

**OHIO**

**SENATE**

**JOURNAL**

TUESDAY, MAY 23, 2006

ONE HUNDRED EIGHTY-SIXTH DAY  
Senate Chamber, Columbus, Ohio  
**Tuesday, May 23, 2006, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Allen McClellan, Faith Assembly of God, London, Ohio, followed by the Pledge of Allegiance to the Flag.

The journal of the last legislative day was read and approved.

On the motion of Senator Jacobson the Senate recessed.

The Senate met pursuant to the recess.

**REPORTS OF REFERENCE AND BILLS FOR SECOND  
CONSIDERATION**

Senator Schuring reports for the Standing Committee on Reference, recommending that the following bills, standing in order for second consideration, be referred to committee as recommended:

**Am. H. B. No. 282**-Representatives Flowers, T. Patton, J. Stewart, Schlichter, Fende, Allen, Willamowski, Wagoner, McGregor, Miller, Schneider, Yuko, Kearns, Schaffer, C. Evans, Gilb, Setzer, Widener, Raga, Bulp, Skindell, DeWine, Carano, Blasdel, Martin, Barrett, Strahorn, Faber, Perry, Collier, D. Evans, Hughes, Oelslager, Harwood, Combs, Chandler, Buehrer, Wolpert, Williams, Cassell, Ujvagi, Brown, D. Stewart, S. Smith, S. Patton, Key, Law, Reinhard, Sayre, Uecker, Book, Carmichael, Core, DeGeeter, Distel, Dolan, Domenick, Fessler, Gibbs, Hagan, Healy, Kilbane, Latta, McGregor, R., Mitchell, Otterman, Peterson, Reed, Reidelbach, Seitz, Smith, G., Taylor, Trakas, White, Widowfield, Woodard, Beatty.

To enact section 5.2233 of the Revised Code designating September 11 as "Ohio Public Safety Employee Day."

To the Committee on State and Local Government and Veterans' Affairs.

**Sub. H. B. No. 524**-Representatives Martin, McGregor, J., Seitz, Boccieri, Chandler, Wagoner, Cassell, Fende, Reidelbach, Allen, Aslanides, Barrett, Brown, Coley, Collier, Combs, DeBose, Dolan, Domenick, Evans, C., Flowers, Garrison, Gibbs, Hagan, Harwood, Hughes, Otterman, Patton, T., Perry, Schneider, Setzer, Smith, G., Williams, Wolpert, Yuko.

To amend sections 4729.01 and 4729.41 of the Revised Code to modify the

authority of pharmacists to administer immunizations.

To the Committee on Health, Human Services and Aging.

**S. B. No. 333**-Senators Schuler, Cates, Gardner, Spada, Wachtmann.

To enact section 4513.66 of the Revised Code to permit local law enforcement agencies and fire departments to remove motor vehicles from the roadway after a motor vehicle accident and to provide immunity to local law enforcement agencies and fire personnel for the removal of damaged or inoperable vehicles from roadways.

To the Committee on Judiciary - Civil Justice.

**S. B. No. 334**-Senator Kearney.

To enact sections 4783.01, 4783.02, 4783.03, and 4783.04 of the Revised Code to require the registration of business brokers.

To the Committee on Insurance, Commerce and Labor.

**S. B. No. 335**-Senator Schuring.

To amend sections 5727.80, 5727.88, 5727.89, and 5727.99 and to enact section 5727.96 of the Revised Code to create a tax credit against kilowatt-hour tax liability for certain eligible businesses.

To the Committee on Ways and Means and Economic Development.

**S. B. No. 336**-Senators Mumper, Amstutz.

To amend section 311.01 of the Revised Code to change the eligibility requirements for county sheriff.

To the Committee on State and Local Government and Veterans' Affairs.

YES - 5: J. KIRK SCHURING, KIMBERLY A. ZURZ, C. J. PRENTISS, BILL HARRIS, JEFF JACOBSON.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Said bills were considered a second time and referred to committee as recommended.

#### REPORTS OF STANDING AND SELECT COMMITTEES

Senator Cates submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **Am. H. B. No. 312**-Representative C. Evans, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 5: GARY W. CATES, TIMOTHY J. GRENDALL, TOM NIEHAUS, J. KIRK SCHURING, LARRY A. MUMPER.

NO - 2: DALE MILLER, TERESA FEDOR.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **H. B. No. 491**-Representative Widener, et al., having had the same under consideration, reports it back with the following amendments and recommends its passage when so amended.

In lines 6 and 703, after "sections" insert "122.086, 122.0810, 122.0812, 122.0814, 122.0817, 122.0819,"

Between lines 8 and 9 insert:

**"Sec. 122.086.** There is hereby created the job ready site program to provide grants to pay for allowable costs of eligible applicants for eligible projects. The program shall be administered by the department of development pursuant to ~~guidelines established~~ rules adopted for it by the director of development in accordance with Chapter 119. of the Revised Code. All grants shall be awarded through one of the following two processes:

(A) The annual competitive process under sections 122.087 to 122.0811 and 122.0814 of the Revised Code;

(B) The discretionary process under sections 122.0812, 122.0813, and 122.0814 of the Revised Code.

**Sec. 122.0810.** (A) Each application for a grant pursuant to the annual competitive process received by a district public works integrating committee shall be evaluated by the executive committee of the district committee. In conducting the evaluation, the executive committee shall determine whether the application for the proposed eligible project is complete and whether the project meets the requirements of section 122.0815 of the Revised Code. If the application is complete and the eligible project meets the requirements of section 122.0815 of the Revised Code, the executive committee shall prioritize the eligible project pursuant to section 122.0816 of the Revised Code and pursuant to local priorities, as those priorities are determined by the executive committee, with all other eligible projects with complete applications that meet the requirements of section 122.0815 of the Revised Code. If the application is incomplete or the project does not meet the requirements of section 122.0815 of the Revised Code, the executive committee shall notify the applicant of the deficiencies and the period of time the applicant has to correct the deficiencies and submit the corrections to the executive committee. Failure to correct deficiencies within the time designated by the executive committee shall disqualify the project from consideration for a grant during the annual competitive process for that year.

The executive committee, by the affirmative vote of a majority of all its members, shall select up to three eligible projects from the projects it has prioritized each year pursuant to the annual competitive process. The executive committee shall forward the applications and any accompanying information for each of the selected eligible projects to the department of development in the time and manner required by the guidelines rules adopted pursuant to section 122.086 of the Revised Code governing the job ready site program.

(B) For a district public works integrating committee that does not have an executive committee, the full committee shall perform the functions assigned to the executive committee under section 122.0816 of the Revised Code and division (A) of this section.

(C) An executive committee, or a district committee that does not have an executive committee, may appoint a working group of committee members and staff to perform the functions of those committees as provided in this section.

**Sec. 122.0812.** The director of development shall establish a discretionary process that permits the director to make grants described in section 122.086 of the Revised Code in situations that include those in which the timing of a proposed eligible project is such that the annual competitive process is not suitable. The director, ~~as part of the guidelines established for the job ready site program,~~ shall establish all the procedures and requirements governing application for the discretionary grants in rules the director adopts pursuant to section 122.086 of the Revised Code for the job ready site program.

**Sec. 122.0814.** If the controlling board approves a grant for an eligible project pursuant to the annual competitive process or the discretionary process, the director of development shall enter into an agreement with the eligible applicant to provide the grant for the project. The agreement shall be executed prior to the payment or disbursement of any funds under the grant and shall contain the following provisions:

(A) A designation of a single officer or employee of the eligible applicant who will serve as the manager of the eligible project;

(B) A detailed description of the scope of the work required under the eligible project, including anticipated sources and uses of funds;

(C) A designation of the percentage of the estimated total cost of the project for which the grant will provide funding, which shall not exceed seventy-five per cent of the cost;

(D) Provisions for the recovery by the department of grant funds for failure to meet the terms of the agreement;

(E) A requirement that annual reports be made by the eligible applicant on the progress of the eligible project and any other information about the status of the project as required by the guidelines established rules adopted pursuant to section 122.086 of the Revised Code for the job ready site program;

(F) Any other provisions the director determines necessary.

**Sec. 122.0817.** In accordance with the guidelines established rules adopted pursuant to section 122.086 of the Revised Code to govern the job ready site program, the director of development shall publish an annual report that includes the following:

(A) Details on each grant awarded pursuant to the program;

(B) The status of projects funded in previous years;

(C) The amount of grants awarded for projects in economically distressed areas and, to the extent possible, the impact of those grants in those areas.

**Sec. 122.0819.** The guidelines established rules adopted pursuant to section 122.086 of the Revised Code to govern the job ready site program may provide for recovery of the costs, or a portion thereof, incurred by district public works integrating committees and executive committees in conducting their duties under the program."

In line 1 of the title, after "sections" insert "122.086, 122.0810, 122.0812, 122.0814, 122.0817, 122.0819,"

In line 4 of the title, delete "and" and insert a comma

In line 5 of the title, after "licensees" insert "under that law, and to require that the Job Ready Site Program be administered pursuant to rules adopted under the Administrative Procedure Act"

YES - 9: ERIC H. KEARNEY, ERIC D. FINGERHUT, JAY HOTTINGER, JEFFRY J. ARMBRUSTER, STEVE STIVERS, STEPHEN C. AUSTRIA, PATRICIA M. CLANCY, RAY MILLER, GARY W. CATES.

NO - 1: LYNN R. WACHTMANN.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Jacobson moved that the Senate advance to the Sixth Order of Business, Bills for Third Consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

### BILLS FOR THIRD CONSIDERATION

**Sub. H. B. No. 312**-Representatives C. Evans, Trakas, DeGeeter, Yuko, Williams, Fende, Allen, S. Patton, D. Evans, Key, Chandler, Stewart, D., Law, Uecker, Hughes, DeWine, Wolpert, Brown, Sayre, Driehaus, White, Barrett, Blessing, Calvert, Combs, Flowers, Garrison, Harwood, Latta, McGregor, J., Mitchell, Otterman, Patton, T., Perry, Reidelbach, Schaffer, Schlichter, Setzer, Smith, G., Stewart, J., Taylor, Wagoner, Woodard, Book.

To amend sections 3501.05, 3501.29, 3501.38, and 3505.01 and to enact section 3519.08 of the Revised Code to ensure handicapped parking at polling places, to require the director of a board of elections to sign a statement verifying the availability of that parking before each election, and to permit petitions proposing to place initiatives and referenda on the ballot to be withdrawn, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 312**, pass?"

Senator Miller, D. moved to amend as follows:

Between lines \_\_\_\_ and \_\_\_\_ [R.C. 3519.08], insert:

"The members of the committee named to represent the petitioners shall send by United States mail to each person who signed the petition proposing the initiative or referendum in question a letter setting forth the reasons for the proposed withdrawal of the issue and requesting that each signer respond to the secretary of state as to whether that signer agrees that the issue should be removed from the ballot. The letter shall set a time as determined in the discretion of the committee by which the petition's signers shall respond to the

secretary of state, except that that time shall be not less than fourteen days or more than sixty days from the date on which the letter is mailed to the petition's signers. The petition shall not be withdrawn unless a majority of the responses timely received by the secretary of state are in the affirmative and the total number of responses timely received by the secretary of state exceeds ten per cent of the total number of valid signatures on the petition. The committee shall bear the costs associated with contacting the petitioner's signers for their responses regarding the withdrawal of the petition.

If the secretary of state receives an affirmative response from a majority of the petition's signers who timely respond and if the total number of all timely responses exceeds ten per cent of the total number of valid signatures on the petition, all of the following shall apply:

(1) The Ohio ballot board shall not certify ballot language for that proposed initiative or referendum to the secretary of state.

(2) The secretary of state shall not certify a ballot form or wording to the boards of elections under sections 3501.05 and 3505.01 of the Revised Code that includes ballot language for that proposed initiative or referendum.

(3) The proposed initiative or referendum shall not appear on the ballot."

Delete lines \_\_\_\_ through \_\_\_\_ [R.C. 3519.08]

In line \_\_\_\_\_ of the title, after " \_\_\_\_\_ " insert ", and to require the committee designated to represent the petitioners proposing an initiative or referendum to notify the petitioners and solicit their responses to the Secretary of State before a petition may be withdrawn and that initiative or referendum not appear on the ballot"

The question being, "Shall the amendment be agreed to?"

Senator Jacobson moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 22, nays 10, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Fedor	Fingerhut	Hagan	Kearney
Miller D	Miller R	Prentiss	Roberts

Wilson

Zurz-10.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 312**, pass?"

Senator Fedor moved to amend as follows:

After line \_\_\_\_, insert:

"**Section** \_\_\_\_. Not later than ninety days before the general election scheduled for November 7, 2006, the Secretary of State shall issue a directive instructing each board of elections in regard to uniform procedures for counting provisional ballots."

In line \_\_\_\_ of the title, delete "and" and insert a comma

In line \_\_\_\_ of the title, after "\_\_\_\_\_" insert ", and to require the Secretary of State to issue instructions regarding uniform procedures for counting provisional ballots not later than ninety days before the November 2006 general election"

The question being, "Shall the amendment be agreed to?"

Senator Coughlin moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 22, nays 10, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Fedor	Fingerhut	Hagan	Kearney
Miller D	Miller R	Prentiss	Roberts
Wilson			Zurz-10.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 312**, pass?"

Senator Fedor moved to amend as follows:

In line \_\_\_\_, after "\_\_\_\_\_" insert "3506.24"

Between lines \_\_\_\_ and \_\_\_\_, insert:

"Sec. 3506.24. Any county that uses direct recording electronic voting machines with a voter verified paper audit trail as the primary voting system for the county and not only for accessibility for individuals with disabilities under section 3506.19 of the Revised Code, within two months after the day of each general election in which a county office or a county question or issue is on the ballot, shall conduct a complete recount of any one county office or any one county question or issue voted on at that election using the voter verified paper audit trail produced by those machines. The county office or county question or issue to be recounted shall be selected at random from all of the county offices, questions, and issues voted upon at that election. A recount conducted under this section shall be for the purpose of verifying the accuracy of those machines and shall not change the result of the election as determined by the official canvass of the election returns for that election."

In line \_\_\_\_ of the title, after "\_\_\_\_\_" insert "3506.24"

In line \_\_\_\_ of the title, delete "and" and insert a comma

In line \_\_\_\_ of the title, after "\_\_\_\_\_" insert ", and to require a county that uses direct recording electronic voting machines with a voter verified paper audit trail as its primary voting system to conduct a random recount of one county office, question, or issue voted on at a general election using that paper audit trail"

The question being, "Shall the amendment be agreed to?"

Senator Jacobson moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 22, nays 10, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Fedor	Fingerhut	Hagan	Kearney
Miller D	Miller R	Prentiss	Roberts
Wilson			Zurz-10.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 312**, pass?"

The yeas and nays were taken and resulted - yeas 24, nays 8, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fingerhut
Gardner	Goodman	Grendell	Hottinger
Jacobson	Jordan	Mumper	Niehaus
Padgett	Prentiss	Schuler	Schuring
Spada	Stivers	Wachtmann	Harris-24.

Senators Fedor, Hagan, Kearney, Miller D, Miller R, Roberts, Wilson, and Zurz voted in the negative-8.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Cates moved to amend the title as follows:

Add the names: "Harris, Spada, Goodman."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Senator Jacobson moved that the Senate revert to the Second Order of Business, Reports of Standing and Select Committees.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

### **REPORTS OF STANDING AND SELECT COMMITTEES**

Senator Schuring submitted the following report:

The standing committee on Rules to which were referred the appointments by the Governor of:

**Neil J. Andrew**, Democrat, from Lancaster, Fairfield County, Ohio, as a Member of the Ohio Parks and Recreation Council for a new term beginning April 21, 2006 and ending at the close of business January 31, 2008.

**Terry M. Collins**, from Chillicothe, Ross County, Ohio, as Director of the Ohio Department of Rehabilitation and Correction for a term beginning May 1, 2006 and continuing at the pleasure of the Governor, replacing Reginald A. Wilkinson, who resigned.

**Thomas J. Denbow**, Democrat, from Cleveland, Cuyahoga County, Ohio, as a Member of the Ohio Water Advisory Council for a new term beginning April 21, 2006 and ending at the close of business February 1, 2008.

**Melissa G. Haney**, Republican, from Copley, Summit County, Ohio, as a Member of the Ohio Water Advisory Council for a term beginning April 21, 2006 and ending at the close of business February 1, 2008, replacing Joan E. Brasaemle, whose term expired.

**Marc McQuaid**, Independent, from Dublin, Franklin County, Ohio, as a Member of the Ohio Parks and Recreation Council for a term beginning April 21, 2006 and ending at the close of business January 31, 2008, replacing James R. Garges, who resigned.

**Dana M. Oleskiewicz**, Democrat, from Chagrin Falls, Geauga County, Ohio, as a Member of Ohio Water Advisory Council for a new term beginning April 21, 2006 and ending at the close of business February 1, 2008.

**Michelle A. Park**, Democrat, from Westerville, Franklin County, Ohio, as a Member of the Ohio Parks and Recreation Council for a new term beginning April 21, 2006 and ending at the close of business January 31, 2008.

**Craig Strong**, Democrat, from Cleveland, Cuyahoga County, Ohio, as a Member of the Ohio Parks and Recreation Council for a new term beginning April 21, 2006 and ending at the close of business January 31, 2008.

Having had the same under consideration, reports back the recommendation that the Senate advise and consent to said appointments.

