordinance 19767  
under division (C)(1) of this section, if the municipal 19768  
corporation intends to apply for exemptions from taxation under 19769  
section 5709.911 of the Revised Code on behalf of owners of real 19770  
property located within the proposed incentive district, the 19771  
legislative authority of a municipal corporation shall conduct a 19772  
public hearing on the proposed ordinance. Not later than thirty 19773  
days prior to the public hearing, the legislative authority shall 19774

give notice of the public hearing and the proposed ordinance by 19775  
first class mail to every real property owner whose property is 19776  
located within the boundaries of the proposed incentive district 19777  
that is the subject of the proposed ordinance. 19778

(3)(a) An ordinance adopted under division (C)(1) of this 19779  
section shall specify the life of the incentive district and the 19780  
percentage of the improvements to be exempted, shall designate the 19781  
public infrastructure improvements made, to be made, or in the 19782  
process of being made, that benefit or serve, or, once made, will 19783  
benefit or serve parcels in the district. The ordinance also shall 19784  
identify one or more specific projects being, or to be, undertaken 19785  
in the district that place additional demand on the public 19786  
infrastructure improvements designated in the ordinance. The 19787  
project identified may, but need not be, the project under 19788  
division (C)(3)(b) of this section that places real property in 19789  
use for commercial or industrial purposes. Except as otherwise 19790  
permitted under that division, the service payments provided for 19791  
in section 5709.42 of the Revised Code shall be used to finance 19792  
the designated public infrastructure improvements, for the purpose 19793  
described in division (D)(1) or (E) of this section, or as 19794  
provided in section 5709.43 of the Revised Code. 19795

An ordinance adopted under division (C)(1) of this section on 19796  
or after March 30, 2006, shall not designate police or fire 19797  
equipment as public infrastructure improvements, and no service 19798  
payment provided for in section 5709.42 of the Revised Code and 19799  
received by the municipal corporation under the ordinance shall be 19800  
used for police or fire equipment. 19801

(b) An ordinance adopted under division (C)(1) of this 19802  
section may authorize the use of service payments provided for in 19803  
section 5709.42 of the Revised Code for the purpose of housing 19804  
renovations within the incentive district, provided that the 19805  
ordinance also designates public infrastructure improvements that 19806

benefit or serve the district, and that a project within the 19807  
district places real property in use for commercial or industrial 19808  
purposes. Service payments may be used to finance or support 19809  
loans, deferred loans, and grants to persons for the purpose of 19810  
housing renovations within the district. The ordinance shall 19811  
designate the parcels within the district that are eligible for 19812  
housing renovation. The ordinance shall state separately the 19813  
amounts or the percentages of the expected aggregate service 19814  
payments that are designated for each public infrastructure 19815  
improvement and for the general purpose of housing renovations. 19816

(4) Except with the approval of the board of education of 19817  
each city, local, or exempted village school district within the 19818  
territory of which the incentive district is or will be located, 19819  
and subject to division (E) of this section, the life of an 19820  
incentive district shall not exceed ten years, and the percentage 19821  
of improvements to be exempted shall not exceed seventy-five per 19822  
cent. With approval of the board of education, the life of a 19823  
district may be not more than thirty years, and the percentage of 19824  
improvements to be exempted may be not more than one hundred per 19825  
cent. The approval of a board of education shall be obtained in 19826  
the manner provided in division (D) of this section. 19827

(D)(1) If the ordinance declaring improvements to a parcel to 19828  
be a public purpose or creating an incentive district specifies 19829  
that payments in lieu of taxes provided for in section 5709.42 of 19830  
the Revised Code shall be paid to the city, local, or exempted 19831  
village, and joint vocational school district in which the parcel 19832  
or incentive district is located in the amount of the taxes that 19833  
would have been payable to the school district if the improvements 19834  
had not been exempted from taxation, the percentage of the 19835  
improvement that may be exempted from taxation may exceed 19836  
seventy-five per cent, and the exemption may be granted for up to 19837  
thirty years, without the approval of the board of education as 19838

otherwise required under division (D)(2) of this section. 19839

(2) Improvements with respect to a parcel may be exempted 19840  
from taxation under division (B) of this section, and improvements 19841  
to parcels within an incentive district may be exempted from 19842  
taxation under division (C) of this section, for up to ten years 19843  
or, with the approval under this paragraph of the board of 19844  
education of the city, local, or exempted village school district 19845  
within which the parcel or district is located, for up to thirty 19846  
years. The percentage of the improvement exempted from taxation 19847  
may, with such approval, exceed seventy-five per cent, but shall 19848  
not exceed one hundred per cent. Not later than forty-five 19849  
business days prior to adopting an ordinance under this section 19850  
declaring improvements to be a public purpose that is subject to 19851  
approval by a board of education under this division, the 19852  
legislative authority shall deliver to the board of education a 19853  
notice stating its intent to adopt an ordinance making that 19854  
declaration. The notice regarding improvements with respect to a 19855  
parcel under division (B) of this section shall identify the 19856  
parcels for which improvements are to be exempted from taxation, 19857  
provide an estimate of the true value in money of the 19858  
improvements, specify the period for which the improvements would 19859  
be exempted from taxation and the percentage of the improvement 19860  
that would be exempted, and indicate the date on which the 19861  
legislative authority intends to adopt the ordinance. The notice 19862  
regarding improvements to parcels within an incentive district 19863  
under division (C) of this section shall delineate the boundaries 19864  
of the district, specifically identify each parcel within the 19865  
district, identify each anticipated improvement in the district, 19866  
provide an estimate of the true value in money of each such 19867  
improvement, specify the life of the district and the percentage 19868  
of improvements that would be exempted, and indicate the date on 19869  
which the legislative authority intends to adopt the ordinance. 19870  
The board of education, by resolution adopted by a majority of the 19871

board, may approve the exemption for the period or for the 19872  
exemption percentage specified in the notice; may disapprove the 19873  
exemption for the number of years in excess of ten, may disapprove 19874  
the exemption for the percentage of the improvement to be exempted 19875  
in excess of seventy-five per cent, or both; or may approve the 19876  
exemption on the condition that the legislative authority and the 19877  
board negotiate an agreement providing for compensation to the 19878  
school district equal in value to a percentage of the amount of 19879  
taxes exempted in the eleventh and subsequent years of the 19880  
exemption period or, in the case of exemption percentages in 19881  
excess of seventy-five per cent, compensation equal in value to a 19882  
percentage of the taxes that would be payable on the portion of 19883  
the improvement in excess of seventy-five per cent were that 19884  
portion to be subject to taxation, or other mutually agreeable 19885  
compensation. If an agreement is negotiated between the 19886  
legislative authority and the board to compensate the school 19887  
district for all or part of the taxes exempted, including 19888  
agreements for payments in lieu of taxes under section 5709.42 of 19889  
the Revised Code, the legislative authority shall compensate the 19890  
joint vocational school district within which the parcel or 19891  
district is located at the same rate and under the same terms 19892  
received by the city, local, or exempted village school district. 19893

(3) The board of education shall certify its resolution to 19894  
the legislative authority not later than fourteen days prior to 19895  
the date the legislative authority intends to adopt the ordinance 19896  
as indicated in the notice. If the board of education and the 19897  
legislative authority negotiate a mutually acceptable compensation 19898  
agreement, the ordinance may declare the improvements a public 19899  
purpose for the number of years specified in the ordinance or, in 19900  
the case of exemption percentages in excess of seventy-five per 19901  
cent, for the exemption percentage specified in the ordinance. In 19902  
either case, if the board and the legislative authority fail to 19903  
negotiate a mutually acceptable compensation agreement, the 19904

ordinance may declare the improvements a public purpose for not 19905  
more than ten years, and shall not exempt more than seventy-five 19906  
per cent of the improvements from taxation. If the board fails to 19907  
certify a resolution to the legislative authority within the time 19908  
prescribed by this division, the legislative authority thereupon 19909  
may adopt the ordinance and may declare the improvements a public 19910  
purpose for up to thirty years, or, in the case of exemption 19911  
percentages proposed in excess of seventy-five per cent, for the 19912  
exemption percentage specified in the ordinance. The legislative 19913  
authority may adopt the ordinance at any time after the board of 19914  
education certifies its resolution approving the exemption to the 19915  
legislative authority, or, if the board approves the exemption on 19916  
the condition that a mutually acceptable compensation agreement be 19917  
negotiated, at any time after the compensation agreement is agreed 19918  
to by the board and the legislative authority. 19919

(4) If a board of education has adopted a resolution waiving 19920  
its right to approve exemptions from taxation under this section 19921  
and the resolution remains in effect, approval of exemptions by 19922  
the board is not required under division (D) of this section. If a 19923  
board of education has adopted a resolution allowing a legislative 19924  
authority to deliver the notice required under division (D) of 19925  
this section fewer than forty-five business days prior to the 19926  
legislative authority's adoption of the ordinance, the legislative 19927  
authority shall deliver the notice to the board not later than the 19928  
number of days prior to such adoption as prescribed by the board 19929  
in its resolution. If a board of education adopts a resolution 19930  
waiving its right to approve agreements or shortening the 19931  
notification period, the board shall certify a copy of the 19932  
resolution to the legislative authority. If the board of education 19933  
rescinds such a resolution, it shall certify notice of the 19934  
rescission to the legislative authority. 19935

(5) If the legislative authority is not required by division 19936

(D) of this section to notify the board of education of the 19937  
legislative authority's intent to declare improvements to be a 19938  
public purpose, the legislative authority shall comply with the 19939  
notice requirements imposed under section 5709.83 of the Revised 19940  
Code, unless the board has adopted a resolution under that section 19941  
waiving its right to receive such a notice. 19942

(E)(1) If a proposed ordinance under division (C)(1) of this 19943  
section exempts improvements with respect to a parcel within an 19944  
incentive district for more than ten years, or the percentage of 19945  
the improvement exempted from taxation exceeds seventy-five per 19946  
cent, not later than forty-five business days prior to adopting 19947  
the ordinance the legislative authority of the municipal 19948  
corporation shall deliver to the board of county commissioners of 19949  
the county within which the incentive district will be located a 19950  
notice that states its intent to adopt an ordinance creating an 19951  
incentive district. The notice shall include a copy of the 19952  
proposed ordinance, identify the parcels for which improvements 19953  
are to be exempted from taxation, provide an estimate of the true 19954  
value in money of the improvements, specify the period of time for 19955  
which the improvements would be exempted from taxation, specify 19956  
the percentage of the improvements that would be exempted from 19957  
taxation, and indicate the date on which the legislative authority 19958  
intends to adopt the ordinance. 19959