YES - 10: BILL HARRIS, JEFF JACOBSON, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JAY HOTTINGER, J. KIRK SCHURING, TOM ROBERTS, TERESA FEDOR, KIMBERLY A. ZURZ, C. J. PRENTISS.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointments by the Governor?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Fingerhut	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller D	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

So the Senate advised and consented to said appointments.

**HOUSE AMENDMENTS TO SENATE BILLS AND RESOLUTIONS**

The amendments of the House of Representatives to:

**Sub. S. B. No. 262**-Senators Goodman, Stivers, Clancy, Jacobson, Gardner, Padgett, Schuler, Fedor, Fingerhut, Miller, R., Dann, Kearney, Zurz, Armbruster, Carey, Coughlin, Hagan, Harris, Hottinger, Miller, D., Niehaus, Spada Representatives Latta, Evans, D., Gilb, Willamowski, Seitz, DeGeeter, Mason, Healy, Barrett, Blessing, Brown, Cassell, Chandler, Combs, DeBose, Domenick, Evans, C., Fessler, Flowers, Garrison, Hood, Law, McGregor, J., Otterman, Perry, Raussen, Schaffer, Schneider, Skindell, Smith, G., Stewart, J., Strahorn, Wagoner, Webster, White, Yates, Yuko.

To amend sections 2901.07, 2953.21, 2953.23, 2953.71, 2953.72, 2953.73, 2953.74, 2953.78, 2953.80, and 2953.82 and to enact section 2953.84 of the Revised Code to eliminate the former two-year window for applications under a program for post-conviction DNA testing and instead allow an eligible inmate to request post-conviction DNA testing at any time if specified criteria are met, to provide for a court's consideration of all available admissible evidence in determining whether the program's applicable "outcome determinative" criterion is satisfied, and to make other changes related to post-conviction DNA testing; to specify that the DNA specimen collection procedures for felons and specified misdemeanors apply regardless of when the offender's conviction occurred or guilty plea was entered; and to declare an emergency, were taken up.

The question being, "Shall the section, Section 4, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Fingerhut	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller D	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

So the section, Section 4, setting forth the emergency features of the bill stood as a part of the bill.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Fingerhut	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller D	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

So the Senate concurred in the amendments of the House of Representatives.

### REPORTS OF CONFERENCE COMMITTEES

**Sub. H. B. No. 162**-Representatives Peterson, Latta, D. Evans, Hughes, Seitz, Yuko, Bulp, Buehrer, Carano, Cassell, Collier, Core, DeBose, Domenick, C. Evans, Flowers, Gilb, Hartnett, Key, Martin, McGregor, Otterman, T. Patton, Raussen, Reidelbach, Seaver, G. Smith, Williams Senators Coughlin, Jacobson.

To amend sections 2152.20, 2301.51, 2301.52, 2301.55, 2301.56, 2301.57, 2744.01, 2929.01, 2929.34, 2929.37, 2929.38, 4117.01, 5120.031, 5120.111, 5120.112, and 5149.34, to enact new section 2301.58 and section 2301.571, and to repeal sections 2301.53, 2301.54, and 2301.58 of the Revised Code to revise the law governing community-based correctional facilities and district community-based correctional facilities.

The question being, "Shall the report of the Committee of Conference be agreed to?"

The yeas and nays were taken and resulted - yeas 22, nays 10, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Fedor	Fingerhut	Hagan	Kearney
Miller D	Miller R	Prentiss	Roberts
Wilson			Zurz-10.

So the report of Committee of Conference was agreed to.

### RESOLUTIONS REPORTED BY COMMITTEE

**H. C. R. No. 36**-Representatives DeWine, Smith, G., Setzer, Schlichter, Raga, Otterman, Core, Calvert, Flowers, Blasdel, Wolpert, Carmichael, Aslanides, Buehrer, Coley, Collier, Daniels, Dolan, Domenick, Evans, C., Evans, D., Faber, Gibbs, Gilb, Hagan, Hoops, Hughes, Kilbane, Latta, Law, Martin, McGregor, R., Patton, S., Patton, T., Peterson, Raussen, Reidelbach, Reinhard, Schaffer, Schneider, Seitz, Taylor, Wagoner, Webster, White, Widener, Widowfield, Willamowski, Fessler Senators Cates, Grendell, Armbruster, Mumper, Niehaus.

To memorialize the United States Congress to encourage the members of the 109th Congress to support House Joint Resolution 53, which proposes to amend the Constitution of the United States by apportioning the members of the Congress based on the number of persons in each state who are citizens of the United States.

RESOLVED, That the General Assembly of the State of Ohio memorializes the Congress of the United States to encourage the members of the 109th Congress to support House Joint Resolution 53, which was introduced by Representative Candice Miller of Michigan, and which proposes to amend the Constitution of the United States by apportioning the members of the Congress based on the number of persons in each state who are citizens of the United States; and be it further

RESOLVED, That the Clerk of the House of Representatives transmit duly authenticated copies of this resolution to the President of the United States, to the Speaker and the Clerk of the United States House of Representatives, to the President Pro Tempore and the Secretary of the United States Senate, to the members of the Ohio Congressional delegation, to Representative Candice Miller of the 109th Congress, and to the news media of Ohio.

The question being, "Shall the concurrent resolution, **H. C. R. No. 36**, be adopted?"

Senator Miller, D. moved to amend as follows:

In line 16, after "RESOLVED," insert "That the General Assembly of the State of Ohio memorializes the Congress of the United States to encourage the members of the 109th Congress to support an amendment to House Joint Resolution 53 to propose amending the Constitution of the United States by apportioning the members of the Congress based on the number of persons in each state who are citizens of the United States and who are non-citizens legally present within the United States; and be it further

RESOLVED,"

In line 7 of the title, after "States" insert "and to support an amendment to that Resolution to apportion the members of Congress based on the number of persons in each state who are citizens and who are non-citizens legally present within the United States"

The question being, "Shall the amendment be agreed to?"

Senator Amstutz moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 19, nays 14, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Grendell
Hottinger	Jordan	Mumper	Niehaus
Padgett	Schuler	Schuring	Spada
Stivers	Wachtmann		Harris-19.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Gardner
Goodman	Hagan	Jacobson	Kearney
Miller D	Miller R	Prentiss	Roberts
Wilson			Zurz-14.

The amendment was laid on the table.

The question recurred, "Shall the concurrent resolution, **H. C. R. No. 36**, be adopted?"

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Grendell	Hottinger	Jacobson	Jordan
Miller R	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Goodman
Hagan	Kearney	Miller D	Prentiss
Roberts	Wilson		Zurz-11.

So the concurrent resolution was adopted.

The question being, "Shall the title be agreed to?"

Senator Cates moved to amend the title as follows:

Add the names: "Carey, Padgett, Spada, Clancy, Schuler, Harris."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

### BILLS FOR THIRD CONSIDERATION

**Sub. H. B. No. 336**-Representatives Core, Willamowski, Harwood, Bubp, Coley, Schaffer, Barrett, Boccieri, Combs, Daniels, DeBose, DeGeeter, Domenick, Evans, C., Fessler, Flowers, Hughes, Latta, Oelslager, Patton, T., Seaver, Seitz, Stewart, J., Wagoner, Wolpert Senator Dann.

To amend sections 1901.01, 1901.02, 1901.03, 1901.08, 1901.31, 1901.34, 1907.11, and 2301.02 of the Revised Code to change the status of the judge of the Marysville Municipal Court from part-time to full-time, to add one judge to the Delaware Municipal Court, to create the Holmes County Municipal Court in Millersburg and abolish the Holmes County County Court on January 1, 2007, to designate the Holmes County Clerk of Courts as the clerk of the Holmes County Municipal Court, to provide one full-time judge for the Holmes County Municipal Court to be elected in 2007, to add two judges to the Summit County Court of Common Pleas to be elected in 2008, and to create the Joint Committee to Study Court Costs and Filing Fees to review the assessment, collection, and allocation of court costs and filing fees in Ohio and make recommendations to the Ohio Supreme Court, the General Assembly, and the Governor, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 336**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Mumper moved to amend the title as follows:

Add the names: "Amstutz, Austria, Coughlin, Harris, Mumper, Zurz."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. H. B. No. 416**-Representatives Wagoner, Gilb, Coley, Seitz, Reidelbach, Ujvagi, Webster, Latta, Reinhard, Brown, Mason, Book, Core, Barrett, Blessing, Bubp, Carano, Cassell, Combs, DeBose, DeGeeter, Dolan, Domenick, Evans, C., Flowers, Harwood, Healy, Hughes, Key, Law, Martin, McGregor, R., Oelslager, Otterman, Patton, T., Perry, Sayre, Schaffer, Schlichter, Schneider, Willamowski, Yuko.

To amend sections 1111.13, 1111.14, 1111.15, 1151.191, 1161.24, 1319.12, 1339.01, 1339.02, 1339.03, 1339.04, 1339.08, 1339.09, 1339.10, 1339.11, 1339.12, 1339.13, 1339.15, 1339.151, 1339.16, 1339.17, 1339.31, 1339.32, 1339.33, 1339.34, 1339.35, 1339.36, 1339.37, 1339.38, 1339.39, 1339.42, 1339.44, 1339.52, 1339.53, 1339.54, 1339.55, 1339.56, 1339.57, 1339.58, 1339.59, 1339.60, 1339.61, 1339.62, 1339.64, 1339.65, 1339.71, 1339.72, 1339.73, 1339.74, 1339.76, 1339.77, 1339.78, 1340.31, 1340.32, 1340.33, 1340.34, 1340.35, 1340.36, 1340.37, 1340.40, 1340.41, 1340.42, 1340.46, 1340.47, 1340.52, 1340.57, 1340.58, 1340.59, 1340.63, 1340.65, 1340.66, 1340.70, 1340.71, 1340.72, 1340.73, 1340.74, 1340.75, 1340.76, 1340.77, 1340.81, 1340.82, 1340.83, 1340.84, 1340.90, 1340.91, 1775.03, 1775.14, 1775.15, 1775.17, 1775.33, 1782.24, 2101.24, 2107.33, 2109.24, 2109.37, 2109.62, 2109.68, 2111.131, 2113.861, 2305.121, 2305.22, 5111.15, 5111.151, 5119.01, 5119.17, 5121.04, 5121.10, 5121.30, 5121.52, 5123.04, 5123.28, and 5123.40; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 1339.01 (5815.02), 1339.02 (5815.03), 1339.03 (5815.04), 1339.031 (5815.01), 1339.04 (5815.05), 1339.08 (5815.06), 1339.09 (5815.07), 1339.10 (5815.08), 1339.11 (5815.09), 1339.12 (5815.10), 1339.13 (5815.11), 1339.15 (5815.12), 1339.151 (5815.13), 1339.16 (5815.14), 1339.17 (5815.15), 1339.18 (5815.16), 1339.31 (5814.01), 1339.32 (5814.02), 1339.33 (5814.03), 1339.34 (5814.04), 1339.35 (5814.05), 1339.36 (5814.06), 1339.37 (5814.07), 1339.38 (5814.08), 1339.39 (5814.09), 1339.41 (5815.21), 1339.411 (5815.22), 1339.412 (5815.23), 1339.42 (5815.24), 1339.43 (5815.25), 1339.44 (5815.26), 1339.45 (5815.27), 1339.51 (5815.28), 1339.52 (5809.01), 1339.53 (5809.02), 1339.54 (5809.03), 1339.55 (5808.03), 1339.56 (5809.04), 1339.57 (5808.05), 1339.58 (5809.05), 1339.59 (5808.07), 1339.60 (5809.07), 1339.61 (5809.08), 1339.62 (5815.31), 1339.621 (5815.32), 1339.63 (5815.33), 1339.64 (5815.34), 1339.65 (5815.35), 1339.68 (5815.36), 1339.71 (5815.41), 1339.72 (5815.42), 1339.73 (5815.43), 1339.74 (5815.44), 1339.75 (5815.45), 1339.76 (5815.46), 1339.77 (5815.47), 1339.78 (5815.48), 1340.31 (5813.01), 1340.32 (5813.02), 1340.33 (5813.03), 1340.34 (5813.04), 1340.35 (5813.05), 1340.36 (5813.06), 1340.37 (5813.07), 1340.40 (5812.01), 1340.41 (5812.02), 1340.42 (5812.03), 1340.46 (5812.07), 1340.47 (5812.08), 1340.51 (5812.12), 1340.52 (5812.13), 1340.53 (5812.14), 1340.57 (5812.18), 1340.58 (5812.19), 1340.59 (5812.20), 1340.63 (5812.24), 1340.64 (5812.25), 1340.65 (5812.26), 1340.66 (5812.27), 1340.70 (5812.31), 1340.71 (5812.32), 1340.72 (5812.33), 1340.73 (5812.34), 1340.74

(5812.35), 1340.75 (5812.36), 1340.76 (5812.37), 1340.77 (5812.38), 1340.81 (5812.42), 1340.82 (5812.43), 1340.83 (5812.44), 1340.84 (5812.45), 1340.85 (5812.46), 1340.86 (5812.47), 1340.90 (5812.51), 1340.91 (5812.52), and 2305.121 (5806.04); to enact sections 2109.69, 5801.01, 5801.011, 5801.02 to 5801.10, 5802.01 to 5802.03, 5803.01 to 5803.05, 5804.01 to 5804.18, 5805.01 to 5805.07, 5806.01 to 5806.03, 5807.01 to 5807.09, 5808.01, 5808.02, 5808.04, 5808.06, 5808.08 to 5808.17, 5809.06, 5810.01 to 5810.13, and 5811.01 to 5811.03; and to repeal sections 1335.01, 1339.14, 1339.66, 1339.67, 1339.69, 1340.21, 1340.22, and 1340.23 of the Revised Code to adopt an Ohio trust code to modify trust company collective investment fund requirements, and to remove an investment limitation in the Trust Company Fiduciary Law, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 416**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Goodman moved to amend the title as follows:

Add the names: "Cates, Harris, Mumper, Kearney, Spada, Zurz, Schuler."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. H. B. No. 426**-Representatives Dolan, Chandler, Yuko, Fessler, Wagoner, Reidelbach, McGregor, J., Willamowski, DeGeeter, Harwood, Allen, Bupp, Carano, Cassell, Collier, Combs, DeBose, Distel, Domenick, Flowers, Gibbs, Hartnett, Hughes, Key, Law, Martin, Miller, Otterman, Patton, T., Perry, Sayre, Schlichter, Schneider, Seitz, Setzer, Smith, G., Walcher, Williams, Wolpert.

To amend sections 1111.19, 1721.211, 2101.24, 2106.20, 2108.50, 2109.02, 2111.13, 2113.031, 2113.37, 2117.25, 4511.451, 4717.21, and 4717.22 and to enact sections 2108.70 to 2108.90, and 2117.251 of the Revised Code

regarding the assignment of the right to direct the disposition of an adult's remains after death and to make arrangements and purchase goods and services related to an adult's funeral, cremation, burial, or other manner of final disposition, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 426**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Goodman moved to amend the title as follows:

Add the names: "Kearney, Roberts, Zurz."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

#### Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

**Sub. S. B. No. 321** - Senators Carey, Niehaus, Stivers, Roberts, Clancy, Austria, Fingerhut, Gardner, Harris, Hottinger, Spada, Padgett, Fedor, Mumper Representatives Calvert, Trakas, Coley, Martin, Patton, T., Flowers, Buehrer, Combs, Evans, D., Hagan, Smith, G.

To amend sections 122.151, 125.021, 126.02, 150.07, 173.27, 183.04, 183.05, 183.30, 3318.05, 3318.052, 3318.06, 3318.08, 3318.18, 3318.36, 3702.72, 3702.73, 3702.81, 3702.89, 3702.92, 5707.031, 5725.19, 5725.98, 5727.241, 5729.08, 5729.98, 5733.01, 5733.49, 5733.98, 5747.80, 5747.98, 5751.20, and 5751.21 and to enact sections 107.032, 107.033, 107.034, 107.035, 131.55, 131.56, 131.57, 131.58, 131.59, 131.60, 3318.051, 3318.063, and 3318.121 of the Revised Code, to amend Sections 209.63.39 and 312.27

of Am. Sub. H.B. 66 of the 126th General Assembly, and to amend Sections 203.09 and 209.63.57 of Am. Sub. H.B. 66 of the 126th General Assembly, as subsequently amended, to provide for the distribution of money received by the state pursuant to the Tobacco Master Settlement Agreement by making appropriations for the biennium beginning July 1, 2006, and ending June 30, 2008, and to provide authorization and conditions for the operation of state programs.

As a substitute bill, in which the concurrence of the Senate is requested:

Attest: Laura P. Clemens,  
Clerk.

Senator Jacobson moved that the House Amendments to **Sub. S. B. No. 321**, be brought up for consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

Senator Dann rose to a point of order and requested a ruling of the Chair.

The Chair ruled the point not well taken.

The question being, "Shall the decision of the Chair stand as the judgment of the Senate?"

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Kearney	Miller D	Miller R	Prentiss
Roberts	Wilson		Zurz-11.

The decision of the Chair was sustained.

The question recurred, "Shall the Senate concur in the amendments of the

House of Representatives?"

The yeas and nays were taken and resulted - yeas 21, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Stivers	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Jacobson	Kearney	Miller D	Miller R
Prentiss	Roberts	Wilson	Zurz-12.

So the Senate concurred in the amendments of the House of Representatives.

Senator Fedor moved to amend the title as follows:

Remove the name: "Fedor."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Roberts moved to amend the title as follows:

Remove the name: "Roberts."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Fingerhut moved to amend the title as follows:

Remove the name: "Fingerhut."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Am. H. B. No. 484**-Representatives Bocchieri, McGregor, J., Raussen, Hood, Healy, Wagoner, Seitz, Hughes, Widener, Chandler, Stewart, D., Carano, Harwood, Reinhard, Flowers, Carmichael, Sykes, Buehrer, Allen, Aslanides, Barrett, Beatty, Blasdel, Blessing, Book, Brown, Bulp, Calvert, Cassell, Coley, Collier, Combs, Core, Daniels, DeBose, DeGeeter, Distel, Dolan, Domenick, Driehaus, Evans, C., Evans, D., Faber, Fende, Garrison, Gibbs, Gilb, Hagan, Hartnett, Hoops, Key, Kilbane, Koziura, Latta, Law, Martin, Mason, Mitchell, Oelslager, Otterman, Patton, S., Patton, T., Perry, Peterson, Redfern, Reed, Reidelbach, Sayre, Schaffer, Schlichter, Schneider, Setzer, Skindell, Smith, G., Smith, S., Stewart, J., Strahorn, Taylor, Uecker,

Wagner, Webster, White, Widowfield, Willamowski, Williams, Wolpert, Yuko Senators Cates, Grendell, Mumper, Niehaus, Schuring, Fedor, Kearney.

To amend section 3767.30 of the Revised Code to prohibit protest activities within 300 feet of the site of a funeral service during and within one hour before and after the service and to prohibit protest activities within 300 feet of a funeral procession, was considered the third time.

The question being, "Shall the bill, **Am. H. B. No. 484**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Cates moved to amend the title as follows:

Add the names: "Armbruster, Austria, Carey, Clancy, Coughlin, Fingerhut, Gardner, Goodman, Harris, Jacobson, Jordan, Miller, R., Padgett, Roberts, Schuler, Spada, Stivers, Wachtmann, Wilson, Zurz."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Am. H. B. No. 491**-Representatives Widener, McGregor, J., Miller, Yuko, Combs, Setzer, Strahorn, Faber, DeWine, Collier, Harwood, Sayre, Cassell, Reidelbach, Carano, Buehrer, Driehaus, Patton, T., Brown, Book, Gibbs, Hagan, Webster, Coley, Wagoner, Boccieri, White, Blessing, Calvert, Chandler, Daniels, DeGeeter, Domenick, Evans, C., Evans, D., Flowers, Healy, Hughes, Key, Koziura, Latta, Martin, McGregor, R., Otterman, Perry, Schaffer, Schlichter, Smith, G., Stewart, D., Stewart, J., Willamowski, Yates.

To amend sections 122.086, 122.0810, 122.0812, 122.0814, 122.0817, 122.0819, 4735.01, 4735.16, 4735.18, 4735.51, 4735.63, and 4735.65 and to enact sections 4735.621 and 4735.75 of the Revised Code to add definitions to real estate broker law, to expand duties of licensees under that law, and to require that the Job Ready Site Program be administered pursuant to rules adopted under the Administrative Procedure Act, was considered the third

time.

The question being, "Shall the bill, **Am. H. B. No. 491**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wilson	Zurz	Harris-32.

Senator Wachtmann voted in the negative-1.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Stivers moved to amend the title as follows:

Add the names: "Mumper, Carey, Clancy, Schuler."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

### **INTRODUCTION AND FIRST CONSIDERATION OF BILLS**

The following bills were introduced and considered the first time:

**S. B. No. 337**-Senator Kearney.

To enact section 4503.513 of the Revised Code to create "Historically Black Fraternity-Sorority" license plates.

**S. B. No. 338**-Senators Dann, Hagan, Zurz, Miller, R., Fingerhut, Miller, D., Fedor, Schuring, Wilson.

To amend sections 1345.02, 1345.05, 1345.07, and 1345.09 of the Revised Code to prohibit suppliers who sell oil and gasoline in this state from participating in fixing oil or gasoline prices or manipulating the oil or gasoline market under the Consumer Sales Practices Act and to permit the Attorney General or a consumer to recover additional damages for such a violation.

**S. B. No. 339**-Senator Austria.

To amend sections 3701.15, 3701.342, 3709.11, 3709.14, 3709.28, 3709.29, 3709.31, 3709.34, and 5705.01 and to enact sections 319.282, 3701.36,

3709.011, 3709.151, 3709.221, and 3709.311 of the Revised Code with regard to boards of health of city and general health districts.

### OFFERING OF RESOLUTIONS

Senator Niehaus offered the following resolution:

**S. R. No. 211**-Senator Niehaus.

In memory of Lance Corporal Bryan Nicholas Taylor.

The question being, "Shall the resolution, **S. R. No. 211**, be adopted?"

So the resolution was adopted.

### MESSAGE FROM THE PRESIDENT

Pursuant to Section 3334.03 (B) of the Ohio Revised Code, the President of the Senate appoints Senator Clancy to replace Senator Cates on the Ohio Tuition Trust Authority.

Senator Schuler moved that the Senate revert to the Second Order of Business, Reports of Standing and Select Committees.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

### REPORTS OF STANDING AND SELECT COMMITTEES

Senator Cates submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **S. B. No. 330**-Senator Schuler, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Niehaus, Schuring, Fedor.

YES - 9: GARY W. CATES, TIMOTHY J. GRENDALL, TOM NIEHAUS, J. KIRK SCHURING, DALE MILLER, LARRY A. MUMPER, TERESA FEDOR, ERIC H. KEARNEY, JEFFRY J. ARMBRUSTER.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Cates submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **Am. H. B. No. 393**-Representative Patton, S., et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Cates, Grendell, Armbruster, Mumper, Niehaus, Schuring, Miller, D., Fedor, Kearney.

YES - 9: GARY W. CATES, TIMOTHY J. GRENDALL, TOM NIEHAUS, J. KIRK SCHURING, DALE MILLER, LARRY A. MUMPER, TERESA FEDOR, ERIC H. KEARNEY, JEFFRY J. ARMBRUSTER.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Cates submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **Am. H. B. No. 576**-Representative McGregor, R., et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Cates, Grendell, Armbruster, Mumper, Niehaus, Schuring, Miller, D., Fedor, Kearney.

YES - 9: GARY W. CATES, TIMOTHY J. GRENDALL, TOM NIEHAUS, J. KIRK SCHURING, LARRY A. MUMPER, DALE MILLER, TERESA FEDOR, ERIC H. KEARNEY, JEFFRY J. ARMBRUSTER.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Padgett submitted the following report:

The standing committee on Education, to which was referred **Sub. H. B. No. 115**-Representative Setzer, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Cates, Padgett, Gardner, Mumper.

YES - 8: JOY PADGETT, GARY W. CATES, JOHN A. CAREY,  
RANDY GARDNER, LARRY A. MUMPER, TERESA  
FEDOR, ERIC D. FINGERHUT, RAY MILLER.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Padgett submitted the following report:

The standing committee on Education, to which was referred **Am. Sub. H. B. No. 422**-Representative Hughes, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Fedor.

YES - 8: JOY PADGETT, JEFF JACOBSON, JOHN A. CAREY,  
RAY MILLER, TERESA FEDOR, RANDY GARDNER,  
GARY W. CATES, ERIC D. FINGERHUT.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **S. B. No. 5**-Senator Hottinger, having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 10: ERIC H. KEARNEY, JAY HOTTINGER, JEFFRY J.  
ARMBRUSTER, STEVE STIVERS, PATRICIA M.  
CLANCY, LYNN R. WACHTMANN, ERIC D.  
FINGERHUT, STEPHEN C. AUSTRIA, RAY MILLER,  
GARY W. CATES.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Highways and Transportation, to which was referred **S. B. No. 88**-Senators Coughlin, Goodman, having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 9: ERIC D. FINGERHUT, JAY HOTTINGER, JEFFRY J. ARMBRUSTER, STEVE STIVERS, PATRICIA M. CLANCY, STEPHEN C. AUSTRIA, LYNN R. WACHTMANN, RAY MILLER, GARY W. CATES.

NO - 1: ERIC H. KEARNEY.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **S. B. No. 305**-Senators Stivers, Goodman, having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 10: ERIC H. KEARNEY, ERIC D. FINGERHUT, JEFFRY J. ARMBRUSTER, STEVE STIVERS, LYNN R. WACHTMANN, PATRICIA M. CLANCY, JAY HOTTINGER, STEPHEN C. AUSTRIA, RAY MILLER, GARY W. CATES.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

The standing committee on Insurance, Commerce and Labor, to which was referred **Am. Sub. H. B. No. 150**-Representative Gibbs, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 10: ERIC D. FINGERHUT, JAY HOTTINGER, JEFFRY J. ARMBRUSTER, STEVE STIVERS, STEPHEN C. AUSTRIA, PATRICIA M. CLANCY, LYNN R. WACHTMANN, ERIC H. KEARNEY, RAY MILLER, GARY W. CATES.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **Sub. H. B. No. 442**-Representative Dolan, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 9: RAY MILLER, ERIC H. KEARNEY, ERIC D. FINGERHUT, JAY HOTTINGER, JEFFRY J. ARMBRUSTER, STEVE STIVERS, STEPHEN C. AUSTRIA, PATRICIA M. CLANCY, LYNN R. WACHTMANN.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

### **REPORTS OF CONFERENCE COMMITTEES**

Senator Niehaus submitted the following report:

The Committee of Conference to which the matters of difference between the two houses were referred on Sub. S.B. 238, Senator Niehaus - et al., having had the same under consideration, recommends to the respective houses as follows:

The bill as passed by the House with the following amendments:

In line 31, after "1717.14," insert "2101.11,"; after "2151.011," insert "2151.23,"; after "2151.353," insert "2151.39,"; after "2151.421," insert "3107.011,"

In line 32, after "3107.016," insert "3107.02, 3107.031, 3107.032, 3107.10, 3107.12, 3107.14,"; after "3107.17," insert "3107.66,"; after "3109.17," insert "3313.64,"

In line 33, after "5101.99," insert "5103.03,"

In line 35, after "5103.07," insert "5103.13, 5103.131, 5103.16,"

In line 36, after "5153.17," insert "5153.20,"

In line 39, after "sections" insert "3107.032 (3107.033), 3107.10 (3107.055),"

In line 46, after "and" insert "new sections 3107.032, 3107.10, 5103.20,

5103.21, and 5103.22 and"; after "2151.423," insert "3107.034, 3107.101,"

In line 47, after "5101.134," insert "5103.162, 5103.18,"

Between lines 1082 and 1083, insert:

**"Sec. 2101.11.** (A)(1) The probate judge shall have the care and custody of the files, papers, books, and records belonging to the probate court. The probate judge is authorized to perform the duties of clerk of the judge's court. The probate judge may appoint deputy clerks, stenographers, a bailiff, and any other necessary employees, each of whom shall take an oath of office before entering upon the duties of the employee's appointment and, when so qualified, may perform the duties appertaining to the office of clerk of the court.

(2)(a) The probate judge shall provide for one or more probate court investigators to perform the duties that are established for a probate court investigator by the Revised Code or the probate judge. The probate judge may provide for an investigator in any of the following manners, as the court determines is appropriate:

(i) By appointing a person as a full-time or part-time employee of the probate court to serve as investigator, or by designating a current full-time or part-time employee of the probate court to serve as investigator;

(ii) By contracting with a person to serve and be compensated as investigator only when needed by the probate court, as determined by the court, and by designating that person as a probate court investigator during the times when the person is performing the duties of an investigator for the court;

(iii) By entering into an agreement with another department or agency of the county, including, but not limited to, the sheriff's department or the county department of job and family services, pursuant to which an employee of the other department or agency will serve and perform the duties of investigator for the court, upon request of the probate judge, and designating that employee as a probate court investigator during the times when the person is performing the duties of an investigator for the court.

(b) Each person appointed or otherwise designated as a probate court investigator shall take an oath of office before entering upon the duties of the person's appointment. When so qualified, an investigator may perform the duties that are established for a probate court investigator by the Revised Code or the probate judge.

(c) Except as otherwise provided in this division, a probate court investigator shall hold at least a bachelor's degree in social work, psychology, education, special education, or a related human services field. A probate judge may waive the education requirement of this division for a person the judge appoints or otherwise designates as a probate court investigator if the judge determines that the person has experience in family services work that is equivalent to the required education.

(d) Within one year after appointment or designation, a probate court investigator shall attend an orientation course of at least six hours, and each calendar year after the calendar year of appointment or designation, a probate court investigator shall satisfactorily complete at least six hours of continuing education.

(e) For purposes of divisions (A)(4), (B), and (C) of this section, a person designated as a probate court investigator under division (A)(2)(a)(ii) or (iii) of this section shall be considered an appointee of the probate court at any time that the person is performing the duties established under the Revised Code or by the probate judge for a probate court investigator.

(3)(a) The probate judge may provide for one or more persons to perform the duties of an assessor under sections 3107.031, 3107.032, 3107.082, 3107.09, 3107.101, and 3107.12 of the Revised Code or may enter into agreements with public children services agencies, private child placing agencies, or private noncustodial agencies under which the agency provides for one or more persons to perform the duties of an assessor. A probate judge who provides for an assessor shall do so in either of the following manners, as the judge considers appropriate:

(i) By appointing a person as a full-time or part-time employee of the probate court to serve as assessor, or by designating a current full-time or part-time employee of the probate court to serve as assessor;

(ii) By contracting with a person to serve and be compensated as assessor only when needed by the probate court, as determined by the court, and by designating that person as an assessor during the times when the person is performing the duties of an assessor for the court.

(b) Each person appointed or designated as a probate court assessor shall take an oath of office before entering on the duties of the person's appointment.

(c) A probate court assessor must meet the qualifications for an assessor established by section 3107.014 of the Revised Code.

(d) A probate court assessor shall perform additional duties, including duties of an investigator under division (A)(2) of this section, when the probate judge assigns additional duties to the assessor.

(e) For purposes of divisions (A)(4), (B), and (C) of this section, a person designated as a probate court assessor shall be considered an appointee of the probate court at any time that the person is performing assessor duties.

(4) Each appointee of the probate judge may administer oaths in all cases when necessary, in the discharge of official duties.

(B)(1)(a) Subject to the appropriation made by the board of county commissioners pursuant to this division, each appointee of a probate judge under division (A) of this section shall receive such compensation and expenses as the judge determines and shall serve during the pleasure of the judge. The

compensation of each appointee shall be paid in semimonthly installments by the county treasurer from the county treasury, upon the warrants of the county auditor, certified to by the judge.

(b) Except as otherwise provided in the Revised Code, the total compensation paid to all appointees of the probate judge in any calendar year shall not exceed the total fees earned by the probate court during the preceding calendar year, unless the board of county commissioners approves otherwise.

(2) The probate judge annually shall submit a written request for an appropriation to the board of county commissioners that shall set forth estimated administrative expenses of the court, including the salaries of appointees as determined by the judge and any other costs, fees, and expenses, including, but not limited to, those enumerated in section 5123.96 of the Revised Code, that the judge considers reasonably necessary for the operation of the court. The board shall conduct a public hearing with respect to the written request submitted by the judge and shall appropriate such sum of money each year as it determines, after conducting the public hearing and considering the written request of the judge, is reasonably necessary to meet all the administrative expenses of the court, including the salaries of appointees as determined by the judge and any other costs, fees, and expenses, including, but not limited to, the costs, fees, and expenses enumerated in section 5123.96 of the Revised Code.

If the judge considers the appropriation made by the board pursuant to this division insufficient to meet all the administrative expenses of the court, the judge shall commence an action under Chapter 2731. of the Revised Code in the court of appeals for the judicial district for a determination of the duty of the board of county commissioners to appropriate the amount of money in dispute. The court of appeals shall give priority to the action filed by the probate judge over all cases pending on its docket. The burden shall be on the probate judge to prove that the appropriation requested is reasonably necessary to meet all administrative expenses of the court. If, prior to the filing of an action under Chapter 2731. of the Revised Code or during the pendency of the action, the judge exercises the judge's contempt power in order to obtain the sum of money in dispute, the judge shall not order the imprisonment of any member of the board of county commissioners notwithstanding sections 2705.02 to 2705.06 of the Revised Code.

(C) The probate judge may require any of the judge's appointees to give bond in the sum of not less than one thousand dollars, conditioned for the honest and faithful performance of the appointee's duties. The sureties on the bonds shall be approved in the manner provided in section 2101.03 of the Revised Code.

The judge is personally liable for the default, malfeasance, or nonfeasance of any such appointee, but, if a bond is required of the appointee, the liability of the judge is limited to the amount by which the loss resulting from the default, malfeasance, or nonfeasance exceeds the amount of the bond.

All bonds required to be given in the probate court, on being accepted and approved by the probate judge, shall be filed in the judge's office."

In line 1242, after the first comma insert "certified children's crisis care facilities."