(2) The board of county commissioners, by resolution adopted 19960  
by a majority of the board, may object to the exemption for the 19961  
number of years in excess of ten, may object to the exemption for 19962  
the percentage of the improvement to be exempted in excess of 19963  
seventy-five per cent, or both. If the board of county 19964  
commissioners objects, the board may negotiate a mutually 19965  
acceptable compensation agreement with the legislative authority. 19966  
In no case shall the compensation provided to the board exceed the 19967  
property taxes forgone due to the exemption. If the board of 19968

county commissioners objects, and the board and legislative 19969  
authority fail to negotiate a mutually acceptable compensation 19970  
agreement, the ordinance adopted under division (C)(1) of this 19971  
section shall provide to the board compensation in the eleventh 19972  
and subsequent years of the exemption period equal in value to not 19973  
more than fifty per cent of the taxes that would be payable to the 19974  
county or, if the board's objection includes an objection to an 19975  
exemption percentage in excess of seventy-five per cent, 19976  
compensation equal in value to not more than fifty per cent of the 19977  
taxes that would be payable to the county, on the portion of the 19978  
improvement in excess of seventy-five per cent, were that portion 19979  
to be subject to taxation. The board of county commissioners shall 19980  
certify its resolution to the legislative authority not later than 19981  
thirty days after receipt of the notice. 19982

(3) If the board of county commissioners does not object or 19983  
fails to certify its resolution objecting to an exemption within 19984  
thirty days after receipt of the notice, the legislative authority 19985  
may adopt the ordinance, and no compensation shall be provided to 19986  
the board of county commissioners. If the board timely certifies 19987  
its resolution objecting to the ordinance, the legislative 19988  
authority may adopt the ordinance at any time after a mutually 19989  
acceptable compensation agreement is agreed to by the board and 19990  
the legislative authority, or, if no compensation agreement is 19991  
negotiated, at any time after the legislative authority agrees in 19992  
the proposed ordinance to provide compensation to the board of 19993  
fifty per cent of the taxes that would be payable to the county in 19994  
the eleventh and subsequent years of the exemption period or on 19995  
the portion of the improvement in excess of seventy-five per cent, 19996  
were that portion to be subject to taxation. 19997

(F) Service payments in lieu of taxes that are attributable 19998  
to any amount by which the effective tax rate of either a renewal 19999  
levy with an increase or a replacement levy exceeds the effective 20000

tax rate of the levy renewed or replaced, or that are attributable 20001  
to an additional levy, for a levy authorized by the voters for any 20002  
of the following purposes on or after January 1, 2006, and which 20003  
are provided pursuant to an ordinance creating an incentive 20004  
district under division (C)(1) of this section that is adopted on 20005  
or after January 1, 2006, shall be distributed to the appropriate 20006  
taxing authority as required under division (C) of section 5709.42 20007  
of the Revised Code in an amount equal to the amount of taxes from 20008  
that additional levy or from the increase in the effective tax 20009  
rate of such renewal or replacement levy that would have been 20010  
payable to that taxing authority from the following levies were it 20011  
not for the exemption authorized under division (C) of this 20012  
section: 20013

(1) A tax levied under division (L) of section 5705.19 or 20014  
section 5705.191 of the Revised Code for community ~~mental~~ 20015  
~~retardation and~~ developmental disabilities programs and services 20016  
pursuant to Chapter 5126. of the Revised Code; 20017

(2) A tax levied under division (Y) of section 5705.19 of the 20018  
Revised Code for providing or maintaining senior citizens services 20019  
or facilities; 20020

(3) A tax levied under section 5705.22 of the Revised Code 20021  
for county hospitals; 20022

(4) A tax levied by a joint-county district or by a county 20023  
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 20024  
for alcohol, drug addiction, and mental health services or 20025  
facilities; 20026

(5) A tax levied under section 5705.23 of the Revised Code 20027  
for library purposes; 20028

(6) A tax levied under section 5705.24 of the Revised Code 20029  
for the support of children services and the placement and care of 20030  
children; 20031

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

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(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

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(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

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(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

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(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

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(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

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(G) An exemption from taxation granted under this section commences with the tax year specified in the ordinance so long as the year specified in the ordinance commences after the effective date of the ordinance. If the ordinance specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the ordinance. In lieu of stating a specific year, the ordinance may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided

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that such tax year commences after the effective date of the 20063  
ordinance. With respect to the exemption of improvements to 20064  
parcels under division (B) of this section, the ordinance may 20065  
allow for the exemption to commence in different tax years on a 20066  
parcel-by-parcel basis, with a separate exemption term specified 20067  
for each parcel. 20068

Except as otherwise provided in this division, the exemption 20069  
ends on the date specified in the ordinance as the date the 20070  
improvement ceases to be a public purpose or the incentive 20071  
district expires, or ends on the date on which the public 20072  
infrastructure improvements and housing renovations are paid in 20073  
full from the municipal public improvement tax increment 20074  
equivalent fund established under division (A) of section 5709.43 20075  
of the Revised Code, whichever occurs first. The exemption of an 20076  
improvement with respect to a parcel or within an incentive 20077  
district may end on a later date, as specified in the ordinance, 20078  
if the legislative authority and the board of education of the 20079  
city, local, or exempted village school district within which the 20080  
parcel or district is located have entered into a compensation 20081  
agreement under section 5709.82 of the Revised Code with respect 20082  
to the improvement, and the board of education has approved the 20083  
term of the exemption under division (D)(2) of this section, but 20084  
in no case shall the improvement be exempted from taxation for 20085  
more than thirty years. Exemptions shall be claimed and allowed in 20086  
the same manner as in the case of other real property exemptions. 20087  
If an exemption status changes during a year, the procedure for 20088  
the apportionment of the taxes for that year is the same as in the 20089  
case of other changes in tax exemption status during the year. 20090

(H) Additional municipal financing of public infrastructure 20091  
improvements and housing renovations may be provided by any 20092  
methods that the municipal corporation may otherwise use for 20093  
financing such improvements or renovations. If the municipal 20094

corporation issues bonds or notes to finance the public 20095  
infrastructure improvements and housing renovations and pledges 20096  
money from the municipal public improvement tax increment 20097  
equivalent fund to pay the interest on and principal of the bonds 20098  
or notes, the bonds or notes are not subject to Chapter 133. of 20099  
the Revised Code. 20100

(I) The municipal corporation, not later than fifteen days 20101  
after the adoption of an ordinance under this section, shall 20102  
submit to the director of development services a copy of the 20103  
ordinance. On or before the thirty-first day of March of each 20104  
year, the municipal corporation shall submit a status report to 20105  
the director of development services. The report shall indicate, 20106  
in the manner prescribed by the director, the progress of the 20107  
project during each year that an exemption remains in effect, 20108  
including a summary of the receipts from service payments in lieu 20109  
of taxes; expenditures of money from the funds created under 20110  
section 5709.43 of the Revised Code; a description of the public 20111  
infrastructure improvements and housing renovations financed with 20112  
such expenditures; and a quantitative summary of changes in 20113  
employment and private investment resulting from each project. 20114

(J) Nothing in this section shall be construed to prohibit a 20115  
legislative authority from declaring to be a public purpose 20116  
improvements with respect to more than one parcel. 20117

(K) If a parcel is located in a new community district in 20118  
which the new community authority imposes a community development 20119  
charge on the basis of rentals received from leases of real 20120  
property as described in division (L)(2) of section 349.01 of the 20121  
Revised Code, the parcel may not be exempted from taxation under 20122  
this section. 20123

**Sec. 5709.73.** (A) As used in this section and section 5709.74 20124  
of the Revised Code: 20125

(1) "Business day" means a day of the week excluding 20126  
Saturday, Sunday, and a legal holiday as defined in section 1.14 20127  
of the Revised Code. 20128

(2) "Further improvements" or "improvements" means the 20129  
increase in the assessed value of real property that would first 20130  
appear on the tax list and duplicate of real and public utility 20131  
property after the effective date of a resolution adopted under 20132  
this section were it not for the exemption granted by that 20133  
resolution. For purposes of division (B) of this section, 20134  
"improvements" do not include any property used or to be used for 20135  
residential purposes. For this purpose, "property that is used or 20136  
to be used for residential purposes" means property that, as 20137  
improved, is used or to be used for purposes that would cause the 20138  
tax commissioner to classify the property as residential property 20139  
in accordance with rules adopted by the commissioner under section 20140  
5713.041 of the Revised Code. 20141

(3) "Housing renovation" means a project carried out for 20142  
residential purposes. 20143

(4) "Incentive district" has the same meaning as in section 20144  
5709.40 of the Revised Code, except that a blighted area is in the 20145  
unincorporated area of a township. 20146

(5) "Project" and "public infrastructure improvement" have 20147  
the same meanings as in section 5709.40 of the Revised Code. 20148

(B) A board of township trustees may, by unanimous vote, 20149  
adopt a resolution that declares to be a public purpose any public 20150  
infrastructure improvements made that are necessary for the 20151  
development of certain parcels of land located in the 20152  
unincorporated area of the township. Except with the approval 20153  
under division (D) of this section of the board of education of 20154  
each city, local, or exempted village school district within which 20155  
the improvements are located, the resolution may exempt from real 20156

property taxation not more than seventy-five per cent of further 20157  
improvements to a parcel of land that directly benefits from the 20158  
public infrastructure improvements, for a period of not more than 20159  
ten years. The resolution shall specify the percentage of the 20160  
further improvements to be exempted and the life of the exemption. 20161

(C)(1) A board of township trustees may adopt, by unanimous 20162  
vote, a resolution creating an incentive district and declaring 20163  
improvements to parcels within the district to be a public purpose 20164  
and, except as provided in division (F) of this section, exempt 20165  
from taxation as provided in this section, but no board of 20166  
township trustees of a township that has a population that exceeds 20167  
twenty-five thousand, as shown by the most recent federal 20168  
decennial census, shall adopt a resolution that creates an 20169  
incentive district if the sum of the taxable value of real 20170  
property in the proposed district for the preceding tax year and 20171  
the taxable value of all real property in the township that would 20172  
have been taxable in the preceding year were it not for the fact 20173  
that the property was in an existing incentive district and 20174  
therefore exempt from taxation exceeds twenty-five per cent of the 20175  
taxable value of real property in the township for the preceding 20176  
tax year. The district shall be located within the unincorporated 20177  
area of the township and shall not include any territory that is 20178  
included within a district created under division (B) of section 20179  
5709.78 of the Revised Code. The resolution shall delineate the 20180  
boundary of the district and specifically identify each parcel 20181  
within the district. A district may not include any parcel that is 20182  
or has been exempted from taxation under division (B) of this 20183  
section or that is or has been within another district created 20184  
under this division. A resolution may create more than one 20185  
district, and more than one resolution may be adopted under 20186  
division (C)(1) of this section. 20187

(2) Not later than thirty days prior to adopting a resolution 20188

under division (C)(1) of this section, if the township intends to 20189  
apply for exemptions from taxation under section 5709.911 of the 20190  
Revised Code on behalf of owners of real property located within 20191  
the proposed incentive district, the board shall conduct a public 20192  
hearing on the proposed resolution. Not later than thirty days 20193  
prior to the public hearing, the board shall give notice of the 20194  
public hearing and the proposed resolution by first class mail to 20195  
every real property owner whose property is located within the 20196  
boundaries of the proposed incentive district that is the subject 20197  
of the proposed resolution. 20198