In line 1318, after the first semicolon insert "certified children's crisis care facility:"

Between lines 1421 and 1422, insert:

"**Sec. 2151.23.** (A) The juvenile court has exclusive original jurisdiction under the Revised Code as follows:

(1) Concerning any child who on or about the date specified in the complaint, indictment, or information is alleged to have violated section 2151.87 of the Revised Code or an order issued under that section or to be a juvenile traffic offender or a delinquent, unruly, abused, neglected, or dependent child and, based on and in relation to the allegation pertaining to the child, concerning the parent, guardian, or other person having care of a child who is alleged to be an unruly or delinquent child for being an habitual or chronic truant;

(2) Subject to divisions (G) and (V) of section 2301.03 of the Revised Code, to determine the custody of any child not a ward of another court of this state;

(3) To hear and determine any application for a writ of habeas corpus involving the custody of a child;

(4) To exercise the powers and jurisdiction given the probate division of the court of common pleas in Chapter 5122. of the Revised Code, if the court has probable cause to believe that a child otherwise within the jurisdiction of the court is a mentally ill person subject to hospitalization by court order, as defined in section 5122.01 of the Revised Code;

(5) To hear and determine all criminal cases charging adults with the violation of any section of this chapter;

(6) To hear and determine all criminal cases in which an adult is charged with a violation of division (C) of section 2919.21, division (B)(1) of section 2919.22, section 2919.222, division (B) of section 2919.23, or section 2919.24 of the Revised Code, provided the charge is not included in an indictment that also charges the alleged adult offender with the commission of a felony arising out of the same actions that are the basis of the alleged violation of division (C) of section 2919.21, division (B)(1) of section 2919.22, section 2919.222, division (B) of section 2919.23, or section 2919.24 of the Revised Code;

(7) Under the interstate compact on juveniles in section 2151.56 of the Revised Code;

(8) Concerning any child who is to be taken into custody pursuant to section 2151.31 of the Revised Code, upon being notified of the intent to take

the child into custody and the reasons for taking the child into custody;

(9) To hear and determine requests for the extension of temporary custody agreements, and requests for court approval of permanent custody agreements, that are filed pursuant to section 5103.15 of the Revised Code;

(10) To hear and determine applications for consent to marry pursuant to section 3101.04 of the Revised Code;

(11) Subject to divisions (G) and (V) of section 2301.03 of the Revised Code, to hear and determine a request for an order for the support of any child if the request is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, or an action for support brought under Chapter 3115. of the Revised Code;

(12) Concerning an action commenced under section 121.38 of the Revised Code;

(13) To hear and determine violations of section 3321.38 of the Revised Code;

(14) To exercise jurisdiction and authority over the parent, guardian, or other person having care of a child alleged to be a delinquent child, unruly child, or juvenile traffic offender, based on and in relation to the allegation pertaining to the child;

(15) To conduct the hearings, and to make the determinations, adjudications, and orders authorized or required under sections 2152.82 to 2152.85 and Chapter 2950. of the Revised Code regarding a child who has been adjudicated a delinquent child and to refer the duties conferred upon the juvenile court judge under sections 2152.82 to 2152.85 and Chapter 2950. of the Revised Code to magistrates appointed by the juvenile court judge in accordance with Juvenile Rule 40.

(B) Except as provided in divisions (G) and (I) of section 2301.03 of the Revised Code, the juvenile court has original jurisdiction under the Revised Code:

(1) To hear and determine all cases of misdemeanors charging adults with any act or omission with respect to any child, which act or omission is a violation of any state law or any municipal ordinance;

(2) To determine the paternity of any child alleged to have been born out of wedlock pursuant to sections 3111.01 to 3111.18 of the Revised Code;

(3) Under the uniform interstate family support act in Chapter 3115. of the Revised Code;

(4) To hear and determine an application for an order for the support of any child, if the child is not a ward of another court of this state;

(5) To hear and determine an action commenced under section 3111.28

of the Revised Code;

(6) To hear and determine a motion filed under section 3119.961 of the Revised Code;

(7) To receive filings under section 3109.74 of the Revised Code, and to hear and determine actions arising under sections 3109.51 to 3109.80 of the Revised Code.

(8) To enforce an order for the return of a child made under the Hague Convention on the Civil Aspects of International Child Abduction pursuant to section 3127.32 of the Revised Code;

(9) To grant any relief normally available under the laws of this state to enforce a child custody determination made by a court of another state and registered in accordance with section 3127.35 of the Revised Code.

(C) The juvenile court, except as to juvenile courts that are a separate division of the court of common pleas or a separate and independent juvenile court, has jurisdiction to hear, determine, and make a record of any action for divorce or legal separation that involves the custody or care of children and that is filed in the court of common pleas and certified by the court of common pleas with all the papers filed in the action to the juvenile court for trial, provided that no certification of that nature shall be made to any juvenile court unless the consent of the juvenile judge first is obtained. After a certification of that nature is made and consent is obtained, the juvenile court shall proceed as if the action originally had been begun in that court, except as to awards for spousal support or support due and unpaid at the time of certification, over which the juvenile court has no jurisdiction.

(D) The juvenile court, except as provided in divisions (G) and (I) of section 2301.03 of the Revised Code, has jurisdiction to hear and determine all matters as to custody and support of children duly certified by the court of common pleas to the juvenile court after a divorce decree has been granted, including jurisdiction to modify the judgment and decree of the court of common pleas as the same relate to the custody and support of children.

(E) The juvenile court, except as provided in divisions (G) and (I) of section 2301.03 of the Revised Code, has jurisdiction to hear and determine the case of any child certified to the court by any court of competent jurisdiction if the child comes within the jurisdiction of the juvenile court as defined by this section.

(F)(1) The juvenile court shall exercise its jurisdiction in child custody matters in accordance with sections 3109.04, 3127.01 to 3127.53, and 5103.20 to ~~5103.28~~5103.22 of the Revised Code.

(2) The juvenile court shall exercise its jurisdiction in child support matters in accordance with section 3109.05 of the Revised Code.

(G) Any juvenile court that makes or modifies an order for child support

shall comply with Chapters 3119., 3121., 3123., and 3125. of the Revised Code. If any person required to pay child support under an order made by a juvenile court on or after April 15, 1985, or modified on or after December 1, 1986, is found in contempt of court for failure to make support payments under the order, the court that makes the finding, in addition to any other penalty or remedy imposed, shall assess all court costs arising out of the contempt proceeding against the person and require the person to pay any reasonable attorney's fees of any adverse party, as determined by the court, that arose in relation to the act of contempt.

(H) If a child who is charged with an act that would be an offense if committed by an adult was fourteen years of age or older and under eighteen years of age at the time of the alleged act and if the case is transferred for criminal prosecution pursuant to section 2152.12 of the Revised Code, the juvenile court does not have jurisdiction to hear or determine the case subsequent to the transfer. The court to which the case is transferred for criminal prosecution pursuant to that section has jurisdiction subsequent to the transfer to hear and determine the case in the same manner as if the case originally had been commenced in that court, including, but not limited to, jurisdiction to accept a plea of guilty or another plea authorized by Criminal Rule 11 or another section of the Revised Code and jurisdiction to accept a verdict and to enter a judgment of conviction pursuant to the Rules of Criminal Procedure against the child for the commission of the offense that was the basis of the transfer of the case for criminal prosecution, whether the conviction is for the same degree or a lesser degree of the offense charged, for the commission of a lesser-included offense, or for the commission of another offense that is different from the offense charged.

(I) If a person under eighteen years of age allegedly commits an act that would be a felony if committed by an adult and if the person is not taken into custody or apprehended for that act until after the person attains twenty-one years of age, the juvenile court does not have jurisdiction to hear or determine any portion of the case charging the person with committing that act. In those circumstances, divisions (A) and (B) of section 2152.12 of the Revised Code do not apply regarding the act, and the case charging the person with committing the act shall be a criminal prosecution commenced and heard in the appropriate court having jurisdiction of the offense as if the person had been eighteen years of age or older when the person committed the act. All proceedings pertaining to the act shall be within the jurisdiction of the court having jurisdiction of the offense, and that court has all the authority and duties in the case that it has in other criminal cases in that court."

Between lines 1807 and 1808, insert:

"**Sec. 2151.39.** No person, association or agency, public or private, of another state, incorporated or otherwise, shall place a child in a family home or with an agency or institution within the boundaries of this state, either for temporary or permanent care or custody or for adoption, unless such person or

association has furnished the department of job and family services with a medical and social history of the child, pertinent information about the family, agency, association, or institution in this state with whom the sending party desires to place the child, and any other information or financial guaranty required by the department to determine whether the proposed placement will meet the needs of the child. The department may require the party desiring the placement to agree to promptly receive and remove from the state a child brought into the state whose placement has not proven satisfactorily responsive to the needs of the child at any time until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the department. All placements proposed to be made in this state by a party located in a state which is a party to the interstate compact on the placement of children shall be made according to the provisions of sections 5103.20 to ~~5103.28~~5103.22 of the Revised Code."

Delete lines 1929 through 2351 and insert:

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

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp or child day camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; person engaged in social work or the practice of professional counseling; agent of a county humane society; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion; superintendent, board member, or employee of a county board of mental retardation; investigative agent contracted with by a

county board of mental retardation; ~~or~~ employee of the department of mental retardation and developmental disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of a home health agency; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; or third party employed by a public children services agency to assist in providing child or family related services.

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

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

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

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

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

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

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

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

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

(i) The penitent, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

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

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

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

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

(B) Anyone who knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar circumstances to suspect, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably indicates abuse or neglect of the child may report or cause reports to be made of that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the public children services agency or to a municipal or county peace officer. In the circumstances described in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the entity specified in that section.

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

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

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

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

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

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

(1) When a municipal or county peace officer receives a report

concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child, upon receipt of the report, the municipal or county peace officer who receives the report shall refer the report to the appropriate public children services agency.

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

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

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

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

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

A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The public children services agency shall report each case to a central registry ~~which the uniform statewide automated child welfare information system that the department of job and family services shall maintain in order to determine whether prior reports have been made in other counties concerning the child or other principals in the case~~ in accordance with section 5101.13 of the Revised Code. The public children services agency shall submit a report of its investigation, in writing, to the law enforcement agency.

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

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

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

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

(H)(1) Except as provided in divisions (H)(4) and (M) of this section, a report made under this section is confidential. The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

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

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

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

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

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

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

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

(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;

(c) The county peace officer;

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

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

(f) The prosecuting attorney of the county;

(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;

(h) The county humane society;

(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.

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

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

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

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

(4) If a 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, the agency shall incorporate the contents of that memorandum in the memorandum prepared pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

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

(M)(1) As used in this division:

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

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

(2) No later than the end of the day following the day on which a public children services agency receives 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 provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report 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."

Between lines 2363 and 2364 insert:

"**Sec. 3107.011.** (A) A person seeking to adopt a minor shall utilize an agency or attorney to arrange the adoption. Only an agency or attorney may arrange an adoption. An attorney may not represent with regard to the adoption both the person seeking to adopt and the parent placing a child for adoption.

Any person may informally aid or promote an adoption by making a person seeking to adopt a minor aware of a minor who will be or is available for adoption.

(B) A person seeking to adopt a minor who knowingly makes a false statement that is included in an application submitted to an agency or attorney to obtain services of that agency or attorney in arranging an adoption is guilty of the offense of falsification under section 2921.13 of the Revised Code."

In line 2367, after "3107.031," insert "3107.032"; after "3107.09," insert "3107.101."

In line 2400, after "3107.031," insert "3107.032."

In line 2401, after "3107.09," insert "3107.101."

Between lines 2411 and 2412, insert:

"(D) Not later than January 1, 2008, the department of job and family services shall develop and maintain an assessor registry. The registry shall list all individuals who are employed, appointed by, or under contract with a court, public children services agency, private child placing agency, or private noncustodial agency and meet the requirements of an assessor as described in this section. A public children services agency, private child placing agency, private noncustodial agency, court, or any other person may contact the department to determine if an individual is listed in the assessor registry. An individual listed in the assessor registry shall immediately inform the department when that individual is no longer employed, appointed by, or under contract with a court, public children services agency, private child placing agency, or private noncustodial agency to perform the duties of an assessor as described in this section. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the implementation, contents, and maintenance of the registry, and any sanctions related to the provision of information, or the failure to provide information, that is needed for the proper operation of the assessor registry."

Between lines 2426 and 2427, insert:

"**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 and permanently disabled;

(2) If the adult is determined to be a mentally retarded person as defined in section 5123.01 of the Revised Code;

(3) If the adult had established a child-foster caregiver or child-stepparent relationship with the petitioners as a minor, and the adult consents to the adoption;

(4) If the adult was, at the time of the adult's eighteenth birthday, in the permanent custody of a public children services agency or a private child placing agency, and the adult consents to the adoption.

(C) When proceedings to adopt a minor are initiated by the filing of a petition, and the eighteenth birthday of the minor occurs prior to the decision of the court, the court shall require the person who is to be adopted to submit a written statement of consent or objection to the adoption. If an objection is submitted, the petition shall be dismissed, and if a consent is submitted, the court shall proceed with the case, and may issue an interlocutory order or final decree of adoption.

(D) Any physical examination of the individual to be adopted as part of or in contemplation of a petition to adopt may be conducted by any health professional authorized by the Revised Code to perform physical examinations, including a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife. Any written documentation of the physical examination shall be completed by the healthcare professional who conducted the examination.

(E) An adult who consents to an adoption pursuant to division (B)(4) of this section shall provide the court with the name and contact information of the public children services agency or private child placing agency that had permanent custody of that adult. The petitioner shall request verification from the agency as to whether the adult was or was not in the permanent custody of that agency at the time of the adult's eighteenth birthday and provide the verification to the court.

**Sec. 3107.031.** Except as otherwise provided in this section, an assessor shall conduct a home study for the purpose of ascertaining whether a person seeking to adopt a minor is suitable to adopt. A written report of the home study shall be filed with the court at least ten days before the petition for adoption is heard.

A person seeking to adopt a minor who knowingly makes a false statement that is included in the written report of a home study conducted pursuant to this section is guilty of the offense of falsification under section 2921.13 of the Revised Code, and such a home study shall not be filed with the court. If such a home study is filed with the court, the court may strike the home study from the court's records.

The report shall contain the opinion of the assessor as to whether the person who is the subject of the report is suitable to adopt a minor, any multiple children assessment required under section 3107.032 of the Revised Code, and other information and documents specified in rules adopted by the director of job and family services under section ~~3107.032~~3107.033 of the Revised Code. The assessor shall not consider the person's age when determining whether the person is suitable to adopt if the person is old enough to adopt as provided by section 3107.03 of the Revised Code.

An assessor may request departments or agencies within or outside this state to assist in the home study as may be appropriate and to make a written report to be included with and attached to the report to the court. The assessor shall make similar home studies and reports on behalf of other assessors designated by the courts of this state or another place.

Upon order of the court, the costs of the home study and other proceedings shall be paid by the person seeking to adopt, and, if the home study is conducted by a public agency or public employee, the part of the cost representing any services and expenses shall be taxed as costs and paid into the state treasury or county treasury, as the court may direct.

On request, the assessor shall provide the person seeking to adopt a copy of the report of the home study. The assessor shall delete from that copy any provisions concerning the opinion of other persons, excluding the assessor, of the person's suitability to adopt a minor.

This section does not apply to a foster caregiver seeking to adopt the foster caregiver's foster child if the foster child has resided in the foster caregiver's home for at least twelve months prior to the date the foster caregiver submits an application prescribed under division (B) of section 3107.012 of the Revised Code to the agency arranging the adoption.

**Sec. 3107.032.** (A) Except as provided in division (C) of this section, each time a person seeking to adopt a minor or foster child will have at least five children residing in the prospective adoptive home after the minor or foster child to be adopted is placed in the home, an assessor, on behalf of an agency or attorney arranging an adoption pursuant to sections 3107.011 or 3107.012 of the Revised Code, shall complete a multiple children assessment during the home study. The multiple children assessment shall evaluate the ability of the person seeking to adopt in meeting the needs of the minor or foster child to be adopted and continuing to meet the needs of the children residing in the home. The assessor shall include the multiple children assessment in the written report of the home study filed pursuant to section 3107.031 of the Revised Code.

(B) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for an assessor to complete a multiple children assessment.

(C) This section does not apply to an adoption by a stepparent whose spouse is a biological or adoptive parent of the minor to be adopted.

**Sec. ~~3107.032~~3107.033.** Not later than ~~ninety days after June 20,~~ ~~1996~~ January 1, 2008, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code specifying ~~the~~ both of the following:

(A) The manner in which a home study is to be conducted and the information and documents to be included in a home study report, which shall include, pursuant to section 3107.034 of the Revised Code, a summary report of a search of the uniform statewide automated child welfare information system established in section 5101.13 of the Revised Code;

(B) A procedure under which a person whose application for adoption has been denied as a result of a search of the uniform statewide automated child welfare information system established in section 5101.13 of the Revised Code as part of the home study may appeal the denial to the agency that employed the assessor who filed the report.

**Sec. 3107.034.** (A) The summary report of a search of the uniform statewide automated child welfare information system established in section 5101.13 of the Revised Code that is required under section 3107.033 of the Revised Code shall contain, if applicable, a chronological list of abuse and neglect determinations or allegations of which the person seeking to adopt is subject and in regards to which a public children services agency has done one of the following:

(1) Determined that abuse or neglect occurred;

(2) Initiated an investigation, and the investigation is ongoing;

(3) Initiated an investigation and the agency was unable to determine whether abuse or neglect occurred.

(B) The summary report required under section 3107.033 of the Revised Code shall not contain any of the following:

(1) An abuse and neglect determination of which the person seeking to adopt is subject and in regards to which a public children services agency determined that abuse or neglect did not occur;

(2) Information or reports the dissemination of which is prohibited by, or interferes with eligibility under, the "Child Abuse Prevention and Treatment Act," 88 Stat. 4 (1974), 42 U.S.C. 5101 et seq., as amended;

(3) The name of the person who or entity that made, or participated in the making of, the report of abuse or neglect.