(3)(a) A resolution adopted under division (C)(1) of this 20199  
section shall specify the life of the incentive district and the 20200  
percentage of the improvements to be exempted, shall designate the 20201  
public infrastructure improvements made, to be made, or in the 20202  
process of being made, that benefit or serve, or, once made, will 20203  
benefit or serve parcels in the district. The resolution also 20204  
shall identify one or more specific projects being, or to be, 20205  
undertaken in the district that place additional demand on the 20206  
public infrastructure improvements designated in the resolution. 20207  
The project identified may, but need not be, the project under 20208  
division (C)(3)(b) of this section that places real property in 20209  
use for commercial or industrial purposes. 20210

A resolution adopted under division (C)(1) of this section on 20211  
or after March 30, 2006, shall not designate police or fire 20212  
equipment as public infrastructure improvements, and no service 20213  
payment provided for in section 5709.74 of the Revised Code and 20214  
received by the township under the resolution shall be used for 20215  
police or fire equipment. 20216

(b) A resolution adopted under division (C)(1) of this 20217  
section may authorize the use of service payments provided for in 20218  
section 5709.74 of the Revised Code for the purpose of housing 20219  
renovations within the incentive district, provided that the 20220

resolution also designates public infrastructure improvements that 20221  
benefit or serve the district, and that a project within the 20222  
district places real property in use for commercial or industrial 20223  
purposes. Service payments may be used to finance or support 20224  
loans, deferred loans, and grants to persons for the purpose of 20225  
housing renovations within the district. The resolution shall 20226  
designate the parcels within the district that are eligible for 20227  
housing renovations. The resolution shall state separately the 20228  
amount or the percentages of the expected aggregate service 20229  
payments that are designated for each public infrastructure 20230  
improvement and for the purpose of housing renovations. 20231

(4) Except with the approval of the board of education of 20232  
each city, local, or exempted village school district within the 20233  
territory of which the incentive district is or will be located, 20234  
and subject to division (E) of this section, the life of an 20235  
incentive district shall not exceed ten years, and the percentage 20236  
of improvements to be exempted shall not exceed seventy-five per 20237  
cent. With approval of the board of education, the life of a 20238  
district may be not more than thirty years, and the percentage of 20239  
improvements to be exempted may be not more than one hundred per 20240  
cent. The approval of a board of education shall be obtained in 20241  
the manner provided in division (D) of this section. 20242

(D) Improvements with respect to a parcel may be exempted 20243  
from taxation under division (B) of this section, and improvements 20244  
to parcels within an incentive district may be exempted from 20245  
taxation under division (C) of this section, for up to ten years 20246  
or, with the approval of the board of education of the city, 20247  
local, or exempted village school district within which the parcel 20248  
or district is located, for up to thirty years. The percentage of 20249  
the improvements exempted from taxation may, with such approval, 20250  
exceed seventy-five per cent, but shall not exceed one hundred per 20251  
cent. Not later than forty-five business days prior to adopting a 20252

resolution under this section declaring improvements to be a 20253  
public purpose that is subject to approval by a board of education 20254  
under this division, the board of township trustees shall deliver 20255  
to the board of education a notice stating its intent to adopt a 20256  
resolution making that declaration. The notice regarding 20257  
improvements with respect to a parcel under division (B) of this 20258  
section shall identify the parcels for which improvements are to 20259  
be exempted from taxation, provide an estimate of the true value 20260  
in money of the improvements, specify the period for which the 20261  
improvements would be exempted from taxation and the percentage of 20262  
the improvements that would be exempted, and indicate the date on 20263  
which the board of township trustees intends to adopt the 20264  
resolution. The notice regarding improvements made under division 20265  
(C) of this section to parcels within an incentive district shall 20266  
delineate the boundaries of the district, specifically identify 20267  
each parcel within the district, identify each anticipated 20268  
improvement in the district, provide an estimate of the true value 20269  
in money of each such improvement, specify the life of the 20270  
district and the percentage of improvements that would be 20271  
exempted, and indicate the date on which the board of township 20272  
trustees intends to adopt the resolution. The board of education, 20273  
by resolution adopted by a majority of the board, may approve the 20274  
exemption for the period or for the exemption percentage specified 20275  
in the notice; may disapprove the exemption for the number of 20276  
years in excess of ten, may disapprove the exemption for the 20277  
percentage of the improvements to be exempted in excess of 20278  
seventy-five per cent, or both; or may approve the exemption on 20279  
the condition that the board of township trustees and the board of 20280  
education negotiate an agreement providing for compensation to the 20281  
school district equal in value to a percentage of the amount of 20282  
taxes exempted in the eleventh and subsequent years of the 20283  
exemption period or, in the case of exemption percentages in 20284  
excess of seventy-five per cent, compensation equal in value to a 20285

percentage of the taxes that would be payable on the portion of 20286  
the improvements in excess of seventy-five per cent were that 20287  
portion to be subject to taxation, or other mutually agreeable 20288  
compensation. 20289

The board of education shall certify its resolution to the 20290  
board of township trustees not later than fourteen days prior to 20291  
the date the board of township trustees intends to adopt the 20292  
resolution as indicated in the notice. If the board of education 20293  
and the board of township trustees negotiate a mutually acceptable 20294  
compensation agreement, the resolution may declare the 20295  
improvements a public purpose for the number of years specified in 20296  
the resolution or, in the case of exemption percentages in excess 20297  
of seventy-five per cent, for the exemption percentage specified 20298  
in the resolution. In either case, if the board of education and 20299  
the board of township trustees fail to negotiate a mutually 20300  
acceptable compensation agreement, the resolution may declare the 20301  
improvements a public purpose for not more than ten years, and 20302  
shall not exempt more than seventy-five per cent of the 20303  
improvements from taxation. If the board of education fails to 20304  
certify a resolution to the board of township trustees within the 20305  
time prescribed by this section, the board of township trustees 20306  
thereupon may adopt the resolution and may declare the 20307  
improvements a public purpose for up to thirty years or, in the 20308  
case of exemption percentages proposed in excess of seventy-five 20309  
per cent, for the exemption percentage specified in the 20310  
resolution. The board of township trustees may adopt the 20311  
resolution at any time after the board of education certifies its 20312  
resolution approving the exemption to the board of township 20313  
trustees, or, if the board of education approves the exemption on 20314  
the condition that a mutually acceptable compensation agreement be 20315  
negotiated, at any time after the compensation agreement is agreed 20316  
to by the board of education and the board of township trustees. 20317  
If a mutually acceptable compensation agreement is negotiated 20318

between the board of township trustees and the board of education, 20319  
including agreements for payments in lieu of taxes under section 20320  
5709.74 of the Revised Code, the board of township trustees shall 20321  
compensate the joint vocational school district within which the 20322  
parcel or district is located at the same rate and under the same 20323  
terms received by the city, local, or exempted village school 20324  
district. 20325

If a board of education has adopted a resolution waiving its 20326  
right to approve exemptions from taxation under this section and 20327  
the resolution remains in effect, approval of such exemptions by 20328  
the board of education is not required under division (D) of this 20329  
section. If a board of education has adopted a resolution allowing 20330  
a board of township trustees to deliver the notice required under 20331  
division (D) of this section fewer than forty-five business days 20332  
prior to adoption of the resolution by the board of township 20333  
trustees, the board of township trustees shall deliver the notice 20334  
to the board of education not later than the number of days prior 20335  
to the adoption as prescribed by the board of education in its 20336  
resolution. If a board of education adopts a resolution waiving 20337  
its right to approve exemptions or shortening the notification 20338  
period, the board of education shall certify a copy of the 20339  
resolution to the board of township trustees. If the board of 20340  
education rescinds the resolution, it shall certify notice of the 20341  
rescission to the board of township trustees. 20342

If the board of township trustees is not required by division 20343  
(D) of this section to notify the board of education of the board 20344  
of township trustees' intent to declare improvements to be a 20345  
public purpose, the board of township trustees shall comply with 20346  
the notice requirements imposed under section 5709.83 of the 20347  
Revised Code before taking formal action to adopt the resolution 20348  
making that declaration, unless the board of education has adopted 20349  
a resolution under that section waiving its right to receive the 20350

notice. 20351

(E)(1) If a proposed resolution under division (C)(1) of this 20352  
section exempts improvements with respect to a parcel within an 20353  
incentive district for more than ten years, or the percentage of 20354  
the improvement exempted from taxation exceeds seventy-five per 20355  
cent, not later than forty-five business days prior to adopting 20356  
the resolution the board of township trustees shall deliver to the 20357  
board of county commissioners of the county within which the 20358  
incentive district is or will be located a notice that states its 20359  
intent to adopt a resolution creating an incentive district. The 20360  
notice shall include a copy of the proposed resolution, identify 20361  
the parcels for which improvements are to be exempted from 20362  
taxation, provide an estimate of the true value in money of the 20363  
improvements, specify the period of time for which the 20364  
improvements would be exempted from taxation, specify the 20365  
percentage of the improvements that would be exempted from 20366  
taxation, and indicate the date on which the board of township 20367  
trustees intends to adopt the resolution. 20368

(2) The board of county commissioners, by resolution adopted 20369  
by a majority of the board, may object to the exemption for the 20370  
number of years in excess of ten, may object to the exemption for 20371  
the percentage of the improvement to be exempted in excess of 20372  
seventy-five per cent, or both. If the board of county 20373  
commissioners objects, the board may negotiate a mutually 20374  
acceptable compensation agreement with the board of township 20375  
trustees. In no case shall the compensation provided to the board 20376  
of county commissioners exceed the property taxes foregone due to 20377  
the exemption. If the board of county commissioners objects, and 20378  
the board of county commissioners and board of township trustees 20379  
fail to negotiate a mutually acceptable compensation agreement, 20380  
the resolution adopted under division (C)(1) of this section shall 20381  
provide to the board of county commissioners compensation in the 20382

eleventh and subsequent years of the exemption period equal in 20383  
value to not more than fifty per cent of the taxes that would be 20384  
payable to the county or, if the board of county commissioner's 20385  
objection includes an objection to an exemption percentage in 20386  
excess of seventy-five per cent, compensation equal in value to 20387  
not more than fifty per cent of the taxes that would be payable to 20388  
the county, on the portion of the improvement in excess of 20389  
seventy-five per cent, were that portion to be subject to 20390  
taxation. The board of county commissioners shall certify its 20391  
resolution to the board of township trustees not later than thirty 20392  
days after receipt of the notice. 20393

(3) If the board of county commissioners does not object or 20394  
fails to certify its resolution objecting to an exemption within 20395  
thirty days after receipt of the notice, the board of township 20396  
trustees may adopt its resolution, and no compensation shall be 20397  
provided to the board of county commissioners. If the board of 20398  
county commissioners timely certifies its resolution objecting to 20399  
the trustees' resolution, the board of township trustees may adopt 20400  
its resolution at any time after a mutually acceptable 20401  
compensation agreement is agreed to by the board of county 20402  
commissioners and the board of township trustees, or, if no 20403  
compensation agreement is negotiated, at any time after the board 20404  
of township trustees agrees in the proposed resolution to provide 20405  
compensation to the board of county commissioners of fifty per 20406  
cent of the taxes that would be payable to the county in the 20407  
eleventh and subsequent years of the exemption period or on the 20408  
portion of the improvement in excess of seventy-five per cent, 20409  
were that portion to be subject to taxation. 20410

(F) Service payments in lieu of taxes that are attributable 20411  
to any amount by which the effective tax rate of either a renewal 20412  
levy with an increase or a replacement levy exceeds the effective 20413  
tax rate of the levy renewed or replaced, or that are attributable 20414

to an additional levy, for a levy authorized by the voters for any 20415  
of the following purposes on or after January 1, 2006, and which 20416  
are provided pursuant to a resolution creating an incentive 20417  
district under division (C)(1) of this section that is adopted on 20418  
or after January 1, 2006, shall be distributed to the appropriate 20419  
taxing authority as required under division (C) of section 5709.74 20420  
of the Revised Code in an amount equal to the amount of taxes from 20421  
that additional levy or from the increase in the effective tax 20422  
rate of such renewal or replacement levy that would have been 20423  
payable to that taxing authority from the following levies were it 20424  
not for the exemption authorized under division (C) of this 20425  
section: 20426

(1) A tax levied under division (L) of section 5705.19 or 20427  
section 5705.191 of the Revised Code for community ~~mental~~ 20428  
~~retardation~~ and developmental disabilities programs and services 20429  
pursuant to Chapter 5126. of the Revised Code; 20430

(2) A tax levied under division (Y) of section 5705.19 of the 20431  
Revised Code for providing or maintaining senior citizens services 20432  
or facilities; 20433

(3) A tax levied under section 5705.22 of the Revised Code 20434  
for county hospitals; 20435

(4) A tax levied by a joint-county district or by a county 20436  
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 20437  
for alcohol, drug addiction, and mental health services or 20438  
families; 20439

(5) A tax levied under section 5705.23 of the Revised Code 20440  
for library purposes; 20441

(6) A tax levied under section 5705.24 of the Revised Code 20442  
for the support of children services and the placement and care of 20443  
children; 20444

(7) A tax levied under division (Z) of section 5705.19 of the 20445

Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code; 20446  
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(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts; 20448  
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(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code; 20451  
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(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes; 20455  
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(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals; 20457  
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(12) A tax levied under section 3709.29 of the Revised Code for a general health district program. 20461  
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(G) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. In lieu of stating a specific year, the resolution may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the 20463  
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resolution. With respect to the exemption of improvements to 20477  
parcels under division (B) of this section, the resolution may 20478  
allow for the exemption to commence in different tax years on a 20479  
parcel-by-parcel basis, with a separate exemption term specified 20480  
for each parcel. 20481

Except as otherwise provided in this division, the exemption 20482  
ends on the date specified in the resolution as the date the 20483  
improvement ceases to be a public purpose or the incentive 20484  
district expires, or ends on the date on which the public 20485  
infrastructure improvements and housing renovations are paid in 20486  
full from the township public improvement tax increment equivalent 20487  
fund established under section 5709.75 of the Revised Code, 20488  
whichever occurs first. The exemption of an improvement with 20489  
respect to a parcel or within an incentive district may end on a 20490  
later date, as specified in the resolution, if the board of 20491  
township trustees and the board of education of the city, local, 20492  
or exempted village school district within which the parcel or 20493  
district is located have entered into a compensation agreement 20494  
under section 5709.82 of the Revised Code with respect to the 20495  
improvement and the board of education has approved the term of 20496  
the exemption under division (D) of this section, but in no case 20497  
shall the improvement be exempted from taxation for more than 20498  
thirty years. The board of township trustees may, by majority 20499  
vote, adopt a resolution permitting the township to enter into 20500  
such agreements as the board finds necessary or appropriate to 20501  
provide for the construction or undertaking of public 20502  
infrastructure improvements and housing renovations. Any exemption 20503  
shall be claimed and allowed in the same or a similar manner as in 20504  
the case of other real property exemptions. If an exemption status 20505  
changes during a tax year, the procedure for the apportionment of 20506  
the taxes for that year is the same as in the case of other 20507  
changes in tax exemption status during the year. 20508

(H) The board of township trustees may issue the notes of the township to finance all costs pertaining to the construction or undertaking of public infrastructure improvements and housing renovations made pursuant to this section. The notes shall be signed by the board and attested by the signature of the township fiscal officer, shall bear interest not to exceed the rate provided in section 9.95 of the Revised Code, and are not subject to Chapter 133. of the Revised Code. The resolution authorizing the issuance of the notes shall pledge the funds of the township public improvement tax increment equivalent fund established pursuant to section 5709.75 of the Revised Code to pay the interest on and principal of the notes. The notes, which may contain a clause permitting prepayment at the option of the board, shall be offered for sale on the open market or given to the vendor or contractor if no sale is made.

(I) The township, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development services a copy of the resolution. On or before the thirty-first day of March of each year, the township shall submit a status report to the director of development services. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that the exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with the expenditures; and a quantitative summary of changes in private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a board of township trustees from declaring to be a public purpose improvements with respect to more than one parcel.

If a parcel is located in a new community district in which 20541  
the new community authority imposes a community development charge 20542  
on the basis of rentals received from leases of real property as 20543  
described in division (L)(2) of section 349.01 of the Revised 20544  
Code, the parcel may not be exempted from taxation under this 20545  
section. 20546

(K) A board of township trustees that adopted a resolution 20547  
under this section prior to July 21, 1994, may amend that 20548  
resolution to include any additional public infrastructure 20549  
improvement. A board of township trustees that seeks by the 20550  
amendment to utilize money from its township public improvement 20551  
tax increment equivalent fund for land acquisition in aid of 20552  
industry, commerce, distribution, or research, demolition on 20553  
private property, or stormwater and flood remediation projects may 20554  
do so provided that the board currently is a party to a 20555  
hold-harmless agreement with the board of education of the city, 20556  
local, or exempted village school district within the territory of 20557  
which are located the parcels that are subject to an exemption. 20558  
For the purposes of this division, a "hold-harmless agreement" 20559  
means an agreement under which the board of township trustees 20560  
agrees to compensate the school district for one hundred per cent 20561  
of the tax revenue that the school district would have received 20562  
from further improvements to parcels designated in the resolution 20563  
were it not for the exemption granted by the resolution. 20564

**Sec. 5709.78.** (A) A board of county commissioners may, by 20565  
resolution, declare improvements to certain parcels of real 20566  
property located in the unincorporated territory of the county to 20567  
be a public purpose. Except with the approval under division (C) 20568  
of this section of the board of education of each city, local, or 20569  
exempted village school district within which the improvements are 20570  
located, not more than seventy-five per cent of an improvement 20571  
thus declared to be a public purpose may be exempted from real 20572

property taxation, for a period of not more than ten years. The 20573  
resolution shall specify the percentage of the improvement to be 20574  
exempted and the life of the exemption. 20575

A resolution adopted under this division shall designate the 20576  
specific public infrastructure improvements made, to be made, or 20577  
in the process of being made by the county that directly benefit, 20578  
or that once made will directly benefit, the parcels for which 20579  
improvements are declared to be a public purpose. The service 20580  
payments provided for in section 5709.79 of the Revised Code shall 20581  
be used to finance the public infrastructure improvements 20582  
designated in the resolution, or as provided in section 5709.80 of 20583  
the Revised Code. 20584

(B)(1) A board of county commissioners may adopt a resolution 20585  
creating an incentive district and declaring improvements to 20586  
parcels within the district to be a public purpose and, except as 20587  
provided in division (E) of this section, exempt from taxation as 20588  
provided in this section, but no board of county commissioners of 20589  
a county that has a population that exceeds twenty-five thousand, 20590  
as shown by the most recent federal decennial census, shall adopt 20591  
a resolution that creates an incentive district if the sum of the 20592  
taxable value of real property in the proposed district for the 20593  
preceding tax year and the taxable value of all real property in 20594  
the county that would have been taxable in the preceding year were 20595  
it not for the fact that the property was in an existing incentive 20596  
district and therefore exempt from taxation exceeds twenty-five 20597  
per cent of the taxable value of real property in the county for 20598  
the preceding tax year. The district shall be located within the 20599  
unincorporated territory of the county and shall not include any 20600  
territory that is included within a district created under 20601  
division (C) of section 5709.73 of the Revised Code. The 20602  
resolution shall delineate the boundary of the district and 20603  
specifically identify each parcel within the district. A district 20604

may not include any parcel that is or has been exempted from 20605  
taxation under division (A) of this section or that is or has been 20606  
within another district created under this division. A resolution 20607  
may create more than one such district, and more than one 20608  
resolution may be adopted under division (B)(1) of this section. 20609

(2) Not later than thirty days prior to adopting a resolution 20610  
under division (B)(1) of this section, if the county intends to 20611  
apply for exemptions from taxation under section 5709.911 of the 20612  
Revised Code on behalf of owners of real property located within 20613  
the proposed incentive district, the board of county commissioners 20614  
shall conduct a public hearing on the proposed resolution. Not 20615  
later than thirty days prior to the public hearing, the board 20616  
shall give notice of the public hearing and the proposed 20617  
resolution by first class mail to every real property owner whose 20618  
property is located within the boundaries of the proposed 20619  
incentive district that is the subject of the proposed resolution. 20620  
The board also shall provide the notice by first class mail to the 20621  
clerk of each township in which the proposed incentive district 20622  
will be located. 20623

(3)(a) A resolution adopted under division (B)(1) of this 20624  
section shall specify the life of the incentive district and the 20625  
percentage of the improvements to be exempted, shall designate the 20626  
public infrastructure improvements made, to be made, or in the 20627  
process of being made, that benefit or serve, or, once made, will 20628  
benefit or serve parcels in the district. The resolution also 20629  
shall identify one or more specific projects being, or to be, 20630  
undertaken in the district that place additional demand on the 20631  
public infrastructure improvements designated in the resolution. 20632  
The project identified may, but need not be, the project under 20633  
division (B)(3)(b) of this section that places real property in 20634  
use for commercial or industrial purposes. 20635

A resolution adopted under division (B)(1) of this section on 20636

or after March 30, 2006, shall not designate police or fire 20637  
equipment as public infrastructure improvements, and no service 20638  
payment provided for in section 5709.79 of the Revised Code and 20639  
received by the county under the resolution shall be used for 20640  
police or fire equipment. 20641

(b) A resolution adopted under division (B)(1) of this 20642  
section may authorize the use of service payments provided for in 20643  
section 5709.79 of the Revised Code for the purpose of housing 20644  
renovations within the incentive district, provided that the 20645  
resolution also designates public infrastructure improvements that 20646  
benefit or serve the district, and that a project within the 20647  
district places real property in use for commercial or industrial 20648  
purposes. Service payments may be used to finance or support 20649  
loans, deferred loans, and grants to persons for the purpose of 20650  
housing renovations within the district. The resolution shall 20651  
designate the parcels within the district that are eligible for 20652  
housing renovations. The resolution shall state separately the 20653  
amount or the percentages of the expected aggregate service 20654  
payments that are designated for each public infrastructure 20655  
improvement and for the purpose of housing renovations. 20656