(C)(1) An application for adoption may be denied based on a summary report containing the information described under division (A)(1) of this section, when considered within the totality of the circumstances. An application that is denied may be appealed using the procedure adopted pursuant to division (B) of section 3107.033 of the Revised Code.

(2) An application for adoption shall not be denied solely based on a summary report containing the information described under division (A)(2) or (3) of this section.

**Sec. ~~3107.10~~3107.055.** (A) Notwithstanding section 3107.01 of the Revised Code, as used in this section, "agency" does not include a public children services agency.

(B) An agency or attorney, whichever arranges a minor's adoption, shall file with the court a preliminary estimate accounting not later than the time the adoption petition for the minor is filed with the court. The agency or attorney, whichever arranges the adoption, also shall file a final accounting with the court before a final decree of adoption is issued or an interlocutory order of adoption is finalized for the minor. The agency or attorney shall complete and file accountings in a manner acceptable to the court.

An accounting shall specify all disbursements of anything of value the petitioner, a person on the petitioner's behalf, and the agency or attorney made and has agreed to make in connection with the minor's permanent surrender under division (B) of section 5103.15 of the Revised Code, placement under section 5103.16 of the Revised Code, and adoption under this chapter. The agency or attorney shall include in an accounting an itemization of each expense listed in division (C) of this section. The itemization of the expenses specified in divisions (C)(3) and (4) of this section shall show the amount the agency or attorney charged or is going to charge for the services and the actual cost to the agency or attorney of providing the services. An accounting shall indicate whether any expenses listed in division (C) of this section do not apply to the adoption proceeding for which the accounting is filed.

The agency or attorney shall include with a preliminary estimate accounting and a final accounting a written statement signed by the petitioner that the petitioner has reviewed the accounting and attests to its accuracy.

(C) No petitioner, person acting on a petitioner's behalf, or agency or attorney shall make or agree to make any disbursements in connection with the minor's permanent surrender, placement, or adoption other than for the following:

(1) Physician expenses incurred on behalf of the birth mother or minor in connection with prenatal care, delivery, and confinement prior to or following the minor's birth;

(2) Hospital or other medical facility expenses incurred on behalf of the birth mother or minor in connection with the minor's birth;

(3) Expenses charged by the attorney arranging the adoption for providing legal services in connection with the placement and adoption, including expenses incurred by the attorney pursuant to sections 3107.031, 3107.032, 3107.081, 3107.082, 3107.09, 3107.101, and 3107.12 of the Revised Code;

(4) Expenses charged by the agency arranging the adoption for providing services in connection with the permanent surrender and adoption, including the agency's application fee and the expenses incurred by the agency pursuant to sections 3107.031, 3107.032, 3107.09, 3107.101, 3107.12, 5103.151, and 5103.152 of the Revised Code;

(5) Temporary costs of routine maintenance and medical care for a minor required under section 5103.16 of the Revised Code if the person seeking to adopt the minor refuses to accept placement of the minor;

(6) Guardian ad litem fees incurred on behalf of the minor in any court proceedings;

(7) Foster care expenses incurred in connection with any temporary care and maintenance of the minor;

(8) Court expenses incurred in connection with the minor's permanent surrender, placement, and adoption.

(D) If a court determines from an accounting that an amount that is going to be disbursed for an expense listed in division (C) of this section is unreasonable, the court may order a reduction in the amount to be disbursed. If a court determines from an accounting that an unreasonable amount was disbursed for an expense listed in division (C) of this section, the court may order the person who received the disbursement to refund to the person who made the disbursement an amount the court orders.

If a court determines from an accounting that a disbursement for an expense not permitted by division (C) of this section is going to be made, the court may issue an injunction prohibiting the disbursement. If a court determines from an accounting that a disbursement for an expense not permitted by division (C) of this section was made, the court may order the person who received the disbursement to return it to the person who made the disbursement.

If a court determines that a final accounting does not completely report all the disbursements that are going to be made or have been made in connection with the minor's permanent surrender, placement, and adoption, the court shall order the agency or attorney to file with the court an accounting that completely reports all such disbursements.

The agency or attorney shall file the final accounting with the court not later than ten days prior to the date scheduled for the final hearing on the adoption. The court may not issue a final decree of adoption or finalize an interlocutory order of adoption of a minor until at least ten days after the agency or attorney files the final accounting.

(E) This section does not apply to an adoption by a stepparent whose spouse is a biological or adoptive parent of the minor.

**Sec. 3107.10. (A)(1) A public children services agency arranging an adoption in a county other than the county where that public children services**

agency is located, private child placing agency, or private noncustodial agency, or an attorney arranging an adoption, shall notify the public children services agency in the county in which the prospective adoptive parent resides within ten days after initiation of a home study required under section 3107.031 of the Revised Code.

(2) After a public children services agency has received notification pursuant to division (A)(1) of this section, both the public children services agency arranging an adoption in a county other than the county where that public children services agency is located, private child placing agency, private noncustodial agency, or attorney arranging an adoption, and the public children services agency shall share relevant information regarding the prospective adoptive parent as soon as possible after initiation of the home study.

(B) A public children services agency arranging an adoption in a county other than the county where that public children services agency is located, private child placing agency, or private noncustodial agency, or an attorney arranging an adoption, shall notify the public children services agency in the county in which the prospective adoptive parent resides of an impending adoptive placement not later than ten days prior to that placement. Notification shall include a description of the special needs and the age of the prospective adoptive child and the name of the prospective adoptive parent and number of children that will be residing in the prospective adoptive home when the prospective adoptive child is placed in the prospective adoptive home.

(C) An agency or attorney sharing relevant information pursuant to this section is immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by any act or omission in connection with sharing relevant information unless the acts or omissions are with malicious purpose, in bad faith, or in a wanton or reckless manner.

(D) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the implementation and execution of this section, including, but not limited to, a definition of "relevant information" for the purposes of division (A) of this section.

(E) This section does not apply to an adoption by a stepparent whose spouse is a biological or adoptive parent of the minor to be adopted.

**Sec. 3107.101.** (A) Not later than seven days after a minor to be adopted is placed in a prospective adoptive home pursuant to section 5103.16 of the Revised Code, the assessor providing placement or post placement services in the prospective adoptive home shall conduct a prospective adoptive home visit in that home, every thirty days, until the court issues a final decree of adoption. During the prospective adoptive home visits, the assessor shall evaluate the progression of the placement in the prospective adoptive home. The assessor shall include the evaluation in the prefinalization assessment required under section 3107.12 of the Revised Code.

(B) During the prospective home visit required under division (A) of this section, the assessor shall make face-to-face contact with the prospective adoptive parent and the minor to be adopted. The assessor shall make contact, as prescribed by rule under division (C) of this section, with all other children or adults residing in the prospective adoptive home.

(C) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the implementation and execution of this section.

(D) This section does not apply to an adoption by a stepparent whose spouse is a biological or adoptive parent of the minor to be adopted.

**Sec. 3107.12.** (A) Except as provided in division (B) of this section, an assessor shall conduct a prefinalization assessment of a minor and petitioner before a court issues a final decree of adoption or finalizes an interlocutory order of adoption for the minor. On completion of the assessment, the assessor shall prepare a written report of the assessment and provide a copy of the report to the court before which the adoption petition is pending.

The report of a prefinalization assessment shall include all of the following:

- (1) The adjustment of the minor and the petitioner to the adoptive placement;
- (2) The present and anticipated needs of the minor and the petitioner, as determined by a review of the minor's medical and social history, for adoption-related services, including assistance under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 670, as amended, or section 5153.163 of the Revised Code and counseling, case management services, crisis services, diagnostic services, and therapeutic counseling.
- (3) The physical, mental, and developmental condition of the minor;
- (4) If known, the minor's biological family background, including identifying information about the biological or other legal parents;
- (5) The reasons for the minor's placement with the petitioner, the petitioner's attitude toward the proposed adoption, and the circumstances under which the minor was placed in the home of the petitioner;
- (6) The attitude of the minor toward the proposed adoption, if the minor's age makes this feasible;
- (7) If the minor is an Indian child, as defined in 25 U.S.C.A. 1903(4), how the placement complies with the "Indian Child Welfare Act of 1978," 92 Stat. 3069, 25 U.S.C.A. 1901, as amended;
- (8) If known, the minor's psychological background, including prior abuse of the child and behavioral problems of the child;
- (9) If applicable, the documents or forms required under sections

3107.032, 3107.10, and 3107.101 of the Revised Code.

The assessor shall file the prefinalization report with the court not later than twenty days prior to the date scheduled for the final hearing on the adoption unless the court determines there is good cause for filing the report at a later date.

The assessor shall provide a copy of the written report of the assessment to the petitioner with the identifying information about the biological or other legal parents redacted.

(B) This section does not apply if the petitioner is the minor's stepparent, unless a court, after determining a prefinalization assessment is in the best interest of the minor, orders that an assessor conduct a prefinalization assessment.

(C) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code defining "counseling," "case management services," "crisis services," "diagnostic services," and "therapeutic counseling" for the purpose of this section.

**Sec. 3107.14.** (A) The petitioner and the person sought to be adopted shall appear at the hearing on the petition, unless the presence of either is excused by the court for good cause shown.

(B) The court may continue the hearing from time to time to permit further observation, investigation, or consideration of any facts or circumstances affecting the granting of the petition, and may examine the petitioners separate and apart from each other.

(C) If, at the conclusion of the hearing, the court finds that the required consents have been obtained or excused and that the adoption is in the best interest of the person sought to be adopted as supported by the evidence, it may issue, subject to division (C)(1) of section 2151.86, section 3107.064, and division (E) of section 3107.09 of the Revised Code, and any other limitations specified in this chapter, a final decree of adoption or an interlocutory order of adoption, which by its own terms automatically becomes a final decree of adoption on a date specified in the order, which, except as provided in division (B) of section 3107.13 of the Revised Code, shall not be less than six months or more than one year from the date of issuance of the order, unless sooner vacated by the court for good cause shown. In determining whether the adoption is in the best interest of the person sought to be adopted, the court shall not consider the age of the petitioner if the petitioner is old enough to adopt as provided by section 3107.03 of the Revised Code.

In an interlocutory order of adoption, the court shall provide for observation, investigation, and a further report on the adoptive home during the interlocutory period.

(D) If the requirements for a decree under division (C) of this section have not been satisfied or the court vacates an interlocutory order of adoption, or

if the court finds that a person sought to be adopted was placed in the home of the petitioner in violation of law, the court shall dismiss the petition and may determine the agency or person to have temporary or permanent custody of the person, which may include the agency or person that had custody prior to the filing of the petition or the petitioner, if the court finds it is in the best interest of the person as supported by the evidence, or if the person is a minor, the court may certify the case to the juvenile court of the county where the minor is then residing for appropriate action and disposition.

(E) The issuance of a final decree or interlocutory order of adoption for an adult adoption under division (A)(4) of section 3107.02 of the Revised Code shall not disqualify that adult for services under section 2151.82 or 2151.83 of the Revised Code."

Between lines 2546 and 2547, insert:

**"Sec. 3107.66.** (A) As used in this section, "~~adopted person,~~" "~~adoptive parent,~~" "~~birth parent,~~" and "~~birth sibling~~" have the same meanings as in section 3107.45 of the Revised Code:

(1) "Adopted person" includes both an "adopted person" as defined in section 3107.39 of the Revised Code and an "adopted person" as defined in section 3107.45 of the Revised Code.

(2) "Adoptive parent" means a person who adopted an adopted person.

(3) "Birth parent" means the biological parent of an adopted person.

(4) "Birth sibling" means a biological sibling of an adopted person.

(B) An adopted person age eighteen or older, an adoptive parent of an adopted person under age eighteen, or an adoptive family member of a deceased adopted person may submit a written request to the agency or attorney who arranged the adopted person's adoption, or the probate court that finalized the adopted person's adoption, for the agency, attorney, or court to provide the adopted person, adoptive parent, or adoptive family member information about the adopted person's birth parent or birth sibling contained in the agency's, attorney's, or court's adoption records that is nonidentifying information. Except as provided in division (C) of this section, the agency, attorney, or court shall provide the adopted person, adoptive parent, or adoptive family member the information sought within a reasonable amount of time. The agency, attorney, or court may charge a reasonable fee for providing the information.

A birth parent of an adopted person, a birth sibling age eighteen or older, or a birth family member of a deceased birth parent may submit a written request to the agency or attorney who arranged the adopted person's adoption, or the probate court that finalized the adoption, for the agency, attorney, or court to provide the birth parent, birth sibling, or birth family member information about the adopted person or adoptive parent contained in the agency's, attorney's, or court's adoption records that is nonidentifying information. Except as provided in division (C) of this section, the agency, attorney, or court shall provide the birth

parent, birth sibling, or birth family member the information sought within a reasonable amount of time. The agency, attorney, or court may charge a reasonable fee for providing the information.

(C) An agency or attorney that has permanently ceased to arrange adoptions is not subject to division (B) of this section. If the adoption records of such an agency or attorney are held by a probate court, person, or other governmental entity pursuant to section 3107.67 of the Revised Code, the adopted person, adoptive parent, adoptive family member, birth parent, birth sibling, or birth family member may submit the written request that otherwise would be submitted to the agency or attorney under division (B) of this section to the court, person, or other governmental entity that holds the records. On receipt of the request, the court, person, or other governmental entity shall provide the information that the agency or attorney would have been required to provide within a reasonable amount of time. The court, person, or other governmental entity may charge a reasonable fee for providing the information.

(D) Prior to providing nonidentifying information pursuant to division (B) or (C) of this section, the person or governmental entity providing the information shall review the record to ensure that all identifying information about any person contained in the record is deleted."

Between lines 2676 and 2677, insert:

"**Sec. 3313.64.** (A) As used in this section and in section 3313.65 of the Revised Code:

(1)(a) Except as provided in division (A)(1)(b) of this section, "parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. When a child is in the legal custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent with residual parental rights, privileges, and responsibilities. When a child is in the permanent custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent who was divested of parental rights and responsibilities for the care of the child and the right to have the child live with the parent and be the legal custodian of the child and all residual parental rights, privileges, and responsibilities.

(b) When a child is the subject of a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code, "parent" means the grandparent designated as attorney in fact under the power of attorney. When a child is the subject of a caretaker authorization affidavit executed under sections 3109.64 to 3109.73 of the Revised Code, "parent" means the grandparent that executed the affidavit.

(2) "Legal custody," "permanent custody," and "residual parental rights, privileges, and responsibilities" have the same meanings as in section 2151.011 of the Revised Code.

(3) "School district" or "district" means a city, local, or exempted village school district and excludes any school operated in an institution maintained by the department of youth services.

(4) Except as used in division (C)(2) of this section, "home" means a home, institution, foster home, group home, or other residential facility in this state that receives and cares for children, to which any of the following applies:

(a) The home is licensed, certified, or approved for such purpose by the state or is maintained by the department of youth services.

(b) The home is operated by a person who is licensed, certified, or approved by the state to operate the home for such purpose.

(c) The home accepted the child through a placement by a person licensed, certified, or approved to place a child in such a home by the state.

(d) The home is a children's home created under section 5153.21 or 5153.36 of the Revised Code.

(5) "Agency" means all of the following:

(a) A public children services agency;

(b) An organization that holds a certificate issued by the Ohio department of job and family services in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption;

(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39, or sections 5103.20 to ~~5103.28~~5103.22 of the Revised Code.

(6) A child is placed for adoption if either of the following occurs:

(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child.

(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care for and adopt the child.

(7) "Handicapped preschool child" means a handicapped child, as defined by division (A) of section 3323.01 of the Revised Code, who is at least three years of age 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.

(8) "Child," unless otherwise indicated, includes handicapped preschool children.

(9) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

(B) Except as otherwise provided in section 3321.01 of the Revised Code for admittance to kindergarten and first grade, a child who is at least five but under twenty-two years of age and any handicapped preschool child shall be admitted to school as provided in this division.

(1) A child shall be admitted to the schools of the school district in which the child's parent resides.

(2) A child who does not reside in the district where the child's parent resides shall be admitted to the schools of the district in which the child resides if any of the following applies:

(a) The child is in the legal or permanent custody of a government agency or a person other than the child's natural or adoptive parent.

(b) The child resides in a home.

(c) The child requires special education.

(3) A child who is not entitled under division (B)(2) of this section to be admitted to the schools of the district where the child resides and who is residing with a resident of this state with whom the child has been placed for adoption shall be admitted to the schools of the district where the child resides unless either of the following applies:

(a) The placement for adoption has been terminated.

(b) Another school district is required to admit the child under division (B)(1) of this section.

Division (B) of this section does not prohibit the board of education of a school district from placing a handicapped child who resides in the district in a special education program outside of the district or its schools in compliance with Chapter 3323. of the Revised Code.

(C) A district shall not charge tuition for children admitted under division (B)(1) or (3) of this section. If the district admits a child under division (B)(2) of this section, tuition shall be paid to the district that admits the child as follows:

(1) If the child receives special education in accordance with Chapter 3323. of the Revised Code, the school district of residence, as defined in section 3323.01 of the Revised Code, shall pay tuition for the child in accordance with section 3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code regardless of who has custody of the child or whether the child resides in a home.