(4) Except with the approval of the board of education of 20657  
each city, local, or exempted village school district within the 20658  
territory of which the incentive district is or will be located, 20659  
and subject to division (D) of this section, the life of an 20660  
incentive district shall not exceed ten years, and the percentage 20661  
of improvements to be exempted shall not exceed seventy-five per 20662  
cent. With approval of the board of education, the life of a 20663  
district may be not more than thirty years, and the percentage of 20664  
improvements to be exempted may be not more than one hundred per 20665  
cent. The approval of a board of education shall be obtained in 20666  
the manner provided in division (C) of this section. 20667

(C)(1) Improvements with respect to a parcel may be exempted 20668

from taxation under division (A) of this section, and improvements 20669  
to parcels within an incentive district may be exempted from 20670  
taxation under division (B) of this section, for up to ten years 20671  
or, with the approval of the board of education of each city, 20672  
local, or exempted village school district within which the parcel 20673  
or district is located, for up to thirty years. The percentage of 20674  
the improvements exempted from taxation may, with such approval, 20675  
exceed seventy-five per cent, but shall not exceed one hundred per 20676  
cent. Not later than forty-five business days prior to adopting a 20677  
resolution under this section declaring improvements to be a 20678  
public purpose that is subject to the approval of a board of 20679  
education under this division, the board of county commissioners 20680  
shall deliver to the board of education a notice stating its 20681  
intent to adopt a resolution making that declaration. The notice 20682  
regarding improvements with respect to a parcel under division (A) 20683  
of this section shall identify the parcels for which improvements 20684  
are to be exempted from taxation, provide an estimate of the true 20685  
value in money of the improvements, specify the period for which 20686  
the improvements would be exempted from taxation and the 20687  
percentage of the improvements that would be exempted, and 20688  
indicate the date on which the board of county commissioners 20689  
intends to adopt the resolution. The notice regarding improvements 20690  
to parcels within an incentive district under division (B) of this 20691  
section shall delineate the boundaries of the district, 20692  
specifically identify each parcel within the district, identify 20693  
each anticipated improvement in the district, provide an estimate 20694  
of the true value in money of each such improvement, specify the 20695  
life of the district and the percentage of improvements that would 20696  
be exempted, and indicate the date on which the board of county 20697  
commissioners intends to adopt the resolution. The board of 20698  
education, by resolution adopted by a majority of the board, may 20699  
approve the exemption for the period or for the exemption 20700  
percentage specified in the notice; may disapprove the exemption 20701

for the number of years in excess of ten, may disapprove the 20702  
exemption for the percentage of the improvements to be exempted in 20703  
excess of seventy-five per cent, or both; or may approve the 20704  
exemption on the condition that the board of county commissioners 20705  
and the board of education negotiate an agreement providing for 20706  
compensation to the school district equal in value to a percentage 20707  
of the amount of taxes exempted in the eleventh and subsequent 20708  
years of the exemption period or, in the case of exemption 20709  
percentages in excess of seventy-five per cent, compensation equal 20710  
in value to a percentage of the taxes that would be payable on the 20711  
portion of the improvements in excess of seventy-five per cent 20712  
were that portion to be subject to taxation, or other mutually 20713  
agreeable compensation. 20714

(2) The board of education shall certify its resolution to 20715  
the board of county commissioners not later than fourteen days 20716  
prior to the date the board of county commissioners intends to 20717  
adopt its resolution as indicated in the notice. If the board of 20718  
education and the board of county commissioners negotiate a 20719  
mutually acceptable compensation agreement, the resolution of the 20720  
board of county commissioners may declare the improvements a 20721  
public purpose for the number of years specified in that 20722  
resolution or, in the case of exemption percentages in excess of 20723  
seventy-five per cent, for the exemption percentage specified in 20724  
the resolution. In either case, if the board of education and the 20725  
board of county commissioners fail to negotiate a mutually 20726  
acceptable compensation agreement, the resolution may declare the 20727  
improvements a public purpose for not more than ten years, and 20728  
shall not exempt more than seventy-five per cent of the 20729  
improvements from taxation. If the board of education fails to 20730  
certify a resolution to the board of county commissioners within 20731  
the time prescribed by this section, the board of county 20732  
commissioners thereupon may adopt the resolution and may declare 20733  
the improvements a public purpose for up to thirty years or, in 20734

the case of exemption percentages proposed in excess of 20735  
seventy-five per cent, for the exemption percentage specified in 20736  
the resolution. The board of county commissioners may adopt the 20737  
resolution at any time after the board of education certifies its 20738  
resolution approving the exemption to the board of county 20739  
commissioners, or, if the board of education approves the 20740  
exemption on the condition that a mutually acceptable compensation 20741  
agreement be negotiated, at any time after the compensation 20742  
agreement is agreed to by the board of education and the board of 20743  
county commissioners. If a mutually acceptable compensation 20744  
agreement is negotiated between the board of county commissioners 20745  
and the board of education, including agreements for payments in 20746  
lieu of taxes under section 5709.79 of the Revised Code, the board 20747  
of county commissioners shall compensate the joint vocational 20748  
school district within which the parcel or district is located at 20749  
the same rate and under the same terms received by the city, 20750  
local, or exempted village school district. 20751

(3) If a board of education has adopted a resolution waiving 20752  
its right to approve exemptions from taxation under this section 20753  
and the resolution remains in effect, approval of such exemptions 20754  
by the board of education is not required under division (C) of 20755  
this section. If a board of education has adopted a resolution 20756  
allowing a board of county commissioners to deliver the notice 20757  
required under division (C) of this section fewer than forty-five 20758  
business days prior to approval of the resolution by the board of 20759  
county commissioners, the board of county commissioners shall 20760  
deliver the notice to the board of education not later than the 20761  
number of days prior to such approval as prescribed by the board 20762  
of education in its resolution. If a board of education adopts a 20763  
resolution waiving its right to approve exemptions or shortening 20764  
the notification period, the board of education shall certify a 20765  
copy of the resolution to the board of county commissioners. If 20766  
the board of education rescinds such a resolution, it shall 20767

certify notice of the rescission to the board of county commissioners. 20768  
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(D)(1) If a proposed resolution under division (B)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of county commissioners shall deliver to the board of township trustees of any township within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board intends to adopt the resolution. 20770  
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(2) The board of township trustees, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of township trustees objects, the board of township trustees may negotiate a mutually acceptable compensation agreement with the board of county commissioners. In no case shall the compensation provided to the board of township trustees exceed the property taxes forgone due to the exemption. If the board of township trustees objects, and the board of township trustees and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (B)(1) of this 20787  
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section shall provide to the board of township trustees 20800  
compensation in the eleventh and subsequent years of the exemption 20801  
period equal in value to not more than fifty per cent of the taxes 20802  
that would be payable to the township or, if the board of township 20803  
trustee's objection includes an objection to an exemption 20804  
percentage in excess of seventy-five per cent, compensation equal 20805  
in value to not more than fifty per cent of the taxes that would 20806  
be payable to the township on the portion of the improvement in 20807  
excess of seventy-five per cent, were that portion to be subject 20808  
to taxation. The board of township trustees shall certify its 20809  
resolution to the board of county commissioners not later than 20810  
thirty days after receipt of the notice. 20811

(3) If the board of township trustees does not object or 20812  
fails to certify a resolution objecting to an exemption within 20813  
thirty days after receipt of the notice, the board of county 20814  
commissioners may adopt its resolution, and no compensation shall 20815  
be provided to the board of township trustees. If the board of 20816  
township trustees certifies its resolution objecting to the 20817  
commissioners' resolution, the board of county commissioners may 20818  
adopt its resolution at any time after a mutually acceptable 20819  
compensation agreement is agreed to by the board of county 20820  
commissioners and the board of township trustees. If the board of 20821  
township trustees certifies a resolution objecting to the 20822  
commissioners' resolution, the board of county commissioners may 20823  
adopt its resolution at any time after a mutually acceptable 20824  
compensation agreement is agreed to by the board of county 20825  
commissioners and the board of township trustees, or, if no 20826  
compensation agreement is negotiated, at any time after the board 20827  
of county commissioners in the proposed resolution to provide 20828  
compensation to the board of township trustees of fifty per cent 20829  
of the taxes that would be payable to the township in the eleventh 20830  
and subsequent years of the exemption period or on the portion of 20831  
the improvement in excess of seventy-five per cent, were that 20832

portion to be subject to taxation. 20833

(E) Service payments in lieu of taxes that are attributable 20834  
to any amount by which the effective tax rate of either a renewal 20835  
levy with an increase or a replacement levy exceeds the effective 20836  
tax rate of the levy renewed or replaced, or that are attributable 20837  
to an additional levy, for a levy authorized by the voters for any 20838  
of the following purposes on or after January 1, 2006, and which 20839  
are provided pursuant to a resolution creating an incentive 20840  
district under division (B)(1) of this section that is adopted on 20841  
or after January 1, 2006, shall be distributed to the appropriate 20842  
taxing authority as required under division (D) of section 5709.79 20843  
of the Revised Code in an amount equal to the amount of taxes from 20844  
that additional levy or from the increase in the effective tax 20845  
rate of such renewal or replacement levy that would have been 20846  
payable to that taxing authority from the following levies were it 20847  
not for the exemption authorized under division (B) of this 20848  
section: 20849

(1) A tax levied under division (L) of section 5705.19 or 20850  
section 5705.191 of the Revised Code for community ~~mental~~ 20851  
~~retardation and~~ developmental disabilities programs and services 20852  
pursuant to Chapter 5126. of the Revised Code; 20853

(2) A tax levied under division (Y) of section 5705.19 of the 20854  
Revised Code for providing or maintaining senior citizens services 20855  
or facilities; 20856

(3) A tax levied under section 5705.22 of the Revised Code 20857  
for county hospitals; 20858

(4) A tax levied by a joint-county district or by a county 20859  
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 20860  
for alcohol, drug addiction, and mental health services or 20861  
facilities; 20862