(2) For a child that does not receive special education in accordance with Chapter 3323. of the Revised Code, except as otherwise provided in division (C)(2)(d) of this section, if the child is in the permanent or legal custody of a government agency or person other than the child's parent, tuition shall be paid by:

(a) The district in which the child's parent resided at the time the court removed the child from home or at the time the court vested legal or permanent

custody of the child in the person or government agency, whichever occurred first;

(b) If the parent's residence at the time the court removed the child from home or placed the child in the legal or permanent custody of the person or government agency is unknown, tuition shall be paid by the district in which the child resided at the time the child was removed from home or placed in legal or permanent custody, whichever occurred first;

(c) If a school district cannot be established under division (C)(2)(a) or (b) of this section, tuition shall be paid by the district determined as required by section 2151.357 of the Revised Code by the court at the time it vests custody of the child in the person or government agency;

(d) If at the time the court removed the child from home or vested legal or permanent custody of the child in the person or government agency, whichever occurred first, one parent was in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, was not known to reside in this state, tuition shall be paid by the district determined under division (D) of section 3313.65 of the Revised Code as the district required to pay any tuition while the parent was in such facility or placement;

(e) If the court has modified its order as to which district is responsible to bear the cost of educating the child pursuant to division (A)(2) of section 2151.357 of the Revised Code, the district determined to be responsible for that cost in the order so modified.

(3) If the child is not in the permanent or legal custody of a government agency or person other than the child's parent and the child resides in a home, tuition shall be paid by one of the following:

(a) The school district in which the child's parent resides;

(b) If the child's parent is not a resident of this state, the home in which the child resides.

(D) Tuition required to be paid under divisions (C)(2) and (3)(a) of this section shall be computed in accordance with section 3317.08 of the Revised Code. Tuition required to be paid under division (C)(3)(b) of this section shall be computed in accordance with section 3317.081 of the Revised Code. If a home fails to pay the tuition required by division (C)(3)(b) of this section, the board of education providing the education may recover in a civil action the tuition and the expenses incurred in prosecuting the action, including court costs and reasonable attorney's fees. If the prosecuting attorney or city director of law represents the board in such action, costs and reasonable attorney's fees awarded by the court, based upon the prosecuting attorney's, director's, or one of their designee's time spent preparing and presenting the case, shall be deposited in the county or city general fund.

(E) A board of education may enroll a child free of any tuition obligation

for a period not to exceed sixty days, on the sworn statement of an adult resident of the district that the resident has initiated legal proceedings for custody of the child.

(F) In the case of any individual entitled to attend school under this division, no tuition shall be charged by the school district of attendance and no other school district shall be required to pay tuition for the individual's attendance. Notwithstanding division (B), (C), or (E) of this section:

(1) All persons at least eighteen but under twenty-two years of age who live apart from their parents, support themselves by their own labor, and have not successfully completed the high school curriculum or the individualized education program developed for the person by the high school pursuant to section 3323.08 of the Revised Code, are entitled to attend school in the district in which they reside.

(2) Any child under eighteen years of age who is married is entitled to attend school in the child's district of residence.

(3) A child is entitled to attend school in the district in which either of the child's parents is employed if the child has a medical condition that may require emergency medical attention. The parent of a child entitled to attend school under division (F)(3) of this section shall submit to the board of education of the district in which the parent is employed a statement from the child's physician certifying that the child's medical condition may require emergency medical attention. The statement shall be supported by such other evidence as the board may require.

(4) Any child residing with a person other than the child's parent is entitled, for a period not to exceed twelve months, to attend school in the district in which that person resides if the child's parent files an affidavit with the superintendent of the district in which the person with whom the child is living resides stating all of the following:

(a) That the parent is serving outside of the state in the armed services of the United States;

(b) That the parent intends to reside in the district upon returning to this state;

(c) The name and address of the person with whom the child is living while the parent is outside the state.

(5) Any child under the age of twenty-two years who, after the death of a parent, resides in a school district other than the district in which the child attended school at the time of the parent's death is entitled to continue to attend school in the district in which the child attended school at the time of the parent's death for the remainder of the school year, subject to approval of that district board.

(6) A child under the age of twenty-two years who resides with a parent

who is having a new house built in a school district outside the district where the parent is residing is entitled to attend school for a period of time in the district where the new house is being built. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being built, and stating the parent's intention to reside there upon its completion;

(b) A statement from the builder confirming that a new house is being built for the parent and that the house is at the location indicated in the parent's statement.

(7) A child under the age of twenty-two years residing with a parent who has a contract to purchase a house in a school district outside the district where the parent is residing and who is waiting upon the date of closing of the mortgage loan for the purchase of such house is entitled to attend school for a period of time in the district where the house is being purchased. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being purchased, and stating the parent's intent to reside there;

(b) A statement from a real estate broker or bank officer confirming that the parent has a contract to purchase the house, that the parent is waiting upon the date of closing of the mortgage loan, and that the house is at the location indicated in the parent's statement.

The district superintendent shall establish a period of time not to exceed ninety days during which the child entitled to attend school under division (F)(6) or (7) of this section may attend without tuition obligation. A student attending a school under division (F)(6) or (7) of this section shall be eligible to participate in interscholastic athletics under the auspices of that school, provided the board of education of the school district where the student's parent resides, by a formal action, releases the student to participate in interscholastic athletics at the school where the student is attending, and provided the student receives any authorization required by a public agency or private organization of which the school district is a member exercising authority over interscholastic sports.

(8) A child whose parent is a full-time employee of a city, local, or exempted village school district, or of an educational service center, may be admitted to the schools of the district where the child's parent is employed, or in the case of a child whose parent is employed by an educational service center, in the district that serves the location where the parent's job is primarily located, provided the district board of education establishes such an admission policy by resolution adopted by a majority of its members. Any such policy shall take effect on the first day of the school year and the effective date of any amendment or repeal may not be prior to the first day of the subsequent school year. The policy shall be uniformly applied to all such children and shall provide for the

admission of any such child upon request of the parent. No child may be admitted under this policy after the first day of classes of any school year.

(9) A child who is with the child's parent under the care of a shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code, is entitled to attend school free in the district in which the child is with the child's parent, and no other school district shall be required to pay tuition for the child's attendance in that school district.

The enrollment of a child in a school district under this division shall not be denied due to a delay in the school district's receipt of any records required under section 3313.672 of the Revised Code or any other records required for enrollment. Any days of attendance and any credits earned by a child while enrolled in a school district under this division shall be transferred to and accepted by any school district in which the child subsequently enrolls. The state board of education shall adopt rules to ensure compliance with this division.

(10) Any child under the age of twenty-two years whose parent has moved out of the school district after the commencement of classes in the child's senior year of high school is entitled, subject to the approval of that district board, to attend school in the district in which the child attended school at the time of the parental move for the remainder of the school year and for one additional semester or equivalent term. A district board may also adopt a policy specifying extenuating circumstances under which a student may continue to attend school under division (F)(10) of this section for an additional period of time in order to successfully complete the high school curriculum for the individualized education program developed for the student by the high school pursuant to section 3323.08 of the Revised Code.

(11) As used in this division, "grandparent" means a parent of a parent of a child. A child under the age of twenty-two years who is in the custody of the child's parent, resides with a grandparent, and does not require special education is entitled to attend the schools of the district in which the child's grandparent resides, provided that, prior to such attendance in any school year, the board of education of the school district in which the child's grandparent resides and the board of education of the school district in which the child's parent resides enter into a written agreement specifying that good cause exists for such attendance, describing the nature of this good cause, and consenting to such attendance.

In lieu of a consent form signed by a parent, a board of education may request the grandparent of a child attending school in the district in which the grandparent resides pursuant to division (F)(11) of this section to complete any consent form required by the district, including any authorization required by sections 3313.712, 3313.713, and 3313.716 of the Revised Code. Upon request, the grandparent shall complete any consent form required by the district. A school district shall not incur any liability solely because of its receipt of a consent form from a grandparent in lieu of a parent.

Division (F)(11) of this section does not create, and shall not be

construed as creating, a new cause of action or substantive legal right against a school district, a member of a board of education, or an employee of a school district. This section does not affect, and shall not be construed as affecting, any immunities from defenses to tort liability created or recognized by Chapter 2744. of the Revised Code for a school district, member, or employee.

(12) A child under the age of twenty-two years is entitled to attend school in a school district other than the district in which the child is entitled to attend school under division (B), (C), or (E) of this section provided that, prior to such attendance in any school year, both of the following occur:

(a) The superintendent of the district in which the child is entitled to attend school under division (B), (C), or (E) of this section contacts the superintendent of another district for purposes of this division;

(b) The superintendents of both districts enter into a written agreement that consents to the attendance and specifies that the purpose of such attendance is to protect the student's physical or mental well-being or to deal with other extenuating circumstances deemed appropriate by the superintendents.

While an agreement is in effect under this division for a student who is not receiving special education under Chapter 3323. of the Revised Code and notwithstanding Chapter 3327. of the Revised Code, the board of education of neither school district involved in the agreement is required to provide transportation for the student to and from the school where the student attends.

A student attending a school of a district pursuant to this division shall be allowed to participate in all student activities, including interscholastic athletics, at the school where the student is attending on the same basis as any student who has always attended the schools of that district while of compulsory school age.

(13) All school districts shall comply with the "McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et seq., for the education of homeless children. Each city, local, and exempted village school district shall comply with the requirements of that act governing the provision of a free, appropriate public education, including public preschool, to each homeless child.

When a child loses permanent housing and becomes a homeless person, as defined in 42 U.S.C.A. 11481(5), or when a child who is such a homeless person changes temporary living arrangements, the child's parent or guardian shall have the option of enrolling the child in either of the following:

(a) The child's school of origin, as defined in 42 U.S.C.A. 11432(g)(3)(C);

(b) The school that is operated by the school district in which the shelter where the child currently resides is located and that serves the geographic area in which the shelter is located.

(14) A child under the age of twenty-two years who resides with a person other than the child's parent is entitled to attend school in the school district in

which that person resides if both of the following apply:

(a) That person has been appointed, through a military power of attorney executed under section 574(a) of the "National Defense Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 U.S.C. 1044b, or through a comparable document necessary to complete a family care plan, as the parent's agent for the care, custody, and control of the child while the parent is on active duty as a member of the national guard or a reserve unit of the armed forces of the United States or because the parent is a member of the armed forces of the United States and is on a duty assignment away from the parent's residence.

(b) The military power of attorney or comparable document includes at least the authority to enroll the child in school.

The entitlement to attend school in the district in which the parent's agent under the military power of attorney or comparable document resides applies until the end of the school year in which the military power of attorney or comparable document expires.

(G) A board of education, after approving admission, may waive tuition for students who will temporarily reside in the district and who are either of the following:

(1) Residents or domiciliaries of a foreign nation who request admission as foreign exchange students;

(2) Residents or domiciliaries of the United States but not of Ohio who request admission as participants in an exchange program operated by a student exchange organization.

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 3327.04, and 3327.06 of the Revised Code, a child may attend school or participate in a special education program in a school district other than in the district where the child is entitled to attend school under division (B) of this section.

(I)(1) Notwithstanding anything to the contrary in this section or section 3313.65 of the Revised Code, a child under twenty-two years of age may attend school in the school district in which the child, at the end of the first full week of October of the school year, was entitled to attend school as otherwise provided under this section or section 3313.65 of the Revised Code, if at that time the child was enrolled in the schools of the district but since that time the child or the child's parent has relocated to a new address located outside of that school district and within the same county as the child's or parent's address immediately prior to the relocation. The child may continue to attend school in the district, and at the school to which the child was assigned at the end of the first full week of October of the current school year, for the balance of the school year. Division (I)(1) of this section applies only if both of the following conditions are satisfied:

(a) The board of education of the school district in which the child was entitled to attend school at the end of the first full week in October and of the

district to which the child or child's parent has relocated each has adopted a policy to enroll children described in division (I)(1) of this section.

(b) The child's parent provides written notification of the relocation outside of the school district to the superintendent of each of the two school districts.

(2) At the beginning of the school year following the school year in which the child or the child's parent relocated outside of the school district as described in division (I)(1) of this section, the child is not entitled to attend school in the school district under that division.

(3) Any person or entity owing tuition to the school district on behalf of the child at the end of the first full week in October, as provided in division (C) of this section, shall continue to owe such tuition to the district for the child's attendance under division (I)(1) of this section for the lesser of the balance of the school year or the balance of the time that the child attends school in the district under division (I)(1) of this section.

(4) A pupil who may attend school in the district under division (I)(1) of this section shall be entitled to transportation services pursuant to an agreement between the district and the district in which the child or child's parent has relocated unless the districts have not entered into such agreement, in which case the child shall be entitled to transportation services in the same manner as a pupil attending school in the district under interdistrict open enrollment as described in division (H) of section 3313.981 of the Revised Code, regardless of whether the district has adopted an open enrollment policy as described in division (B)(1)(b) or (c) of section 3313.98 of the Revised Code.

(J) This division does not apply to a child receiving special education.

A school district required to pay tuition pursuant to division (C)(2) or (3) of this section or section 3313.65 of the Revised Code shall have an amount deducted under division (F) of section 3317.023 of the Revised Code equal to its own tuition rate for the same period of attendance. A school district entitled to receive tuition pursuant to division (C)(2) or (3) of this section or section 3313.65 of the Revised Code shall have an amount credited under division (F) of section 3317.023 of the Revised Code equal to its own tuition rate for the same period of attendance. If the tuition rate credited to the district of attendance exceeds the rate deducted from the district required to pay tuition, the department of education shall pay the district of attendance the difference from amounts deducted from all districts' payments under division (F) of section 3317.023 of the Revised Code but not credited to other school districts under such division and from appropriations made for such purpose. The treasurer of each school district shall, by the fifteenth day of January and July, furnish the superintendent of public instruction a report of the names of each child who attended the district's schools under divisions (C)(2) and (3) of this section or section 3313.65 of the Revised Code during the preceding six calendar months, the duration of the attendance of those children, the school district responsible

for tuition on behalf of the child, and any other information that the superintendent requires.

Upon receipt of the report the superintendent, pursuant to division (F) of section 3317.023 of the Revised Code, shall deduct each district's tuition obligations under divisions (C)(2) and (3) of this section or section 3313.65 of the Revised Code and pay to the district of attendance that amount plus any amount required to be paid by the state.

(K) In the event of a disagreement, the superintendent of public instruction shall determine the school district in which the parent resides.

(L) Nothing in this section requires or authorizes, or shall be construed to require or authorize, the admission to a public school in this state of a pupil who has been permanently excluded from public school attendance by the superintendent of public instruction pursuant to sections 3301.121 and 3313.662 of the Revised Code.

(M) In accordance with division (B)(1) of this section, a child whose parent is a member of the national guard or a reserve unit of the armed forces of the United States and is called to active duty, or a child whose parent is a member of the armed forces of the United States and is ordered to a temporary duty assignment outside of the district, may continue to attend school in the district in which the child's parent lived before being called to active duty or ordered to a temporary duty assignment outside of the district, as long as the child's parent continues to be a resident of that district, and regardless of where the child lives as a result of the parent's active duty status or temporary duty assignment. However, the district is not responsible for providing transportation for the child if the child lives outside of the district as a result of the parent's active duty status or temporary duty assignment."

In line 2727, after "(A)" insert:

"Notwithstanding any provision of the Revised Code that requires confidentiality of information that is contained in the uniform statewide automated child welfare information system established in section 5101.13 of the Revised Code, the department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code regarding a private child placing agency's or private noncustodial agency's access, data entry, and use of information in the uniform statewide automated child welfare information system.

(B)"

In line 2735, delete "(B)" and insert "(C)"

Between lines 2995 and 2996, insert:

**"Sec. 5103.03.** (A) The director of job and family services shall adopt rules as necessary for the adequate and competent management of institutions or associations.

(B)(1) Except for facilities under the control of the department of youth services, places of detention for children established and maintained pursuant to sections 2152.41 to 2152.44 of the Revised Code, and child day-care centers subject to Chapter 5104. of the Revised Code, the department of job and family services every two years shall pass upon the fitness of every institution and association that receives, or desires to receive and care for children, or places children in private homes.

(2) When the department of job and family services is satisfied as to the care given such children, and that the requirements of the statutes and rules covering the management of such institutions and associations are being complied with, it shall issue to the institution or association a certificate to that effect. A certificate is valid for two years, unless sooner revoked by the department. When determining whether an institution or association meets a particular requirement for certification, the department may consider the institution or association to have met the requirement if the institution or association shows to the department's satisfaction that it has met a comparable requirement to be accredited by a nationally recognized accreditation organization.

(3) The department may issue a temporary certificate valid for less than one year authorizing an institution or association to operate until minimum requirements have been met.

(4) An institution or association that knowingly makes a false statement that is included as a part of certification under this section is guilty of the offense of falsification under section 2921.13 of the Revised Code and the department shall not certify that institution or association.

(C) The department may revoke a certificate if it finds that the institution or association is in violation of law or rule. No juvenile court shall commit a child to an association or institution that is required to be certified under this section if its certificate has been revoked or, if after revocation, the date of reissue is less than fifteen months prior to the proposed commitment.

(D) Every two years, on a date specified by the department, each institution or association desiring certification or recertification shall submit to the department a report showing its condition, management, competency to care adequately for the children who have been or may be committed to it or to whom it provides care or services, the system of visitation it employs for children placed in private homes, and other information the department requires.

(E) The department shall, not less than once each year, send a list of certified institutions and associations to each juvenile court and certified association or institution.

(F) No person shall receive children or receive or solicit money on behalf of such an institution or association not so certified or whose certificate has been revoked.