(5) A tax levied under section 5705.23 of the Revised Code 20863

for library purposes;	20864
(6) A tax levied under section 5705.24 of the Revised Code	20865
for the support of children services and the placement and care of	20866
children;	20867
(7) A tax levied under division (Z) of section 5705.19 of the	20868
Revised Code for the provision and maintenance of zoological park	20869
services and facilities under section 307.76 of the Revised Code;	20870
(8) A tax levied under section 511.27 or division (H) of	20871
section 5705.19 of the Revised Code for the support of township	20872
park districts;	20873
(9) A tax levied under division (A), (F), or (H) of section	20874
5705.19 of the Revised Code for parks and recreational purposes of	20875
a joint recreation district organized pursuant to division (B) of	20876
section 755.14 of the Revised Code;	20877
(10) A tax levied under section 1545.20 or 1545.21 of the	20878
Revised Code for park district purposes;	20879
(11) A tax levied under section 5705.191 of the Revised Code	20880
for the purpose of making appropriations for public assistance;	20881
human or social services; public relief; public welfare; public	20882
health and hospitalization; and support of general hospitals;	20883
(12) A tax levied under section 3709.29 of the Revised Code	20884
for a general health district program.	20885
(F) An exemption from taxation granted under this section	20886
commences with the tax year specified in the resolution so long as	20887
the year specified in the resolution commences after the effective	20888
date of the resolution. If the resolution specifies a year	20889
commencing before the effective date of the resolution or	20890
specifies no year whatsoever, the exemption commences with the tax	20891
year in which an exempted improvement first appears on the tax	20892
list and duplicate of real and public utility property and that	20893

commences after the effective date of the resolution. In lieu of 20894  
stating a specific year, the resolution may provide that the 20895  
exemption commences in the tax year in which the value of an 20896  
improvement exceeds a specified amount or in which the 20897  
construction of one or more improvements is completed, provided 20898  
that such tax year commences after the effective date of the 20899  
resolution. With respect to the exemption of improvements to 20900  
parcels under division (A) of this section, the resolution may 20901  
allow for the exemption to commence in different tax years on a 20902  
parcel-by-parcel basis, with a separate exemption term specified 20903  
for each parcel. 20904

Except as otherwise provided in this division, the exemption 20905  
ends on the date specified in the resolution as the date the 20906  
improvement ceases to be a public purpose or the incentive 20907  
district expires, or ends on the date on which the county can no 20908  
longer require annual service payments in lieu of taxes under 20909  
section 5709.79 of the Revised Code, whichever occurs first. The 20910  
exemption of an improvement with respect to a parcel or within an 20911  
incentive district may end on a later date, as specified in the 20912  
resolution, if the board of commissioners and the board of 20913  
education of the city, local, or exempted village school district 20914  
within which the parcel or district is located have entered into a 20915  
compensation agreement under section 5709.82 of the Revised Code 20916  
with respect to the improvement, and the board of education has 20917  
approved the term of the exemption under division (C)(1) of this 20918  
section, but in no case shall the improvement be exempted from 20919  
taxation for more than thirty years. Exemptions shall be claimed 20920  
and allowed in the same or a similar manner as in the case of 20921  
other real property exemptions. If an exemption status changes 20922  
during a tax year, the procedure for the apportionment of the 20923  
taxes for that year is the same as in the case of other changes in 20924  
tax exemption status during the year. 20925

(G) If the board of county commissioners is not required by 20926  
this section to notify the board of education of the board of 20927  
county commissioners' intent to declare improvements to be a 20928  
public purpose, the board of county commissioners shall comply 20929  
with the notice requirements imposed under section 5709.83 of the 20930  
Revised Code before taking formal action to adopt the resolution 20931  
making that declaration, unless the board of education has adopted 20932  
a resolution under that section waiving its right to receive such 20933  
a notice. 20934

(H) The county, not later than fifteen days after the 20935  
adoption of a resolution under this section, shall submit to the 20936  
director of development services a copy of the resolution. On or 20937  
before the thirty-first day of March of each year, the county 20938  
shall submit a status report to the director of development 20939  
services. The report shall indicate, in the manner prescribed by 20940  
the director, the progress of the project during each year that an 20941  
exemption remains in effect, including a summary of the receipts 20942  
from service payments in lieu of taxes; expenditures of money from 20943  
the fund created under section 5709.80 of the Revised Code; a 20944  
description of the public infrastructure improvements and housing 20945  
renovations financed with such expenditures; and a quantitative 20946  
summary of changes in employment and private investment resulting 20947  
from each project. 20948

(I) Nothing in this section shall be construed to prohibit a 20949  
board of county commissioners from declaring to be a public 20950  
purpose improvements with respect to more than one parcel. 20951

(J) If a parcel is located in a new community district in 20952  
which the new community authority imposes a community development 20953  
charge on the basis of rentals received from leases of real 20954  
property as described in division (L)(2) of section 349.01 of the 20955  
Revised Code, the parcel may not be exempted from taxation under 20956  
this section. 20957

**Sec. 5711.07.** Personal property used in business shall be 20958  
listed and assessed in the taxing district in which such business 20959  
is carried on. If such business is carried on in more than one 20960  
taxing district in the same county, the return shall set forth the 20961  
amount of the property used therein which is situated in each 20962  
taxing district in such county, and the value of all the personal 20963  
property used in business shall be apportioned to and assessed in 20964  
each of such taxing districts in proportion to the value of the 20965  
personal property situated therein. Domestic animals not used in 20966  
business shall be listed and assessed in the taxing district where 20967  
kept. Ships, vessels, boats, and aircraft, and shares and 20968  
interests therein, shall be listed and assessed in the taxing 20969  
district in which the owner resides. All other taxable property 20970  
shall be listed and assessed in the municipal corporation in which 20971  
the owner resides, or, if the owner resides outside a municipal 20972  
corporation, then in the county in which the owner resides except 20973  
as provided in sections 5711.01 to 5711.36 of the Revised Code. 20974  
Whenever, under such sections, taxable property required by this 20975  
section to be listed and assessed in the taxing district or county 20976  
in which the owner resides is required to be listed by a 20977  
fiduciary, such property shall be listed and assessed by such 20978  
fiduciary in the taxing district or county in which such fiduciary 20979  
resides, or, in the case of joint fiduciaries, in which either 20980  
such fiduciary resides; but such property belonging to the estate 20981  
of a deceased resident of this state shall be listed and assessed 20982  
in the taxing district or county in which the deceased resident 20983  
resided at the time of death, regardless of the residence of the 20984  
deceased resident's executors, administrators, or personal 20985  
representatives, and such property belonging to a ward, minor, 20986  
incompetent person, or beneficiary of a trust residing in this 20987  
state, title, custody, or possession of which is vested in a 20988  
nonresident fiduciary, shall be listed and assessed in the taxing 20989

district or county in which such ward, minor, incompetent person, 20990  
or beneficiary resides. 20991

As used in this section, "incompetent person" means a person 20992  
who is so mentally impaired as a result of a mental or physical 20993  
illness or disability, or ~~mental retardation~~ a developmental 20994  
disability that is an intellectual disability, or as a result of 20995  
chronic substance abuse, that the person is incapable of taking 20996  
proper care of the person's self or property or fails to provide 20997  
for the person's family or other persons for whom the person is 20998  
charged by law to provide. 20999

**Sec. 5747.03.** (A) All money collected under this chapter 21000  
arising from the taxes imposed by section 5747.02 or 5747.41 of 21001  
the Revised Code shall be credited to the general revenue fund, 21002  
except that the treasurer of state shall, at the beginning of each 21003  
calendar quarter, credit to the Ohio political party fund, 21004  
pursuant to section 3517.16 of the Revised Code, an amount equal 21005  
to the total dollar value realized from the taxpayer exercise of 21006  
the income tax checkoff option on tax forms processed during the 21007  
preceding calendar quarter. 21008

(B)(1) Following the crediting of moneys pursuant to division 21009  
(A) of this section, the remainder deposited in the general 21010  
revenue fund shall be distributed pursuant to division (F) of 21011  
section 321.24 and section 323.156 of the Revised Code; to make 21012  
subsidy payments to institutions of higher education from 21013  
appropriations to the Ohio board of regents; to support 21014  
expenditures for programs and services for the mentally ill, 21015  
~~mentally retarded, developmentally disabled~~ persons with 21016  
developmental disabilities, and the elderly; for primary and 21017  
secondary education; for medical assistance; and for any other 21018  
purposes authorized by law, subject to the limitation that at 21019  
least fifty per cent of the income tax collected by the state from 21020

the tax imposed by section 5747.02 of the Revised Code shall be 21021  
returned pursuant to Section 9 of Article XII, Ohio Constitution. 21022

(2) To ensure that such constitutional requirement is 21023  
satisfied the tax commissioner shall, on or before the thirtieth 21024  
day of June of each year, from the best information available to 21025  
the tax commissioner, determine and certify for each county to the 21026  
director of budget and management the amount of taxes collected 21027  
under this chapter from the tax imposed under section 5747.02 of 21028  
the Revised Code during the preceding calendar year that are 21029  
required to be returned to the county by Section 9 of Article XII, 21030  
Ohio Constitution. The director shall provide for payment from the 21031  
general revenue fund to the county in the amount, if any, that the 21032  
sum of the amount so certified for that county exceeds the sum of 21033  
the following: 21034

(a) The sum of the payments from the general revenue fund for 21035  
the preceding calendar year credited to the county's undivided 21036  
income tax fund pursuant to division (F) of section 321.24 and 21037  
section 323.156 of the Revised Code or made directly from the 21038  
general revenue fund to political subdivisions located in the 21039  
county; 21040

(b) The sum of the amounts from the general revenue fund 21041  
distributed in the county during the preceding calendar year for 21042  
subsidy payments to institutions of higher education from 21043  
appropriations to the Ohio board of regents; for programs and 21044  
services for mentally ill, ~~mentally retarded, developmentally~~ 21045  
~~disabled~~ persons with developmental disabilities, and elderly 21046  
persons; for primary and secondary education; and for medical 21047  
assistance. 21048

(c) In the case of payments made by the director under this 21049  
division in 2007, the total amount distributed to the county 21050  
during the preceding calendar year from the local government fund 21051  
and the local government revenue assistance fund, and, in the case 21052

of payments made by the director under this division in subsequent 21053  
calendar years, the amount distributed to the county from the 21054  
local government fund; 21055

(d) In the case of payments made by the director under this 21056  
division, the total amount distributed to the county during the 21057  
preceding calendar year from the public library fund. 21058

Payments under this division shall be credited to the 21059  
county's undivided income tax fund, except that, notwithstanding 21060  
section 5705.14 of the Revised Code, such payments may be 21061  
transferred by the board of county commissioners to the county 21062  
general fund by resolution adopted with the affirmative vote of 21063  
two-thirds of the members thereof. 21064

(C) All payments received in each month from taxes imposed 21065  
under Chapter 5748. of the Revised Code and any penalties or 21066  
interest thereon shall be paid into the school district income tax 21067  
fund, which is hereby created in the state treasury, except that 21068  
an amount equal to the following portion of such payments shall be 21069  
paid into the general school district income tax administrative 21070  
fund, which is hereby created in the state treasury: 21071

(1) One and three-quarters of one per cent of those received 21072  
in fiscal year 1996; 21073

(2) One and one-half per cent of those received in fiscal 21074  
year 1997 and thereafter. 21075

Money in the school district income tax administrative fund 21076  
shall be used by the tax commissioner to defray costs incurred in 21077  
administering the school district's income tax, including the cost 21078  
of providing employers with information regarding the rate of tax 21079  
imposed by any school district. Any moneys remaining in the fund 21080  
after such use shall be deposited in the school district income 21081  
tax fund. 21082

All interest earned on moneys in the school district income 21083

tax fund shall be credited to the fund. 21084

(D)(1)(a) Within thirty days of the end of each calendar 21085  
quarter ending on the last day of March, June, September, and 21086  
December, the director of budget and management shall make a 21087  
payment from the school district income tax fund to each school 21088  
district for which school district income tax revenue was received 21089  
during that quarter. The amount of the payment shall equal the 21090  
balance in the school district's account at the end of that 21091  
quarter. 21092

(b) After a school district ceases to levy an income tax, the 21093  
director of budget and management shall adjust the payments under 21094  
division (D)(1)(a) of this section to retain sufficient money in 21095  
the school district's account to pay refunds. For the calendar 21096  
quarters ending on the last day of March and December of the 21097  
calendar year following the last calendar year the tax is levied, 21098  
the director shall make the payments in the amount required under 21099  
division (D)(1)(a) of this section. For the calendar quarter 21100  
ending on the last day of June of the calendar year following the 21101  
last calendar year the tax is levied, the director shall make a 21102  
payment equal to nine-tenths of the balance in the account at the 21103  
end of that quarter. For the calendar quarter ending on the last 21104  
day of September of the calendar year following the last calendar 21105  
year the tax is levied, the director shall make no payment. For 21106  
the second and succeeding calendar years following the last 21107  
calendar year the tax is levied, the director shall make one 21108  
payment each year, within thirty days of the last day of June, in 21109  
an amount equal to the balance in the district's account on the 21110  
last day of June. 21111

(2) Moneys paid to a school district under this division 21112  
shall be deposited in its school district income tax fund. All 21113  
interest earned on moneys in the school district income tax fund 21114  
shall be apportioned by the tax commissioner pro rata among the 21115

school districts in the proportions and at the times the districts 21116  
are entitled to receive payments under this division. 21117

**Sec. 5815.28.** (A) As used in this section: 21118

(1) "Ascertainable standard" includes a standard in a trust 21119  
instrument requiring the trustee to provide for the care, comfort, 21120  
maintenance, welfare, education, or general well-being of the 21121  
beneficiary. 21122

(2) "Disability" means any substantial, medically 21123  
determinable impairment that can be expected to result in death or 21124  
that has lasted or can be expected to last for a continuous period 21125  
of at least twelve months, except that "disability" does not 21126  
include an impairment that is the result of abuse of alcohol or 21127  
drugs. 21128

(3) "Political subdivision" and "state" have the same 21129  
meanings as in section 2744.01 of the Revised Code. 21130

(4) "Supplemental services" means services specified by rule 21131  
of the department of mental health and addiction services under 21132  
section 5119.10 of the Revised Code or the department of 21133  
developmental disabilities under section 5123.04 of the Revised 21134  
Code that are provided to an individual with a disability in 21135  
addition to services the individual is eligible to receive under 21136  
programs authorized by federal or state law. 21137

(B) Any person may create a trust under this section to 21138  
provide funding for supplemental services for the benefit of 21139  
another individual who meets either of the following conditions: 21140

(1) The individual has a physical or mental disability and is 21141  
eligible to receive services through the department of 21142  
developmental disabilities or a county board of developmental 21143  
disabilities; 21144

(2) The individual has a mental disability and is eligible to 21145

receive services through the department of mental health and 21146  
addiction services or a board of alcohol, drug addiction, and 21147  
mental health services. 21148

The trust may confer discretion upon the trustee and may 21149  
contain specific instructions or conditions governing the exercise 21150  
of the discretion. 21151

(C) The general division of the court of common pleas and the 21152  
probate court of the county in which the beneficiary of a trust 21153  
authorized by division (B) of this section resides or is confined 21154  
have concurrent original jurisdiction to hear and determine 21155  
actions pertaining to the trust. In any action pertaining to the 21156  
trust in a court of common pleas or probate court and in any 21157  
appeal of the action, all of the following apply to the trial or 21158  
appellate court: 21159

(1) The court shall render determinations consistent with the 21160  
testator's or other settlor's intent in creating the trust, as 21161  
evidenced by the terms of the trust instrument. 21162

(2) The court may order the trustee to exercise discretion 21163  
that the trust instrument confers upon the trustee only if the 21164  
instrument contains specific instructions or conditions governing 21165  
the exercise of that discretion and the trustee has failed to 21166  
comply with the instructions or conditions. In issuing an order 21167  
pursuant to this division, the court shall require the trustee to 21168  
exercise the trustee's discretion only in accordance with the 21169  
instructions or conditions. 21170

(3) The court may order the trustee to maintain the trust and 21171  
distribute assets in accordance with rules adopted by the director 21172  
of mental health and addiction services under section 5119.10 of 21173  
the Revised Code or the director of developmental disabilities 21174  
under section 5123.04 of the Revised Code if the trustee has 21175  
failed to comply with such rules. 21176

(D) To the extent permitted by federal law and subject to the provisions of division (C)(2) of this section pertaining to the enforcement of specific instructions or conditions governing a trustee's discretion, a trust authorized by division (B) of this section that confers discretion upon the trustee shall not be considered an asset or resource of the beneficiary, the beneficiary's estate, the settlor, or the settlor's estate and shall be exempt from the claims of creditors, political subdivisions, the state, other governmental entities, and other claimants against the beneficiary, the beneficiary's estate, the settlor, or the settlor's estate, including claims regarding the medicaid program or based on provisions of Chapters 5121. or 5123. of the Revised Code and claims sought to be satisfied by way of a civil action, subrogation, execution, garnishment, attachment, judicial sale, or other legal process, if all of the following apply:

(1) At the time the trust is created, the trust principal does not exceed the maximum amount determined under division (E) of this section;

(2) The trust instrument contains a statement of the settlor's intent, or otherwise clearly evidences the settlor's intent, that the beneficiary does not have authority to compel the trustee under any circumstances to furnish the beneficiary with minimal or other maintenance or support, to make payments from the principal of the trust or from the income derived from the principal, or to convert any portion of the principal into cash, whether pursuant to an ascertainable standard specified in the instrument or otherwise;

(3) The trust instrument provides that trust assets can be used only to provide supplemental services, as defined by rule of the director of mental health and addiction services under section 5119.10 of the Revised Code or the director of developmental

disabilities under section 5123.04 of the Revised Code, to the 21209  
beneficiary; 21210

(4) The trust is maintained and assets are distributed in 21211  
accordance with rules adopted by the director of mental health and 21212  
addiction services under section 5119.10 of the Revised Code or 21213  
the director of developmental disabilities under section 5123.04 21214  
of the Revised Code; 21215

(5) The trust instrument provides that on the death of the 21216  
beneficiary, a portion of the remaining assets of the trust, which 21217  
shall be not less than fifty per cent of such assets, will be 21218  
deposited to the credit of the services fund for individuals with 21219  
mental illness created by section 5119.51 of the Revised Code or 21220  
the services fund for individuals with ~~mental retardation and~~ 21221  
developmental disabilities created by section 5123.40 of the 21222  
Revised Code. 21223

(E) In 1994, the trust principal maximum amount for a trust 21224  
created under this section shall be two hundred thousand dollars. 21225  
The maximum amount for a trust created under this section prior to 21226  
November 11, 1994, may be increased to two hundred thousand 21227  
dollars. 21228

In 1995, the maximum amount for a trust created under this 21229  
section shall be two hundred two thousand dollars. Each year 21230  
thereafter, the maximum amount shall be the prior year's amount 21231  
plus two thousand dollars. 21232

(F) This section does not limit or otherwise affect the 21233  
creation, validity, interpretation, or effect of any trust that is 21234  
not created under this section. 21235

(G) Once a trustee takes action on a trust created by a 21236  
settlor under this section and disburses trust funds on behalf of 21237  
the beneficiary of the trust, then the trust may not be terminated 21238  
or otherwise revoked by a particular event or otherwise without 21239

payment into the services fund created pursuant to section 5119.51 21240  
or 5123.40 of the Revised Code of an amount that is equal to the 21241  
disbursements made on behalf of the beneficiary for medical care 21242  
by the state from the date the trust vests but that is not more 21243  
than fifty per cent of the trust corpus. 21244

**Sec. 5815.35.** (A)(1) As used in this division, "fiduciary" 21245  
means any person, association, or corporation, other than a 21246  
trustee of a testamentary trust, an assignee or trustee for an 21247  
insolvent debtor, or a guardian under Chapter 5905. of the Revised 21248  
Code, that is appointed by and accountable to the probate court, 21249  
and that is acting in a fiduciary capacity for another or charged 21250  
with duties in relation to any property, interest, or estate for 21251  
another's benefit. A fiduciary also includes an agency under 21252  
contract with the department of developmental disabilities for the 21253  
provision of protective service under sections 5123.55 to 5123.59 21254  
of the Revised Code, when appointed by and accountable to the 21255  
probate court as a guardian or trustee for a ~~mentally retarded or~~ 21256  
~~developmentally disabled~~ person with a developmental disability. 21257

(2) A fiduciary who enters a contract as fiduciary on or 21258  
after March 22, 1984, is not personally liable on that contract, 21259  
unless the contract otherwise specifies, if the contract is within 21260  
the fiduciary's authority and the fiduciary discloses that the 21261  
contract is being entered into in a fiduciary capacity. In a 21262  
contract, the words "fiduciary" or "as fiduciary" or other words 21263  
that indicate one's fiduciary capacity following the name or 21264  
signature of a fiduciary are sufficient disclosure for purposes of 21265  
this division. 21266

(B)(1) As used in this division, "partnership" includes a 21267  
partnership composed of only general partners and a partnership 21268  
composed of general and limited partners. 21269

(2) Subject to division (D) of this section, an executor or 21270

administrator who acquires, in a fiduciary capacity, a general 21271  
partnership interest upon the death of a general partner of a 21272  
partnership is not personally liable for any debt, obligation, or 21273  
liability of the partnership that arises from the executor's or 21274  
administrator's actions, except as provided in this division, as a 21275  
general partner, or for any debt, obligation, or liability of the 21276  
partnership for which the executor or administrator otherwise 21277  
would be personally liable because the executor or administrator 21278  
holds the general partnership interest, if the executor or 21279  
administrator discloses that the general partnership interest is 21280  
held by the executor or administrator in a fiduciary capacity. 21281  
This immunity does not apply if an executor or administrator 21282  
causes loss or injury to a person who is not a partner in the 21283  
partnership by a wrongful act or omission. This immunity is not 21284  
available to an executor or administrator who holds a general 21285  
partnership interest in a fiduciary capacity if the spouse or any 21286  
lineal descendants of the executor or administrator, or the 21287  
executor or administrator other than in a fiduciary capacity, 21288  
holds any interest in the partnership. 21289

A partnership certificate that is filed pursuant to Chapter 21290  
1777. or another chapter of the Revised Code and that indicates 21291  
that an executor or administrator holds a general partnership 21292  
interest in a fiduciary capacity by the use following the name or 21293  
signature of the executor or administrator of the words "executor 21294  
under the will of (name of decedent)" or "administrator of the 21295  
estate of (name of decedent)" or other words that indicate the 21296  
executor's or administrator's fiduciary capacity constitutes a 21297  
sufficient disclosure for purposes of this division. 21298