(G) The director may delegate by rule any duties imposed on it by this section to inspect and approve family foster homes and specialized foster homes to public children services agencies, private child placing agencies, or private noncustodial agencies.

(H) If the director of job and family services determines that an institution or association that cares for children is operating without a certificate, the director may petition the court of common pleas in the county in which the institution or association is located for an order enjoining its operation. The court shall grant injunctive relief upon a showing that the institution or association is operating without a certificate.

(I) If both of the following are the case, the director of job and family services may petition the court of common pleas of any county in which an institution or association that holds a certificate under this section operates for an order, and the court may issue an order, preventing the institution or association from receiving additional children into its care or an order removing children from its care:

(1) The department has evidence that the life, health, or safety of one or more children in the care of the institution or association is at imminent risk.

(2) The department has issued a proposed adjudication order pursuant to Chapter 119. of the Revised Code to deny renewal of or revoke the certificate of the institution or association."

Between lines 3269 and 3270, insert:

**"Sec. 5103.13.** (A) As used in this section, ~~"HIV" has the same meaning as in section 3701.24 of the Revised Code~~ and section 5103.131 of the Revised Code:

(1)(a) "Children's crisis care facility" means a facility that has as its primary purpose the provision of residential and other care to either or both of the following:

(i) One or more preteens voluntarily placed in the facility by the preteen's parent or other caretaker who is facing a crisis that causes the parent or other caretaker to seek temporary care for the preteen and referral for support services;

(ii) One or more preteens placed in the facility by a public children services agency or private child placing agency that has legal custody or permanent custody of the preteen and determines that an emergency situation exists necessitating the preteen's placement in the facility rather than an institution certified under section 5103.03 of the Revised Code or elsewhere.

(b) "Children's crisis care facility" does not include either of the following:

(i) Any organization, society, association, school, agency, child guidance center, detention or rehabilitation facility, or children's clinic licensed, regulated, approved, operated under the direction of, or otherwise certified by the

department of education, a local board of education, the department of youth services, the department of mental health, or the department of mental retardation and developmental disabilities;

(ii) Any individual who provides care for only a single-family group, placed there by their parents or other relative having custody.

(2) "Legal custody" and "permanent custody" have the same meanings as in section 2151.011 of the Revised Code.

(3) "Preteen" means an individual under thirteen years of age.

(B) ~~The~~ No person shall operate a children's crisis care facility or hold a children's crisis care facility out as a certified children's crisis care facility unless there is a valid children's crisis care facility certificate issued under this section for the facility.

(C) A person seeking to operate a children's crisis care facility shall apply to the director of job and family services to obtain a certificate for the facility. The director shall certify the person's children's crisis care facility if the facility meets all of the certification standards established in rules adopted under division (F) of this section and the person complies with all of the rules governing the certification of children's crisis care facilities adopted under that division. The issuance of a children's crisis care facility certificate does not exempt the facility from a requirement to obtain another certificate or license mandated by law.

(D)(1) No certified children's crisis care facility shall do any of the following:

(a) Provide residential care to a preteen for more than one hundred twenty days in a calendar year;

(b) Subject to division (D)(1)(c) of this section and except as provided in division (D)(2) of this section, provide residential care to a preteen for more than sixty consecutive days;

(c) Except as provided in division (D)(3) of this section, provide residential care to a preteen for more than seventy-two consecutive hours if a public children services agency or private child placing agency placed the preteen in the facility;

(d) Fail to comply with section 2151.86 of the Revised Code.

(2) A certified children's crisis care facility may provide residential care to a preteen for up to ninety consecutive days, other than a preteen placed in the facility by a public children services agency or private child placing agency, if any of the following are the case:

(a) The preteen's parent or other caretaker is enrolled in an alcohol and drug addiction program certified under section 3793.06 of the Revised Code or a community mental health service certified under section 5119.611 of the Revised

Code:

(b) The preteen's parent or other caretaker is an inpatient in a hospital;

(c) The preteen's parent or other caretaker is incarcerated;

(d) A physician has diagnosed the preteen's parent or other caretaker as medically incapacitated.

(3) A certified children's crisis care facility may provide residential care to a preteen placed in the facility by a public children services agency or private child placing agency for more than seventy-two consecutive hours if the director of job and family services or the director's designee issues the agency a waiver of the seventy-two consecutive hour limitation. The waiver may authorize the certified children's crisis care facility to provide residential care to the preteen for up to fourteen consecutive days.

(E) The director of job and family services may suspend or revoke a children's crisis care facility's certificate pursuant to Chapter 119, of the Revised Code if the facility violates division (D) of this section or ceases to meet any of the certification standards established in rules adopted under division (F) of this section or the facility's operator ceases to comply with any of the rules governing the certification of children's crisis care facilities adopted under that division.

(F) Not later than ninety days after the effective date of this amendment, the director of job and family services shall ~~provide, by~~adopt rules adopted pursuant to Chapter 119, of the Revised Code, for the ~~license~~recertification of children's crisis nurseries as either type A or type B crisis nurseries care facilities. The rules shall specify that a ~~license~~certificateshall not be issued to an applicant for ~~license~~ as a crisis nursery if the conditions at ~~any of its facilities~~the children's crisis care facility would jeopardize the health or safety of the children to whom it provides carepreteens placed in the facility.

(C) A type A crisis nursery shall provide temporary shelter and other care for not more than twenty children at one time. Each child shall be under age six and drug-exposed, HIV-infected, or referred by a public children services agency. No child shall receive shelter or other care from a particular type A crisis nursery for a period exceeding sixty days.

(D) A type B crisis nursery shall provide, without charging a fee, temporary services and care to children under age thirteen who are abused and neglected, at high risk of abuse and neglect, or members of families receiving child protective services. A type B crisis nursery shall also provide referrals to support services. No child shall receive services or care from a type B crisis nursery for more than thirty days in any year.

**Sec. 5103.131.** The department of job and family services may apply to the United States secretary of health and human services for a federal grant under the "Temporary Child Care for Children With Disabilities Abuse Prevention and Crisis Nurseries Treatment Act," 400 Stat. 907 (1986), 42 U.S.C. 5117-5116, to assist ~~type B~~children's crisis nurseries ~~licensed~~care facilities

certified under section 5103.13 of the Revised Code in providing temporary services residential and other care to minors preteens.

**Sec. 5103.16.** (A) ~~Except~~ Pursuant to section 5103.18 of the Revised Code and ~~except~~ as otherwise provided in this section, no child shall be placed or accepted for placement under any written or oral agreement or understanding that transfers or surrenders the legal rights, powers, or duties of the legal parent, parents, or guardian of the child into the temporary or permanent custody of any association or institution that is not certified by the department of job and family services under section 5103.03 of the Revised Code, without the written consent of the office in the department that oversees the interstate compact on placement of children established under section 5103.20 of the Revised Code, or by a commitment of a juvenile court, or by a commitment of a probate court as provided in this section. A child may be placed temporarily without written consent or court commitment with persons related by blood or marriage or in a legally licensed boarding home.

(B)(1) Associations and institutions certified under section 5103.03 of the Revised Code for the purpose of placing children in free foster homes or for legal adoption shall keep a record of the temporary and permanent surrenders of children. This record shall be available for separate statistics, which shall include a copy of an official birth record and all information concerning the social, mental, and medical history of the children that will aid in an intelligent disposition of the children in case that becomes necessary because the parents or guardians fail or are unable to reassume custody.

(2) No child placed on a temporary surrender with an association or institution shall be placed permanently in a foster home or for legal adoption. All surrendered children who are placed permanently in foster homes or for adoption shall have been permanently surrendered, and a copy of the permanent surrender shall be a part of the separate record kept by the association or institution.

(C) Any agreement or understanding to transfer or surrender the legal rights, powers, or duties of the legal parent or parents and place a child with a person seeking to adopt the child under this section shall be construed to contain a promise by the person seeking to adopt the child to pay the expenses listed in divisions (C)(1), (2), and (4) of section ~~3107.103~~ 107.055 of the Revised Code and, if the person seeking to adopt the child refuses to accept placement of the child, to pay the temporary costs of routine maintenance and medical care for the child in a hospital, foster home, or other appropriate place for up to thirty days or until other custody is established for the child, as provided by law, whichever is less.

(D) No child shall be placed or received for adoption or with intent to adopt unless placement is made by a public children services agency, an institution or association that is certified by the department of job and family services under section 5103.03 of the Revised Code to place children for adoption, or custodians in another state or foreign country, or unless all of the following criteria are met:

(1) Prior to the placement and receiving of the child, the parent or parents of the child personally have applied to, and appeared before, the probate court of the county in which the parent or parents reside, or in which the person seeking to adopt the child resides, for approval of the proposed placement specified in the application and have signed and filed with the court a written statement showing that the parent or parents are aware of their right to contest the decree of adoption subject to the limitations of section 3107.16 of the Revised Code;

(2) The court ordered an independent home study of the proposed placement to be conducted as provided in section 3107.031 of the Revised Code, and after completion of the home study, the court determined that the proposed placement is in the best interest of the child;

(3) The court has approved of record the proposed placement.

In determining whether a custodian has authority to place children for adoption under the laws of a foreign country, the probate court shall determine whether the child has been released for adoption pursuant to the laws of the country in which the child resides, and if the release is in a form that satisfies the requirements of the immigration and naturalization service of the United States department of justice for purposes of immigration to this country pursuant to section 101(b)(1)(F) of the "Immigration and Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101 (b)(1)(F), as amended or reenacted.

If the parent or parents of the child are deceased or have abandoned the child, as determined under division (A) of section 3107.07 of the Revised Code, the application for approval of the proposed adoptive placement may be brought by the relative seeking to adopt the child, or by the department, board, or organization not otherwise having legal authority to place the orphaned or abandoned child for adoption, but having legal custody of the orphaned or abandoned child, in the probate court of the county in which the child is a resident, or in which the department, board, or organization is located, or where the person or persons with whom the child is to be placed reside. Unless the parent, parents, or guardian of the person of the child personally have appeared before the court and applied for approval of the placement, notice of the hearing on the application shall be served on the parent, parents, or guardian.

The consent to placement, surrender, or adoption executed by a minor parent before a judge of the probate court or an authorized deputy or referee of the court, whether executed within or outside the confines of the court, is as valid as though executed by an adult. A consent given as above before an employee of a children services agency that is licensed as provided by law, is equally effective, if the consent also is accompanied by an affidavit executed by the witnessing employee or employees to the effect that the legal rights of the parents have been fully explained to the parents, prior to the execution of any consent, and that the action was done after the birth of the child.

If the court approves a placement, the prospective adoptive parent with whom the child is placed has care, custody, and control of the child pending

further order of the court.

(E) This section does not apply to an adoption by a stepparent, a grandparent, or a guardian.

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

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

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

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

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

**Sec. 5103.18.** (A) Prior to placement under section 5103.16 of the Revised Code, an association or institution certified to place a child into a foster home shall include a summary report of a search of the uniform statewide automated child welfare information system established in section 5101.13 of the Revised Code with records required under division (B)(1) of section 5103.16 of the Revised Code.

(B)(1) The summary report required under division (A) of this section shall contain, if applicable, a chronological list of abuse and neglect determinations or allegations of which a person seeking to become a foster caregiver of a child is subject and in regards to which a public children services agency has done one of the following:

(a) Determined that abuse or neglect occurred;

(b) Initiated an investigation, and the investigation is ongoing;

(c) Initiated an investigation, and the agency was unable to determine whether abuse or neglect occurred.

(2) The summary report required under division (A) of this section shall not contain any of the following:

(a) An abuse and neglect determination of which a person seeking to become a foster caregiver of a child is subject and in regards to which a public children services agency determined that abuse or neglect did not occur;

(b) Information or reports the dissemination of which is prohibited by, or interferes with eligibility under, the "Child Abuse Prevention and Treatment

Act," 88 Stat. 4 (1974), 42 U.S.C. 5101 et seq., as amended:

(c) The name of the person who or entity that made, or participated in the making of, the report of abuse or neglect.

(C)(1) A foster placement may be denied based on a summary report containing the information described under division (B)(1)(a) of this section, when considered within the totality of the circumstances.

(2) A foster placement shall not be denied solely based on a summary report containing the information described under division (B)(1)(b) or (c) of this section.

(D) Not later than January 1, 2008, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the implementation and execution of this section.

Sec. 5103.20. The interstate compact for the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

ARTICLE I.  
PURPOSE

The purpose of this compact is to:

(A) Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

(B) Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

(C) Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

(D) Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

(E) Provide for uniform data collection and information sharing between member states under this compact.

(F) Promote coordination between this compact, the Interstate Compacts for Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

(G) Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

(H) Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II.  
DEFINITIONS

As used in this compact:

(A) "Approved placement" means the receiving state has determined after an assessment that the placement is both safe and suitable for the child and is in compliance with the applicable laws of the receiving state governing the placement of children therein.

(B) "Assessment" means an evaluation of a prospective placement to determine whether the placement meets the individualized needs of the child, including but not limited to the child's safety and stability, health and well-being, and mental, emotional, and physical development.

(C) "Child" means an individual who has not attained the age of eighteen (18).

(D) "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.

(E) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3 (c) of the Alaska Native Claims Settlement Act at 43 USC section 1602(c).

(F) "Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.

(G) "Jurisdiction" means the power and authority of a court to hear and decide matters.

(H) "Member state" means a state that has enacted this compact.

(I) "Non-custodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

(J) "Non-member state" means a state which has not enacted this compact.

(K) "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state including, but not limited to the name, date, and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

(L) "Placement" means the act by a public or private child placing agency intended to arrange for the care or custody of a child in another state.

(M) "Private child placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

(N) "Provisional placement" means that the receiving state has determined that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

(O) "Public child placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality, or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

(P) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

(Q) "Relative" means someone who is related to the child as a parent, step-parent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a non-relative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

(R) "Residential Facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals, or other medical facilities.

(S) "Rule" means a written directive, mandate, standard, or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets or prescribes a policy or provision of the compact. "Rule" has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(T) "Sending state" means the state from which the placement of a child is initiated.

(U) "Service member's permanent duty station" means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

(V) "Service member's state of local residence" means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

(W) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other territory of the United States.

(X) "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or status offenses of individuals who have not attained the age of eighteen (18).

(Y) "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

### ARTICLE III. APPLICABILITY

(A) Except as otherwise provided in Article III, Section B, this compact shall apply to:

(1) The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

(2) The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

(a) The child is being placed in a residential facility in another member state and is not covered under another compact; or

(b) The child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

(3) The interstate placement of any child by a public child placing agency or private child placing agency as defined in this compact as a preliminary step to a possible adoption.

(B) The provisions of this compact shall not apply to:

(1) The interstate placement of a child with a non-relative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

(2) The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

(3) The placement of a child, not subject to Article III, Section A, into a residential facility by his parent.

(4) The placement of a child with a non-custodial parent provided that:

(a) The non-custodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

(b) The court in the sending state makes a written finding that placement with the non-custodial parent is in the best interests of the child; and

(c) The court in the sending state dismisses its jurisdiction over the child's case.

(5) A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

(6) Cases in which a U.S. citizen child living overseas with his family, at least one of whom is in the U.S. Armed Services, and who is stationed overseas, is removed and placed in a state.

(7) The sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules of the Interstate Commission.

(C) For purposes of determining the applicability of this compact to the placement of a child with a family in the Armed Services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

(D) Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

#### ARTICLE IV. JURISDICTION

(A) The sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

(B) When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

(C) In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

(1) The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child placing agency in the receiving state; or

(2) The child is adopted; or

(3) The child reaches the age of majority under the laws of the sending state; or

(4) The child achieves legal independence pursuant to the laws of the sending state; or

(5) A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; or

(6) An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

(7) The public child placing agency of the sending state requests termination and has obtained the concurrence of the public child placing agency in the receiving the state.

(D) When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.

(E) Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

(F) Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

#### ARTICLE V. ASSESSMENTS

(A) Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.

(B) Prior to the sending, bringing, or causing a child to be sent or brought into a receiving state, the private child placing agency shall:

(1) Provide evidence that the applicable laws of the sending state have been complied with; and

(2) Certification that the consent or relinquishment is in compliance with applicable law of the birth parent's state of residence or, where permitted, the laws of the state of where the finalization of the adoption will occur; and

(3) Request through the public child placing agency in the sending state

an assessment to be conducted in the receiving state; and

(4) Upon completion of the assessment, obtain the approval of the public child placing agency in the receiving state.

(C) The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

(D) Upon receipt of a request from the public child welfare agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination of whether the placement qualifies as a provisional placement.

(E) The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and shall be entitled to receive supporting or additional information necessary to complete the assessment.

(F) The public child placing agency in the receiving state shall complete or arrange for the completion of the assessment within the timeframes established by the rules of the Interstate Commission.

(G) The Interstate Commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

#### ARTICLE VI. PLACEMENT AUTHORITY

(A) Except as provided in Article VI, Section C, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

(B) If the public child placing agency in the receiving state does not approve the proposed placement then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

(C) If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

(1) The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable administrative procedures.

(2) If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided however that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII.  
STATE RESPONSIBILITY

(A) For the interstate placement of a child made by a public child placing agency or state court:

(1) The public child placing agency in the sending state shall have financial responsibility for:

(a) The ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

(b) As determined by the public child placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

(2) The receiving state shall only have financial responsibility for:

(a) Any assessment conducted by the receiving state; and

(b) Supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending state.

(3) Nothing in this provision shall prohibit public child placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

(B) For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be:

(1) Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

(2) Financially responsible for the child absent a contractual agreement to the contrary.