If a partnership certificate is not required to be filed 21299  
pursuant to Chapter 1776. or 1777. or another chapter of the 21300  
Revised Code, a sufficient disclosure for purposes of this 21301  
division can be made by an executor or administrator if a 21302

certificate that satisfies the following requirements is filed 21303  
with the recorder of the county in which the partnership's 21304  
principal office or place of business is situated and with the 21305  
recorder of each county in which the partnership owns real estate: 21306

(a) The certificate shall state in full the names of all 21307  
persons holding interests in the partnership and their places of 21308  
residence; 21309

(b) The certificate shall be signed by all persons who are 21310  
general partners in the partnership, and shall be acknowledged by 21311  
a person authorized to take acknowledgements of deeds; 21312

(c) The certificate shall use the words "executor under the 21313  
will of (name of decedent)" or "administrator of the estate of 21314  
(name of decedent)" or other words that indicate the executor's or 21315  
administrator's fiduciary capacity, following the name or 21316  
signature of the executor or administrator. 21317

A contract or other written instrument delivered to a party 21318  
that contracts with the partnership in which an executor or 21319  
administrator holds a general partnership interest in a fiduciary 21320  
capacity, that indicates that the executor or administrator so 21321  
holds the interest, constitutes a disclosure for purposes of this 21322  
division with respect to transactions between the party and the 21323  
partnership. If a disclosure has been made by a certificate in 21324  
accordance with this division, a disclosure for purposes of this 21325  
division with respect to such transactions exists regardless of 21326  
whether a contract or other instrument indicates the executor or 21327  
administrator holds the general partnership interest in a 21328  
fiduciary capacity. 21329

If an executor or administrator acquires, in a fiduciary 21330  
capacity, a general partnership interest, the decedent's estate is 21331  
liable for debts, obligations, or liabilities of the partnership. 21332

(C) An estate that includes a general partnership interest is 21333

not liable for the debts, obligations, or liabilities of a 21334  
partnership in which another estate has a general partnership 21335  
interest, merely because the executor or administrator of the 21336  
estates holds a general partnership interest in both of the 21337  
partnerships in the executor's or administrator's fiduciary 21338  
capacities. 21339

(D) Divisions (B) and (C) of this section apply to general 21340  
partnership interests held by executors or administrators in their 21341  
fiduciary capacities prior to and on or after March 22, 1984. If 21342  
an appropriate disclosure is made pursuant to division (B) of this 21343  
section, the immunity acquired under that division extends only to 21344  
debts, obligations, and liabilities of the partnership arising on 21345  
and after the date of the disclosure and to debts, obligations, 21346  
and liabilities of the partnership that arose prior to the 21347  
acquisition of the general partnership interest by the executor or 21348  
administrator becoming a general partner. 21349

(E) The liability limitations in this section apply to 21350  
fiduciaries as partners notwithstanding the broader personal 21351  
liabilities otherwise imposed by any partnership law. 21352

(F) If an estate or other fund held by a fiduciary is 21353  
identified as a partner, the reference is deemed to be to, and the 21354  
partner is, the current executor, administrator, or other 21355  
fiduciary of the estate or other fund and their successors as 21356  
executors, administrators, or other fiduciaries. 21357

**Section 2.** That existing sections 1.02, 121.22, 121.37, 21358  
135.801, 145.012, 145.298, 149.431, 152.04, 173.25, 305.07, 21359  
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5709.78, 5711.07, 5747.03, 5815.28, and 5815.35 of the Revised 21394  
Code are hereby repealed. 21395

**Section 3.** That the version of section 2101.24 of the Revised Code that is scheduled to take effect March 20, 2015, be amended to read as follows:

**Sec. 2101.24.** (A)(1) Except as otherwise provided by law, the probate court has exclusive jurisdiction:

(a) To take the proof of wills and to admit to record authenticated copies of wills executed, proved, and allowed in the courts of any other state, territory, or country. If the probate judge is unavoidably absent, any judge of the court of common pleas may take proof of wills and approve bonds to be given, but the record of these acts shall be preserved in the usual records of the probate court.

(b) To grant and revoke letters testamentary and of administration;

(c) To direct and control the conduct and settle the accounts of executors and administrators and order the distribution of estates;

(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;

(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and settle their accounts;

(f) To grant marriage licenses;

(g) To make inquests respecting persons who are so mentally impaired as a result of a mental or physical illness or disability, or ~~mental retardation~~ a developmental disability that is an intellectual disability, or as a result of chronic substance abuse, that they are unable to manage their property and affairs

effectively, subject to guardianship;	21425
(h) To qualify assignees, appoint and qualify trustees and commissioners of insolvents, control their conduct, and settle their accounts;	21426 21427 21428
(i) To authorize the sale of lands, equitable estates, or interests in lands or equitable estates, and the assignments of inchoate dower in such cases of sale, on petition by executors, administrators, and guardians;	21429 21430 21431 21432
(j) To authorize the completion of real property contracts on petition of executors and administrators;	21433 21434
(k) To construe wills;	21435
(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to section 2107.084 of the Revised Code;	21436 21437 21438
(m) To direct and control the conduct of fiduciaries and settle their accounts;	21439 21440
(n) To authorize the sale or lease of any estate created by will if the estate is held in trust, on petition by the trustee;	21441 21442
(o) To terminate a testamentary trust in any case in which a court of equity may do so;	21443 21444
(p) To hear and determine actions to contest the validity of wills;	21445 21446
(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;	21447 21448 21449
(r) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;	21450 21451
(s) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;	21452 21453

(t) To hear and determine actions involving informed consent	21454
for medication of persons hospitalized pursuant to section	21455
5122.141 or 5122.15 of the Revised Code;	21456
(u) To hear and determine actions relating to durable powers	21457
of attorney for health care as described in division (D) of	21458
section 1337.16 of the Revised Code;	21459
(v) To hear and determine actions commenced by objecting	21460
individuals, in accordance with section 2133.05 of the Revised	21461
Code;	21462
(w) To hear and determine complaints that pertain to the use	21463
or continuation, or the withholding or withdrawal, of	21464
life-sustaining treatment in connection with certain patients	21465
allegedly in a terminal condition or in a permanently unconscious	21466
state pursuant to division (E) of section 2133.08 of the Revised	21467
Code, in accordance with that division;	21468
(x) To hear and determine applications that pertain to the	21469
withholding or withdrawal of nutrition and hydration from certain	21470
patients allegedly in a permanently unconscious state pursuant to	21471
section 2133.09 of the Revised Code, in accordance with that	21472
section;	21473
(y) To hear and determine applications of attending	21474
physicians in accordance with division (B) of section 2133.15 of	21475
the Revised Code;	21476
(z) To hear and determine actions relative to the use or	21477
continuation of comfort care in connection with certain principals	21478
under durable powers of attorney for health care, declarants under	21479
declarations, or patients in accordance with division (E) of	21480
either section 1337.16 or 2133.12 of the Revised Code;	21481
(aa) To hear and determine applications for an order	21482
relieving an estate from administration under section 2113.03 of	21483
the Revised Code;	21484

(bb) To hear and determine applications for an order granting a summary release from administration under section 2113.031 of the Revised Code; 21485  
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(cc) To hear and determine actions relating to the exercise of the right of disposition, in accordance with section 2108.90 of the Revised Code; 21488  
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(dd) To hear and determine actions relating to the disinterment and reinterment of human remains under section 517.23 of the Revised Code; 21491  
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(ee) To hear and determine petitions for an order for treatment of a person suffering from alcohol and other drug abuse filed under section 5119.93 of the Revised Code and to order treatment of that nature in accordance with, and take other actions afforded to the court under, sections 5119.90 to 5119.98 of the Revised Code. 21494  
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(2) In addition to the exclusive jurisdiction conferred upon the probate court by division (A)(1) of this section, the probate court shall have exclusive jurisdiction over a particular subject matter if both of the following apply: 21500  
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(a) Another section of the Revised Code expressly confers jurisdiction over that subject matter upon the probate court. 21504  
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(b) No section of the Revised Code expressly confers jurisdiction over that subject matter upon any other court or agency. 21506  
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21508

(B)(1) The probate court has concurrent jurisdiction with, and the same powers at law and in equity as, the general division of the court of common pleas to issue writs and orders, and to hear and determine actions as follows: 21509  
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(a) If jurisdiction relative to a particular subject matter is stated to be concurrent in a section of the Revised Code or has 21513  
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been construed by judicial decision to be concurrent, any action 21515  
that involves that subject matter; 21516

(b) Any action that involves an inter vivos trust; a trust 21517  
created pursuant to section 5815.28 of the Revised Code; a 21518  
charitable trust or foundation; subject to divisions (A)(1)(t) and 21519  
(y) of this section, a power of attorney, including, but not 21520  
limited to, a durable power of attorney; the medical treatment of 21521  
a competent adult; or a writ of habeas corpus; 21522

(c) Subject to section 2101.31 of the Revised Code, any 21523  
action with respect to a probate estate, guardianship, trust, or 21524  
post-death dispute that involves any of the following: 21525

(i) A designation or removal of a beneficiary of a life 21526  
insurance policy, annuity contract, retirement plan, brokerage 21527  
account, security account, bank account, real property, or 21528  
tangible personal property; 21529

(ii) A designation or removal of a payable-on-death 21530  
beneficiary or transfer-on-death beneficiary; 21531

(iii) A change in the title to any asset involving a joint 21532  
and survivorship interest; 21533

(iv) An alleged gift; 21534

(v) The passing of assets upon the death of an individual 21535  
otherwise than by will, intestate succession, or trust. 21536

(2) Any action that involves a concurrent jurisdiction 21537  
subject matter and that is before the probate court may be 21538  
transferred by the probate court, on its order, to the general 21539  
division of the court of common pleas. 21540

(C) The probate court has plenary power at law and in equity 21541  
to dispose fully of any matter that is properly before the court, 21542  
unless the power is expressly otherwise limited or denied by a 21543  
section of the Revised Code. 21544

(D) The jurisdiction acquired by a probate court over a matter or proceeding is exclusive of that of any other probate court, except when otherwise provided by law.

**Section 4.** That the existing version of section 2101.24 of the Revised Code that is scheduled to take effect March 20, 2015, is hereby repealed.

**Section 5.** Sections 3 and 4 of this act shall take effect March 20, 2015.

**Section 6.** The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 2151.281 of the Revised Code as amended by Am. Sub. S.B. 17 and Am. Sub. S.B. 238 of the 126th General Assembly.

Section 2151.421 of the Revised Code as amended by Am. Sub. H.B. 213 and Am. Sub. H.B. 483 of the 130th General Assembly.

Section 3301.57 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3323.05 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3791.031 of the Revised Code as amended by Am. Sub. H.B. 117 and Am. Sub. S.B. 162 of the 121st General Assembly.

Section 5123.61 of the Revised Code as amended by Sub. H.B. 232 and Am. Sub. H.B. 483 of the 130th General Assembly.

Section 5705.05 of the Revised Code as amended by Sub. H.B.

458 and Sub. S.B. 353 of the 128th General Assembly.

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