(C) A private child placing agency shall be responsible for any assessment conducted in the receiving state and any supervision conducted by the receiving state at the level required by the laws of the receiving state or the rules of the Interstate Commission.

(D) The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

(E) The public child placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

(F) Nothing in this compact shall be construed as to limit the authority of the public child placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of

placement.

(G) Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.

(H) Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

(I) The public child placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 USC 1901 et seq.) for placements subject to the provisions of this compact, prior to placement.

(J) With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervisions of placements under this compact.

#### ARTICLE VIII.

#### INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

(A) Be joint commission of the member states and shall have the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

(B) Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy related matters governed by this compact binding the state.

(1) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

(2) A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(3) A representative shall not delegate a vote to another member state.

(4) A representative may delegate voting authority to another person from their state for a specified meeting.

(C) In addition to the commissioners of each member state, the Interstate

Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

(D) Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rulemaking.

#### ARTICLE IX.

#### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

(A) To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.

(B) To provide for dispute resolution among member states.

(C) To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, or actions.

(D) To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

(E) Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

(F) To establish and maintain offices as may be necessary for the transacting of its business.

(G) To purchase and maintain insurance and bonds.

(H) To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies, and rates of compensation.

(I) To establish and appoint committees and officers including, but not limited to, an executive committee as required by Article X.

(J) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

(K) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

(L) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

(M) To establish a budget and make expenditures.

(N) To adopt a seal and bylaws governing the management and operation

of the Interstate Commission.

(O) To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(P) To coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity.

(Q) To maintain books and records in accordance with the bylaws of the Interstate Commission.

(R) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

#### ARTICLE X.

#### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(A) Bylaws:

(1) Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

(2) The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(B) Meetings:

(1) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.

(2) Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

(a) Relate solely to the Interstate Commission's internal personnel practices and procedures; or

(b) Disclose matters specifically exempted from disclosure by federal law; or

(c) Disclose financial or commercial information which is privileged, proprietary, or confidential in nature; or

(d) Involve accusing a person of a crime, or formally censuring a person;  
or

(e) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or

(f) Disclose investigative records compiled for law enforcement purposes; or

(g) Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

(3) For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

(4) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

(C) Officers and Staff:

(1) The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

(2) The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

(D) Qualified Immunity, Defense and Indemnification:

(1) The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for

damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(a) The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(b) The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(c) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of the Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

#### ARTICLE XI.

#### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(A) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(B) Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with

the final version of the rule as approved by the Interstate Commission.

(C) When promulgating a rule, the Interstate Commission shall, at a minimum:

(1) Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and

(2) Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available; and

(3) Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

(D) Rules promulgated by the Interstate Commission shall have the force and effect of statutory law and shall supersede any state law, rule or regulation to the extent of any conflict.

(E) Not later than 60 days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(F) If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

(G) The existing rules governing the operation of the Interstate Company on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

(H) Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

(1) Transition rules;

(2) Forms and procedures;

(3) Time lines;

(4) Data collection and reporting;

(5) Rulemaking;

(6) Visitation;

(7) Progress reports/supervision;

(8) Sharing of information/confidentiality;

(9) Financing of the Interstate Commission;

(10) Mediation, arbitration and dispute resolution;

(11) Education, training and technical assistance;

(12) Enforcement;

(13) Coordination with other interstate compacts.

(I) Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

(1) The Interstate Commission may promulgate an emergency rule only if it is required to:

(a) Protect the children covered by this compact from an imminent threat to their health, safety and well-being; or

(b) Prevent loss of federal or state funds; or

(c) Meet a deadline for the promulgation of an administrative rule required by federal law.

(2) An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

(3) An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

#### ARTICLE XII.

#### OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

(A) Oversight:

(1) The Interstate Commission shall oversee the administration and operations of the compact.

(2) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall supercede state law, rules or regulations to the extent of any conflict therewith.

(3) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

(4) The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order or other determination,

however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.

(B) Dispute Resolution:

(1) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

(2) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

(C) Enforcement:

(1) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws or rules, the Interstate Commission may:

(a) Provide remedial training and specific technical assistance; or

(b) Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; or

(c) By majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its bylaws or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or

(d) Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

ARTICLE XIII.

FINANCING OF THE COMMISSION

(A) The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(B) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.

(C) The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

(D) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

#### ARTICLE XIV.

##### MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

(A) Any state is eligible to become a member state.

(B) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007 or upon enactment of the compact into law by the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

(C) The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

#### ARTICLE XV.

##### WITHDRAWAL AND DISSOLUTION

(A) Withdrawal:

(1) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

(3) The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

(4) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

(B) Dissolution of Compact:

(1) This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI.  
SEVERABILITY AND CONSTRUCTION

(A) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(B) The provisions of this compact shall be liberally construed to effectuate its purposes.

(C) Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII.  
BINDING EFFECT OF COMPACT AND OTHER LAWS

(A) Other Laws:

(1) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

(2) All member states' laws conflicting with this compact or its rules are superseded to the extent of the conflict.

(B) Binding Effect of the Compact:

(1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

(2) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(3) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII.  
INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

**Sec. 5103.21.** The department of job and family services may adopt rules necessary for the implementation of section 5103.20 of the Revised Code.

**Sec. 5103.22.** As used in division (B) of Article VIII of section 5103.20 of the Revised Code, "state human services administration" means the department of job and family services.

In line 4198, reinsert "~~hired~~"

In line 4199, after "agency" insert "after January 1, 2007,"; strike through "ninety" and insert "one hundred two"

In line 4206, after "recognizing" insert ", accepting reports of,"

In line 4207, strike through "and" and insert an underlined comma; after "neglect," insert "and dependency;"; after "risks" insert "child"; delete "and" and insert "; assessing"

In line 4208, delete "risk" and insert "risks"; strike through each of the four commas and after each stricken comma insert an underlined semicolon

In line 4209, strike through the comma and insert an underlined semicolon

In line 4210, delete the first underlined comma and insert an underlined semicolon; delete the second underlined comma and insert an underlined semicolon

In line 4211, delete the underlined comma and insert an underlined semicolon

In line 4212, strike through "and" and insert an underlined comma; after "neglect" insert ", and dependency"

In line 4244, after "supervisor," insert "The training shall include courses in screening reports of child abuse, neglect, or dependency."

Between lines 4482 and 4483, insert:

**"Sec. 5153.20.** The(A)(1) Except as provided in division (B) of this section, the cost of care furnished by the public children services agency or the board of county commissioners to any child having a legal residence in another county shall be charged to the county of legal residence. No expense shall be incurred by the agency or the board of county commissioners, on account of such care, except for temporary or emergency care, without the consent of the agency or board of county commissioners, or as provided by this section. If such

consent cannot be obtained the board of county commissioners may file a petition in the court of common pleas of the county in which the child is found for a determination of legal residence of such child. Summons in such a proceeding shall be served, as in other civil actions, upon the board of county commissioners and the executive director of the agency of the county alleged to be the county of legal residence, but the answer day shall be the tenth day after the issuance of such summons. The return day shall be the fifth day after issuance of the summons. The cause shall be set for hearing not less than ten nor more than thirty days after the issuance of the summons. The finding and determination by the court upon such application, subject to the right of appeal, shall be final and conclusive as to the county chargeable under this section with the costs of the care of such child. The board of county commissioners out of its general funds shall reimburse the agency furnishing such care, upon receipt of itemized statements.

(2) Any moneys received by the agency furnishing such care from persons liable for the cost of any part of such care, by agreement or otherwise, shall be credited to the county of legal residence.

(3) The agency may remove and deliver any child, having legal residence in another county in Ohio and deemed to be in need of public care, to the public children services agency of the county of legal residence. All cost incidental to the transportation of such child and of any escort required shall be paid by the public children services agency which delivers back the child. With the approval of the department of job and family services, any child whose legal residence has been found to be in another state or country may be transferred to the department for return to the place of legal residence, or such child may be returned by the agency. All costs incidental to the transportation of such child and of any escort required shall be paid by the department of job and family services if it returns the child, otherwise the cost shall be paid by the agency, subject in either case to such reimbursement as may be obtained from the responsible persons or authorities of the place of legal residence. The department of job and family services may enter into agreements with the authorities of other states relative to the placement and return of children.

(B)(1) If a court determines that reasonable efforts have been made to prevent removal of an adopted child from the child's home pursuant to section 2151.419 of the Revised Code and an adopted child is placed in the temporary or permanent custody of a public children services agency or a private child placing agency within thirty-six months of the date that the child's adoption was finalized, the agency that previously held permanent custody of the child when the child was placed with the adoptive parent shall be given opportunity to participate in planning for the child's care and treatment and shall assume fifty per cent of the financial responsibility for the care and treatment. Shared planning and financial responsibility shall cease on the first day of the thirty-seventh month after the date that the child's adoption was finalized and, on this date, the custodial agency shall then assume full planning and financial responsibility. The custodial agency and the agency that previously held

permanent custody of the child may enter into a written agreement for shared financial responsibility that differs from the responsibilities allocated in this division.

(2) Division (B)(1) of this section does not apply to any of the following:

(a) An adoption by a stepparent whose spouse is a biological or adoptive parent of the child;

(b) An international adoption;

(c) An adoption where either the custodial agency or agency that previously held permanent custody of the child is not in this state.

(3) Nothing in division (B) of this section shall prevent a court or a child support enforcement agency from issuing a child support order."

In line 4484, after "1717.14," insert "2101.11,"; after "2151.011," insert "2151.23,"; after "2151.353," insert "2151.39,"

In line 4485, after "2151.421," insert "3107.011,"; after "3107.016," insert "3107.02, 3107.031, 3107.032, 3107.10, 3107.12, 3107.14,"; after "3107.17," insert "3107.66,"; after "3109.17," insert "3313.64,"

In line 4486, after "5101.99," insert "5103.03,"

In line 4488, after "5103.07," insert "5103.13, 5103.131, 5103.16,"

In line 4489, after "5153.17," insert "5153.20,"

In line 4492, after "5103.037," insert "5103.20, 5103.21, 5103.22, 5103.23, 5103.24, 5103.25, 5103.26, 5103.27, 5103.28,"

In line 4538, after "6." insert "(A) There is hereby created the Task Force on Implementing the Federal Domestic Violence Option in the Ohio Works First Program. The Task Force shall consist of the following members:

(1) Three members of the Senate, to be appointed by the President of the Senate, not more than two of whom shall belong to the same political party as the President of the Senate;

(2) Three members of the House of Representatives, to be appointed by the Speaker of the House of Representatives, not more than two of whom shall belong to the same political party as the Speaker of the House of Representatives.

(3) The Director of Job and Family Services, or the Director's designee;

(4) The following individuals, to be appointed by the Governor:

(a) Two individuals representing the Ohio Empowerment Coalition;

(b) Two individuals representing domestic violence prevention organizations;

(c) One individual who has been a victim of domestic violence;

- (d) One individual from a county department of job and family services;
- (e) One county prosecuting attorney.

Initial appointments to the Task Force shall be made not later than forty-five days after the effective date of this section. Vacancies shall be filled in the manner provided for initial appointments.

(B) The Task Force shall convene for its first meeting not later than ninety days after the effective date of this section. The Task Force shall organize by electing a chairperson from among its members. A majority of the members constitutes a quorum for the conduct of meetings and transaction of business.

(C) The Task Force shall do all of the following:

(1) Study issues surrounding the implementation of the federal domestic violence option as an exemption to the work and time limit requirements for benefits under the Ohio Works First program, as authorized by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 100 Stat. 2105, 42 U.S.C. 602(A)(7);

(2) Assess the current status of domestic violence services in each county, including counseling and screening;

(3) Review the application and implementation of the federal domestic violence option in other states;

(4) Conduct public meetings in different parts of the state throughout its existence.

(D) Not later than December 31, 2006, the Task Force shall prepare and submit a report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. The report shall include recommendations on how to implement the federal domestic violence option within the Ohio Works First Program. On submission of the report, the Task Force shall cease to exist.

#### **Section 7. "**

Delete lines 4541 and 4542

In line 4543, delete "S.B. 185 of the 125th" and insert "Section 5103.03 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 117 of the 125th General Assembly and Sub. S.B. 179 of the 123rd"

In line 2 of the title, after "1717.14," insert "2101.11,"; after "2151.011," insert "2151.23,"; after "2151.353," insert "2151.39,"

In line 3 of the title, after "2151.421," insert "3107.011,"; after "3107.016," insert "3107.02, 3107.031, 3107.032, 3107.10, 3107.12, 3107.14,"; after "3107.17," insert "3107.66,"

In line 4 of the title, after "3109.17," insert "3313.64,"

In line 5 of the title, after "5101.99," insert "5103.03,"

In line 7 of the title, after "5103.07," insert "5103.13, 5103.131, 5103.16,"

In line 9 of the title, after "5153.17," insert "5153.20,"

In line 14 of the title, after "sections" insert "3107.032 (3107.033), 3107.10 (3107.055),"

In line 21 of the title, after "enact" insert "new sections 3107.032, 3107.10, 5103.20, 5103.21, and 5103.22 and"

In line 22 of the title, after "2151.423," insert "3107.034, 3107.101,"

In line 23 of the title, after "5101.134," insert "5103.162, 5103.18,"

In line 26 of the title, after "5103.037," insert "5103.20, 5103.21, 5103.22, 5103.23, 5103.24, 5103.25, 5103.26, 5103.27, 5103.28,"

Managers on the Part of the  
Senate

/s/ TOM NIEHAUS  
TOM NIEHAUS

/s/ RANDY GARDNER  
RANDY GARDNER

/s/ RAY MILLER  
RAY MILLER

Managers on the Part of the  
House of Representatives

/s/ JOHN WHITE  
JOHN WHITE

/s/ JIM RAUSSEN  
JIM RAUSSEN

/s/ SHIRLEY A. SMITH  
SHIRLEY A. SMITH

The report of the Committee of Conference was laid over under the rule.

#### Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has agreed to the report of the Committees of Conference on matters of difference between the two houses on:

**Am. Sub. H. B. No. 162** - Representative Peterson - et al.

**Sub. S. B. No. 238** - Senator Niehaus- et al.

Attest:

Laura P. Clemens,  
Clerk.

#### Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the Senate amendments to:

**Sub. H. B. No. 311** - Representative White - et al.

**Sub. H. B. No. 458** - Representative Core - et al.

Attest:

Laura P. Clemens,  
Clerk.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the Senate amendments to:

**Sub. H. B. No. 312** - Representative C. Evans - et al.

Attest:

Laura P. Clemens,  
Clerk.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the Speaker of the House of Representatives has signed the following bills:

**H. B. No. 163** - Representative Widener - et al.

**Sub. H. B. No. 312** - Representative C. Evans - et al.

**Sub. H. B. No. 374** - Representative Hughes - et al.

**Sub. H. B. No. 390** - Representative Taylor - et al.

Attest:

Laura P. Clemens,  
Clerk.

The President signed said bills.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the Speaker of the House of Representatives has signed the following concurrent resolution:

**H. C. R. No. 40** - Representative Schneider - et al.

Attest:

Laura P. Clemens,  
Clerk.

The President signed said concurrent resolution.

**CLERK'S NOTATION**

Pursuant to section 10, Article II of the Constitution of the State of Ohio, the following protest was filed by Senator C. J. Prentiss on May 23, 2006:

We are writing to protest the inclusion of lines 1861-1864 in the conference committee report on House Bill 162. These lines prohibit collective bargaining by employees of community-based corrections facilities. The inclusion of these lines plainly violates Rule 19 of the Joint Rules of the Senate and House of Representatives.

This rule clearly states that:

A committee of conference appointed to consider matters of difference between the two houses upon any bill . . . may consider and include in its report any amendments pertinent to the bill . . ., provided such amendments relate exclusively to the original matters of difference between the houses.

This rule means that a conference committee may only change provisions that actually relate to the differences between the Senate and House versions of the bill. Rule 19 strictly prohibits a conference committee report from including any amendments that relate to matters that the House and Senate treated identically.

Not only do lines 1861-1864 not relate to an original matter of difference, they relate to a matter of total agreement. Both the House and Senate versions of the bill treated the issue of collective bargaining identically. Neither version of the bill even addressed the issue. Neither version created new collective bargaining rights. Neither eliminated existing collective bargaining rights. Both versions were completely silent with regard to collective bargaining. Because both chambers were in total agreement with regard to how to treat collective bargaining in House Bill 162, our rules prohibited the conference committee from even addressing collective bargaining rights.

The committee report blatantly violates our own rules and should, accordingly, have been rejected.

/s/ C. J. PRENTISS  
Senator C.J. Prentiss  
Minority Leader

/s/ KIMBERLY ZURZ  
Senator Kimberly Zurz  
Assistant Minority Leader

/s/ THERESA FEDOR  
Senator Teresa Fedor  
Minority Whip

/s/ TOM ROBERTS  
Senator Tom Roberts  
Assistant Minority Whip

/s/ MARC DANN  
Senator Marc Dann

/s/ ERIC FINGERHUT  
Senator Eric Fingerhut

/s/ ROBERT HAGAN  
Senator Robert Hagan

/s/ ERIC KEARNEY  
Senator Eric Kearney

/s/ DALE MILLER  
Senator Dale Miller

/s/ RAY MILLER  
Senator Ray Miller

/s/ CHARLIE WILSON  
Senator Charlie Wilson

On the motion of Senator Schuler, the Senate adjourned until Wednesday,  
May 24, 2006 at 1:30 p.m.

Attest:

DAVID A. BATTOCLETTI,  
Clerk.